



**ZIMBABWE EZEKIEL GUTI UNIVERSITY
FACULTY OF LAW**

EXAMINATION PAPER

COURSE CODE : LLB 212
COURSE TITLE : LAW OF DELICT
DURATION : 3 Hours
DATE :

08 JUL 2022

INSTRUCTIONS TO CANDIDATES:

1. Candidates must answer **FOUR** Questions.
2. Question **ONE** is compulsory.
3. **Three** questions must be chosen from **section B**.
4. **All** Questions carry equal marks.

SECTION A

Question 1

Jambanja, the youth leader of a political party in Mbarengton Park had always threatened “to deal with”, Innocent, a member of the opposition party who is his neighbor. One day he saw some bags being off-loaded from a lorry at the gate to Innocent’s house. The bags were being moved into Innocent’s house. For a day or two Jambanja watched and saw many persons coming to Innocent’s house to purchase something which they carried in plastic bags. Jambanja did not know what material that was, but felt that an opportunity had presented itself for him to “deal with” Innocent. Jambanja made a report to Hondo, one of the members of his political party who was also a member of the Police Special Constabulary that Innocent was selling dagga/marijuana at his house. Hondo raided Innocent’s houses, loaded about ten bags which he found in the house onto Innocent’s pick-up truck, and forced Innocent to drive the car to the nearest police station. As the bags were being loaded onto the truck Hondo was shouting at Innocent, accusing him of “working with the enemies of the country to reverse the gains of independence”, and of “selling *mbanje* to raise money for the Western sponsored opposition party”. At the police station Hondo announced that he had arrested a drug trafficker. The officer in charge and the other police present assaulted and insulted Innocent. They proceeded to detain him, and wanted to “fasttrack” his trial. Innocent was not given an opportunity to talk, and was told to “shut-up” each time he opened his mouth. Five days after his arrest Innocent was taken to Court for remand. While in Court he advised the Magistrate that the police had confiscated his dried vegetables and accused him of drug trafficking. Following the complaint, the police opened one of the bags, and discovered that what they thought was marijuana were dried vegetables. Innocent was released from remand. As he was leaving the magistrates court, the investigating officer in charge told him to “leave politics to politicians”.

What rights and remedies, if any, does Innocent have arising out of the above events?

[25 marks]

SECTION B

Question 2

- (a) Explain the concept of vicarious liability.
- (b) How sound, if at all, are the considerations of policy underpinning the doctrine of vicarious liability?

[20 marks]

Question 3

“Increased mechanization and expanding technology in almost every facet of life, together with a corresponding and unprecedented exposure of individuals to the risk of harm, drew attention to the inadequacy of the fault theory”.

Discuss.

[20 marks]

Question 4

Write notes on the following:

- (a) *res inter alios act.* [7Marks]
- (b) *Talen qualem* rule. [7 Marks]
- (c) Mitigation of damages [6 Marks]
- (d) *Diligens paterfamilias.* [5 Marks]

[25 marks]

Question 5

Mabasa, a local businessman and farmer occupied a farm house which is on a one-hectare piece of land. There are vicious dogs and other domestic animals at his premises. His security guard forgot to lock up the dogs in their kennels. An old woman, mbuya Kahuni and her grandson Ben were attacked by the dogs. They sustained serious injuries and had to be admitted to hospital.

Advise Mbuya Kahuni and Ben of their rights and remedies.

[25 marks]

Question 6

The delict of seduction is archaic and has outlived its importance. Discuss.

[25 marks]

Question 7

Delictual remedies are meant to compensate the plaintiff for harm incurred rather than punishing the defendant. With the aid of case law and other sources of law discuss this assertion. In your discussion, show whether there are incidents where the plaintiff may profit from damages awarded to him. **[25 Marks]**

END

50 Am