



ZIMBABWE EZEKIEL GUTI UNIVERSITY

FACULTY OF LAW

DEPARTMENT OF PRIVATE LAW

EXAMINATION PAPER

05 JUL 2022

COURSE CODE : LLB 114
COURSE TITLE : Customary Law
SPECIAL REQUIREMENTS : Relevant pieces of legislation
DURATION : 3 Hours
LEVEL : 1.1
DATE :

INSTRUCTIONS TO CANDIDATES:

1. Question **ONE** is compulsory
2. Answer **THREE** questions from section B. Each question carries **25 marks**.
3. Students may bring into the exam un-annotated and clean texts of applicable legislation.
4. Copies with notes inside shall not be allowed and may be confiscated. No student is allowed to share his/her copy with another.

5. Number your answers accordingly

QUESTION 1

Masango is a 50 years old man who is married to 3 women in terms of custom and his marriages are not registered in terms of the law. One of his young wives Mamoyo had an extra marital affair with their garden attendant Zivo. She got pregnant and continued to pretend that the child belonged to Masango. One day there was a heated argument between Zivo and Mamoyo because Zivo insisted that Masango is a good man and he cannot continue to hide the truth from him. He immediately sent a text message to that effect to him. Masango was beside himself with grief for he had already registered the baby as his. He decided to end his relationship with Mamoyo but Mamoyo refused to be divorced arguing that she is too old to find another man. In the meantime, Chihera, Masango's first wife decided that she is tired of her husband's infidelity and she gave Masango a 'divorce token' and packed her belongings. When she was about to leave, Masango asked her to leave all her minor children in the custody of his second wife Sokostina whom he said has better mothering qualities than her. He further told her that she can take 'umai' and 'maoko property' because she is just a woman. She was denied access to her children because Masango feared that she would influence the children against their new mother Sokostina.

Identify legal issues that arise and advise the parties. **[25 Marks]**

QUESTION 2

Section 2 of the Constitution of Zimbabwe provides that any custom or practice which is inconsistent with the constitution is invalid to the extent of its inconsistency. Identify and discuss **three** customary practices which you believe to be in violation of human rights. **(15 Marks)**

- a. Discuss why it is difficult to end harmful customary practices stated above **(10 Marks)**

[25 Marks]

QUESTION 3

The Marriage Act [Chapter 5:15] brings a lot of positive changes which will have lasting effect in customary marriages. Discuss? **(25 Marks)**

QUESTION 4

Critically interrogate the fact that customary justice offers a favourable outcome compared to the formal court system. **[20 Marks]**

How are the chiefs' judgments enforced? **[5 Marks]**

(Total 25 Marks)

QUESTION 5

The concept of accessory liability in delictual claims under customary law has outlived its usefulness and should be discarded. Discuss **(25 Marks)**

QUESTION 6

Analyze the ownership of property under customary law. **[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, custody and registration of births of children born in registered and unregistered customary law marriages. **(25 Marks)**

End