



UNIVERSITY OF NAMIBIA

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

Regular 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 Explain the purpose of the following stages in a trial:

[15 marks]

(a) Examination-in-chief;

(b) Cross-examination;

(c) Re-examination.

1.2 Discuss at least five principles or factors the court will take into consideration when evaluating evidence after trial before judgment?

[10 marks]

QUESTION 2

[25 marks]

2.1 *“The difficulty with the common law hearsay rule is that it leads to the exclusion of relevant and reliable evidence. In an attempt to ameliorate this unfortunate consequence of the application of the hearsay rule, a number of ad hoc exceptions were developed”*. List and discuss the main common law exceptions to the hearsay rule.

[20 marks]

2.2 There is a misconception by some especially in lower courts that hearsay evidence is admissible in a bail application. However, this misconception was dealt with by a full bench judgement in the High Court in the case of *Charlotte Helena Botha v The State* [Unreported case number CA70/1995, judgement delivered 20 October 1995]. Briefly discuss the position of the Court vis-à-vis hearsay in bail applications. [5 marks]

QUESTION 3

[25 marks]

3.1 Eddie has been arrested for and is charged with armed robbery and theft. He is in the police holding cells awaiting his first appearance in court. In terms of the Criminal Procedure Act, 51 of 1977, the police officer investigating the case has ordered the taking of blood samples and palm-prints from Eddie; to which he has vehemently resisted without success. When the matter goes to court, Eddie's attorney intends to challenge the taking of blood samples and palm-prints from his client without his consent on the ground that such a process is a flagrant violation of Eddie's constitutional guarantee against self-incrimination as per Article 12(1) (f) of the Namibian Constitution.

Do you agree with Eddie's (the accused) attorney? With reference to statute and case law, substantiate your answer. [15 marks]

3.2 Discuss the basis of the opinion rule (on opinion evidence of laypersons and experts). [10

marks]

QUESTION 4 **[25 marks]**

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

[15 marks]

4.2 Briefly critique or analyze the implications of the 4th Industrial Revolution or Decolonization on the law of evidence? [10 marks]

[END OF EXAMINATION]