



HERBERT CHITEPO LAW SCHOOL

BACHELOR OF LAWS HONOURS DEGREE

LEVEL 2 SEMESTER 2

EXAMINATION QUESTION PAPER

MODULE CODE: LLB223
MODULE NARRATION: GENDER, HiV/AIDS and LAW
DATE: DECEMBER 2023
DURATION: 3 HOURS

INSTRUCTIONS TO CANDIDATES:

1. Answer THREE questions in all. Question one is compulsory.
2. You are advised to read all questions carefully before attempting to answer any.
3. You are advised to cite relevant authorities to support your answers.
4. Write legibly.

Section A

Question 1 (This question is compulsory)

Thando is a 30 year old man who resides in Luveve, Bulawayo and runs a small vegetable business in the same town. He is married to Thandeka a 26 year old lady who is unemployed. Their marriage is blessed with two children Tadiwa and Tanaka. Over the years Thandeka has physically, emotionally and financially abused Thando. She demands that Thando must be home everyday by 17:15 pm and she has taken charge of all Thando's financial businesses. Thando has been beaten by Thandeka several times for failing to come home early and at one point he had a broken jaw and several scars on the face as a result of the assault. He has also endured several insults from Thandeka which includes swearing words directed to him and his family.

In addition to the above Thando's phone is constantly monitored by Thandeka and if he changes his password the phone is flashed through the toilet drain. Thandeka's behavior has affected their two kids as their school grades have dropped. The children have also suffered psychologically due to the abuse which they witness at home to the extent that they have approached their teacher for help.

Assume that you are a Legal Officer based at Legal Resources Foundation (LRF) Bulawayo and you have been approached by Thando who is seeking legal advice. Assist him to fill in the DV3 form for legal recourse. **[20 marks]**

(b) With reference to at least 1 (one) decided case where a man has been a victim of domestic violence clearly explain how courts in Zimbabwe have dealt with the issues of domestic violence. **[10 marks]**

[Sub-total: 30 marks]

Section B

Answer any two questions from this section

Question 2

The issue of political representation of women in Zimbabwe has been a topic of hot debate. Some academics such as Professor Madzimai have labelled the quota system enshrined in the Zimbabwean Constitution a 'pity clause' meant to silence women.

In light of this discuss how the Constitution of Zimbabwe promotes the participation of women in politics and decision making positions. In your discussion draw lessons from other countries on how Zimbabwe can improve in promoting the participation of women in politics and decision making positions.

[Total: 20 marks]

Question 3

In January 2023, 20 inmates were sentenced to serve different jail terms at Mutimurefu Prison. When they arrived at Mutimurefu, several health tests were conducted including tests for HiV and Aids. All the 20 inmates tested negative. In October 2023 the inmates were voluntarily tested for HiV and Aids and 12 of the inmates were found to be positive.

As a lawyer working for a local non-governmental organization which focuses on HiV and Aids awareness, you are approached by prison officers from Mutimurefu prison who want your opinion on whether they must allow conjugal visits in prisons and also distribute condoms in prisons.

With reference to legal authorities and also drawing lessons from other jurisdictions advise them on the above matter.

[Total: 20 marks]

Question 4

After reading the **Articles 14(1)(d) and (e)** of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa which specifically provide for women's sexual and reproductive health rights in the context of HIV, members of the Zimbabwe Human Rights Commission have been left clueless on the meaning and scope of the Articles.

With reference to the General Comment by the African Commission on Human and Peoples' Rights which seeks to clarify the content of the rights set out in **Articles 14(1)(d) and (e)** of the Protocol, write a legal opinion to the Zimbabwe Human Rights Commission explaining the following;

- (i) Rationale of developing a general comment specific to **Articles 14(1)(d) and (e)** of the African Women's Protocol. **[10 marks]**
- (ii) The obligations of states under the African Women's Protocol. **[10 marks]**

[Sub-total: 20 marks]

Question 5

Mrs Nhlapo, was an auxiliary nurse at Masvingo General Hospital, having been employed at the hospital since 2015. Sometime in 2023, she developed a boil on her skin during her pregnancy and decided to seek medical attention at Masvingo General Hospital. During her medical examination, a series of tests were conducted on her at Masvingo General Hospital without her informed consent or any knowledge of the nature or outcome of such tests. Rather, the Director at Masvingo General Hospital, merely informed her to take leave for two weeks through a letter dated 12 October 2023.

Furthermore, with a sealed note the Director of Masvingo General Hospital referred the plaintiff to the Great Zimbabwe Medical School to see one Dr Moyo for a further medical examination. Upon arriving at, the Great Zimbabwe Medical School she was asked to return with her husband and their blood samples were taken. On her next visit to the Great Zimbabwe Medical School, the

plaintiff was shocked when Dr Moyo informed her that she had tested positive for HIV, while her husband had tested negative.

Mrs Nhlapo claimed that during the entire process, at no point was her consent formally sought before she was tested for HIV, neither was she offered pre- or post-test counseling. Furthermore, the plaintiff claimed that she was traumatized and psychologically destabilized by the news of her HIV positive status.

Further to this, on her return to Masvingo General Hospital to confront the Director as to why he had not informed her about the HIV test and results, she was shocked about the hostile attitude of the Director, who ordered her out of his office. To further add insult to the plaintiff's injury, the second defendant abruptly terminated her employment through a letter dated 30 October 2023.

Advise Mrs Nhlapo on the legal issues which can arise from her case, the legal route and arguments she can proffer to resolve this issue.

[Total: 20 marks]

TOTAL MARKS: 70

END OF QUESTION PAPER.