



ZIMBABWE EZEKIEL GUTI UNIVERSITY

FACULTY OF LAW

EXAMINATION PAPER

COURSE CODE : LLB303
COURSE TITLE : FAMILY LAW
DURATION : 3 Hours
LEVEL : 3:1
DATE : 4 June 2019

INSTRUCTIONS TO CANDIDATES:

- (i) Answer two questions from section A and all questions from section B. Each question carries 25 marks.
- (ii) Students may bring into the exam un-annotated and clean texts of applicable legislation and the 2013 Zimbabwean Constitution.
- (iii) Copies with notes inside shall not be allowed and may be confiscated. No student is allowed to share his/her copy with another.
- (iv) Number your answers accordingly

Section A

Answer two questions from this section

Question 1

Discuss the consideration that the court take into account in awarding damages for the following claims:

- a) Seduction [5 marks]
- b) Breach of promise to marry [5marks]
- c) Lying in expenses [10 marks]

Question 2

With reference to case law, discuss the aspect of void and voidable marriages. Discuss the legal effect of the two situations [25 marks]

Question 3

Discuss the applicability of the concept of the best of the child as provided in human rights conventions, statute and case law [25 marks]

[25 marks]

Question 4

Discuss the position of the law with regard to application spousal maintenance and maintenance *pendete lite* [25 marks]

Section B

Answer all questions in this section

Question 5

Nandi and Peter have been staying together since 2010 when they contracted a civil marriage which was registered under the Marriage Act Chapter 5 11. They then had a nasty dispute over allegations of infidelity. Nandi 's story is that Peter was having an extra marital relationship

with her PA at the office. Peter is denying the allegations. Nandi moved out of the house on 25 April 2019. Nandi discloses to a friend that she want to file for divorce. The friend advised that she cannot apply for divorce before a period of 1 year after separation. As such Nandi should wait for a year before she can file for divorce. The friend also advised that Nandi should claim the house that she had been staying with her husband because the husband is the one who is responsible for the breakdown of the marriage. As a result, the court will penalize him. Acting on the advice of her friend Nandi is severely depressed by the fact that she was told that she needs to wait for a year before filing for divorce. Nandi approaches you and wishes to get legal advice on the following;

- a) The ground for divorce [10 marks]
- b) The court's consideration in awarding matrimonial property[10 marks]
- c) The issue of custody of minor children [5marks]

Advise her properly.

Question 6

Sue and Sonia are ten year old twins born to single mother who is a peasant farmer in Chimanimani. The twins have never met their father. All they know is that the man denied responsibility of the pregnancy. In the month of March 2019, the family's homestead was swept away by the cyclone that hit the area heavily. The twins miraculously survived death by holding to a branch of a mango tree. Unfortunately, their mother passed on. After burial, their mother's sister Eunice, indicated that she now want to be the guardian of the twins and go with them to the United Kingdom where she resides. The father of the twins is still alive but has never been responsible for looking after the children. He managed however to attend the funeral. Meanwhile he got information about the proposed action and he vehemently objects to that. His argument is that his children will not leave anywhere outside Zimbabwe. He now wants to take the children to his house where he resides with his wife and 5 other children. He is unemployed and earns a living by selling traditional beer. His other children have dropped out of school because of his failure to pay school fees.

Advise Eunice on the position of the law with regards to her intended action of taking the twins to United Kingdom. [25 marks]

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