



ZIMBABWE EZEKIEL GUTI UNIVERSITY

FACULTY OF LAW

EXAMINATION PAPER

COURSE CODE : LLB 124
COURSE TITLE : Family Law
DURATION : 3 Hours
LEVEL : 1:2
DATE : **18 FEB 2022**

INSTRUCTIONS TO CANDIDATES:

1. Answer **ONE** questions from **SECTION A** and any **THREE (3)** questions from **Section B**.
2. Notes, handouts, and textbooks are not allowed into the examination.
3. Begin each answer to a full question on a fresh page.
4. You are required, to write legibly.
5. You are directed to avoid using shorthand and poor grammar.
6. During your answers, you must refer to any relevant case law, legal principles and legislation that may be applicable.
7. No cell phones are allowed into the examination room as well as all data storing devices. Failure to comply will lead to automatic disqualification.

QUESTION 1 IS COMPULSORY

QUESTION 1

Mary is married to Dona in terms of the Marriages Act (Chapter 5:07). The marriage is blessed with two minor boys, Tapiwa(14) and Rutendo (12). The two live in a house which Dona inherited from his late grandfather. They bought their house in Kuridza suburb from Dona's retrenchment package. The property is registered in Mary and Dona's names. Dona is now a chief accountant at CARE GLOBAL and Mary is a lawyer with Vasikana Mukai, a local NGO. In 2018, Mary effected improvements to the house they were living in, comprising of an extra bedroom and bathroom plus a bar. All this time, the parties contributed equally to all expenses including school fees.

In November 2020, Mary was promoted to the position of regional director and her duties entailed that she travels worldwide frequently. Dona was not happy about this development, and he started drinking heavily. He also started assaulting Mary and emotionally abusing her. At one point, Mary was invited to the UN Headquarters in New York where she was expected to present a paper on issues that affect adolescent girls and young women in Africa. Dona gave her an ultimatum to the effect that if she attends the conference in New York, that will mark the end of their marriage. Mary did not take him seriously and decided to attend the conference.

When Mary returned from New York, she found a guard stationed at the gate of their home. The guard disallowed her entry pointing out that he had strict instructions from Dona not to allow her entry. She was left with no other option but to book into a hotel. She tried to access her children at school, but again, the headmaster denied her access saying that he had strict instructions from Dona to stop her from accessing the children.

Towards the end of December, Mary wants divorce, and she approaches you for advice to know whether she can claim the following.

- a. Custody of the two minor children and maintenance *pendete lite* for herself and the two children. (10 Marks)
- b. Whether she can get 50% the matrimonial home and 50% share of Kuridza house. (15 Marks)

[Total 25 Marks]

SECTION B

ANSWER ANY 3 QUESTIONS FROM THIS SECTION

QUESTION 2

'In modern law, whether or not access to a minor child is granted to its non-custodial father does not depend on whether or not the child was born out of wedlock. Instead, the best interest of the minor is paramount.' Assess the validity of this statement. (25 Marks)

QUESTION 3

'Unless the family is democratized and its operations opened up to scrutiny, the state can rail against the inequalities, but the shutters of the family will remain closed against intervention.' (Bart Rwezaura et al " Parting the long grass and reconceptualizing the African Family." Journal of Legal Pluralism and unofficial law. Number 35 1995,p25 @62.) using any one area of the law in Zimbabwe, discuss the validity of this statement.(25 Marks)

QUESTION 4

Write a position paper on the current situation pertaining to the sharing of property upon the termination of an unregistered customary law union. Particular attention should be paid to judicial pronouncements on the issue and suggest possible reforms. (25 Marks)

QUESTION 5

The delict of seduction has been described in some legal circles as archaic and that it should be outlawed. Discuss this assertion. (25 Marks)

QUESTION 6

- a. Discuss the various family forms. (10 Marks)
- b. Identify and discuss the laws which the state has put in place to ensure the continued existence of a family.(15)

[Total 25 Marks]

QUESTION 7

Write brief notes on the following terms. Each one of them carries **five** marks

- a. Adulterine children
- b. Breach of promise to marry
- c. Lying in expenses
- d. Voidable marriage
- e. Concept of irretrievably broken-down marriage

[Total 25 Marks]

END

