DEDAN KIMATHI UNIVERSITY OF TECHNOLOGY UNIVERSITY EXAMINATION ACADEMIC YEAR 2020/2021 SECOND YEAR EXAMINATION FOR THE DEGREE OF BACHELOR OF SCIENCE CRIMINOLOGY AND SECURITY MANAGEMENT

CSM 2203: CRIMINAL PROCEDURE

AUGUST, 2020 **TIME: 2 HOURS**

Instructions: Answer question ONE and any other TWO questions

QUESTION ONE

On Tuesday 1st of April at around 10pm Kienge, Kanywaji and Kila a wanted gangster were arrested along Moi Avenue in Nairobi while going home. They were charged with robbery with violence which they committed in January, 2019, violating guidelines issued by ministry of health in effort in a bid to control the spread of Covid-19, which include not observing curfew time, failure to wear a face mask and not keeping social distance. Kienge resisted arrest by the police and ran for his safety. The police shot Kienge on his leg which made him fall in a ditch where corporal Whisker caught up with him and handcuffed him. Upon conducting a search Kienge was found with a fake dollar note and a white powdery substance. On 3rd of April, 2020 Mr Mengi the court prosecutor initiated the prosecution and they were arraigned in court, the charges were read over to them in an open court complete with the statement of offence and the particulars of each count to which they were required to respond.

a) Assume that Kienge refused to take a plea, what will be the consequence of his refusal? **(5marks)**

b) Assume that Kila was absent during plea taking, advice the court on the consequence of his absence **(5marks)**

c) Discuss the possible pleas that can be entered by the three accused persons **(5marks)**

d) Identify any five rights of the three arrested persons that are likely to be limited **(5marks)**

e) Discuss five responsibilities of Mr Mengi **(5marks)**

f) Discuss any possible human rights violations upon the accused person(s) if any **(5marks)**

QUESTION TWO

a) Discuss the possible sentences that can be meted out by the court on an accused person in Kenya (**10marks)**

b) Discuss the concept of formal validity of a judgement **(10marks)**

QUESTION THREE

a. In **Ghani v Jones [1970] 1 QB** the court identified guidelines to justify the taking and retaining of an article pursuant to a search warrant. Discuss such guidelines using relevant examples **(8marks)**

b. Discuss any five functions of the High Court of Kenya **(12marks)**

QUESTION FOUR

a. Courts have always been concerned that before a plea of guilty is accepted and acted upon, certain vital safeguards must be strictly complied. Highlight such safeguards **(10marks)**

b. Discuss the rules for framing charges in Kenya **(10marks)**

QUESTION FIVE

Write short explanatory notes on the following:

a. Search without warrant **(5 marks)**

b. Court system in Kenya **(5marks)**

c. Arrests without warrants **(5 marks)**

d. Discuss any five limitations of the powers of the DPP under the 2010 Constitution of Kenya **(5marks)**