

**ZIMBABWE EZEKIEL GUTI UNIVERSITY**

**FACULTY OF LAW**

**SUCCESSION AND ADMINISTRATION OF ESTATE LAW  
EXAMINATION**

**LLB307**

**DURATION: 3 HOURS**

**11 NOV 2019**

**INSTRUCTIONS TO CANDIDATES**

1. Answer **four questions only**.
2. Section A is compulsory.
3. Choose any 2 questions from Section B

**INFORMATION FOR CANDIDATES**

1. Notes, handouts and textbooks are not allowed into the examination.
2. Cellphones are not allowed into the examination room.
3. Begin each answer to a full question on a fresh page.

**NB: DO NOT TURN OVER THE QUESTION PAPER OR COMMENCE WRITING  
UNTIL INSTRUCTED TO DO SO.**

1. Munhamo Tiritose approaches you for advice. Kufahakurambwe, her recently deceased husband, left his entire estate to his secretary Rudo, with whom he was having an extra marital affair. He signed a document which appears to be his will with his initials and not his full signature in the presence of two witnesses. Munhamo friend a messenger at the Masters of the High Court office told her that Kufahakurambwe will is probably invalid as it does not comply with the certificate requirement. Advise Munhamo on the validity of Kufahakurambwe will and any other possibilities that would allow her to inherit.[25 marks]
2. Seventeen (17) year old Allanviny Muburwa went boat cruising in Kariba dam with his two best friends, sixteen (16) year-old Gift Maziti and eighteen (18) year-old Shamiso Mtisi. Whilst in the boat, Allanviny was attacked by a Nyaminyami the river god which bit off his right arm. Allanviny's friends rushed him to hospital where he decided to make a will. He dictated the will to Shamiso who wrote it down in his own (Shamiso's) handwriting. In this one page will, Allanviny left his car to Shamiso, ZWL50 000.00 to Gift and the residue of his estate to his grandparents who raised him.

Allanviny who was right-handed, made a thumb print with his left hand at the end of the will. Gift and a nurse signed as witnesses. Allanviny died a few hours later. He was survived by his father and his grandparents.

Answer the following questions on these facts:

- (a) Did Allanviny had the testamentary capacity to make a will? [5 marks]
  - (c) Does Allanviny's will comply with all the testamentary formalities for a valid will? Explain your answer. [8 marks]
  - (d) Suppose the will is invalid because it does not comply with the formalities for wills. What advice will you give Allanviny's grandparents that will enable them to inherit? [8 marks]
  - (e) Suppose the will is valid. Discuss the capacity of Gift and Shamiso to inherit under the will. [4 marks]
3. Write a note on undue influence and what effect it has on the validity of a will. In your answer you must refer to and discuss the following two cases: **Harlow v Becker 1998 (4) SA 639 (D)** and **Spies v Smith 1957 (1) SA 539 (A)**. [25 marks]
  4. Explain and outline the scope , application and limitation of the freedom of testation in the law of succession [25marks]
  5. The difference between the common law and customary laws of succession are mostly based on societal and economic consideration. Discuss this statement in connection with the dual character of the law of succession and the choice of law rules [25 marks]
  6. "It must be reiterated that apart from substantive concepts and principles of the law seeking to ensure and achieve justice, the danger remain in the procedures of the

law.” To what extent does the Zimbabwean procedural fiat for administration of estates ensure justice and other equitable outcomes? [25 marks]

7. ‘Addressing the system for administration of estates requires an understanding of Zimbabwe’s social system, especially in relation to inheritance, property rights, marriage systems and gender relations. Without doubt, these systems are directly shaped by the patriarchal nature of Zimbabwean society. Women in Zimbabwe face practical hurdles in the acquisition of property, particularly immovable property. The origin and major drivers of this hurdle is the cultural system that does not recognise the equality between men and women. Property rights are in general skewed in favour of men. To exacerbate this, both cultural and formal institutions that deal with property rights are mostly controlled by men, and these include institutions for land acquisition and reallocation, cultural dispute resolution mechanisms and family-based conciliation processes.’ With the aid of Zimbabwean case law authorities discuss this statement in connection with the challenges faced by women in the administration of estates [25 marks]
8. Marriage laws in Zimbabwe are a major contributing a factor to the problems associated with the administration of estates. Evaluate this statement in connection with the marriage Bill. In your answer explain ways in which the marriage bill seeks to address these challenges [25 marks]
9. **EITHER:** You have been engaged as a consultant by the Faith and Future Forum (FFF) to carry out a research titled **Review and Reform of the Law on Administration of Estates in Zimbabwe**. In your research report
  - a) Give an outline on policies and the law on administration of estates specifically looking at the procedure for winding up of estates, the fees which are paid at every stage and the role which is played by the office of the master in guiding beneficiaries and executors of the estates. [8 marks]
  - b) Establish the extent to which beneficiaries are being affected by the current legal and policy framework on estate administration with specific reference to fees to be paid for winding up of estates and the procedures to be followed in winding up of estates. [5 marks]
  - c) Carry out a comparative analysis of the policies and legislation specifically comparing with South Africa [5marks]
  - d) Recommend policy and legislative provisions which will address challenges which beneficiaries of deceased estates face in winding up estates. [7 marks]**OR** You have been engaged as consultant by the Faith and Future Forum (FFF) to write a position paper for law reform on property and inheritance rights of women in Zimbabwe [25 MARKS]