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Centre for Open and Lifelong Learning

FEEDBACK TUTORIAL LETTER

2ND SEMESTER 2020

ASSIGNMENT 2

**Law for Public Managers 1B
(LPM521S)**

Greetings to you all. First of all, thank you very much for submitting your assignment 2 on time. I also would like to use this opportunity to congratulate most of you for performing better in this assignment than the previous one. However, I am still a bit perturbed about the quality of answers that some of you provided in answering your assignment questions. To be honest, some of your answers were not of University standard. Please improve on this shortcoming.

Below is the summary of shortcomings that I discovered while marking your assignment 2.

1. Plagiarism

I observed that many of you cite sources without acknowledging their authors. Plagiarism remains a challenge for many of you. Please be advised, plagiarism is a serious academic offence which can attract a sanction from the University. I therefore urge you to acquaint yourselves with NUST's rules and regulations pertaining to academic referencing. Every source of information you use in answering your assignment questions should be properly referenced. Failure to do so, leaves me with no choice but to mark you a zero.

2. Using irrelevant sources from other countries to answer assignment questions

Some of you were citing sources from the USA, UK, France to argue your case. This is wrong. Although nothing prevents you from using any materials to answer your assignment questions, it is also important to note that such sources though persuasive are largely irrelevant in the Namibian context. Please consult relevant and locally sourced materials to argue your case in the assignment.

3. Academic dishonesty

I have also realized a growing and worrying trend of students copying each other's work. This is not only a serious academic, offence, but an issue which borders on ethics. This type of behavior is no different from plagiarism. I wish to further inform you that I have the discretion to mark your work zero if I discover that students submitted an assignment that is exactly the same i.e word for word, mistake for mistake. Therefore, I urge you to refrain from this conduct.

4. Failure to understand the nature of Chapter 3 of the Constitution

As you are aware by now, assignment 1 was largely based on human rights, constitutionalism and rule of law. Therefore, you were expected to answer your assignment questions based on Chapter 3 (Fundamental human rights and freedoms) of the Constitution. However, many of you failed dismally in this regard. Some students

either cited wrong constitutional provisions or irrelevant authorities in answering the given questions. I therefore urge you to acquaint yourself with Chapter 3 provisions in order for you to pass this subject. The said chapter forms a critical part of this subject and will certainly come up in your final exams.

Having said what I said above, I hereby wish you the best in your upcoming exams.

Below is the memo and guidelines for assignment 1.

Assignment 1 will cover the following units: 1, 2,3, 4

Question 1

With examples to the Namibian perspective, briefly describe the following terms/phrases as related to the protection and promotion of human rights.

1. Human rights as entitlements (2)
 - Human Rights are entitlements which every individual has by virtue of his membership of a society. **(1)** That means that I can claim them by the mere fact that I am human. **(1)**
2. Civil and political rights
 - These are known as first generation of rights or blue rights. **(1)**. This includes inter alia the rights to life, freedom of expression, freedom of religion etc **(1)**
(2)
3. Universal declaration of human rights (2)
 - It is the first comprehensive human right instrument to be proclaimed by the UN General Assembly. (1) It provides for all three generations of human rights. **(1)**
4. Non-derogation of rights (2)
 - This means that certain rights are absolute and cannot be altered or derogated from. **(1)** Examples of these are the right to life and the right to dignity. **(1)**

5. Chapter 3 of the Namibian Constitution

(2)

- Chapter 3 of the Namibian Constitution contains fundamental rights and freedoms or the bill of rights. **(1)**. These rights are mainly civil and political rights such as the right to freedom of speech, the right to engage in political activities etc. **(1)**

Question 2

Study the case studies below and indicate which of the three categories of rights applies in each scenario and briefly motivate your answer.

1. Namgold is a mining company which seeks to open a mine in the town of Usabib on the edge of the Namib Desert. The envisaged mine will provide much needed economic benefits to the town. Over 150 local youths will be employed as miners in the company. However, not all members of the community are happy with this arrangement. Once the mine is fully operational, it will be discharging its waste water into the nearby ephemeral river. It is feared this water might eventually seep and pollute underground water from which the town depends on. Therefore the group opposed to the mine plans to launch a petition to the government against the opening of the mine. (3)
 - Third generation rights. **(1)**
 - This is because third generation rights include the right to a clean environment among other things. **(1)**
 - These rights are normally referred to as solidarity rights, since they are essentially claimable by people as groups or communities. **(1)**
2. Junta Jezebel is a 21 year old woman who wants to register a political party to contest the upcoming regional and local elections. However, his application for registration is denied by the Electoral Commission of Namibia. The reason given by the ECN is that her party stands no chance of winning any seats in the upcoming elections as it is led by a young woman. Registering it will be a waste of taxpayers' money. (3)
 - First Generation of rights or Civil and political rights **(1)**. Rights which pertains to democracy and core human rights issues fall under this category. (1) These include the right to life, freedom of expression etc. **(1)**
 - Any reasonable explanation shall suffice.
3. The community of Crocodile ranch in northern Namibia asks the local government to build a hospital and a school for them as they depend on the nearby town of Hippoville, 40 kilometers away for these services. (3)

- Second Generation of Rights or social, economic and cultural rights. **(1)**. The right to health as in this case falls under this right. **(1)** Other rights include the right to housing, education, food, shelter and employment. **(1)**
 - Any reasonable explanation shall suffice.
4. Jacobus Janse van Rummenegger is employed as a Security Guard by a certain Security company in Windhoek. He works mostly night shifts and earns N\$3.50 per hour. The minimum wage for Security Guards is N\$ 12. Per hour. On some occasions Jacobus was subjected to both verbal and physical abuse from his employer, Meneer Kobus Bezuidenhout. (3)
- Both First and Second Generation of rights. **(1)**. Labour rights are human rights. The right to a decent wage is a second generation right. **(1)**. Being subjected to both verbal and physical abuse from his employer is a violation of his right to human dignity. The right to dignity is a first generation right. **(1)**

Question 3

Study chapter 3 of the Namibian Constitution and indicate which of its provisions (articles) applies in scenarios below.

3.1 Candyshop dropped out of school at age 12 due to family problems. She moved to Windhoek to seek for menial employment. She is originally from Keetmanshoop. However, she soon realizes that life is tough in Windhoek without an education to your name. She is convinced by one of her neighbours in the informal settlement of Windhoek to become a sex worker. With no choice, she reluctantly agrees. After 6 months in her new profession, Candyshop has learned the ins and outs of the profession. However, one evening, she and with one co-worker were ambushed by the city police and arrested for prostitution. Instead of taking them to the police station to be booked, they were driven to an isolated plot outside the city where three policemen officials took turns raping them. The Commander of the police unit threatened them with death if they reported the matter to the police. Unperturbed, they took their chances and reported the matter to the police. Upon narrating their horrific story to the senior police man in charge. Far from being helpful, he urged them to reconsider opening this case as prostitutes have no rights in Namibia. According to him, prostitution is an abomination and contrary to the values of Namibians, therefore they deserved to be assaulted. (5)

- Article 10 **(1)**. The right not to be discriminated against. **(1)**.
- Article 8 **(1)** The right to human dignity. **(1)**
- Article 18. **(1)** The right to fair administrative justice. **(1)**
- Students can mention or explain any five of the above.

3.2 Catherine Beckford is a 25 year old white Namibian woman. Born and raised in Otjiwarongo. She recently graduated with a degree in Accounting and Finance from the Namibian University of Science and Technology. After seeing a vacant post in a local daily, she applies for a position of an Accountant at the Municipality. Upon seeing her application, the head of human resources at the municipality rejects her application form. He writes a letter to her in which he states that there is a standing directive from Cabinet which prohibits local authorities from employing whites. (5)

- Article 10 **(1)**. The right not be discriminated against **(1)**
- Article 8 **(1)** Being discriminated against on account of skin colour violates the right to human dignity. **(1)**
- Article 18(1). Administrative justice **(1)**
- Any of the above shall suffice.

3.3 Having lived in 15 de laan settlement for almost his entire life, Kawalala ya Shikololo, has a serious drug and alcohol problem, out of money and craving for beer, he decides to rob a group of tourists lodged in a nearby guesthouse. Having done so, he runs to his house with bag full of valuables. Unfortunately for him, several witnesses identified him on a CCTV camera. Police apprehend him at his house. Despite not resisting arrest he is brutally assaulted in front of his wife and children. Without informing him of the reasons for his arrest, he is promptly driven to the holding cells where he is further assaulted and denied food for 12 hours. He is eventually brought to court 3 days after being arrested. (5)

- Article 8 **(1)**. Assault by the police is tantamount to a violation of the right to human dignity. **(1)**
- Article 11 **(1)** arrest and detention **(1)**
- Article 12 **(1)** fair trial (1)
- Any reasonable explanation based on the above articles shall suffice.

3.4 In relation to the facts in 3.3, suppose Kwalala's wife is aware of the robbery and her husband's history of criminality, can the court summon her to testify against her husband? (3)

- No. **(1)** (f) No persons shall be compelled to give testimony against themselves or their spouses, who shall include partners in a marriage by customary law, **(1)** and no Court shall admit in evidence against such persons testimony which has been obtained from such persons in violation of Article 8(2)(b) hereof. **(1)**

3.5 Matengu wa Kandiwapa is 13 years old. He became an orphan at the age of 7 when both of his parents died in a car accident. He now lives with his strict and occasionally abusive uncle. He decides to take him out of the local primary school and sends him to his village to look after his livestock. (5)

- Article 20 **(1)**. Right to education. **(1)**. Article 15 **(1)** Children's rights **(1)**
- Any explanation related to human dignity and the right not to be discriminated against shall suffice. (1)

Question 4

There has been a spike in homicide case in the country in recent years. This has prompted some members of the public and politicians to consider the re-introduction of the death penalty. Is this proposal viable under the current constitutional dispensation? (5)

- No. **(1)**. Article 6 of the Constitution proscribes the death penalty. **(1)**. The said article states:
- The right to life shall be respected and protected. **(1)** No law may prescribe death as a competent sentence. No Court or Tribunal shall have the power to impose a sentence of death upon any person. **(1)** No executions shall take place in Namibia. **(1)**

Total (50)