



ZIMBABWE EZEKIEL GUTI UNIVERSITY

FACULTY OF LAW

DEPARTMENT OF PRIVATE LAW

EXAMINATION PAPER

COURSE CODE	:	LLB 303
COURSE TITLE	:	Family Law
SPECIAL REQUIREMENTS	:	Relevant pieces of legislation
DURATION	:	3 Hours
LEVEL	:	3.1
DATE	:	13 NOV 2019

INSTRUCTIONS TO CANDIDATES:

1. Question one is compulsory
2. Answer THREE questions from section B. Each question carries 25 marks.
3. Students may bring into the exam un-annotated and clean texts of applicable legislation and the 2013 Zimbabwean Constitution.
4. Copies with notes inside shall not be allowed and may be confiscated. No student is allowed to share his/her copy with another.
5. Number your answers accordingly

Section A Compulsory question

Question 1

Ms Stones is a female lecturer at ZOU. She has been in love with her boyfriend for four years until the period she fell pregnant. In January 2018, the boyfriend proposed love to her which she did not readily accept because she was apprehensive that the relationship might not last. They befriended and visited each other and ultimately fell in love. The defendant made a marriage proposal to her when she refused to have sexual intercourse with him because she was not using contraceptives. The defendant then told her that she did not need to use contraceptives because he wanted to marry her and wanted to plan a child with her. He subsequently repeated the promise to marry her when he introduced her to his spiritual healer. He introduced her to the spiritual healer as his "prospective wife" and thereafter they consulted the spiritual healer together on numerous occasions. The defendant further told her that his intention was not to hurt her feelings but to make her happy. As a result of the promise the plaintiff had sexual intercourse with the defendant and continued to indulge in sexual intercourse with him as they were planning to have a child. They spent several nights at the defendant's house where they indulged in sexual intercourse every night in January 2018, to make sure that she conceives. When the defendant was informed about the conception he, to her surprise, became unhappy. Two days after discussing the conception with him she visited the defendant at his house and caught him in the act with another woman. She testified that after this incident the defendant repeatedly told her that he no longer loved her and was not going to marry her because he is in love with another woman with whom he cohabits. Ms Stones has approached you for advice and wish to make the following claims.

- a) Breach of promise to marry
- b) Lying in expenses
- c) Seduction damages

Advise her on the prospects of success on the claims that she has brought before the court.
[25 marks]

Section B Answer any THREE questions

Question 2

"What is clear from the facts of this case is that this was an ordinary marriage relationship. The parties were not involved in a commercial activity for the purposes of profit. Even if the plaintiff's claims were accepted in full, the services rendered by her did not go beyond those ordinarily expected of a wife in her situation. In this situation, there can be no question of a tacit universal partnership". *Mtuda v Ndudzo 2000(1) ZLR 710(H) @ page 716H.*

Discuss how the common law concept of 'tacit universal partnership' has been interpreted by the Zimbabwean judiciary with respect to division of "matrimonial property" at the dissolution of an unregistered customary law union. [25 marks]

Question 3

The delicts of seduction and adultery have no place in the modern world and should be outlawed. Discuss [25 marks]

Question 4

The court can grant a divorce when a marriage has irretrievably broken down. What criteria must the court apply to determine whether it has reached the point of "irretrievable breakdown"? Discuss fully with reference to relevant case law [25 marks]

Question 5

"Entrusting the courts with a wide discretion inevitable leads to indefinite legal rights and uncertainty in law". With aid of Zimbabwe case law authorities, critical examine the statement in relation to the property rights of spouses at divorce. [25 marks]

Question 6

The existing laws regulating marriages in Zimbabwe is full of contradictions and opportunities for inequality and unfairness. Does a case for law reform in Zimbabwean marriage laws exists? Discuss this statement in light of the Marriage Bill. [25 marks]

Question 7

With aid of case law authority, outline and describe ways in which the Legal Age of Majority Act, 1982 revolutionised and changed the family law discourse [25 marks]