



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 : 11
DATE : 31 JUL 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

Mugoni is a thirty year old married man. He lives in Chikuyo village with his wife Rege. Their marriage is not solemnised but they have performed all customary rites required for a valid marriage. The reason for failure to register the marriage is that Mugoni fears that if their relationship gets sour he might be killed by his wife for his property. Mugoni acquires a new wife, Fay. She is 15 years old and already pregnant for him. Rege feels betrayed by her husband and reports a case of child marriage and having sexual intercourse with a minor to the local chief Chibharo. Chief Chibharo's court dealt with the matter and came to the conclusion that his own mother got married to his father at the age of 14 and gave the world an intelligent man like himself at the age of 15 therefore there is nothing amiss about Fay and Mugoni's marriage. He further stated that Fay's physical appearance shows no signs of a child but a fully developed woman good enough to be a housewife. The court then proceeded to fine Rege a goat for abusing the court process to fight her co-wife. Rege is aggrieved by the court's decision and she approaches you for advice.

Using decided cases advise her on the following issues

- i. Identify legal issues that arise and discuss the jurisdiction of the chief's court and procedures to be followed when dealing with the matter at hand. **(20 Marks)**
- ii. Procedures that she can follow to end the relationship that she has with Mugoni and other ancillary relief. **(5 Marks)**

SECTION B

Question 2

Section 2 (1) of the Constitution of Zimbabwe (Amendment Number 20) states that, 'This Constitution is the supreme law of Zimbabwe and any law, practice, custom or conduct inconsistent with it is invalid to the extent of the inconsistency'. Identify and discuss five customary practices which seem to be in conflict with the Bill of rights and how best the constitution can be used to protect the rights of the affected individuals. **(25 Marks)**

Question 3

The laws of acquisition and ownership of property under customary law in Zimbabwe has significantly changed over time. Critically analyse the ownership of property in Zimbabwe and in your analysis rely on decided cases and other sources of law.

[25 Marks]

Question 4

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

Question 5

Under the new marriage law, traditional leaders possess power to solemnise marriages. Identify the circumstances under which they can solemnise marriages and analyse advantages and possible challenges associated with giving them such power.

[25 Marks]

Question 6

The concept of accessory liability in customary matters has outlived its usefulness and cannot be applied in modern times. Discuss. **[25 Marks]**

Question 7

Explain why a large population in Zimbabwe continue to rely on traditional courts for justice. In your explanation, include the disadvantages of using traditional courts.

[25 Marks]

END OF PAPER

2 PM