



ZIMBABWE EZEKIEL GUTI UNIVERSITY

FACULTY OF LAW

EXAMINATION PAPER

COURSE CODE : LLB 003
COURSE TITLE : Environmental and Planning Law
DURATION : 3 Hours
LEVEL : 3,1
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INSTRUCTIONS TO CANDIDATES:

1. Answer **four questions**, choose at least **ONE** question from **each** section.
2. Each question carries **25 Marks**.
3. Start each question on a new page of your answer sheet.

SECTION A

Question One

Mollen Munetsi, a resident of Budiriro recently lost her husband due to the Cholera outbreak. She approaches you seeking legal advice as to whether City of Harare and or the Government infringed her constitutional right to a safe and clean environment.

In light of related case law, advice Beauty on the content and scope of Section 73 of the Constitution.

[25 Marks]

Question 2

Marange Diamonds (Pvt) Limited is a mining company involved in diamond exploration and mining in the Marange Communal Lands. In conducting their mining and exploration activities, the company discharge its untreated waste material and effluent into the Odzi River at intervals of approximately two weeks. These discharges heavily pollute the Odzi river resulting in the river being silted, muddied, dirty and loaded with chemical and metal deposits including iron, chromium and nickel. The inhabitants of the riparian villages living on the banks of the Odzi depend heavily on these rivers for their subsistence including using the waters for drinking, bathing, watering livestock, gardening and fishing. As a result of the pollution, the water in the rivers is no longer fit for the above mentioned purposes. Also, the pollution has destroyed aquatic life like fish and disturbed the ecosystem in the rivers. A recently formed environmental advocacy group, Green Rights Association, has vigorously challenged the practice, claiming that it poses a serious health hazard for the people as well as the fish farming activities which is also a vital means of employment for residents and an alternative source of food for the population. After fruitless protest marches at the Company's premises, Green Rights Association decided to take legal action and they approach you for legal advice.

- (a) Discuss the legal channels that are available to Green Rights Association which they may use to enforce their claims? **(5 marks)**
- (b) Discuss the preliminary issues that you would need to address should you be inclined to take the matter to the High Court? **(10 marks)**

- (c) What are the remedies available to the Claimants and how effective are they in the current legal framework? (10 marks)

[25 marks]

SECTION B

Question 3

'Environmental Impact Assessment (EIA) represents not only an instrument of environmental regulation, but also a means of securing open, accessible and informed decision-making'.

- (a) Discuss the above quote with reference to Part XI of the Environmental Management Act 13 of 2002. (15 marks)

- (b) Explain the limitations of EIAs (inherent in current legislation) as a means of providing environmental protection, and indicate how these limitations can be addressed through reform

(10 marks)

[25 marks]

Question 4

The precautionary principle has become established worldwide, and sometimes even in law. From your understanding of the precautionary principle, provide responses to the following questions:

- (a) What is the precautionary principle?

(5 marks)

- (b) How is this principle reflected in Zimbabwean legislation? In answering this question indicate the relevant statutory provisions

(10 marks)

- (c) Illustrate, with the support of case law or case study examples, the practical application of the precautionary principle

(10 marks)

[25 marks]

Question 5

Discuss the challenges and loopholes observed in practice regarding land ownership, use and distribution in Zimbabwe. Your answer must cite relevant provisions of the law. [25marks]

Question 6

Discuss the distinctive environmental law principles. [25 marks]

END OF PAPER