



ΠΑΜΙΒΙΑ UNIVERSITY
OF SCIENCE AND TECHNOLOGY

FACULTY OF ENGINEERING AND THE BUILT ENVIRONMENT

DEPARTMENT OF ARCHITECTURE, PLANNING AND CONSTRUCTION

QUALIFICATION: BACHELOR OF TOWN AND REGIONAL PLANNING & BACHELOR OF REGIONAL AND RURAL DEVELOPMENT	
QUALIFICATION CODE: 07BTAR & 07BRAR	NQF LEVEL: 6
COURSE CODE: IRF 620S	COURSE NAME: INSTITUTIONAL AND REGULATORY FRAMEWORK
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DURATION: 3 HOURS	MARKS: 100

FIRST OPPORTUNITY EXAMINATION QUESTION PAPER	
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INSTRUCTIONS
1. Answer ALL the questions. 2. Read all the questions carefully before answering. 3. Number the answers clearly

THIS QUESTION PAPER CONSISTS OF 10 PAGES (Including this front page)

QUESTION 1

Answer only ONE of the following two questions. Provide a heading to indicate which one your answer refers to.

- A] Discuss the key findings of the Commission of Inquiry into Claims of Ancestral Land Rights and Restitution. (3)

OR

- B] Discuss unintended consequences of ancestral land right claims. (3)

[3]

QUESTION 2

- a) Identify the relevant court, in view of the description provided, which is part of Namibia's judicial system.

"... shall hear and adjudicate upon appeals which involve the interpretation, implementation and upholding of this Constitution and ..."

Source: The Namibian Constitution, Article 79. (1)

- b) Describe your answer supplied in Question 2(a)), by providing additional information. (4)

[5]

QUESTION 3

Parliament consists out of two parts or Houses. One of the Houses is the National Council.

- a) Repeat the other name of this House. (1)

- b) Describe the compilation (2 marks) and some of the functions of this House (5 marks). (7)

[8]

QUESTION 4

Indicate the relevant articles of the Constitution of Namibia according to the provided descriptions. (6)

Select the correct Articles from the following list:

- Article 10
- Article 16
- Article 21
- Article 95
- Article 103
- Article 104
- Article 111
- Article 131

For example, your answer can be provided in the following way: A) Article 150

	Description
A	<i>Establishment of Regional Councils.</i>
B	<i>All people in Namibia have certain fundamental freedoms. For example the freedom to move freely throughout Namibia.</i>
C	<i>All of the fundamental rights and freedoms, including the provision on property rights, are covered by the relevant article which says that no repeal of any of the fundamental rights and freedoms will be permissible in so far as such repeal or amendment diminishes or detracts from any of those rights.</i>
D	<i>The State shall adopt policies aimed at the maintenance of ecosystems, essential ecological processes and biological diversity of Namibia and utilization of living natural resources on a sustainable basis for the benefit of all Namibians, both present and future; in particular, the Government shall provide measures against the dumping or recycling of foreign nuclear and toxic waste on Namibian territory.</i>
E	<i>Establishment of Local Authorities.</i>
F	<i>All people have the right to own land and other kinds of property in any part of Namibia.</i>

[6]

QUESTION 5

There are four kinds of law in Namibia.

Explain only ONE of the following sources of law. Provide a heading to indicate which one your answer refers to.

A] Customary Law (5)

OR

B] Common Law (5)

[5]

QUESTION 6

Answer only ONE of the following two questions. Provide a heading to indicate which one your answer refers to.

A] Explain the difference between policy and law. (4)

OR

B] Describe the functions of the Ombudsman. (4)

[4]

QUESTION 7

The first step in the law making process is to prepare a bill which is a proposal for a new law. Describe the approval process which, for example the Ancestral Land Rights and Restitution Bill, will follow. (10)

[10]

QUESTION 8

Identify step-by-step the submission and approval process of a township establishment application, as stipulated in the act within an Authorised Planning Authority. The application is in accordance with the relevant forward planning document. Match the correct steps (Step 1 to Step 8) with the descriptions provided. (8)

<i>For ex.</i>	<i>For ex.</i>
Step 13	Submit with the XY-Committee.
STEP	DESCRIPTION
	Advertise in the Gazette and newspapers; display a notice on-site and on notice board at APA and notify neighbours.
	The Chief Executive Officer informs in writing the applicant and every person who lodged written objections of the Council’s decision
	The Hearing Committee makes a recommendation to the APA Council
	Lodge complete application with Chief Executive Officer of APA
	Follow a Hearing procedure, if written objections were received
	Request the applicant to give notice of the application to the prescribed persons and the general public
	Appeal/s can be submitted, against the decision, with the Minister of MURD
	The Council of the APA will decide to approve (with or without conditions) or not approve the application.

[8]

QUESTION 9

Report the scope of the proclaimed Urban and Regional Planning Act (No marks for reference to Authorised Planning Authorities.). (10)

[10]

QUESTION 10

Specify in which instance a local authority may be declared as an “authorised planning authority” by the Minister, in terms of the approved Urban and Regional Planning Act (2018). (2)

[2]

QUESTION 11

Answer only ONE of the following two questions. Provide a heading to indicate which one your answer refers to.

A] In the article “Illegal fencing and the law” of the Legal Assistance Centre, various negative impacts of illegal fencing are mentioned. List some of the impacts. (4)

OR

B] Explain the following statement: “We say that communal land vests in the State”. (4)

[4]

QUESTION 12

Read through the article and answer the following questions.

Otjinene filling station to be demolished (2017-07-31)

A BUSINESSMAN is bitter at the prospect of seeing a N\$4 million service station he built at Otjinene being demolished after the High Court ruled that it was illegally built on communal land.

Ripanga Merero has been ordered to dismantle the service station he built last year with a loan after the High Court ruled in favour of the Maharero Traditional Authority, which protested that the facility had been built on illegally acquired land which belonged to someone else.

According to an order of the court, Merero had been given until 14 July 2017 to remove his belongings, including a corrugated iron structure, two fuel tanks and concrete mixing machines,

amongst others. He has not removed anything from the site because he says they are part of the permanent structures at the investment. He was also previously ordered by the High Court to vacate the land last December, but had defied the order, arguing that he had correctly applied, and that there was no objection to the construction of the service station at the time.

Meroro last week told The Namibian that he had applied for the land in question five years ago through the Ovaherero Traditional Authority (OTA), and was given the go-ahead to build the service station.

The land in question appears to be at the centre of a jurisdiction dispute between the two traditional authorities.

“I approached the OTA five years ago. They gave me the go-ahead to build a service station because I wanted to create jobs, and there was a need for a filling station at Otjinene,” he stated.

“Now, I have been ordered to demolish my building. But how can a ruling like that be made, just because the traditional authority decided to give this land to someone else?”, Meroro asked.

The Maharero Traditional Authority, however, says Meroro was supposed to approach them before he started building since they were the ones recognised by government at Otjinene.

However, it was established that both traditional authorities are recognised by government.

Meroro said the people who also applied for the land (apparently to also build a service station) only did so last year.

He added that he cannot appeal the High Court ruling because it is a costly process. He also did not attend the last court hearing.

Otjinene constituency councillor Erwin Katjizeu said since the High Court had ruled on the matter, he did not have much more to comment on it.

“It is indeed an unfortunate thing that this matter went this far. This is also a lesson to everyone that they should make sure they get land through the correct channels,” said Katjizeu. “At the end of the day, the land board should also approve (all land acquisitions), and not just traditional authorities,” he added.

The governor of the Omaheke region, Festus Ueitele, shared Katjizeu's sentiments, confirming that they indeed held several meetings regarding the issue. “This whole thing has been made a political issue. My office dealt with this matter several times, and some people do not take advice when it is given,” he said without explaining.

Ueitele added that Otjinene needs the service station because it was good for development in the area, “but if some things are not done the right way, the law must unfortunately step in”. In a letter addressed to the urban development ministry, the OTA rejected the demolition of the service station because “it is a much-needed development project in the area”.

They argued that they procedurally gave Merero the land, and that there was no dispute over the land at the time.

“The OTA contends and wishes to advise our government that we are guided by the rule of law,” reads the letter.

The OTA also argued that the Maharero Traditional Authority deliberately took the matter to court only because they want to give the land to the well-connected and wealthy Mushimba clan.

Efforts to get comment from the Maharero Traditional Authority proved futile, as its spokesperson Nguna Kamutuezu said he needed permission to speak to the media.

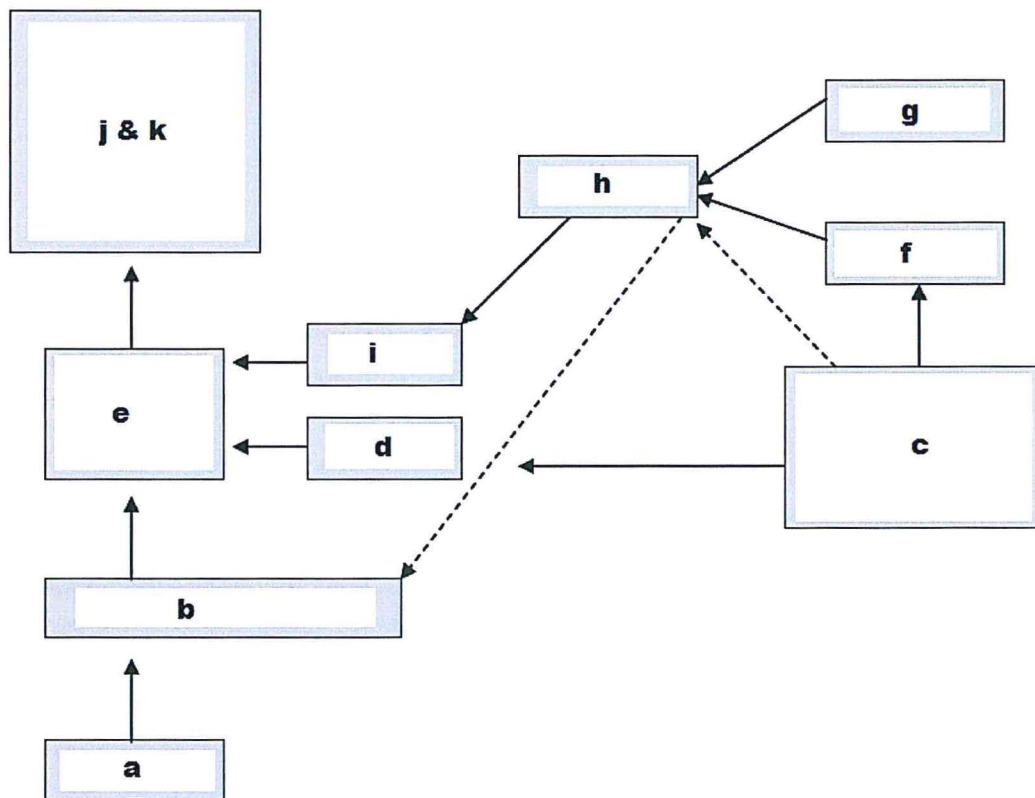
- A] The councillor Mr Katjizeu stated “This is also a lesson to everyone that they should make sure they get land through the correct channels.”

Complete the flow chart which illustrates the approval procedure for a Right of Leasehold. Complete the flowchart, by providing the correct description to each respective number, in your answering script booklet.

Copy the numbers (a – k) indicated in the various blocks of the flowchart, into your answering script booklet.

(11 X

½V = 5½)



(Source: Malan, J., (2009), Guide to the Communal Land Reform Act, 2002 (second edition), Windhoek, Legal Assistance Centre & Namibia National Farmers’ Union, p58)

- B] The article indicates that two traditional authorities are recognized in this communal land area. However, Otjinene is a local authority with a village council. It is not clear from the article whether this property is within Otjinene’s jurisdiction area, but if that is the case, **arrange** the required approvals necessary, in the correct order in which the approvals should be obtained, from the relevant bodies, before the construction of a service station can occur.

Indicate the relevant three answers as follow: Step 1 ...(answer)..., Step 2 ...(answer)... etc. (3)

STEP	DESCRIPTION
	Obtain the relevant land use zoning (with a rezoning application’s approval) if the zoning does not allow service station as a primary use on the erf.
	Obtain the approval of the building plan for the service station from the relevant local authority.
	Obtain consent from relevant traditional authority/ties.
	Obtain environmental clearance certificate for the listed activity (storage and handling of petrol)
	Obtain the approval of the Regional Council

- C] Identify the relevant body/organization whose comment on this matter is not provided in the newspaper article, which could have shed light on the validity of the allocation of the Right of Leasehold. (1)

- D] Identify in which instances a Right of Leasehold can be cancelled. Provide two answers. (1½)

- E] Indicate whether the following statement is True or False:

Local authority areas within the boundaries of communal land area do not form part of communal lands or a settlement area declared in terms of the Regional Councils act. (1)

[12]

QUESTION 13

- a) Repeat the fundamental principle of compensation. (2)
- b) Describe the reasons for amending the existing Compensation Policy which were highlighted in the newspaper article “Regions review land compensation policy” (New Era, 31 August 2022). (3)
- c) Describe the compensation option available to the affected landowner (of land larger than 500m²), who chooses the Money and Erven option. The landowner indicated that he/she is not interested in alternative land for farming purposes. (8)

[13]

QUESTION 14

Answer only ONE of the following two questions. Provide a heading to indicate which one your answer refers to.

- A] Describe the **High Economic Value Model** in terms of the following subtopics: The target group, The objectives of the model, Detail of the land entities, Maximum size, Tenure and Probation and Purchase Cost. (10)

OR

- B] Describe the **Moderate Economic Value Model** in terms of the following subtopics: The target group, The objectives of the model, Detail of the land entities, Maximum size, Tenure and Probation and Purchase Cost. (10)

[10]

TOTAL**[100]**



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