



ZIMBABWE EZEKIEL GUTI UNIVERSITY

FACULTY OF LAW, BUSINESS INTELLIGENCE AND ECONOMICS

DEPARTMENT OF LAW AND LEGAL SERVICES

EXAMINATION PAPER

COURSE CODE : LLB 114

COURSE TITLE : Customary Law

DURATION : 3 Hours

LEVEL : 1.1

DATE :

13 APR 2023

INSTRUCTIONS TO CANDIDATES:

1. Question ONE is compulsory
2. Answer THREE questions from section B. Each question carries 25 marks.
3. Cheating of any kind will be severely penalised.
4. Number your answers accordingly and each new answer must appear on a new page.

SECTION A

Question 1

Courage Mutsvairo is a teacher at a local secondary school. He is a Mathematics teacher. A lot of students find his subject very challenging so much that they asked him to conduct extra lessons for them. The extra lessons are conducted in his thatched house in the village under chief Kutongakwaro. One day Courage had sexual intercourse with Laina, a form 4 student who will turn 16 years in June 2023 soon after one of the extra lessons. This became a trend for the weeks that ensued and she eventually became pregnant. Her mother asked her about the person who made her pregnant but she refused to divulge his name until she delivered the baby. It was only after a thorough beating by her father that she disclosed that it was Courage who made her pregnant. The matter was brought before chief Kutongakwaro's court. With the assistance from his advisors the chief ruled that Courage should marry Laina and he immediately solemnised their marriage in terms of the Marriages Act(Chapter 15:17). Courage was ordered to pay lobola in terms of custom. Laina was never given an opportunity to speak because 'she was just a woman'. Laina is aggrieved by the chief's judgment and she approaches you for advice.

Advise her fully. **[25 Marks]**

Section B

Question 2

Identify and discuss aspects of customary law which are sometimes believed to be in violation of human rights. In your answer give details of how best can the bill of rights be used to improve some customary practices. **[25 Marks]**

Question 3

Critically analyse the ownership of property under customary law in Zimbabwe.

[25 Marks]

Question 4

The Chiefs' forum is very excited that their members now have power to solemnise marriages in terms of the Marriages Act (Chapter 5:17) and they look forward to exercise of their newly found jurisdiction. They approach you for advice on how they can exercise this duty without violating the existing rights of the women. Write a position paper detailing the nature of their duties, the circumstances under which they exercise their duties and the possible challenges they may encounter. **(25 Marks)**

Question 5

Critically interrogate the fact that customary justice offers a favourable outcome compared to the formal court system. **[25 Marks]**

Question 6

Discuss the nature of the jurisdiction of the chief's court and how the chief's judgements are enforced. **[25 Marks]**

Question 7

Discuss the concept of accessory liability under customary law in Zimbabwe.

[25 marks]