



ZIMBABWE EZEKIEL GUTI UNIVERSITY

FACULTY OF LAW

EXAMINATION PAPER

COURSE CODE : LLB103
COURSE TITLE : HISTORY OF ROMAN DUTCH LAW
DURATION : 3 Hours
LEVEL : 1.1
DATE : 27 May 2019

INSTRUCTIONS TO CANDIDATES:

1. Answer any 2 questions in section A.
2. Answer any two questions from section B.
3. Number your answers accordingly

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Faculty of Law

Public Law Department

History of Roman Dutch Law

LB 103 May, 2019

Instructions to Candidates

1. Answer any two questions in Section A
2. Answer any two questions from Section B
3. Duration of examination is three hours

SECTION A

- 1) "The nature of Common Law is not a simple process of growth, but involves quantitative and qualitative changes in human development". Discuss this in relation to how Roman Dutch Law evolved. (15 marks)
- 2) Explain how the emergence of Class Society shaped and influenced the development of law in Rome from the Monocracy to the Dominate Era. (15 marks)
- 3) Explain the convergence of Roman Law and Dutch customs into a single composite legal system. (15 marks)

SECTION B

- 4) In the case of Don Nyamande and Another vs Zuva Petroluem (Pvt) Ltd SC Judgment 43/15, confirms the supremacy and indispensability of

Common Law principles and rights. It cements the presumption in the interpretation of Statutes, that parliament does not intend a change in the common law unless it expresses its intention with irresistible clearness or it follows by necessary implication from the language of the statute in question that it intended to effect such alteration in the Common Law. It concludes that the substantive law is in common law and substantive rights derived from common law and then from time to time statute may be enacted to regulate such rights taking into consideration the prevailing environment.

Apart from this Authority, what other evidence is there to confirm that Zimbabwe remains a Common Law Country? (20 marks)

- 5) "Justinian Codification was not however innovative. It performed the all important historical service of sorting through the thousands of imperial edicts and numerous juristic features eliminating contradictions by choosing the practice or ruling which was current in 533 AD and systemising the whole body of law under titles corresponding the following areas of law; obligations, things, persons, family and action (procedure)".

Explain the main features of the mentioned areas of law that the code developed and preserved. (20 marks)

- 6) The British High Commissioner's Proclamation of 1891 to the effect that the law that was applicable in the present Zimbabwe was the law that was applicable at the Colony of the Cape of Good Hope on the 10th June 1891 as subsequently modified.

Explain the rationale for the proclamation as well as the content of the law that was applicable at the Colony of the Cape of Good Hope on that effective date. (20 Marks)