



**UNIVERSITY OF ESWATINI  
FACULTY OF SOCIAL SCIENCE  
BACHELOR OF LAWS  
FINAL EXAMINATION PAPER NOVEMBER 2019**

**COURSE NAME:           LAW OF CONTRACT**

**COURSE CODE:         LAW203**

**TIME ALLOWED:       THREE (3) HOURS**

**INSTRUCTIONS**

- 1. Answer question one (1) which is compulsory**
- 2. Answer any other two (2) questions.**
- 3. Marks are indicated next to each question. The length of your answer must be guided by the marks allocated.**

**THIS PAPER SHOULD NOT BE OPENED UNTILL PERMISSION HAS BEEN GIVEN BY THE INVIGILATOR.**

## **Question 1 (Compulsory)**

Critically examine the factual situations given below and briefly discuss whether there is a valid contract.

- (a) Masarirambi Investments (Pty) Ltd recently had a break in into their warehouse where millions of Emalangeni worth of copper cables were stolen. The company being desirous of having the culprits brought to book decided to offer a reward of E100,000.00 (One Hundred Thousand Emalangeni) to any person who would offer information which would lead to the arrest of the thieves and/or the recovery of the copper cables or any part thereof. Bronwyn, a staunch Christian believer, whilst visiting her friend, Samkele, noticed that her friend's boyfriend, Phakamile, all of a sudden was living lavishly. He had recently purchased a brand new VW Golf VII GTI, a brand new Casarredo Lounge suite worth E68,000.00 and he intended spoiling his girlfriend on a holiday in Dubai where he intended to make an engagement proposal and to shower his girlfriend with gifts. Bronwyn suspected that Phakamile did not acquire these assets lawfully and she informed the police of her suspicions. After raiding Phakamile's house and further investigations by the police it turned out that Phakamile and his friends, Wazi and Sandiso, were the ones who stole the copper cables at Masarirambi Investments (Pty) Ltd. A day after Bronwyn's reporting of the matter to the police they were arrested and charged with housebreaking and theft. About  $\frac{3}{4}$  of the stolen copper cables were recovered.

The arrest of Phakamile and his friends made the front page headline in the Times of Eswatini on the following day where pictures of the three being escorted into the police van were shown. Whilst reading that newspaper article, Bronwyn learnt that the Company had put up a E100,000.00 reward for any person who furnished information leading to the recovery of the stolen property or the arrest of the thieves. She now demands the reward from Masarirambi Investments (Pty) Ltd since she furnished the information and on the strength of that information the

thugs were arrested and the stolen property recovered.  
**(10 marks)**

(b) Xoliswa offered to sell his house to Sihlangu who was in partnership with Lincoln practicing law under the style, Sibiya, Kausiyo & Associates. They (Sihlangu and Lincoln) were looking for premises on which to run their business. Sihlangu signed the contract together with his partner, Lincoln. Xoliswa refused to accept payment from Sihlangu and Lincoln, and she informed them that she can only transfer ownership to Sihlangu and not to both of them.  
**(10 marks)**

(c) Victoria, a retailer dealing in books and stationery ran an advertisement on television for the “Black Friday” sale. Among the items on sale was Herbstein & Van Winsen’s “The Civil Practice of the Superior Courts In South Africa”, an all-time “bible” for legal practitioners. The book was sold at a ridiculously slashed price of E1250.00 instead of the normal price of E3,900.00. Setsabile, who owned a bookshop, did not believe this and she went in to buy the first copy and she got it at the price “as seen on TV”. She wanted to buy 12 more units of the Book but Victoria refused to sell stating that each customer could only buy one copy. Setsabile refused to leave the shop unless they sold her the books, arguing that she accepted the offer made on television. She was arrested and charged under the Public Order Act. In her defence she pleaded that her conduct was not unlawful because she had a contract with Victoria after having accepted the offer made by Victoria on television.  
**(10 marks)**

(d) Munashe, Tebesutfu, Mbongeni and Victoria were political prisoners who had spent 26 years in prison after being convicted and sentenced to 45 years imprisonment for acts of terrorism, public disorder and violence in the Republic of Kuvukiland. Munashe was the president of the proscribed

Patriotic Undivided Democratic Movement (PUDEMO), a political party advocating for regime change in Kukiland. Tebesutfu, Mbongeni and Victoria were serving under him. Being under pressure from the International community which had been calling for the release of these political prisoners and even threatening to withdraw from all trade relations with Kuvukiland, President Bulelwa of Kuvukiland made the following statement in Parliament:

*“The international community has asked the Kuvuki Government to release MrMunashe. They are neither the first nor the only ones to make such a request to the Kuvuki Government. Two eminent Black leaders, President Bianca and Chief Minister Sinethemba, also called on me to release Mr Munashe. In fact President Bianca has for years been appealing to the Kuvuki Government to have Mr Munashe, and a number of other citizens of Block-Z who are serving prison sentences in Kuvukiland, released in Block-Z. The Government is not insensitive to the fact that Mr Munashe and others have spent a very long time in prison. I am personally not insensitive about this, even though they were duly convicted in open Court. **The Government is also willing to consider MrMunashe's release in the Republic of Kuvukiland on condition that MrMunashe gives a commitment that he will not make himself guilty of planning, instigating or committing acts of violence for the furtherance of political objectives but will conduct himself in such a way that he will not again have to be arrested.** As I have indicated the Government is willing to consider Mr Munashe's release but I am sure that Parliament will understand that we cannot do so if Mr Munashe himself says that the moment he leaves prison he will continue with his commitment to violence. It is therefore not the Kuvuki Government which now stands in the way of Mr Munashe's freedom, it is he himself. The choice is his. All that is required of him now is that he should unconditionally reject*

*violence as a political instrument. This is after all the norm which is expected in all civilised countries of the world.”*

Mrs Nongile, a Member of Parliament, then interjected as follows:

*'I would like to ask the State President if that same offer will also extend to some of the other prisoners who are in jail and have been there for years. State President: “Yes, if they unconditionally accept the conditions I laid down.”*

Tebesutfu, a co-prisoner with Mr. Munashe, wrote a letter accepting the offer made by the State President in Parliament and unconditionally accepting the conditions attached to it. In particular she renounced violence in all its forms and undertook never to use violence as a tool for political change. Three months later she still has not been released and she now seeks an order compelling the State President to release her from prison arguing that when she accepted the offer made by the State President in Parliament a binding contract was concluded.

**(10 marks)**

- (e) Setsabile is the owner of a 1985 Pontiac vintage car. Njabulo is interested in buying the car. The following is a WhatsApp conversation between Njabulo and Setsabile:

**NJABULO:** *Hi Setsabile. Your Pontiac “thing” is so beautiful and it appears you are not into these old machines as it is lying idle in your garage. Please sell it to me. I can buy it for E200 000.00.*

**SETSABILE:** *Your offer of E200 000.00 is hereby accepted. I shall, however, require you to pay all penalties for non-renewal of licenses and attorneys' fees for drawing up all necessary documents to effect transfer.*

Referring to decided cases, explain the requirements that must be satisfied for a misrepresentation to found an action for rescission of a contract. Include in your answer a discussion of when silence may be regarded as actionable and the legal position in regard to 'puffing'.  
**(25 marks)**

### **Question 5**

With the aid of decided cases, briefly discuss the following concepts in the law of contract:

- (a) Supervening impossibility (5 marks)
- (b) Undue influence (5 marks)
- (c) Obligation (natural and civil) (5 marks)
- (d) *caveat subscriptor* (5 marks)
- (e) Tacit emancipation (5 marks)