



UNIVERSITY OF ZIMBABWE
2017 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 1 or 2 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: COMMUNICATION SKILLS

Answer **one** question from this section.

Question 1

Read the passage below and answer the question which follows.

Impression management for lawyers

Because lawyers – like politicians – are trying to win votes (that is, the jurors' votes for conviction or acquittal), they understand the importance of 'playing to the audience'. Thus, recognising that jurors tend to believe those people whom they like and identify with, and to disbelieve those with whom they feel no emotional or cultural ties (Mauet, 1980), lawyers attempt to construct a shared identity with the jury that will lead the jurors to affiliate with their point of view. That is, the lawyer works to construct an 'in-group' in which both she and the jury are included, and to contrast the behaviour, attitudes, and mores of this in-group with an 'out-group' which includes her opponent. The construction of this shared identity is largely a matter of style, being heavily dependent on the display of 'similarity cues' such as dress, demeanour, accent and language style (Trenholm, 1989).

Adapted from: Hobbs, P. (2003). 'Is that what we're here about?' A lawyer's use of impression management in a closing argument at trial. *Discourse & Society*, 14 (3): 273–290. SAGE Publications: London and New Delhi.

Using the verbal and non-verbal aspects of impression management presented in the text above, write a coherent essay of about **600** words explaining how a lawyer's appreciation of aspects of impression management is central in the trial process. **(20 marks)**

Question 2

Read the text below and answer the question which follows.

Lawyers' rhetoric

It is hard to be persuasive when people cannot even understand what you are trying to say. Clear and simple writing ensures that your message never gets lost between you and your audience.

Unfortunately, many people think to be persuasive they need to “look smart” by using big words and complex sentence structures. The reality is that the simpler you write, the more intelligent you seem to others.

Adapted from: Macdonald, R, and Clark-Dickson, D. (2009). *Clear and Precise writing for Today's Lawyers*, London: Thomas Reuters.

In the context of the observation above, identify and explain any **five** strategies a successful lawyer could use to ensure effective communication when communicating with clients. **(20 marks)**

SECTION B: Answer All Questions

Question 3

“Law is one thing, its goodness or badness is another”. Do you agree? **(3 marks)**

Question 4

What is common law? **(3 marks)**

Question 5

The Customary Law and Local Courts Act (Chap 7:05) provides for the application of customary law. What does it say? **(3 marks)**

Question 6

“... Zimbabwe is a Roman- Dutch common law country. Decisions of a court in another Roman-Dutch jurisdiction have, in related cases, very persuasive authority. It is therefore the duty of the court to weigh on the scales of justice, the approaches of English law and Roman-Dutch law” (per Dumbutshena CJ in Book v Davidson 1988 (1) 365 (S) at 375).

Comment on these statements.

(4 marks)

Question 7

(a) Explain the distinction between *ratio decidendi* and *obiter dictum*.

(3 marks)

(b) Under what circumstances is a previous decision binding on a court?

(3 marks)

Question 8

Parliament consists of the Senate and the National Assembly. Does every Bill originate in the National Assembly? **(3 marks)**

Question 9

In our lecture notes, the following statement appears:

“The High Court is our court”.

What is this all about? **(3 marks)**

Question 10

With reference to the Constitutional Court, explain the expression: exclusive jurisdiction”. **(3 marks)**

Question 11

Explain the difference between each of the following:

- (a) proof on a balance of probabilities and proof beyond a reasonable doubt. **(3 marks)**
- (b) adversarial procedure and inquisitorial procedure. **(3 marks)**
- (c) ‘fused’ legal profession and ‘divided’ legal profession. **(3 marks)**
- (d) cross-examination and re-examination. **(3 marks)**

SECTION C: Answer any Two questions**Question 12**

Outline the legislative process in Zimbabwe and comment on the role played by Government Ministers in the pre-Bill stage. **(20 marks)**

Question 13

Choose any two courts and describe, in relation to each, its composition and jurisdiction. **(20 marks)**

Question 14

Write an essay entitled: “Legal Aid”. **(20 marks)**

END OF QUESTION PAPER