

**UNIVERSITY OF FORT HARE  
NELSON MANDELA SCHOOL OF LAW  
(East London)**

**Diploma in Local Government  
Law  
BOR221E**

**Degree Examinations**

**November 2019**

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**Time: 3 hour**  
**Subject: Bill of Rights**  
**Marks: 100**

**This paper consists of two (2) pages including the  
cover page**

**Internal Examiners**

**Dr. A van Coller**

**Mr A Katurura**

**INSTRUCTIONS**

- a. Answer all the questions;
- b. Each question must be answered as per the instructions provided;
- c. It is in your best interest to write clearly, neatly and legibly;
- d. Rely on relevant case law and statutory provisions where applicable;
- e. Mark questions accurately and clearly.

**QUESTION 1** (30)

The Constitution has created a number of institutions or bodies that assist and support constitutional democracy in South Africa. Name and briefly define these institutions.

**QUESTION 2** (20)

Section 8(1) of the Constitution of the RSA, 1996 states that “[T]he Bill of Rights applies to all law, and binds the legislature, the executive, the judiciary and all organs of state. Evaluate section 8 with specific regard to what and to whom the Bill of Rights applies to and what the interpretation, meaning and significance of this section is.

**QUESTION 3** (25)

Dignity is both a right and a value in the Bill of Rights. However, the concept is abstract and subjective in nature which exposes it to potential manipulation, and exploitation.

**Required:** Evaluate the meaning that is assigned to the concept of ‘human dignity by the courts and other international and domestic instruments and documents. You are also required to refer to domestic and foreign case law and academic writing in your answer. Lastly you are also required to evaluate whether there are any further meaning or meanings that may be assigned to the concept of human dignity and whether the concept has a meaningful role to play in constitutional adjudication in South Africa.

**QUESTION 4** (25)

Sections 2, 3(b) and (c) and 10(1)(aA) of the Sexual Offences Act 23 of 1957 (“the Act”) have been declared constitutional by the Constitutional Court. This Act renders brothel-keeping an offence and prostitution unlawful. However, there are some that state that this judgment should have declared the offending section unconstitutional and should have found that prostitution should be regulated for various reasons. The minority judgment also found that the Act discriminates unfairly against those that are subject to the Act.

**Required:** Evaluate the validity of the sections above of the Sexual Offences Act with specific reference to the rights in the Bill of Rights that may be infringed by this legislation. Refer to the majority and minority judgments in *Jordan v S* 2002 11 BCLR 1117 (CC) and any other judgments that have dealt with similar issues of discrimination.

[100]