



**ZIMBABWE EZEKIEL GUTI UNIVERSITY**

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**FACULTY OF LAW, BUSINESS INTELLIGENCE & ECONOMICS**

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**DEPARTMENT OF LAW & LEGAL SERVICES**

**EXAMINATION PAPER**

**MODULE CODE : LLB124**  
**MODULE TITLE : FAMILY LAW**  
**DURATION : 3 HRS**  
**LEVEL : 1.2**  
**DATE : 23 SEP 2024**

**INSTRUCTIONS TO CANDIDATES:**

1. Answer 4 questions. Answer **one** question in Section A and any **three** question from Section B.
2. Each question carries twenty-five (25) marks.
3. Number of marks for part questions are shown in brackets.
4. Start each question on a new page.
5. Answer sheets are provided

## **Section A**

### **Question 1**

Moses married Gugu in terms of the Marriage Act (Chapter 5:17) at Mabuya Hall in Kangaishwa. They have one minor child, Cello born on the 6<sup>th</sup> of March 2023. Their marriage was a happy one until Moses was transferred to Kupfuma Minerals in Goridhe, leaving Gugu and Cello behind. Initially, Moses drove to Kangaishwa every weekend but after two months his visits became less frequent until they stopped all together.

Gugu engaged the services of a private detective to ascertain what was happening in Moses' life. The report by the detective revealed that he was having an extra-marital affair with Irene, a business woman based in Goridhe. Gugu confronted Moses who confessed to having a relationship with Irene but promised to stop. He does seem to have stopped for a while until he starts going to Kangaishwa less frequently again. The detective confirms that Moses has resumed the relationship with Irene.

Gugu confides in her male work colleague Feli on her relationship with Moses. Soon the two started spending a lot of time together. After a month, a passionate relationship develops between Feli and Gugu. Moses still visits the family home once in a while and Gugu therefore is having a sexual relationship with both Moses and Feli.

Gugu discovers that she is pregnant and duly gives birth to a son called Peter. The affair between Gugu and Feli continued even whilst she was pregnant. After the birth of Peter, unbeknown to Moses, Gugu and Feli go for a paternity test. The results show a 99% probability that Feli is the father of Peter.

In the meantime, Moses discovers that Irene is still having a relationship with her ex-husband. He terminates his relationship with Irene and asks Gugu for forgiveness.

They seek counselling at Gadziriso. Gugu terminates her relationship with Feli and the relationship between herself and Moses improves drastically.

Not content with having the relationship terminated, Feli brings an action in the High Court seeking an order declaring that he is the father of Peter. He also seeks access/visitation rights to Peter. He has filed the results of the blood test in support of his claim.

Moses and Gugu wish to oppose Feli's claims but are not sure how to proceed.

You are a lawyer with Dzidziso.

1. Advise Moses and Gugu of their rights in relation to the claims by Feli. **(15 marks)**
2. Assuming that Moses and Gugu were married under Customary law, what advice would you give them. **(10 marks)**

## **Section B**

### **Question 2**

The delict of seduction is archaic and has no place in modern day Zimbabwe. Discuss the validity of this assertion. **(25 marks)**.

### **Question 3**

'In modern law, whether or not access to a minor child is granted to its noncustodial father does not depend on whether or not the child was born out of wedlock. Instead in each case, the decision will be made on the basis of a consideration of what is in the child's welfare' - per Sandura J (Dissenting) in *Cruth vs Emmanuel* 1999 (1) ZLR 7.

Assess the validity of this assertion with reference to the concept of best interests of the child in custody, guardianship and access matters. **(25 Marks)**

### **Question 4**

Discuss the rationale for recognising civil partnerships and the application of the Matrimonial Causes Act (Chapter 5:13) upon their dissolution in Zimbabwe. **(25 Marks)**

**Question 5**

'Although the term **family** is frequently used in academic literature and in statutory provisions, it is in fact rarely defined. One possible reason why such a definition is avoided is that the concept of family varies from culture to culture and from one historical period to another'. *Bart Rwezaura et al; Women and Law in Southern Africa Research Trust (WLSA) Working Paper No.12, 1995 at page 3.*

Explain the different forms which **family** has taken from time to time and highlight any variables that are useful for maintaining a scientific criterion on defining the term. **(25 Marks)**

**Question 6**

With the aid of case law and other sources of law, discuss the legal consequences of marriage in Zimbabwe. **(25 Marks)**

**Question 7**

With the aid of statutory provisions and decided cases, analyse the role of the state in ensuring the continued existence of the family. **(25 Marks)**

**End of paper**

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