



ZIMBABWE EZEKIEL GUTI UNIVERSITY

FACULTY OF LAW

EXAMINATION PAPER

COURSE CODE : LLB 206
COURSE TITLE : LAW OF EVIDENCE
DURATION : 3 Hours
LEVEL : 2.2
DATE : 3 June 2019

INSTRUCTIONS TO CANDIDATES:

1. Answer all questions in Section A and in Section B.
2. Write legibly in black or blue ink only.
3. Each question must be answered starting on a fresh page.
4. Duration of examination is three hours.

SECTION A

Question 1

Give a critic of the concept of dying declarations. Are the reasons used to justify the admissibility of such evidence plausible. [15]

Question 2

In the case of *Canaan Sodindo Banana*, Gubbay CJ made important pronouncements in relation to the Zimbabwean courts' approach towards a number of evidentiary issues raised in the case.

Explain and critically discuss the approach of our courts in relation to the following evidentiary matters:-

- (a) Similar fact evidence
- (b) Character evidence [15]

Question 3

Outline what Parole evidence entail and set out the exceptions to the Parole evidence rule. [15]

SECTION B

Question 4

In *Ncube HB 128-14* the court had this to say,
“While the evidence of child witnesses must accordingly be approached with caution, such caution must be a creative or positive caution, where a judicial officer uses knowledge of psychology or other relevant disciplines in order to maximize the value of such testimony. Psychological research has established that young children do not fantasize about being raped and other unusual horrific occurrences, but that their fantasies and play are characterized by their ordinary daily experiences. It is highly unlikely for very young complainants to make serious allegations without any basis at all”.

- (a) With the aid of statutory provisions and case authorities, outline the reasons behind the application of caution when dealing with child witnesses evidence. [15]
- (b) Discuss the competence and compellability of children as witnesses in both criminal and civil cases and in matters involving their parents. [10]