



ZIMBABWE EZEKIEL GUTI UNIVERSITY

FACULTY OF LAW

EXAMINATION PAPER

COURSE CODE : LLB 105
COURSE TITLE : Customary Law
DURATION : 3 Hours
LEVEL : 1.2
DATE :

INSTRUCTIONS TO CANDIDATES:

1. Answer **THREE** questions from section B. Question **ONE** in section A is compulsory.
2. Each question carries 25 marks.
3. Credit shall be given for referring to case law, statutes or any other authorities wherever applicable.
4. Notes, handouts and textbooks are not allowed into the examination.
5. Students may bring into the exam un-annotated and clean texts of applicable legislation. Copies with notes inside shall not be allowed and may be confiscated. No student is allowed to share his/her copy with another.
6. Cellphones are not allowed into the examination room.
7. Begin each answer to a full question on a fresh page.
8. Number your answers accordingly.

SECTION A

QUESTION 1

John is a 25 year old man who resides in Chief Kandiro's village. He is madly in love with Nyasha from Chief Nyasoro's village. She is doing form 1 at Nyasoro Secondary school. One day when Nyasha was coming from school, she met John near chief Nyasoro's homestead. John told Nyasha that she was so beautiful that he cannot risk losing her to some other village boy. He asked Nyasha whether they can have sexual intercourse. Nyasha vehemently refused and started walking very fast past the chief's homestead whilst John was in hot pursuit. As soon as they were in a bushy area, John grabbed Nyasha's hand and dragged her into the bush. He had sexual intercourse with her once and left. As soon as she got home, she told her mother what had happened. Her mother told her that this was a very serious matter and it must not be disclosed to anyone since this will put the family name into disrepute. Three weeks later, Nyasha realised that she was pregnant and she told her mother. Her mother gathered a lot of strength and disclosed the matter to James, Nyasha's father. James decided that the matter cannot be reported to the police since he will get nothing out of the formal court proceedings. He reported the matter to Chief Nyasoro's court which dealt with the matter promptly. The Chief ruled that John should pay an ox to the chief's court for defiling his chieftom by having sexual intercourse with a minor girl. In addition to that John was compelled to take Nyasha as his wife and to pay lobola which is going to be agreed between John and Nyasha' families. Nyasha objects to the ruling arguing that she still want to go back to school. The chief told her that she now belongs to John and that schools are not meant for pregnant women.

Identify legal issues that arise and comment on the legality of Chief Nyasoro's judgement.

[25 Marks]

SECTION B

QUESTION 2

- a. Identify and discuss aspects of customary law which are sometimes believed to be in violation of human rights in Zimbabwe. (15 Marks)
- b. Suggest how best can the bill of rights be used to improve some customary practices in Zimbabwe. (10 Marks)

[Total 25 marks]

QUESTION 3

Analyse the ownership of property under customary law.

[25 Marks]

QUESTION 4

Discuss the likely improvements that the new Marriage Bill bring if compared to the existing laws on customary marriages?

[25 Marks]

QUESTION 5

Assess the assertion that customary justice system offers a favourable outcome compared to the formal court system.

[25 Marks]

QUESTION 6

a. Discuss the concept of accessory liability in delictual claims under customary law. (15 Marks)

b. With the aid of statute law discuss whether this concept can still be applied.

(10 Marks)

[Total 25 marks]

QUESTION 7

Discuss the concept of 'the best interest of a child' as it is applied by courts in matters of maintenance, guardianship, access and custody of children born in a registered customary law marriage.

[25 Marks]

END OF PAPER