



ZIMBABWE EZEKIEL GUTI UNIVERSITY

FACULTY OF LAW, BUSINESS INTELLIGENCE AND ECONOMICS

PRIVATE LAW DEPARTMENT

EXAMINATION PAPER

MODULE CODE : LLB114
MODULE TITLE : CUSTOMARY LAW
DURATION : 3 HOURS
LEVEL : 1:1
DATE : 09 APR 2025

INSTRUCTIONS TO CANDIDATES:

Section A is compulsory. It carries 50 marks, answer all questions

Each question from Section (B) carries 25 marks

Answer any (2) questions from Section B

Number of marks for part questions are shown in brackets

Start each question on a new page

This paper consists of three (4) pages

Answer sheets are provided

Section A

Question 1

Mr. Mudavanhu married his wife in terms of the Marriage Act (Chapter 5:11) in November 1999 and the couple was blessed with five children, including three girls and two boys. In the course of time, Mr. Mudavanhu engages in an extra marital affair with Rutendo, wherein the two are also blessed with three children. Unfortunately, Mr. Mudavanhu falls ill and dies intestate in 2010. His first wife is appointed as Executor to his estate and she excludes the deceased's children from the extra marital affair to benefit from their father's estate. Her basis for exclusion is centered on the notion that, the two were married under the Marriage Act (Chapter 5:11), therefore, children from the deceased's extra marital affair are not entitled to benefit from the estate. Rutendo dissatisfied with the position of the deceased's wife approaches you for legal advice.

- a) With the aid of case law and legislative provisions critically advise Rutendo on the best legal recourse to take **(20 marks)**

- b) Would your answer be any different if Mr. Mudavanhu had passed on in 2014
(5 marks)

Question 2

".....the real issue of controversy was alleged to be premised on s26 (d) of the Constitution of Zimbabwe, 2013, which caters for protection of the children and spouses upon dissolution of marriage by divorce or death.....it is argued that such protection is extended to spouses who are customarily married even though their marriage was not solemnized in terms of the law..." Almero v Sithole HH60/2023

With reference to the Constitution of Zimbabwe Amendment (No 20 of 2013) and the Marriages Act (Chapter 5:17) and case law, critically discuss the provisions that advance women's rights.

[25 marks]

Section B

Question 3

With reference to case law, discuss the assertion, “the Legal Age of Majority has the effect of liberating women from their minority status”.

[25 marks]

Question 4

Taurai Tande is teacher at a local secondary school. He is an English teacher. A lot of students find his subject 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 Chawa. One day Taurai Tande has sexual intercourse with Rudo, a form 4 student who will turn 18 years in June 2024 soon after 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 impregnated her 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 Taurai Tande’s baby. The matter was brought before Chief Chawa’s court. With the assistance from his advisors the chief ruled that Taurai Tande should marry Rudo and he immediately solemnized their marriage in terms of the Marriages Act (Chapter 5:17). Taurai was ordered to pay lobola in terms of custom. Rudo was never given an opportunity to speak because she was just a woman. Rudo is aggrieved by the chief’s judgment and she approaches you for advice.

Advise her fully.

[25 marks]

Question 5

Matirasa was married to Tonderai and they are both deceased. The couple had five children, three females (Rudo, Rutendo and Shein) and two males (Kuda and Taku). Matirasa and Tonderai left a sizeable estate, including two houses in Britzberg and two farms in Petersdale. Upon distribution of the estate, the male brothers allege that their sisters should not benefit anything from the estate because they are likely to get married and abandon the family’s name. Rudo, Rutendo and Shein approach you for legal advice.