



ZIMBABWE EZEKIEL GUTI UNIVERSITY

FACULTY OF LAW

EXAMINATION PAPER

COURSE CODE : LLB 304  
COURSE TITLE : Jurisprudence  
DURATION : 3 Hours  
LEVEL : 3.1  
DATE : 13 AUG 2021

INSTRUCTIONS TO CANDIDATES:

1. Answer **four** questions, choose **TWO** questions from **each** section.
2. Each question carries **25 Marks**.
3. Start each question on a new page of your answer sheet.

## SECTION A

### Question 1

The Presidential Powers (Temporary Measures) Act [Chapter 10:20] of 1986 gives the President prerogative powers. These include such powers as the dissolution of parliament, executive assent to legislation and making of treaties with foreign states. In *PF ZAPU v Minister of Justice (2)1985 (1) ZLR 305 (S)* at 315-316 the Supreme Court stated that these powers were not normally subject to judicial review.

Discuss the extent to which Zimbabwe's constitutional practice particularly on the nature, source and validity of law is reflected in the positivist command theory of law as advanced by John Austin. Your answer must provide strong justifications to support your views and assertions.

[25 marks]

### Question 2

According to Hart there is no relationship between a legal system and the ideas of justice or morality. Morality is a private matter and not the business of law. However Fuller argues that law has an 'internal morality'.

- Give a critic of this statement, taking into account the Hart-Fuller debate. Your answer must also highlight one jurist who in your view presents a more compelling argument and why.

[25 marks]

## SECTION B

### Question 3

Describe the major arguments and debate introduced by Critical Legal Scholars to legal jurisprudence, including their critique of other theories of law. Suggest possible criticisms that can be made against the Critical Legal Scholars.

[25 marks]

**Question 4**

In *Commissioner of Police v Commercial Farmers Union 2000(1) ZLR 503 (HC)*, Chinhengo J held that, “the rule of law divorced from fairness and justice becomes a hollow concept.”

Discuss his sentiments in light of any relevant legal theories. [25 marks]

**Question 5**

“Law is what the court has decided in respect of any particular set of facts prior to such a decision, the opinion of the lawyers is only a guess as to what the court will decide and this cannot be treated as law unless the court decides by its judicial pronouncements”- Jerome Frank

To what extent is this statement correct, taking into account the Zimbabwean legal system? Your answer must cite substantive examples. [25 marks]

**Question 6**

- (a) Discuss fully Karl Marx’s definition of law as serving bourgeois interests and the interests of the ruling class. (10 marks)
- (b) Illustrate whether Marx’s conclusions on the nature and role of law in society constitutes a realistic reflection of law in modern society. (15 marks)

[25 marks]

**END OF PAPER**