



SCHOOL OF LAW

NLLB 205: CRIMINAL PROCEDURE

END OF SECOND SEMESTER EXAMINATIONS

April 2025

LECTURER : MR. D. TANDIRI

DURATION : 3HRS

GENERAL INSTRUCTIONS TO CANDIDATES

- 1. Do NOT write your name on the answer sheet**
- 2. Answer FOUR questions only – One (1) question in section A and any three (3) questions from section B**
- 3. Each question is worth 25 marks**

SECTION A (Answer one (1) question only)

QUESTION 1

Wiwa is the president of an opposition political party called Shanduko. On the 1st February 2025 he was on his way to Watsomba Business Centre wearing a T-Shirt of his political party when he was confronted by Cde Chatunga and Cde Mairos who are members of the ruling political party. The duo advised him that he was under arrest and they took him to their camp at Mutasa. They detained him at their camp until on the 5th February 2025 when they took him to Mutasa Police Station. The police arrested and detained Wiwa in solitary confinement. They advised him that they had instructions to detain him. They did not advise him of the reason for his arrest and detention. He was denied an opportunity to communicate with his relatives and legal practitioners. He was interrogated and tortured during the period he was in detention. The police accused him, during interrogation, of wanting to overthrow the head of state and government. He was also forced to make a confession and sign a statement incriminating himself. The police are still detaining him. They intend to take him to court on the 10th February 2025 for initial remand and confirmation of the statement. The police never applied for a warrant for further detention.

Wiwa approached you for legal advice.

Advise him on:

- a) The lawfulness of his arrest and detention by members of the ruling political party. **[5 marks]**
- b) The lawfulness of his arrest and detention by the police. **[10 marks]**
- c) The remedies which are available to him. **[10 marks]**

QUESTION 2

Dread Welly was arrested by the police for driving without a license. They took him to Mutare Central Police Station. He was requested to sit in the charge office. Dread Welly grabbed his bag and withdrew a pistol. He then proceeded to point it at ten (10) people who were in the charge office. He later fired two shots in the air and damaged the roof of the charge office. He eventually escaped from the police station. The police pursued and later apprehended him at Sakubva Bus Terminus. Dread Welly was charged with driving without a license, ten (10) counts of pointing a firearm, discharging a firearm in a public place, malicious damage to property and escaping from lawful custody. His trial is due to commence next week.

Advise Dread Welly on the appropriateness of all the preferred charges. **[25 marks]**

SECTION B (Answer any three (3) questions only)

QUESTION 3

- a) Discuss the jurisdiction of the Constitutional Court over criminal cases in Zimbabwe. **[5 marks]**
- b) With the aid of case law and statutory provisions, highlight and discuss the circumstances when the High Court of Zimbabwe will have jurisdiction over crimes or offences which were committed outside Zimbabwe. **[15 marks]**
- c) "The High Court of Zimbabwe has original or inherent jurisdiction." What does this mean? **[5 marks]**

QUESTION 4

- a) What is the relationship between criminal procedure, criminal law, and law of evidence? **[5 marks]**
- b) Explore the major features of the adversarial system and inquisitorial system. **[10 marks]**
- c) Discuss the crime control model and due process model. Which model must Zimbabwe adopt? **[10 marks]**

QUESTION 5

- a) Critically examine any three (3) pleas which an accused person can raise in response to a charge. **[9 marks]**
- b) When can an accused raise an exception against a charge sheet? (In your answer highlight what the accused needs to prove in order for the exception to be upheld). In addition, state the effect of a successful exception). **[6 marks]**
- c) With the aid of case law discuss the circumstances when a court can uphold an application for discharge at the close of state case. **[10 marks]**

QUESTION 6

Select any three (3) constitutional rights and/or freedoms and discuss how they have been limited by the provisions of the Criminal Procedure and Evidence Act [*Chapter 9:07*]. In your answer, briefly explain what the right or freedom entails and whether the provisions of the Criminal Procedure and Evidence Act are constitutional. **[25 marks]**

QUESTION 7

- a) An accused person must be released or granted bail pending trial unless there are compelling reasons justifying his/her continued detention. Discuss the factors which a court takes into account when deciding whether to release, conditionally or unconditionally, an accused on bail pending trial. **[10 marks]**
- b) What factors are considered by a court in an application for bail pending appeal? **[5 marks]**
- c) With the aid of case law, discuss the circumstances which will lead to a court granting an application for permanent stay of prosecution? **[10 marks]**

End of Examination Paper