

UNIVERSITY OF ZIMBABWE

INTRODUCTION TO LAW LB101

DECEMBER 2010 EXAMINATION

THREE HOURS

INSTRUCTIONS

Answer **ALL** questions in Sections A & B and **TWO** questions from Section C.

Marks allocated to questions are indicated in brackets.

Section A: Communication Skills

Question 1

Either

Russell and Locke (1995, 148) state that ‘A contract is simply an agreement which can be enforced through the courts.’ This statement makes use of jargon as well as plain language. Given this context, compare and contrast the use of legalese and that of plain English in the practice of law. In your view, what are the merits and/or demerits of each with regard to client interests? (20 marks)

Or

Using real or imagined cases, define, characterise and exemplify five (5) types of logical fallacy. In each case state how you would counter the logical fallacy for the purpose of exposing the weaknesses in your opponent’s argument. (20 marks)

Section B : Answer all questions

2. The Agreement between ZANU-PF and the MDC formations which was signed on 15 September 2008 is sometimes referred to as the ‘Global Political Agreement’ (GPA). Of what relevance, if any, is this agreement to the law of Zimbabwe? (3 marks)
3. “Law must serve the ends of justice”. Do you agree? (3 marks)
4. a) Section 89 of the Constitution of Zimbabwe provides as follows;

“Subject to the provisions of any law for the time being in force in Zimbabwe relating to the application of African customary law, the law to be administered by the Supreme court, the High Court and by any courts in Zimbabwe subordinate to the High Court shall be the law in force in the colony of the Cape of Good Hope on 10th June 1891, as modified by subsequent legislation having in Zimbabwe the force of law.”

- Explain the significance of this provision. (3 marks)
- b) In what circumstances, if any, may Zimbabwean courts turn to Roman law as a source of law? (2 marks)
5. For each of the following statements; write **True or False** and explain your answer:
- a) The High court is not bound by every decision of the Supreme Court but only by those decisions where the Supreme Court is a full bench of five judges. (2 marks)
- b) In general, judgments of the South African courts are more persuasive than those of English courts. (2 marks)
- c) Courts are only permitted to refer to an authoritative text as a source of law where the author has knowledge of Roman- Dutch law. (2 marks)
6. Section 3 of the Customary Law and local courts Act (Chapter 7:05) provides for the application of customary law “unless the justice of the case otherwise requires.”
- What is the legal effect of the expression “unless the justice of the case otherwise requires”? (3 marks)
7. a) “ Both *ratio decidendi* and any *obiter dictum* are important for future cases.” Do you agree? (3 marks)
- b) Is the Supreme Court of Zimbabwe bound by its own previous decisions? (2 marks)
8. Write a short note on the composition and jurisdiction of the High court in Zimbabwe’s legal system. (3 marks)
9. Explain the difference between each of the following:
- a) civil procedure and criminal procedure (3 marks)
- b) cross examination and re-examination (3 marks)

- c) substantive law and procedural law (3 marks)
- d) proof beyond a reasonable doubt and proof on a balance of probabilities (3 marks)

Section C: Answer any Two questions

10. “A study of both the law-making procedures in Parliament and the system of delegated legislation leads to the conclusion that the law is made by the executive and not by the legislature.”
- Discuss. (20 marks)
11. Write an essay entitled:
- “Two aspects of Zimbabwe’s legal systems in need of reform”.** (20 marks)
12. “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 EXAMINATION