INSTRUCTIONS

1. This paper consists of FOUR (4) pages. Please make sure you have them all.
2. This paper consists of two sections. You must answer both sections. Please answer SECTION A AND SECTION B in separate answer booklets.
3. Students are requested, in their own interests, to write legibly.
SECTION A – MS V. BALOGUN-FATOKUN

(Please answer this section in a separate answer booklet)

ANSWER ALL THE QUESTIONS FROM THIS SECTION

QUESTION 1

1.1 Explain, in detail, the (usual) manner in which a statute is made.

[Total Q1.1: 8 marks]

1.2 Explain the difference between parliamentary sovereignty and constitutionalism.

[Total Q1.2: 5 marks]

1.3 Explain what is meant by the legal principle known as *stare decisis*.

[Total Q1.3: 2 marks]

1.4 Briefly explain the four requirements that must be satisfied in order for a custom to be regarded as law.

[Total Q1.4: 5 marks]

[TOTAL SEC A Q1: 20 MARKS]
SECTION B – MR A. MUIR

(Please answer this section in a separate answer booklet)

ANSWER ALL THE QUESTIONS FROM THIS SECTION

QUESTION 2

2.1 Discuss any three factors that may affect a person’s capacity to enter into juristic acts.  

[Total Q2.1: 5 marks]

2.2 Distinguish between personal rights and real rights giving an example of each right.  

[Total Q2.2: 4 marks]

2.3 Discuss the difference between positive law and the law in a subjective sense.  

[Total Q2.3: 6 marks]

[TOTAL SEC A Q1: 15 MARKS]

QUESTION 3

X had been out to dinner with his friends. He returned home late that night. As he climbed out of his car he saw a man approaching him in the dark. The man was walking quickly and swinging his hands. X could not see who the man was in the darkness, so he shouted “Who are you?” but the man did not respond. X then pulled out his firearm, pointed it towards the approaching man and shouted again “Who are you? If you don’t stop I will shoot you.” The man still did not respond and kept on walking. X thereafter shot and injured the man. It turned out that the unidentified man was Andrew, the son of X’s neighbour. Andrew, who had earphones in his ears, had been approaching X to find out whether the trailer on X’s property was for sale.

Andrew later dies in hospital. If X is charged with murder, what defence can X raise? Evaluate his prospects of success in raising this defence.

[TOTAL SEC B Q2: 21 MARKS]
QUESTION 4

The Constitutional court has set out a test (the Harksen v Lane test) for deciding whether the equality clause of the Constitution has been contravened. Discuss how this test is applied in four steps.

[TOTAL SEC B Q2: 8 MARKS]

QUESTION 5

Discuss and distinguish between the following three kinds of intention:
   a) Dolus directus
   b) Dolus indirectus
   c) Dolus eventualis

[TOTAL SEC B Q3: 6 MARKS]

[TOTAL SECTION B: 50 MARKS]

[TOTAL MARKS FOR PAPER: 70 MARKS]