



ZIMBABWE EZEKIEL GUTI UNIVERSITY

FACULTY OF LAW AND LEGAL SERVICES

DEPARTMENT OF LAW AND LEGAL SERVICES

EXAMINATION PAPER

MODULE CODE : LLB313
MODULE TITLE : JURISPRUDENCE
DURATION : 3 HOURS
LEVEL : 3:1
DATE : 13 JUN 2024

INSTRUCTIONS TO CANDIDATES:

Answer Four (4) questions, any two (2) questions from each section.

Each question from section (A) carries 15 marks and Each question from section (B) carries 20 marks

Number of marks for part questions are shown in brackets

Start each question on a new page

This paper consists of three (3) pages

Answer sheets are provided

Question 1

Discuss the Hart Fuller debate and its relevance to the Zimbabwean legal system. HLA Hart, "positivism and the separation of Law and Morals", 71 Harvard Law Review 593(1958); Lon Fuller, "positivism and the Fidelity to Law- A response to professor Hart", 71 Harvard Law Review 630(1958)

[15 marks]

Question 2

Identify and discuss at least three theories of feminism, their contribution to jurisprudence and identify their relevance to Zimbabwe's legal system.

[15 marks]

Question 3

Discuss the development of natural law and its relevance to Zimbabwe's legal system.

[15 marks]

Section B

Question 4

Criticize fully Karl Marx's definition of law as serving bourgeois interest and the interest of the ruling class. Illustrate whether Karl Marx's conclusions on the nature and role of law in society constitutes a realistic reflection in Zimbabwean society.

[20 marks]

Question 5

There is ample evidence in both the legislative and judicial processes of the application of the principle advanced by the proponents of natural law, that, the validity of law must be measured against some moral ethical and formal requirements or imperatives. Not all judgments on principles of legality are value neutral. This is manifested in judgments of superior courts, in cases on, for example, inheritance, the defense of necessity and

sexual orientation. The question of the relationship between law and principles of morality, ethics, the moral criteria for the evaluation of positive law and, the implications of their application, constitutes the core postulates of naturalists. It can certainly be argued that Lord Devlin (Devlin 1965) was an exponent of value judgments and advanced the position that law, especially criminal law, can be used to enforce principles of morality. The basis of this argument was that the State has a claim to legislate on matters of morals. In the famous English case of *Shaw v DPP (1962) AC 220 (1961) 2 WLR 897 HL*, the concept of the courts of law their inherent jurisdiction over the community's morals was discussed at length by the House of lords.

With reference to *Mwonzora v The State CCZ17/2016* and other relevant case law, discuss whether the Zimbabwean Courts possess moral jurisdiction within the purview of jurisprudence.

[20 marks]

Question 6

Tapiwa has recently been appointed as the Executive Dean of the Graduate Business school (GBS) at Danai University. She is fully in charge of the administration of the Faculty. She is married both customarily and civilly to Widzo. Her husband is a lecturer at the (GBS) School. In addition, her husband is also a Pastor at Baptism Christian Fellowship (BCF). Tapiwa is a member of (BCF). Part of her duties at the (GBS) include assigning lecturers to supervise students. She assigns her husband to supervise a student, Dickens. Her husband refuses to take that instruction. Infuriated by her husband's attitude, she decides to institute disciplinary measures against him. She shares her decision with her friend Lynette, who is a human rights expert.

Lynette advises her that as a woman she must assert her rights as enshrined in the Constitution of Zimbabwe. A few days later, Lynette, has a tyre puncture as she is driving to work. Her husband lives in Maritzburg -so she calls Widzo for help. As a pastor, Widzo rushes and rescues the situation. In the process of being assisted, Lynette tells Widzo

that his wife will soon initiate disciplinary proceedings for insubordination. Without saying much, Widzo on the following Sunday, takes to the pulpit and preaches on wives' submission to their husbands. He also says that equality was similar to female dominance and any woman who attempts to assert equality over men and if that woman is married "she is kindly asking for a peaceful divorce". Pastor Widzo makes "an altar call" for women to repent from these Western cultural influences.

Meanwhile, in a state of shock, Tapiwa sends a WhatsApp message to Lynette about the peaching. Immediately, Lynette replies saying, "gal, men have always used religion to dominate women. Stand up for your rights and fights. All women are behind you". That night, Tapiwa does not sleep and consults Aunty Google for answers. This adds to her confusion as Aunty Google gives her over 1 million answers on feminism. On Monday she walks to the Law clinic to ask for advice.

Her case has been assigned to you.

Advise her.

[20 marks]

'end'

0/50 am