

UNIVERSITY OF ZIMBABWE
INTRODUCTION TO LAW LB101
NOVEMBER/DECEMBER 2005 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.

Candidates are allowed to bring the following materials:

- (i) Unannotated copy of the course outline and Reading list for the course
 - (ii) Interpretation Act (Chap 1:01)
 - (iii) Public Order & Security Act (Chap 11:17)
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SECTION A (Communication Skills)

Answer the question below clearly and demonstrate your ability to use synthesis. Credit will also be given for good paragraphs, accurate use of language, clear argumentation and effective use of interactive techniques for face-to-face communication.

Question 1

- (a) Jones (1980:310), with regard to homicides in American society, has this to say:
Standards of justifiable homicide have been used based on male models and expectations. Familiar images of self-defence are a soldier, a man protecting his home, family, or the chastity of his wife, or a man fighting off an assailant. Society, through its prosecutors, juries, and judges has more readily excused a man for killing his wife's lover than a woman for killing a rapist.
- (b) **Judgment in Uganda v Kazingati**
His Lordship Justice Ssekandi said:
This appears to be a borderline case. On the facts, the accused could have been entitled to self-defence... It may very well be that she went far to use a knife on a person whose designs in advancing towards her were very clear. The intruder quite obviously was not a robber or a killer. It appears he was seeking to assault the accused sexually. The use of a knife would have been the last resort but not an

immediate alternative. In any case, the accused was trying to protect her womanhood and ... the case is really borderline.

Justice Ssekandi found that the accused could not be acquitted on the basis of self-Defence.

(Extracts used by kind permission of the Women's Law Centre, Mount Pleasant, Harare Zimbabwe.)

You are on an advocacy campaign for gender sensitivity in judicial matters. On the basis of the information in the two texts that you have just read, write down, in **plain English**, the argument you would present to a mixed audience in a high density area of Zimbabwe to show the need for legislation that is more victim-friendly in the context of cases of rape.

(20 marks)

SECTION B

Answer all questions in this section) (30 marks)

Question 2

“During argument, the view was expressed that justice was on the applicant’s side but the law was on the respondent’s side. Admittedly law and justice do not always coincide. Examples of oppressive and unjust laws can be found in many countries. But this does not mean that the courts, which are sworn to uphold the law, can ever allow their personal, subjective review of what constitutes justice to override the clear provisions of the law.” (per Ebrahim JA in a dissenting judgment in Minister of Lands, Agriculture and Rural Resettlement v Commercial Farmers Union 2001 (2) ZLR 457 (S) at 490F.)

Comment on these remarks.

(4 marks)

Question 3

- (a) “The common law of Zimbabwe Is not necessarily Roman-Dutch law. It is a mixture of English law and Roman-Dutch law.”

Do you agree? Explain you answer.

(4 marks)

- (b) “Roman law is irrelevant as a source of law in Zimbabwe.” Is this an accurate statement?
(2 marks)

Question 4

- (a) What do you understand by the expression “dual legal system”?

(2 marks)

(b) Under what circumstances does customary law apply to a civil dispute?

(4 marks)

Question 5

Explain the meaning and significance of each of the following:

- | | | |
|-----|-----------------|-----------|
| (a) | stare decisis | (3 marks) |
| (b) | ratio decidendi | (3 marks) |
| (c) | obiter dictum | (3 marks) |

For (b) and (c) you are required to give specific examples from decided cases.

Question 6

What is a “reported judgment” and what is its significance, if any?

(3 marks)

Question 7

State the composition and jurisdiction of each of the following courts;

- | | | |
|-----|---------------------------|-----------|
| (a) | Supreme court of Zimbabwe | (2 marks) |
| (b) | Small claims court | (2 marks) |

Question 8

Which of the following distinctions is more useful in a legal system?

- | | |
|-----|-------------------------------------|
| (a) | civil law and criminal law |
| (b) | substantive law and procedural law? |

(4 marks)

Question 9

Explain the meaning of the following expressions:

- | | | |
|-----|-----------------------------------|-----------|
| (a) | “proof beyond a reasonable doubt” | (2 marks) |
| (b) | “inquisitorial procedure” | (2 marks) |
| (c) | “cross examination” | (2 marks) |

SECTION C

Answer any two questions from this section.

Question 10

“Parliament has little scope for influencing the content of legislation.

Discuss.

(20 marks)

Question 11

“For some time now it has been asserted that legal aid is seen throughout the world as part of the modern complex of social political rights enjoyed as a means of achieving at least, to some extent, the universally accepted concepts of access to the courts, equality before the law and the necessity that justice be seen to be done.” (*G. Kuppan, 2001*).

To what extent is the legal aid system in Zimbabwe responsive to this ideal?

(20 marks)

Question 12

Write critical notes on any two of the following:

- (a) The Legal Profession in Zimbabwe
- (b) Delegated Legislation
- (c) Specialist Courts

(20 marks)

END OF QUESTION PAPER