



ZIMBABWE EZEKIEL GUTI UNIVERSITY

FACULTY OF LAW

EXAMINATION PAPER

COURSE CODE : LLB 003
COURSE TITLE : Environmental and Planning Law
DURATION : 3 Hours
LEVEL : 5.2
DATE : 15 FEB 2022

INSTRUCTIONS TO CANDIDATES:

1. Answer **one** question 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 short hand and poor grammar.
6. During the course of your answers you must refer to any relevant case law, legal principles and legislation that may be applicable.
7. No cellphones are allowed into the examination room as well as all data storing devices. Failure to comply will lead to automatic disqualification.

SECTION A

QUESTION 1

Nomsa Nxumalo, a resident of Mbare recently lost her husband due to the Cholera outbreak. She approaches you seeking legal advice as to whether City of Harare and or the Government infringed her constitutional right to a safe and clean environment.

With reference case law, advice Nomsa Nxumalo on the content and scope of Section 73 of the Constitution of Zimbabwe.

[Total 25 marks]

QUESTION 2

Marange Diamonds (Pvt) Limited is a mining company involved in diamond exploration and mining in the Marange Communal Lands. In conducting their mining and exploration activities, the company discharge its untreated waste material and effluent into the Odzi River at intervals of approximately two weeks. These discharges heavily pollute the Odzi River resulting in the river being silted, muddied, dirty and loaded with chemical and metal deposits including iron, chromium and nickel. The inhabitants of the riparian villages living on the banks of the Odzi River depend heavily on these rivers for their subsistence including using

(c) Explain the remedies available to the Claimants and how effective are they in the current legal framework? (10)

[Total 25 marks]

SECTION B.

QUESTION 3

'Environmental Impact Assessment (EIA) represents not only an instrument of environmental regulation, but also a means of securing open, accessible and informed decision-making'.

(a) Discuss the above quote with reference to Part XI of the Environmental Management Act 13 of 2002.

(10)

(b) Explain the limitations of EIAs (inherent in current legislation) as a means of providing environmental protection, and indicate how these limitations can be addressed through reform

(15)

[Total 25 marks]

QUESTION 4

The precautionary principle has become established worldwide, and sometimes even in law. From your understanding of the precautionary principle, provide responses to the following questions:

(a) Explain the precautionary principle?

(5)

(b) How is this principle reflected in Zimbabwean legislation? In answering this question indicate the relevant statutory provisions

(10)

(c) Illustrate, with the support of case law or case study examples, the practical application of the precautionary principle

(10)

[Total 25 marks]

QUESTION 5

Discuss the challenges and loopholes observed in practice regarding land ownership, use and distribution in Zimbabwe. Your answer must cite relevant provisions of the law.

[25 marks]

QUESTION 6

Discuss the distinctive environmental law principles.

[25 marks]

Question 7

(a) With reference to relevant case law, write a short brief on common law remedies against environmental degradation.

(10)

(b) With reference to relevant case law, write a short brief on constitutional remedies against environmental degradation.

(15)

[Total 25 marks]

END OF PAPER