



## **UNIVERSITY OF NAMIBIA**

<b>FACULTY</b>	FACULTY OF LAW		
<b>DEPARTMENT</b>	Private and Procedural Law		
<b>SUBJECT</b>	Law of Evidence		
<b>SUBJECT CODE</b>	LPEV 3771		
<b>DATE</b>	June 2020		
<b>DURATION</b>	3 Hours	<b>MARKS</b>	100

### **Special/Supplementary Examination**

**Examiner:** Mr. Eugene Lizazi Libebe

**Moderator:**

This question paper consists of 3 pages, including the cover page.

***Instructions:***

1. Answer ALL questions;
2. Kindly number the answers appropriately on the front of the answer book in the sequence you have answered them;
3. Please write legibly, to the point and cite authorities where appropriate.
4. Underline all authorities.

**QUESTION 1**

**[25 marks]**

1.1 Discuss and explain the concepts of relevance and admissibility of evidence.

[10 marks]

1.2 Compare and contrast the inquisitorial vis-à-vis accusatorial systems of evidence.

[10 marks]

**QUESTION 2**

**[25 marks]**

2.1 What is the purpose of the following stages in a trial:

[15 marks]

- (a) Examination-in-chief;
- (b) Cross-examination;
- (c) Re-examination.

2.2 Explain the difference between an admission and confession; and discuss the requirements for the admissibility of a confession in terms of section 217 of the Criminal Procedure Act 51 of 1977.

[10 marks]

**QUESTION 3****[20 marks]**

The evidential orthodox rule in regard to admissibility of '*Previous Consistent Statements*' is that such statements are excluded in that they are irrelevant, superfluous and in most cases, they lack probative value. This rule is, however, subject to some exceptions. Briefly discuss these exceptions with reference to both common and Namibian statute law.

**QUESTION 4****[20 marks]**

Assuming that you are working as a 'public prosecutor' for the office of the Prosecutor-General of Namibia at the District Magistrate Court in Katima Mulilo, and you are requested to lead the prosecution in the following matter. Accused X is being charged with and prosecuted for common assault and domestic violence. There is ample evidence to show that accused X is of a violent nature; that he is always fighting with other patrons whenever he is drinking in shabeens. In addition, you are in possession of a court's record showing that accused X was previously convicted of the same misconducts or offences as in the present indictments.

Will you be allowed to adduce the above evidence as it relates to X's violent conduct and his previous convictions? Justify your answer. Refer to the relevant statute and case law.

**QUESTION 5**

**[10 marks]**

**5.1** Discuss the relevance and effect of the rule in *Hollington v Hewthorn* [1943] 2 ALL ER 35 in our law of evidence. [5 marks]

**5.2** With reference to relevant legislation and decided cases, discuss the admissibility requirements for documentary evidence. [5 marks]

**[END OF EXAMINATION]**