

Course Code: L507 (M) 2005

UNIVERSITY OF SWAZILAND
FACULTY OF SOCIAL SCIENCE
DEPARTMENT OF LAW
FINAL EXAMINATION PAPER, MAY 2005

TITLE OF PAPER : HUMAN RIGHTS

COURSE CODE : L 507

TIME ALLOWED : THREE (3) HOURS

INSTRUCTIONS : ANSWER ANY FOUR (4) QUESTIONS.

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INVIGILATOR**

QUESTION 1

Gama was the Principal Secretary for the Ministry of Finance for ten years. He had served the government of the State of UNISWA in several capacities before being appointed Principal Secretary. Gama joined the Human Rights Association of UNISWA and became very vocal in criticising the government of UNISWA in its abuse of Peoples Rights and Fundamental freedoms.

Gama got several visits from the state police threatening him with arrest should he not desist from criticising the government. He was also summoned by the Minister for Finance, who tried to force him to withdraw his membership from the Human Rights Association warning him that failure to do so will be followed by severe consequences.

Gama did not heed to any of these threats. Three months later after the Human Rights Association of UNISWA had organized a very successful national convention aimed at conscioutizing the populace of UNISWA on their rights and fundamental freedoms which Gama chaired, he got a letter from the government terminating his services on the ground of national security. Two days later he was detained under the sixty days detention order without charges and without the possibility of bail. Gama was held in detention for about 16 months.

As a Human Rights Lawyer what advise would you give to Gama?

[25 MARKS]

QUESTION 2

Ngozo was arrested by the Police on suspicion of having stolen a motor car. He was subjected to Police interrogation for about forty hours, during which he had been slapped, kicked, punched, made to stand for long periods and without support, hands handcuffed behind the back, deprived of sleep, deprived of food and drink and threatened with a firearm.

Discuss.

[25 MARKS]

QUESTION 3

Manzini and his wife Nozipho are very industrious and successful farmers. They grow a variety of vegetables for sale and also keep livestock from which they sell milk, wool, yoghurt, cheese, sour milk and meat. Manzini passed away last December whereupon the traditional authorities of their area told Nozipho that she must stop farming and sell all her livestock because they are going to confiscate the land from her for the reason that according to them "a woman cannot own land on Swazi National Land.

Advise Nozipho.

[25 MARKS]

QUESTION 4

Khumalo is the Chief of Mashobeni a Chiefdom in the Kingdom of UNISWA. He was installed as Chief in accordance with Swazi Law and Custom during the reign of the late King Sololo, and has been Chief of the area for the past twenty five years. In order to reward one of his senior brothers for his loyalty to him the current monarch of UNISWA arbitrarily and unlawfully removed Khumalo as Chief and installed his brother Ndlebe as Chief of the area.

Khumalo refused to regard Prince Ndlebe as the new Chief of the area. He mobilized his subjects with the view to meet the traditional authorities at Lobamba to seek an explanation for all this.

Even before they could set the date for their mission to Lobamba, Police came to Khumalo's homestead in the middle of the night forcefully loaded them into trucks with all the family members, telling Khumalo that the monarch has evicted them from the area. They were dumped in another chiefdom 90 kms from Mashobeni with no shelter, no food, no water, all their furniture and other household property was left behind at Mashobeni including Khumalo's cows, sheep, goats and chicken. The police informed Khumalo that he cannot return to Mashobeni to try and get these because he has been totally banned from the area.

Khumalo has come to you for advise.

[25 MARKS]

QUESTION 5

Sandlasemfene is the Chief of Bhadzeni. He has been Chief of the area for fifty years and his age is 70 years. Gama is one of the subjects of Sandlasemfene. His daughter, Nonhlanhla who is sixteen years old attends one of the local High Schools. Sandlasemfene has taken fancy to the girl and one night he sent his traditional tindvuna's to Gama's homestead to abduct the girl. The parents of Nonhlanhla put up a fierce struggle but they were overpowered by the tindvuna's who took away the girl.

That very night Sandlasemfene arranged that the traditional rite of marriage - kuteka - be performed on Nonhlanhla. While the old women were preparing for the ceremony Nonhlanhla managed to escape and ran back to her parents. The parents immediately sent her to hide in one of her uncle's homestead which is situated very far from her home.

Sandlasemfene has threatened the parents with dire consequences including eviction from the area if they do not return Nonhlanhla to him.

What rights do the parents and Nonhlanhla have in law.

[25 MARKS]