



UNIVERSITY OF ZIMBABWE

2014 Nov/Dec Examinations

Faculty:	Law
Department:	Public Law
Paper code and Title:	LB101 Introduction to Law
Duration:	Three hours
Examiner:	Prof L. Madhuku
Authorized Materials:	N/A

INSTRUCTIONS:

1. This paper contains **3** Sections and **13** Questions
2. Answer **either 1a or 1b in section A, all questions in section B and any two questions in section C.**
3. Start each question on a new page
4. This question paper comprises of **5** printed pages

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

Section A

Answer either 1(a) or 1(b)

You are required to demonstrate a clear grasp of salient facts as well as an ability to engage in clear argumentation.

Credit will be given for accuracy and appropriacy in the use of plain legal English.

Question 1

(a) Zimbabwe has a new constitution as of 2013. For the ordinary person in the street it may not always be possible to make sense of the provisions of the constitution (what it says). People often need the help of experts such as you are destined to become. The extract below talks about the languages of the country. Read it and translate the legalese into plain English for the benefit of interested citizens.

(1) The following languages, namely Chewa, Chibarwe English, Kalanga, Koisan, Nambya, Ndau, Ndebele, Shangani, Shona, sign language, Sotho, Tonga, Tswana, Venda and Xhosa, are the officially recognized languages of Zimbabwe. (2)

(2) An Act of Parliament may prescribe other languages as officially recognized languages and may prescribe languages of record. (3)

(3) The State and all institutions and agencies of government at every level must – (2)

(a) Ensure that all officially recognized languages are treated equitably; and (3)

(b) Take into account the language preferences of people affected by governmental measures or communications. (5)

(4) The State must promote and advance the use of all languages used in Zimbabwe, including sign language, and must create conditions for the development of those languages. (5)

[20]

- Extract from the Constitution of Zimbabwe Amendment (No. 20) No. 1.p.17

(c) Courtroom interaction is often characterized by vituperative and combative language which takes many guises as illustrated below in the exchange between accused Sir Walter Raleigh and the state attorney or prosecutor. Study the excerpt below and answer the questions that come after it.

Attorney: Thou art the most vile and execrable
Traitor that ever lived.

Raleigh: You speak indiscreetly, barbarously and
uncivilly.

Attorney: I want Words sufficient to express thy
viperous Treasons.

Raleigh: I think you want Words indeed, for you
have spoken one thing half a dozen
times.

Attorney: Thou art an odious Fellow, thy Name is
hateful to all the Realm of England for
thy Pride.

(From the trial of Sir Walter Raleigh. C. 1603)

(Taken from 'Judgement in Court: Evaluating Participants in Courtroom Discourse' By Chris Heffer of Cardiff University in Wales.)

- a) Re-write the above exchange in plain modern English as opposed to the archaic English it originally appears in.

[8]

- b) In his article Chris Heffer observes that in 21st-century common law criminal trials, witness examinations are meant rationally to present the disputed "facts" of the case before the judge or jury and that explicit expression of ethical judgment is meant to be suspended until indisputable facts are established through evidence.

Examine the language of the two interlocutors, and what they say, and show how fundamental principles regarding the determination of the facts of a case and the passing of legal and moral judgments are violated and justice is thus prejudiced.

[12]

Section B: Answer all questions

Question 2

“An unjust law is no law at all”. Is this correct?

[4 marks]

Question 3

Section 192 of the Constitution of Zimbabwe provides as follows:

“The law to be administered by the courts in Zimbabwe is the law that was in force on the effective date, as subsequently modified”.

Explain the implications of this provision.

[4 marks]

Question 4

What is the significance of the “Roman” in Roman-Dutch Law?

[4 marks]

Question 5

Of what significance, in the application of customary law, is the case of Chapeyama v Matende & Another 2000 (2) ZLR 356 (S)?

[4 marks]

Question 6

For both of the following statements, write **True** or **False** and explain your answer:

- (a) No superior court (High Court, Supreme Court or Constitutional Court) is bound by its own previous decision.

[3 marks]

- b) In general, judgments of the South African courts are more persuasive than those of English courts.

[3 marks]

Question 7

Both *ratio decidendi* and *obiter dictum* are important for future cases.” Do you agree?

[4 marks]

Question 8

“In Zimbabwe’s legal system, assessors play the same role as the jury in some foreign legal systems”. Discuss.

[4 marks]

Question 9

“Of all the courts in Zimbabwe, the High Court enjoys the widest jurisdiction”.
Discuss.

[4 marks]

Question 10

Write a short note on both of the following:

(a) Proof on a balance of probabilities versus proof beyond a reasonable doubt.

[3 marks]

(b) Civil law versus criminal law.

[3 marks]

SECTION C: Answer any Two questions**Question 11**

Write an essay entitled: “The law-making process in Zimbabwe”.

[20 marks]

Question 12

Choose any **three** of the courts listed below. For each court chosen, discuss its composition, jurisdiction and position in the hierarchy of courts in Zimbabwe.

- (a) Magistrate Court
- (b) Supreme Court
- (c) Labour Court
- (d) Constitutional Court
- (e) Community Court

[20 marks]

Question 13

“Whether or not the state should provide legal aid is a controversial issue. It raises key political questions such as whether or not the state has any obligation towards the poor”.*[An Introduction to Zimbabwean Law , p. 127]*

Comment critically on how the issue of legal aid is addressed by the legal system in Zimbabwe.

[20 marks]

END OF QUESTION PAPER