



**NATIONAL OPEN UNIVERSITY OF NIGERIA**  
**14/16 AHMADU BELLO WAY, VICTORIA ISLAND, LAGOS**  
**DEPARTMENT OF PUBLIC LAW**  
**2017\_2 EXAMINATION QUESTIONS**  
**JANUARY 2018 EXAMINATION**

**COURSE CODE: LAW 445**

**COURSE TITLE: LAW OF EVIDENCE 1**

**TIME ALLOWED: 2 ½ HOURS**

**INSTRUCTION: ANSWER QUESTION 1 (ONE) AND ANY OTHER 3 (THREE) QUESTIONS. (QUESTION 1 (ONE) ATTRACTS 25 MARKS)**

1. Mrs Halili has been married to Mr. Halili for 12 years. They live alone in a mansion in the choicest area of the city. Mr. Halili is a son of a prominent politician and indeed a former chieftain of arguably the largest political party in the country. Mrs. Halili has been accusing Mr. Halili of infidelity for a considerable period of time. Sometime in October 2017, Mr. Halili received a text message on his phone and the content of the text message is as follows- “Thank you for a splendid evening”. Mrs Halili read this text message and accused the husband of infidelity. She attacked Mr. Halili, tore his clothes, bite him and went into her kitchen, took a pestle and hit Mr. Halili with it. However, the situation was saved by family members and close friends who were to save Mr. Halili from the attack. Mr. Halili was taking to a nearby pharmaceutical shop where he received treatment for his wounds. Thereafter, the visitors left and everything seem to have calmed and Mr. Halili retired to his bedroom for the night. Mr. Halili soon fell asleep and Mrs Halili realizing that the husband is now deeply asleep, went into her kitchen took a knife, went to the bedroom where Mr. Halili was sleeping and stabbed him several times in the neck. Mr Halili was fatally wounded and died on his way to the hospital. When Mr. Halili’s family members came to the house in pain to inquire from Mrs Halili why she did such a terrible thing, she hit Mr. Halili’s father with a book she collected from the shelf. Mrs Halili has now being charged with the offence of murder and the prosecution has tendered booth the knife with which Mr. Halili was killed and the book Mrs Halili used in hitting Mr Halili’s father as evidence. The defence lawyer has opposed the tendering of both items on the ground that a knife cannot be evidence known to law and that the book is a document which is not appropriate in the circumstance. Mrs. Halili has been convicted of the offence of murder and the defence intends to appeal on the basis inter alia that there was no eye witness that witnessed the killing of Mr. Halili.
2. Chief Adetiloye an engineer with international reputation for his outstanding achievements in his field of endeavour. Daily Times Newspaper is a national newspaper with a wide coverage and is also widely read. On the 2<sup>nd</sup> of October, 2017, Daily Times Newspaper carried a front page headline titled “Chief Adetiloye in a bribery scam”. The details of the story is to the effect that Chief Adetiloye is alleged to have bribed members of the Privatization Bureau, which is the national Bureau in charge of privatization of public enterprises, to sway the Bureau to sell

a state owned power plant to his company. Chief Adeiloye brought action against Daily Times Newspaper for libel and during the trial of the case Chief Adetiloye relied on a copy of the Daily Times Newspaper dated 2<sup>nd</sup> of October, 2017, in proof of the libel against him. In delivering its judgment the court relied on the Daily Times Newspaper dated 2<sup>nd</sup> of October, 2017 in proof of the publication of the libel against Chief Adetiloye. Solicitor to Daily Times Newspaper dated 2<sup>nd</sup> of October, 2017, is contending that the Court was wrong in presuming the genuineness of the Daily Times Newspaper dated 2<sup>nd</sup> of October, 2017. On the same day, in another judgment, the court relied on a certified true copy of a certificate of occupancy issued by a Governor of a state in proving that the party that tendered the certified true copy of certificate is the owner of the land in dispute. Solicitor to the opposing party is contending that the court was wrong in law in presuming the genuineness of the certified true copy of the certificate of occupancy. Omolara, Chief Adetiloye's daughter's marriage to Prince Oloto was dissolved in November 2016. Omolara has not yet remarried but she gave birth to a baby girl in February 2017. Discuss the legal issues raised.

3. The National Congress of Natio Republic enacted an Act of Parliament which empowers a Director in the Federal Ministry of Works to close down a strategic Federal High way for the purposes maintenance and repair of the Highway. A Director in the Federal Ministry of Works, mandated by the Minister of Works on that behalf, exercised his discretion under the Act of Parliament and closed the Highway in question for the purpose of maintenance and repair. Mr. Paul who is a human rights lawyer has brought a suit against the Federal Ministry of Works and the Director that closed the Highway contending that the close of the Highway has caused untold suffering to the masses. The Federal Ministry of Works and the Director in issue, in their defence relied on the Act of Parliament as authorizing them to take the action. The learned trial judge in his judgment relied on the Act of Parliament as constituting a defence to the complaint of the Plaintiff. The Plaintiff being aggrieved with the judgment of the court has appealed to the court of appeal on the basis that the Act of Parliament was not proved in court and accordingly the court ought not to have relied on it in its judgment. Discuss the plaintiff's grievance.
4. Progress Bank is specializes in the financing of infrastructural and development projects. In pursuance of its objects the bank granted a N35B facility to Chibok Republic for the construction of a power plant and the upgrade of the transmission facility of the power systems of the country. The facility has a repayment period of 10 years with a 30% interest rate per annum. The facility was duly disbursed to the country for the purposes for which it was meant. The period of repayment has come and gone but the country has not repaid both the principal sum and the accrued interest which now stand at N50B. After several demands for repayment, the bank has instituted an action in court for the recovery of the facility and interest on the loan. In its defence the defendant agreed that the sum of N35B was granted to it as a facility and that the interest rate was 30% interest rate per annum. The learned trial judge in his judgment in favour of the bank relied on the statement of the country contained in its defence agreeing to the terms of the facility agreement as stated by the bank as well as a letter written previously by the country accepting the terms of the facility. The Country was aggrieved by

the judgment of the court especially the fact that the court relied on the statements contained in the defence of the defendant and the statement in the letter accepting the terms of the facility. Address the legal issues raised by the grievance of the country to the judgment of the court.

5. Patake Petroleum specializes in the production, refining and design and construction of refineries and petrochemical plants. Patake Petroleum entered into a Joint Venture Contract (JVC) with the National Oil, a state owned oil Corporation, of Ango Republic. One of the terms of the JVC is that Patake Petroleum and National Oil shall operate oil field 500 and that profit from the operation shall be shared in the following terms: 75% for National oil and 25% for Patake Petroleum. Since Patake Petroleum is managing the operation and in charge of marketing of the oil, it decided to retain 40% of the profit. National Oil has commenced proceedings in Court in order to enforce the terms contained in the JVC. During trial of the case, the Honourable Court allowed Patake Petroleum to give oral evidence in court to the effect that Patake Petroleum is providing technical skills for the operation of the JVC and therefore entitled to 40% of the profit. Also the court admitted in evidence a photocopy of the JVC tendered by Patake Petroleum. National Oil has protested vehemently to the decisions of the court. **Discuss the legal issues.**
  
6. Evidence is “All legal means, exclusive of mere argument, which tend to prove or disprove any matter of fact; the truth of which is submitted to judicial investigation”. Taylor on Evidence. Discuss.