



HEBERT CHITEPO LAW SCHOOL
BACHELOR OF LAWS DEGREE
EXAMINATION QUESTION PAPER

MODULE CODE	LLB623
MODULE NARRATION	CHILDREN AND THE LAW
DATE	2024
DURATION	3 HOURS

INSTRUCTIONS TO CANDIDATES:

1. You are advised to read all questions carefully before attempting to answer any.
2. Section A is **COMPULSORY**.
3. Answer any **TWO** Questions from Section B.
4. Students are allowed to use the following Statutes;
 - a) *African Charter on the Rights and Welfare of the Child, 1990*
 - b) *Constitution of Zimbabwe Amendment (No 20) Act, 2013*
 - c) *United Nations Convention on the Rights of the Child, 1989*
 - d) *Children's Act (Chapter 5:06)*

SECTION A

NB: THIS QUESTION IS COMPULSORY

The Committee on the Rights of the Child in General Comment 16 of 2013 on state obligations regarding the impact on the business sector on children's rights remarked that:

The Committee on the Rights of the Child recognises that the business sector's impact on children's rights has grown in past decades because of factors such as the globalized nature of economies and of business operations and the ongoing trends of decentralisation, and outsourcing and privatising of State functions that affect the enjoyment of human rights. Business can be an essential driver for societies and economies to advance in ways that strengthen the realisation of children's rights through, for example, technological advances, investment and the generation of decent work.

However, the realization of children's rights is not an automatic consequence of economic growth and business enterprises can also negatively impact children's rights.

With the above in mind, you are required to unpack the intersection between children's rights and businesses, including the conduct of technology companies, internet service providers multinational companies and the extractive industries. The analysis should be informed by domestic and international law focusing on how best to improve regulation and compliance without undermining economic development imperatives.

[30 Marks]

SECTION B

*Answer **ANY TWO** questions from this Section*

QUESTION 2

Tatenda is a 16year old girl and is a Form 16 student at Kambizi School. She is in love with Josephat, a 32year old married man. Josephat has promised Tatenda that he will soon divorce his wife and marry her as soon as she completes her ordinary level. He showers her with gifts and gives her money for her and her family's upkeep. Tatenda's parents are aware of the relationship and they approve of it and are looking forward to receive the lobola from Josephat.

On the 28th of January 2024 Tatenda was coming from school and met Josephat in a nearby bush. They started being romantic with each other and had consensual sexual intercourse. Unfortunately Mr Katai, the deputy headmaster passed by and heard some weird noises and decided to check what was going on and he found them in the act. As a responsible teacher, he reported the matter to the police station and Josephat was arrested and charged with having sexual intercourse with a young person. In his defence, Josephat admitted to having sexual intercourse with Tatenda and told the police officer that Tatenda is her girlfriend and that she consented to the sexual act. He also said that he loves Tatenda and wants to marry her. Further, Josephat told the police officer that Tatenda 16 years and is not a young person and can consent to sexual intercourse. He further said that Tatenda's parents approve of their relationship, as such, there is nothing wrong with him having sexual intercourse with Tatenda. When asked by the police officer, Tatenda confirms that she willingly had sexual intercourse with Josephat.

With reference to relevant authority, discuss whether the arguments raised by Josephat will succeed in a in a court of law in Zimbabwe.

[20 Marks]

QUESTION 3

Critically comment on how the following human rights issues affect the enjoyment and implementation of children's rights in Zimbabwe;

- a) Reproductive health rights. (10)
- b) Statelessness. (10)

[20 Marks]

QUESTION 4

Child marriage is a deeply rooted social issue worldwide, in Southern Africa and in Zimbabwe, with severe consequences for the well-being and development of children. In many countries, where child marriage is pervasive, there exists a body of laws that prohibit and impose sanctions against the practice. The problem is the continued prevalence of child marriage despite international, regional and domestic regulations to combat child marriages.

With reference to relevant authority, discuss the above statement within the Zimbabwean context. In your answer, include a discussion of the potential strategies that could be implemented to address the issue of child marriage effectively considering the complexities involved.

[20 Marks]

TOTAL MARKS 70

END OF QUESTION PAPER



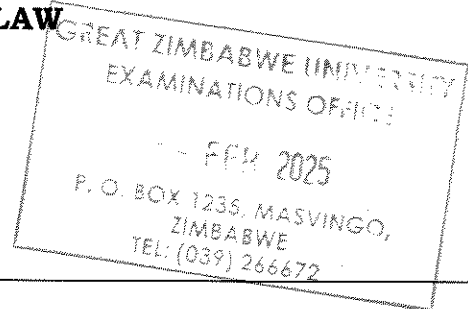
HERBERT CHITEPO LAW SCHOOL
BACHELOR OF LAWS HONOURS DEGREE
LEVEL 3 SEMESTER 1
EXAMINATION QUESTION PAPER

MODULE CODE **LLB 312**

MODULE NARRATION **COMMERCIAL LAW**

DATE **2024**

DURATION **3 HOURS**



INSTRUCTIONS TO CANDIDATES:

1. Read all questions and follow instructions.
2. The examination is out of 70 marks.
3. Section A is compulsory.
4. Answer any 2 questions in Section B.
5. This examination is a closed book, students shall not use any material in the exam room.
6. This paper consists of four pages including this cover page.

SECTION A

THIS SECTION IS COMPULSORY

QUESTION ONE

- a) Mr John Dor was employed by Glow Petroleum (Pvt) Ltd (Glow) as a regional book keeper, for the Masvingo Region. The employment contract terms included the provision of accommodation in the company's houses in Mucheke D Suburbs, Masvingo. On 1 April 2015, Glow, through its representative, the Managing Director, executed a memorandum of agreement with its 5 employees in management position, including Mr Dor. Under the agreement, the company agreed to "dispose of" various houses to its employees "who were sitting tenants effective 1st June 2015". The price was ascertained in the evaluation report. On the 10th June 2015, Flow entered into a three year lease agreement with Mr Dor, with effect from 1 July 2015. The rent condition was to constitute payment deducted from Mr Dor's salary. An option was incorporated in the agreement that the employee may buy the property, and the paid rentals shall be part of the payment reducing the purchase price.

A further proviso stated that if the employee left service of the company, then Glow is entitled to terminate the agreement. Apparently, no rentals deduction was made from Mr Dor's salary but by 30 July 2017, he had managed to pay the full purchase price in five instalments into Glow's bank account and filing proof thereof with the Finance Director. On the 1st August 2017 Mr Dor served a letter of resignation to Glow, giving 30 days' notice in terms of his contract of employment. On the 1st September 2017, he wrote a letter requesting transfer of Stand No. 112233 Chingwa Street, Mucheke D Suburbs into his names. On the 15th September 2017 Glow responded indicating that there was no agreement of sale entered between Mr Dor and the company, and considering that there were no rental deductions from his salary. Further, Glow contended that Mr Dor was in breach of resigning before 1st July 2018. Lastly Glow argued that there was no intention to sell from their part.

Mr Dor has approached you in your Commercial Law Chambers for legal opinion on his rights and the recourse available to him.

Advise him

[15 marks]

- b) “Ostensible authority is no authority at all.” Instead, it is equivalent to appearance of authority. Critically comment on the above quotation in light of the law of agency in Zimbabwe. [15 marks]

SECTION B

ANSWER ANY TWO QUESTIONS IN THIS SECTION

QUESTION TWO

- a) Mr Miles, a famous local businessman runs a transport and logistics company. Due to the government’s initiative to dualise the Beitbridge-Chirundu road, he has decided to venture into construction. He contracts a Chinese Company in an attempt to secure some raw materials. He is asked by the Chinese counterparts whether he prefers to enter into an F.O.B transaction or a C.I.F transaction. Mr Miles does not have any idea of the legalities of these terms and has approached you seeking advice .

Advise him

[10 marks]

- b) With reference to decided cases, comment on the judicial approach in considering these:-
- i) Option and right of first refusal [5 marks]
- ii) Sale in execution [5 marks]

QUESTION THREE

- a) "It is utter nonsense to suggest that *aedilition* relief cannot be excluded by consent"

Discuss

[10 marks]

- b) "The purpose of hire-purchase Act [Chapter 14:09] is to protect buyers against their own short sightedness."

Critically discuss this statement

[10 marks]

QUESTION FOUR

- a) Mrs Moses leased a unit of a building to Dr Mbudzi a believer of Grace- Saints for the purposes of selling Christian books. The unit was situated on the ground floor of Haven- Vale Flats, Masvingo. another lessee, Volatile, the proprietor of a café, has been conducting a brothel business on the premises. Dr Mbudzi filed a complaint with the landlord, but nothing was done to abate the nuisance. After some time Dr Mbudzi refused to pay rent on the grounds that a nuisance existed which infringed his rights to quiet enjoyment of the property let. He argued that he was exempt from an obligation to pay rent. Mrs Moss has approached you for advice.

Advise her on her rights; and also the rights that Dr Mbduzi and Volatile have in the leased property.

[20 marks]

TOTAL MARKS:

[70 marks]

END OF QUESTION PAPER



**HERBERT CHITEPO LAW SCHOOL
BACHELOR OF LAWS DEGREE
EXAMINATION QUESTION PAPER**

MODULE CODE	LLB 311
MODULE NARRATION	PROPERTY LAW
DURATION	3 HOURS
TOTAL MARKS	70
YEAR	NOVEMBER 2024

INSTRUCTIONS TO CANDIDATES:

- 1. You are advised to read all questions carefully before attempting to answer any.**
- 2. Section A is COMPULSORY.**
- 3. Answer any TWO Questions from Section B.**
- 4. Students are allowed to bring the Constitution of Zimbabwe Amendment (No. 20) Act 2013, the Deeds Registries Act and the Land Acquisition Act into the examination room.**
- 5. This examination is 4 pages.**

SECTION A

Answer **all** questions in this section.

QUESTION 1

- i) Distinguish the following:
- a) res corporeals and res incorporeals [2 marks]
 - b) mandatory interdict and prohibitory interdict [2 marks]
 - c) deprivation and compulsory acquisition [2 marks]
 - d) real rights and limited real rights [2 marks]
 - e) accessory and auxiliary thing [2 marks]

[Sub-total 10 marks]

- ii) Brenda avers that sometime in 2022, she joined the Thuthuka Housing Cooperative Society in order to secure a residential property. Prior to joining this Housing Co-operative, she alleges that in 2021, the Thuthuka Housing Cooperative was given a block of stands. She further stated that Thuthuka Housing Co-operative then distributed these block of stands to its various paid up members including herself. She claims to have been allocated the property sometime in 2022, by her Housing Co-operative. However, she failed to occupy the said property because one Michael claimed to have been allocated the same property by his housing co-operative namely, Progressive Housing Co-operative. Brenda approaches you very troubled by this unexpected scandal seeking your legal counsel. Advise Brenda whether she has any legal remedy at law, if so, what are her prospects of success and highlight which court will have jurisdiction. [15 marks]
- iii) *Accessio* takes place when two or more things are joined/combined in such a manner that the one thing (the accessory) loses its identity/economic independence and becomes an integral part of the other (the principal thing). When there is *accessio* of movable to movable, two or more movables are inseparably (physically) joined to form a single thing, the owner of the principal thing automatically becomes owner of the accessory thing as well.

Identify and outline the general principles and factors that apply to determine the principal thing between two movables that have combined and highlight the factors considered to establish whether the accessory thing has become permanently attached.

[5 marks]

[Sub-Total 30 marks]

SECTION B

Answer any 2 questions from this section.

QUESTION 2

a) In the case *Kufandirori v Chipuriro* HH 12/04, the court remarked as follows

“The unfortunate part of life is that due to the unequal distribution of wealth, grinding poverty and greedy, the world will always have its fair share of "Shylocks" who are prepared to pounce and make capital out of other people's misfortunes. They will demand their pound of flesh regardless of the cost and effect to the victim.”

Discuss the court's approach to a *pactum commisorium* and *parate executie* in both movable and immovable property.

[12 marks]

b) Distinguish between a personal and praedial servitude.

[4 marks]

c) List any 4 entitlements of ownership.

[4 marks]

[Sub-total 20 marks]

QUESTION 3

Mr A is the owner of a garage selling second hand cars. He also sells the cars through credit agreements, where they pay in instalments and he retains ownership of those cars until the last payment is made. Mr B, one of Mr A's clients buys a car on credit, he takes the car to a service station to have certain repairs and work done on the car. The repairs and work includes necessary expenses (repairing a burst engine and a damaged tyre), useful expenses (installing a radio) and luxurious expenses (spray painting it to blue). Mr B did not mention to the mechanic that he bought the car on credit and ownership remains with Mr A until the full purchase price has been paid. When the mechanic completed the work, Mr B had already left

the country without paying the mechanic and outstanding instalments. Mr A claims the car from the mechanic.

- a) Identify two categories of liens and explain what each of the two entails. In your answer, highlight which type of lien is enforceable against Mr A and Mr B respectively.

[6 marks]

- b) Comment on the following methods of security

i) mortgage bonds and notarial bonds [4 marks]

ii) a pledge, including the rights and obligations of the pledgee [6 marks]

- c) List any four forms of constructive delivery recognised in Zimbabwe [4 marks]

[Sub-total 20 marks]

QUESTION 4

- a) You have been appointed as government's legal advisor. The State has identified land that it intends to compulsorily acquire for public interest. You are requested to provide a guideline of the key procedures to be followed by the State before they expropriate the land in question.

[10 marks]

- b) The extent of ownership is limited in the interest of private individuals. Neighbours are expected to behave reasonably towards each other. A certain degree of tolerance is expected of neighbours in the exercise of their entitlements as neighbours and the standard to be taken must not be that of the perverse or over scrupulous person, but of the normal man of sound and liberal tastes and habits.

Discuss the neighbour law limitations of ownership.

[10 marks]

[Sub-total 20 marks]

TOTAL MARKS: 70

END OF QUESTION PAPER



**HERBERT CHITEPO LAW SCHOOL
BACHELOR OF LAWS DEGREE
EXAMINATION QUESTION PAPER**

MODULE CODE	LLB 221
MODULE NARRATION	LAW OF EVIDENCE
DURATION	3 HOURS
TOTAL MARKS	70
YEAR	NOVEMBER 2024

INSTRUCTIONS TO CANDIDATES:

- 1. You are advised to read all questions carefully before attempting to answer any.**
- 2. Section A is COMPULSORY.**
- 3. Answer any TWO Questions from Section B.**
- 4. Students are allowed to bring into the examination room, the Constitution of Zimbabwe Amendment (No. 20) Act 2013, the Criminal Procedure and Evidence Act [Chapter 9:07] and the Civil Evidence Act [Chapter 8:01].**
- 5. This examination is 4 pages.**

SECTION A

Answer **all** questions in this section.

QUESTION 1

1.1 Distinguish the following terms:

- a) Admissibility and weight of evidence [2 marks]
- b) Cross-examination and re-examination [6 marks]
- c) Confessions and admissions [2 marks]
- d) Burden of proof and evidentiary burden [2 marks]
- e) Admissibility and relevance [3 marks]

[Sub-total 15 marks]

1.2 With reference to case law and statutory provisions, discuss the admissibility of character evidence in Zimbabwean courts. [15 marks]

[Sub-total 30 marks]

SECTION B

Answer any 2 questions from this section.

QUESTION 2

2.1 Naughty is a tout at Mbizo Bus Terminus. He performs reckless stunts as the bus is in motion as a way to attract passengers to his bus. Cain the bus driver always warns Naughty against performing the dangerous stunts. The warnings are largely unheeded. One day while Naughty was performing one of his stunts, he fell off the bus and was seriously injured, he fell unconscious and subsequently died. A police officer who rushed to the scene heard Naughty saying; "I should have listened to Cain's warnings. This is entirely my fault."

Naughty's wife is claiming compensation from the Bus company. The company disputes liability and seeks to call the evidence of the police officer who attended the scene of the accident.

Comment on the admissibility of the police officer's evidence **[15 marks]**

2.2 Explain the notion of judicial notice in Zimbabwe **[5 marks]**

[Sub-total 20 marks]

QUESTION 3

Explain the approach of Zimbabwean courts to the following;

- a) Evidence of children **[3 marks]**
- b) Circumstantial evidence **[6 marks]**
- c) Refreshment of memory **[5 marks]**
- d) Opinion evidence **[6 marks]**

[Sub-total 20 marks]

QUESTION 4

Privilege is a concept which denies certain evidence from being admitted in a court of law.

Outline and discuss the (4) classes of privilege where evidence notwithstanding its relevance will not be admissible in a court of law. In your answer, highlight the limitations of admissibility of each identified privileged evidence. **[20 marks]**

TOTAL MARKS: 70

END OF QUESTION PAPER.



**HERBERT CHITEPO LAW SCHOOL
BACHELOR OF LAWS DEGREE
EXAMINATION QUESTION PAPER**

MODULE CODE	LLB 211
MODULE NARRATION	FAMILY LAW
DURATION	3 HOURS
TOTAL MARKS	70
YEAR	NOVEMBER 2024

INSTRUCTIONS TO CANDIDATES:

- 1. You are advised to read all questions carefully before attempting to answer any.**
- 2. Section A is COMPULSORY.**
- 3. Answer any TWO Questions from Section B.**
- 4. Students are allowed to bring the Constitution of Zimbabwe Amendment (No. 20) Act 2013 and the Maintenance Act (Chapter 5:09) into the examination room.**
- 5. This examination is 4 pages.**

QUESTION 1

- i) Distinguish the following terms;
- a) valid and voidable marriages [2 marks]
 - b) void and putative marriages [2 marks]
 - c) civil marriage and qualified civil marriage [2 marks]
 - d) protection order and peace order [2 marks]
 - e) loss of consortium and contumelia [2 marks]

[Sub-total 10 marks]

- ii) Generally speaking, marriages in Zimbabwe are out of community of property unless parties conclude an ante nuptial contract prior to the marriage. It is however not uncommon for married couples to jointly acquire property during the subsistence of the marriage, and more so, in unclear, unstated and undefined ratios of contribution towards that acquisition. Also, it is further not uncommon that the immovable property will be registered in the name of one of the spouses, usually but not exclusively, the husband as the head of the family.

- a) Discuss the court's approach in property sharing upon the dissolution of a marriage [15 marks]
- b) Comment on whether there is equality of spouses in property sharing during the course of a marriage. [5 marks]

[Sub-Total: 30 marks]

SECTION B

ANSWER ANY 2 QUESTIONS FROM THIS SECTION.

Question 2

Amanda and Abel met sometime in 2020 during a workshop. They had been in a relationship for four years and the relationship ended two months ago. The reason for the separation is because Amanda found messages of Abel flirting with numerous girls on social media and when she confronted Abel to explain himself on the matter, he angrily told Amanda that he owes her no explanation about his life choices and he indicated that he no longer wants to continue with the relationship. Amanda alleges that Abel had promised to marry her sometime

in 2023 during their telephonic conversation and she had informed her close friends and family about the matter. As a result, she approached the Masvingo Magistrates Court on a claim of breach of promise to marry in the sum of US\$2 000, 00 for both contumelia and breach of promise to marry. The Magistrate Court dismissed both claims on the ground that a promise to marry had to be published and or witnessed by at least two parties. The Magistrate held that

“The law on breach of promise to marry is clear. For a breach of promise to marry claim to be successful, one would be called upon to establish the existence of a promise made through an engagement party which would be witnessed by people in the exchange of some love tokens before other relatives. Now in this particular case such did not happen. What we have is a word of mouth between the parties and such a promise was never witnessed.” (sic).

- a) Amanda has appealed the whole judgment of the Magistrates Court and you are to preside over her matter on appeal. Comment on the validity of the judgment insofar as an engagement is concerned. **[5 marks]**
- b) If the court of appeal upholds that there is a breach of promise to marry and Amanda wants to claim for contumelia, what would be considered by the court to determine if the claim for contumelia has prospects of success. **[5 marks]**
- c) An engagement requires consensus between the engager and the engagee. Identify any 4 factors that can vitiate consensus and highlight if the existence of such factors render the engagement void or voidable. **[6 marks]**
- d) A marriage and an engagement are mere contracts but they are strictly speaking *sui generis*. Discuss the veracity of this statement. **[4 marks]**

[Sub-total 20 marks]

Question 3

Anna and Kuda were in a civil partnership cohabiting for nearly 5 years with no marriage. One handsome boy was born during the union and he is now two years old. Anna is an entrepreneur, she has been living with the child and taking care of all the child’s needs alone. She recently started feeling overwhelmed as her hustle is no longer bringing her as much profits as she used to get. As a result, she contacted Kuda requesting that he assist her with the child’s upkeep and following Anna’s request, Kuda has not contributed anything for two months. Anna is livid as she considers Kuda’s conduct unacceptable considering that he has a job as a mechanic.

- a) Advise Anna on the legal action if any she can take against Kuda. Comment on the procedure to be followed and the factors that will be considered by the court.

[15 marks]

- b) Distinguish between legal custody and actual custody, and comment on how the Guardianship of Minors Amendment Act, 2022 has altered the old position regulating custody and guardianship of minors.

[5 marks]

[Sub-total 20 marks]

Question 4

Buhle and Tatenda are in a monogamous customary marriage. They want to further enter into a civil marriage with each other.

- a) Advise Buhle and Tatenda if it will be possible to further conclude a civil marriage as per the Marriages Act 1 of 2022. **[5 marks]**
- b) Will your answer in (a) be different if Buhle and Tatenda were in a civil marriage and wanted to convert their marriage to a customary marriage. **[5 marks]**
- c) Advise both Buhle and Tatenda accordingly about their legal position in claiming for adultery damages when married customarily. **[10 marks]**

[Sub-total 20 marks]

TOTAL MARKS: 70

END OF QUESTION PAPER.



HERBERT CHITEPO LAW SCHOOL

BACHELOR OF LAWS HONOURS DEGREE

LEVEL 3 SEMESTER 2

EXAMINATION QUESTION PAPER

MODULE CODE	LLB322
MODULE NARRATION	LEGAL ETHICS AND PROFESSIONAL TRAINING
DATE	NOVEMBER 2024
DURATION	3 HOURS

INSTRUCTIONS TO CANDIDATES:

1. Answer **THREE** questions in all. **Section A is compulsory. Answer any two questions from section B.**
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.
5. Candidates may bring into the examination room clean copies of the following:
 - a. **Legal Practitioners Act [Chapter 27:07] and any By-Laws and Regulations made thereunder.**
6. This examination contains 5 pages including the cover page.

SECTION A: COMPULSORY: Answer all questions.

Question One

a) Advocate Ndoro, a seasoned legal practitioner with over 15 years of experience, was retained to represent a prominent businessman, Mr. Chiweshe, in a high-profile fraud case involving allegations of falsified financial documents submitted to secure a multimillion-dollar loan. The matter attracted significant public and media attention due to its implications for the financial institution and Mr. Chiweshe's influential status.

During trial preparations, Mr. Chiweshe confided in Advocate Ndoro during a private consultation, admitting that he had indeed forged the financial documents central to the case. He justified his actions by citing financial pressures and claimed the bank had since suffered no actual loss. However, Mr. Chiweshe explicitly instructed Advocate Ndoro to deny any wrongdoing in court and to build a defence based on the authenticity of the forged documents.

Faced with this revelation, Advocate Ndoro was torn between his duty to his client and his obligations to the court. Ultimately, he chose to comply with Mr. Chiweshe's instructions, maintaining the position that the documents were genuine. He crafted a defence strategy that sought to challenge the bank's evidence and portray Mr. Chiweshe as a victim of procedural irregularities by the bank. Advocate Ndoro did not disclose his client's admission to the court and refrained from advising the court of the forged nature of the documents.

During cross-examination, Advocate Ndoro persistently questioned the credibility of the bank's internal audit processes and attempted to shift the focus from the documents to alleged weaknesses in the bank's due diligence. Meanwhile, the court remained unaware of Mr. Chiweshe's private admission.

i) Evaluate Advocate Ndoro's conduct in light of the ethical duty to the court and principles of honesty and integrity. Refer to case law and statutory guidelines.

[15 Marks]

- b) Lawyer Tapiwa, a dynamic and ambitious young lawyer, who recently completed his pupillage and decided to establish his law practice, focusing on criminal defence. Eager to make a name for himself in a competitive legal market, he turned to social media to market his services. His advertising campaign was vibrant and bold, featuring posts and videos on platforms such as Facebook, Instagram, and TikTok. In his posts, Lawyer Tapiwa claimed to be "the best lawyer in town," stating that no other lawyer could match his expertise or success rate. He emphasized his ability to deliver results, boldly guaranteeing a 100% success rate in criminal cases. These claims were accompanied by testimonials from supposed past clients (which were fabricated), declaring that Lawyer Tapiwa had "saved their lives" with his unmatched legal skills.

To attract clients quickly, Tapiwa introduced a promotion offering discounted rates for the first 10 clients who signed up through his advertisements. The campaign was shared widely, drawing significant attention from the public. Some members of the legal fraternity expressed concern over his tactics, labelling them unprofessional and misleading. However, the posts also generated interest among potential clients eager to take advantage of the discounted rates.

Amid this publicity, Tapiwa received warnings from senior lawyers and his local bar association, advising him to review the ethical rules governing legal practice. Ignoring the advice, he continued the campaign, claiming his approach was simply "modern marketing."

When questioned about his bold claims during an interview with a local radio station, Tapiwa argued that aggressive advertising was necessary to compete in today's world. He insisted that his campaign was innovative and that traditional marketing methods were outdated. However, his statements sparked a debate in legal circles about the balance between self-promotion and ethical practice.

- i) Assess the ethical implications of Lawyer Tapiwa's advertising strategy. Does it align with professional standards? Use case law and ethical rules to support your analysis.

[15 Marks]

[Subtotal:30 marks]

SECTION B

ANSWER ANY TWO QUESTIONS FROM THIS SECTION.

Question Two

Critically evaluate the ethical considerations involved when a legal practitioner represents multiple clients with potentially conflicting interests. Discuss how such situations should be managed, with reference to legal principles, ethical rules, and case [20 marks]

Question Three

- a) Attorney Gwanda participated in a public protest against a government policy he believed was unconstitutional. During the protest, he made speeches criticizing the judiciary for failing to uphold citizens' rights. Following the protest, the Law Society received complaints that his actions were unprofessional.

Evaluate Attorney Gwanda's actions in the context of a lawyer's duty to the state and public conduct. Support your answer with ethical principles and examples. [10 marks]

- b) Discuss the following legal ethics terms

- (i) Judicial impartiality;
- (ii) Maintenance of trust accounts;
- (iii) Representation of multiple clients;
- (iv) Recusal of a judicial officer;
- (v) Diligence

[10 marks]

[Subtotal:20 marks]

Question Four

- (a) Critically evaluate the requirement for legal practitioners to possess a practising certificate.

Why is this necessary, and what ethical considerations are involved? [10 marks]

- (b) Discuss the principle of attorney-client confidentiality and its limits. Under what circumstances, if any, should a lawyer be permitted or required to disclose confidential client information in the public interest? Use examples and relevant legal standards to support your argument. [10 marks]

[Subtotal :20 marks]

Question Five

Chizikani v The Law Society of Zimbabwe (supra) at 390 C-E where Gubbay CJ (as he then was) remarked that-

“In the first place, lawyers as a professional class live by their own high code of ethics and their own moral standards. Every legal practitioner owes a duty to his colleagues to uphold those standards of the profession to which he belongs. Secondly, if legal practitioners, as a professional group, are to earn a respected position as guardians, not only of public, but also of private, interest, then every legal practitioner must live up to the principles of decency in the relationship of a trustee to the goods and monies entrusted to him by the person who has sought his protection. A legal practitioner who breaches this trust casts a shadow on the good name of the rest, and also remains a danger to the unsuspecting public, unless his name is expunged from the register of legal practitioners. See generally in this regard Law Society, Transvaal v Matthew 1989 (4) SA 389 (T) at 394 B-396 H.”

Critically analyse this statement in the context of the ethical duties of lawyers in Zimbabwe with particular focus to the duty that a legal practitioner owed to colleagues in the profession. Provide examples from case law and statutory provisions to support your analysis [20 marks]

TOTAL EXAM MARKS [70]

END OF QUESTION PAPER



HERBERT CHITEPO LAW SCHOOL

BACHELOR OF LAWS HONOURS DEGREE

LEVEL 3 SEMESTER 2

EXAMINATION QUESTION PAPER

MODULE CODE	LLB322
MODULE NARRATION	LEGAL ETHICS AND PROFESSIONAL TRAINING
DATE	NOVEMBER 2024
DURATION	3 HOURS

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During trial preparations, Mr. Chiweshe confided in Advocate Ndoro during a private consultation, admitting that he had indeed forged the financial documents central to the case. He justified his actions by citing financial pressures and claimed the bank had since suffered no actual loss. However, Mr. Chiweshe explicitly instructed Advocate Ndoro to deny any wrongdoing in court and to build a defence based on the authenticity of the forged documents.

Faced with this revelation, Advocate Ndoro was torn between his duty to his client and his obligations to the court. Ultimately, he chose to comply with Mr. Chiweshe's instructions, maintaining the position that the documents were genuine. He crafted a defence strategy that sought to challenge the bank's evidence and portray Mr. Chiweshe as a victim of procedural irregularities by the bank. Advocate Ndoro did not disclose his client's admission to the court and refrained from advising the court of the forged nature of the documents.

During cross-examination, Advocate Ndoro persistently questioned the credibility of the bank's internal audit processes and attempted to shift the focus from the documents to alleged weaknesses in the bank's due diligence. Meanwhile, the court remained unaware of Mr. Chiweshe's private admission.

i) Evaluate Advocate Ndoro's conduct in light of the ethical duty to the court and principles of honesty and integrity. Refer to case law and statutory guidelines.

[15 Marks]

- b) Lawyer Tapiwa, a dynamic and ambitious young lawyer, who recently completed his pupillage and decided to establish his law practice, focusing on criminal defence. Eager to make a name for himself in a competitive legal market, he turned to social media to market his services. His advertising campaign was vibrant and bold, featuring posts and videos on platforms such as Facebook, Instagram, and TikTok. In his posts, Lawyer Tapiwa claimed to be "the best lawyer in town," stating that no other lawyer could match his expertise or success rate. He emphasized his ability to deliver results, boldly guaranteeing a 100% success rate in criminal cases. These claims were accompanied by testimonials from supposed past clients (which were fabricated), declaring that Lawyer Tapiwa had "saved their lives" with his unmatched legal skills.

To attract clients quickly, Tapiwa introduced a promotion offering discounted rates for the first 10 clients who signed up through his advertisements. The campaign was shared widely, drawing significant attention from the public. Some members of the legal fraternity expressed concern over his tactics, labelling them unprofessional and misleading. However, the posts also generated interest among potential clients eager to take advantage of the discounted rates.

Amid this publicity, Tapiwa received warnings from senior lawyers and his local bar association, advising him to review the ethical rules governing legal practice. Ignoring the advice, he continued the campaign, claiming his approach was simply "modern marketing."

When questioned about his bold claims during an interview with a local radio station, Tapiwa argued that aggressive advertising was necessary to compete in today's world. He insisted that his campaign was innovative and that traditional marketing methods were outdated. However, his statements sparked a debate in legal circles about the balance between self-promotion and ethical practice.

- i) Assess the ethical implications of Lawyer Tapiwa's advertising strategy. Does it align with professional standards? Use case law and ethical rules to support your analysis.

[15 Marks]

[Subtotal:30 marks]

SECTION B

ANSWER ANY TWO QUESTIONS FROM THIS SECTION.

Question Two

Critically evaluate the ethical considerations involved when a legal practitioner represents multiple clients with potentially conflicting interests. Discuss how such situations should be managed, with reference to legal principles, ethical rules, and case [20 marks]

Question Three

- a) Attorney Gwanda participated in a public protest against a government policy he believed was unconstitutional. During the protest, he made speeches criticizing the judiciary for failing to uphold citizens' rights. Following the protest, the Law Society received complaints that his actions were unprofessional.

Evaluate Attorney Gwanda's actions in the context of a lawyer's duty to the state and public conduct. Support your answer with ethical principles and examples. [10 marks]

- b) Discuss the following legal ethics terms
- (i) Judicial impartiality;
 - (ii) Maintenance of trust accounts;
 - (iii) Representation of multiple clients;
 - (iv) Recusal of a judicial officer;
 - (v) Diligence

[10 marks]

[Subtotal:20 marks]

Question Four

- (a) Critically evaluate the requirement for legal practitioners to possess a practising certificate.

Why is this necessary, and what ethical considerations are involved? [10 marks]

- (b) Discuss the principle of attorney-client confidentiality and its limits. Under what circumstances, if any, should a lawyer be permitted or required to disclose confidential client information in the public interest? Use examples and relevant legal standards to support your argument. [10 marks]

[Subtotal :20 marks]

Question Five

Chizikani v The Law Society of Zimbabwe (supra) at 390 C-E where Gubbay CJ (as he then was) remarked that-

“In the first place, lawyers as a professional class live by their own high code of ethics and their own moral standards. Every legal practitioner owes a duty to his colleagues to uphold those standards of the profession to which he belongs. Secondly, if legal practitioners, as a professional group, are to earn a respected position as guardians, not only of public, but also of private, interest, then every legal practitioner must live up to the principles of decency in the relationship of a trustee to the goods and monies entrusted to him by the person who has sought his protection. A legal practitioner who breaches this trust casts a shadow on the good name of the rest, and also remains a danger to the unsuspecting public, unless his name is expunged from the register of legal practitioners. See generally in this regard Law Society, Transvaal v Matthew 1989 (4) SA 389 (T) at 394 B-396 H.”

Critically analyse this statement in the context of the ethical duties of lawyers in Zimbabwe with particular focus to the duty that a legal practitioner owed to colleagues in the profession. Provide examples from case law and statutory provisions to support your analysis [20 marks]

TOTAL EXAM MARKS [70]

END OF QUESTION PAPER



HERBERT CHITEPO LAW SCHOOL

BACHELOR OF LAWS DEGREE

LEVEL 5 SEMESTER 1

EXAMINATION QUESTION PAPER

MODULE CODE	LLB511
MODULE NARRATION	INTELLECTUAL PROPERTY LAW
DATE	NOVEMBER 2024
DURATION	3 HOURS
TOTAL	70 MARKS

INSTRUCTIONS TO CANDIDATES:

1. Write legibly.
2. Section A is compulsory.
3. Answer any **TWO** questions from section B.
4. Students are permitted to take into the examination unannotated copies of Zimbabwean and foreign Intellectual Property Statutes.
5. This question paper is 8 pages long.

SECTION A

This question is compulsory.

QUESTION ONE

Soaps International, is a multi-national company valued at a billion dollars United States dollars, and it has a presence in various African countries. This company was established in 1910 and has operated in numerous African countries since 1970. Its main products being washing powders and dishwashing detergents, with its most famous product being the SURF washing powder. This washing powder acquired household brand status in all African countries in which it was sold.

SURF washing powder was first sold in Zimbabwe by Soaps International in 1961. Since that time, the international company maintained its presence in Zimbabwe and even set up its African Headquarters in Harare. This was so until 2008, when Zimbabwe experienced a crippling economic crisis. Due to the economic instability, the company decided to cease operations in Zimbabwe and moved its African Headquarters to South Africa.

Realising the gap that had been left by Soaps International - Tamuka Soaps Zimbabwe, a small soap manufacturing business, which at that time, mainly focused on manufacturing pine gel and green bar soaps - approached Soaps International for an exclusive license to package and sell SURF in Zimbabwe. This license was granted in 2009, and it permitted Tamuka Soaps Zimbabwe to use all of Soaps International's registered trademarks that pertain to the SURF washing powder, as well as package it in glossy blue plastic with the product name "SURF" in bold red capital letters.

Tamuka Soaps Zimbabwe, went on to package and sell Surf washing powder, making use of the licensor's trademarks shown below:

Trade Mark No. 188/2000 SURF dated 13 October 2000 in class 3 in respect of:
"Cleaning preparations for laundry purposes"

Trade Mark No. 85/2015 SURF REMOVES TURF STAINS dated 13 November 2015 in class 3 in respect of:

"Detergents (not for use in industrial or manufacturing processes or for medical use); preparations and substances for all laundry use; fabric conditioning preparations; bleaching preparation included in class 3 soap; cleaning; polishing; scouring and abrasive preparations".

Tamuka Soaps Zimbabwe grew into a bigger company and made on average, five hundred thousand United States dollars, in profits, annually, from the sale of SURF. As a result, it then expanded into having packaging plants in all of Zimbabwe's big cities and supplying the product to numerous small towns and all major retailers across the country.

Another detergent manufacturing company, Pure Soaps Zimbabwe, launched a new washing powder in January 2020. This new washing powder detergent is marked TURF and packaged in a glossy blue plastic with the product name (TURF) in bold capital red letters, and it is distributed to various well-known supermarkets.

Tamuka Soaps Zimbabwe informs you that they received complaints from people who mistakenly bought TURF instead of SURF. They then wrote a letter to Pure Soaps Zimbabwe demanding that they stop selling TURF because this product violates their intellectual property rights. Pure Soaps Zimbabwe, however, refused to do so, arguing that their own washing powder is branded TURF and not SURF, and that they had not violated any of Tamuka Soaps' intellectual property rights.

Advise Tamuka Soaps Zimbabwe as to whether they can institute legal proceedings, and if so, on what legal basis? What factors will be considered by the courts and what would be their prospects of success?

[30 MARKS]

SECTION B

Answer any **TWO** questions from this section.

QUESTION TWO

Paulus Van Reenan, a South African television producer, created a new television game show, called “Minute to Win It”. In this game show, each contestant is given a minute to answer as many generally knowledge questions as they can. The one with the least number of correct answers is then disqualified. Disqualifications continue until only two contestants remain, and these two then participate in the final round of questions. The one with the highest number of correct answers then wins the competition. The winner is then given an option to double the prize money from R500 000.00 to R1 000 000.00, only if they manage to answer another 5 questions correctly within a minute. If they should, however, fail to answer 5 questions correctly within a minute, their prize money is then halved from R500 000.00 to R250 000.00.

This show was debuted on South Africa’s national television, SABC 1, in 2010 and gained a lot of popularity. For a consecutive period of five years, it received awards for being the best game show in South Africa. And the producer has in the last five years concluded licensing agreements with various African countries’ public broadcasters, including, Botswana, Zambia and Mauritius.

In 2021, Zimbabwe Broadcasting Commission’s (ZBC) television channel, began to air a game show called “2 Minutes to Win It.” The game show gives contestants two minutes to answer as many general knowledge questions as they can. The one with the least number of correct answers is then disqualified. Disqualifications continue until only two contestants remain, and these two then participate in the final round of questions. The one with the highest number of correct answers then wins the competition. The winner is then given an option to double the prize money from ZIG 500 000.00 to ZIG 1 000 000.00, if they manage to answer another 5 questions correctly within two minutes. If they should, however, fail to answer 5 questions correctly within two minutes, their prize money is then halved from ZIG 500 000.00 to ZIG 250 000.00.

Paulus Van Reenan comes to know of the game show (“2 Minutes to Win It”) being aired on ZBC’s television channel and writes a letter to both the production house (Sisonke Productions) and ZBC demanding that they stop airing the game show. Sisonke Productions, however refused to cease broadcasting the game show, stating that even though South Africa is party to the Berne Convention, Zimbabwean laws do not establish a right over such works.

Advise Paulus as to whether he can take any legal action against Sisonke Productions to protect his creation, that is the concept of the game show. In your answer set out and discuss all relevant laws. Cite relevant case law.

[20 MARKS]

QUESTION THREE

Mr Sibanda approaches you for legal advice. He informs you that during the Covid 19 era he was inspired to create a digitalised headgear that he believes is the first of its kind. This was inspired by the Covid 19 home remedy of steaming with water infused with zumbani or umsuzwana (herb). The headgear he created has a design like that of a helmet, in that it covers your face completely. It enables you to steam with any herb or product of choice, even plain water, whilst ensuring that you are receiving sufficient filtered oxygen. It also has a compartment into which you pour your water and then add the herb or product you wish to steam with.

The headgear then heats up the water to a safe temperature and allows you the option of selecting the lowest but still effective temperature, if you are sensitive to heat. It also enables you to pre-set a timer for the number of minutes that you would like your steaming session to last for. Over and above this, the headgear is digitalised, it records information about your previous steaming sessions, such as your body temperature at the beginning of the session, your average pulse, total time spent steaming during each session, and allows you to input information about how you were/are feeling before and after each session. This information can be accessed through a cell phone application.

Mr Sibanda further informs you that the steaming headgear in question is designed differently from any other that has been or is currently on the market, as it is transparent. He says he is aware of only one patent pertaining to a steamer, but that the steamer in question is designed like the usual oxygen mask that you put over your nose area only, and then it delivers steam infused with any herb or product you want to use.

You do your research and find out that the information about the steaming patent you got from Mr Sibanda is true. And you also find out that, "Hewlett Packard has acquired a patent in the United States for a smart helmet to be used by bikers. The smart helmet includes integrated electronics providing safety and convenience features. Helmet features a global locating system, an environmental interaction sensor, a mobile communications device, a small display panel, a microphone and at least one speaker. The helmet can provide data to a user, monitor the user's actions and condition, and send information to others about user's location and condition."

- (a) Advise Mr Sibanda as to whether he can legally protect his "first of its kind headgear" if so, which intellectual property right/s can he rely on? In your answer, set out the relevant legal considerations.

[15 MARKS]

(b) If Mr Sibanda informs you that he participated in an international science exhibition 5 months ago, and that he was part of the Zimbabwean delegation showcasing our countries' innovations. As part of the exhibition, he displayed his invention in public and a picture of it was published by the Herald newspaper. Would this affect your answer to question 3(a) and why/why not?

[5 MARKS]

QUESTION FOUR

“Intellectual property systems in developed countries are helping to keep poorer countries trapped in poverty. Laws on patents and intellectual property need to be relaxed and adapted to help developing countries fight poverty and gain access to technology, medicines, and research...Developing countries should set their own agenda and develop laws that give them easier access to cut-price drugs and generic versions of drugs that are still patented...Intellectual property systems may, if not used carefully, introduce distortions that are detrimental to the interests of developing countries. Developed countries should pay more attention to reconciling their commercial self-interest with the need to reduce poverty in developing countries, which is in everyone’s interest.”

*except from magazine article on Intellectual Property Rights.

Write an essay in which you critically analyse the view that intellectual property protection, may have the detrimental effect of maintaining the status quo, insofar as, the lack of development, in underdeveloped nations is concerned. In your answer, explain the link between intellectual property protection and development, as well as the impact that strong IPRs protections may have *re* the development of third world nations.

[20 MARKS]

[TOTAL MARKS 70]

END OF EXAMINATION



HERBERT CHITEPO LAW SCHOOL

BACHELOR OF LAWS HONOURS DEGREE

LEVEL 3 SEMESTER 1

EXAMINATION QUESTION PAPER

MODULE CODE	LLB 315
MODULE NARRATION	CIVIL PROCEDURE II
DATE	NOVEMBER 2024
DURATION	3 HOURS

INSTRUCTIONS TO CANDIDATES

1. This examination paper consists of 7 questions.
2. Answer all questions in section A, One question from section B and one question from section C.
3. All your answers must be supported by relevant authority.
4. Candidates are permitted to enter the examination room with clean, unannotated copies of the High Court Act [Chapter 7:06], High Court Rules, 2021, (as amended) and the Constitution.

SECTION A: ANSWER ALL QUESTIONS [40 MARKS]

QUESTION 1

Briefly explain the circumstances under which the court may grant each of the following:

- a) A motion to strike out. **[4 Marks]**
- b) An application for summary judgment. **[4 Marks]**
- c) An application to amend summons. **[4 Marks]**
- d) An order upholding the special plea of *lis alibi pendens*. **[4 Marks]**

QUESTION 2

Briefly distinguish between the following:

- a) An exception and a special plea. **[4 Marks]**
- b) Application and action procedure. **[4 Marks]**

QUESTION 3

You are a legal practitioner based in Masvingo. You have been approached by the following clients for legal advice in their respective cases. Give concise advice to each.

- a) Rumbidzai Lee (Nee Makoni), a female Zimbabwean citizen would like to find out if the High Court of Zimbabwe has the jurisdiction to hear her action for divorce from her Chinese husband Bruce Lee who has practically deserted her and has returned to Guan Zhong, China. Their marriage was solemnized at Shurugwi Magistrates Court in 2019. At that time Mr. Lee was operating a gold mine in that area. **[4 Marks]**
- b) A group of villagers from the Chiromo village of Zaka would like to obtain an order restraining Bambazonke Mining Company from continuing with its illegal mining operations in their area. They have heard from someone that they have to apply for a final interdict. They have also learnt that in order to succeed they have to establish a “clear right”. They have no idea what “clear right” means or entails. Advise them. **[4 Marks]**

c) Thandy Mabhiza is married to Mr Jay Jay in terms of the Marriages Act [*Chapter 5:17*]. The two of them own a house in the Majange residential suburb of Masvingo. Their marriage is however an unhappy one due to endless squabbles over allegations of infidelity. Thandy has since filed for divorce with the High Court at Masvingo. Yesterday she learnt that Mr. Jay Jay intends to sell the Majange property to Tiller key and that the agreement of sale is set to be signed the day after tomorrow. Thandy informs you that as far as she is concerned the sale of the house is intended to prejudice her in the division of assets upon the divorce which is imminent. She therefore would like to find out if she can obtain an order as quickly as possible to stop the sale and maintain the status quo until the divorce matter is concluded. Advise Thandy what the court will consider in deciding whether or not to hear her application on an urgent basis. [4 Marks]

d) Saint Plow is a student at Great Zimbabwe University pursuing a degree programme in Law. He was brought before the University's *ad hoc* disciplinary Committee on allegations of leading a violent student demonstration at the university. The demonstration was aimed at airing the students' grievances on the failure by the University to obtain Starlink internet kits for the students to address internet connectivity challenges. The *ad hoc* committee found him guilty and suspended him from the University for two years.

The Great Zimbabwe University Regulations provide that any student aggrieved by the decision of the disciplinary Committee can approach the High Court for relief. Saint Plough is particularly aggrieved by the procedure adopted at the hearing. He claims firstly that the *ad hoc* disciplinary committee has no jurisdiction to entertain the disciplinary hearing, as this is the exclusive preserve of the "permanent" disciplinary committee and that the entire *ad hoc* disciplinary committee was biased against him in a number of ways. Saint Plow is however unsure if he should appeal against that decision to the High Court or lodge a review. Advise him. [4 Marks]

SECTION B: ANSWER ONE QUESTION ONLY 15 MARKS

QUESTION 4:

Section 14 of the High Court Act, [Chapter 7:06] provides as follows:

“The High court may in its discretion, at the instance of any interested person inquire into and determine any existing, future or contingent right or obligation, notwithstanding that such person cannot claim consequential relief upon such determination.”

Discuss how the courts have interpreted and applied this provision.

[15 Marks]

QUESTION 5

“Discuss the doctrine of effectiveness in proceedings against a peregrine defendant in claims sounding in money.

[15 Marks]

SECTION C: ANSWER ONE QUESTION ONLY 15 MARKS

QUESTION 6:

The Moyo Family Trust was founded by Professor David Moyo of the Great Zimbabwe University and his wife Elizabeth. Its trustees for the time being are George Maringa, Mildred Matutsa and Fred Chabodo. According to its deed of trust the main objective of the trust is to set up a vehicle through which to raise and maintain a fund for the children and grand children of Prof and Mrs Moyo. Further in terms of the deed of trust, the trustees have the power to acquire, dispose or let out property with a view to maintaining a viable financial base for the trust.

The trust has a sizable portfolio comprising several movable and immovable assets. One of the properties in question is a double-storey building in Mavingo’s CBD. Currently that property is being leased to the Prosperity Gospel Church (PGC) led by its rather flamboyant pastor, “Apostle” Prosper Gutu.

The lease agreement was entered into in July 2023 and its main terms are that the rent is US\$1000 per month payable in advance on or before the 4th day of each successive month. The duration of the lease is 24 months.

Lately, however, the PGC has been experiencing serious cash flow problems and has been struggling to meet its financial obligations including the payment of rent to the Moyo Family Trust. It is now four months in arrears with no foreseeable prospect of settling its indebtedness.

The Moyo Family Trust has now instituted an application in the High Court sitting at Masvingo seeking against the PGC seeking an order for the payment of the outstanding arrear rentals and its eviction from the premises in question.

The application is opposed by PSC. In its opposing affidavit it is averred by PSG that in a meeting held between the parties, the trustees verbally waived the payment of rent for a period 6 months on “compassionate” grounds. This is denied by the Trustees in their answering affidavit. In addition, raises three points *in limine*, namely:

- i) That the Moyo Family Trust is not a legal persona and as such has no locus standi to institute the proceedings
- ii) That the PGC has been wrongly cited as it too lacks *locus standi in judicio*.
- iii) That the applicant adopted the wrong procedure as it should have proceeded by way of action instead of application.

You are the legal practitioner acting for the applicant, advise the applicant, briefly on each of the following:

- a) Whether a Trust has the right to sue or be sued. **[4 Marks]**
- b) The requirements that have to be satisfied before an association of persons such as the PGC can be said to have *locus standi in judicio*. **[3 Marks]**
- c) The test that the court will use to determine whether the matter should have proceeded by way of action or by way of application. **[4 Marks]**
- d) The options that are available to the court in the event that it finds that the applicant ought to have proceeded by way of action instead of application. **[4 Marks]**

QUESTION 7

You are a legal practitioner operating in Masvingo. Mr. Munonoki approaches you in your chambers with a matter he perceives to be of grave concern. He informs you that he has learnt that a default judgment was granted against him by the High Court sitting at Masvingo on 30 August 2024. The default judgment was in respect of a claim brought by Mrs Magaisa for the recovery of the sum of US\$10 000.00

Mr. Munonoki further informs you that when summons was served at his residence in June 2024 he and his entire family were in France for the 2024 Summer Olympics held in Paris. He therefore did not receive the summons at all and only found out about it when the deputy Sheriff came to attach some of his movable goods to satisfy the judgment debt.

You peruse the documents brought by Mr Munonoki and observe from the summons and the declaration attached thereto that the claim relates to an agreement of sale in which Mr. Munonoki purchased a Honda Vezel motor vehicle from Mrs. Magaisa for the sum of US\$16 000. The agreement of sale was entered into in December 2023. Pursuant to that agreement of sale, Mr. Munonoki paid the sum of US\$6 000 as deposit, it being agreed that the balance was payable on or before the 30th of March 2024.

Mr. Munonoki informs you that after paying the deposit and taking possession of the Honda Vezel motor vehicle he discovered that it had a serious latent defect in that it had a cracked engine block and that is why he decided not to pay the balance. He also informs you that he brought this to the attention of Mrs. Magaisa who refused to take back the motor vehicle and to refund him the deposit. He further informs you that before he left for Paris he had intended to sue Mrs. Magaisa for the cancellation of the agreement of sale and the return of his deposit.

- a) Advise Mr. Munonoki what legal steps he must pursue in order to have the default judgment rescinded and what needs to be satisfied for him to succeed. **[6 Marks]**
- b) In the event that he succeeds in a) above, what he needs to do to firstly to defend the suit brought by Mrs. Magaisa and secondly assert his right in relation to the cancellation of the agreement of sale and obtain a refund of the deposit. **[6 Marks]**
- c) Explain to Mr. Munonoki if he is able to recover the legal costs should he ultimately succeed in the proceedings brought under b) above. **[3 Marks]**

END OF EXAMINATION PAPER



HERBERT CHITEPO LAW SCHOOL
BACHELOR OF LAWS (LLB)
LEVEL 3 SEMESTER 1
EXAMINATION QUESTION PAPER

MODULE CODE **IRMS121**
MODULE NARRATION: **RESEARCH METHODS AND STATISTICS**
DATE: **2024**
DURATION: **3 HOURS**

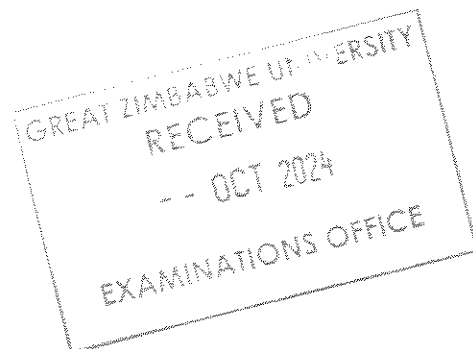
INSTRUCTIONS TO CANDIDATES

Answer any **three** questions choosing at least **one** question from **each** section. Each question carries 100 marks.

Use statistical tables and formulae provided where necessary. Show all working. Omission of essential working will result in loss of marks.

ADDITIONAL MATERIALS

- Graph Paper
- Scientific Calculator
- List of Formulae and Statistical Tables



SECTION A: RESEARCH METHODS

1. To what extent do you back the view that reviewing related literature limits the creativity of the researcher? [100]
2. (a) Discuss the relevance of any **one** qualitative **research design** of your choice in legal research. [70]
(b) Analyse any **three** research ethical principles, indicating their relevance to the legal research. [30]
3. How persuasive is the assertion that interviews are inferior data gathering instruments to questionnaires? [100]

SECTION B: STATISTICS

4. (a). Below are the marks which were scored by 40 Bachelor of Laws third year students in a Commercial Law assignment:

62 47 69 59 15 65 89 8 72 55
81 57 63 76 85 69 65 27 41 65
43 74 80 45 17 34 72 81 38 48
94 54 95 64 46 74 27 67 11 29

- (i) Represent the marks on a stem and leaf diagram. [10]
 - (ii) Give any **two** advantages of a stem and leaf diagram. [2]
 - (iii) Write down the modal class. [2]
 - (iv) Find the ordinary range of the marks. [4]
- (b) The marks scored by Bachelor of Laws third year students in Property Law and Labour Law were tabulated in Table 4.1 below:

Table 4.1

LLB 3.1 Students	P	Q	R	S	T	U	V	W	X	Y
Property Law marks	75	87	74	87	84	87	90	57	53	66
Labour Law marks	69	87	77	74	77	86	94	53	48	59

- (i) Calculate the mean of the Property Law marks. [4]
- (ii) Compute the median of the Labour Law marks [3]
- (iii) Find the mode of the Property Law marks [3]
- (iv) Calculate the standard deviation of the Property marks [10]
- (v) State any **two** advantages of the mean. [2]

- (vi) If the mean and the standard deviation of the Labour Law marks are 72.4 and 15.17 respectively, establish the module in which Student Q performed better. [5]
 - (vii) Calculate Pearson's product moment correlation coefficient using the data in Table 4.1. Comment on your answer. [40]
 - (viii) Calculate the coefficient of determination using your answer in (vi) and interpret it. [5]
- (c) Outline in brief any **two** scales of measurement **apart from the interval scale**, giving relevant examples from the legal fraternity. [10]

5. (a) The heights of practising lawyers in Zimbabwe follow a normal distribution with a mean of 160 cm and a standard deviation of 20 cm. Find the probability that the height of a randomly chosen practising lawyer in Zimbabwe, measured in centimetres,
- (i) is less than 170 cm [6]
 - (ii) is greater than 168 cm [6]
 - (iii) lies between 145 cm and 171 cm. [10]
- (b) Give any **four** characteristics of the normal distribution. [8]

(c) Table 5.1 shows the marks which were scored by 10 Bachelor of Laws Part 5 students in Business Enterprises Law and Intellectual Property examinations.

Table 5.1

Bachelor of Laws Part 5 students	A	B	C	D	E	F	G	H	I	J
Business Enterprises Law scores	71	74	80	79	63	56	75	81	81	54
Intellectual Property Law scores	74	75	75	72	68	59	66	73	76	51

Carry out a two-tailed t-test at 10% level of significance to establish if there is a significant difference between the scholastic achievement of Bachelor of Laws Part 5 students in Business Enterprises Law and Intellectual Property Law. [45]

- (d) Articulate the difference between:
- (i) the null hypothesis and the alternative hypothesis. [5]
 - (ii) negatively skewed distribution and positively skewed distribution. [5]
 - (iii) negative correlation and positive correlation. [5]

(e) How does a Type I error differ from a Type II error? Your response must make reference to acquittals and convictions in the legal situations. [10]

6. (a). Briefly articulate a research scenario in the field of law where the chi-square test can be used. Indicate the variables involved and the accompanying hypotheses as well as a contingency table. [20]
- (b) A law student carried out a research study to establish if an association existed between gender and attitudes of Zimbabweans towards the legalisation of surrogacy. The legal outcomes of the research study are tabulated in Table 6.1.

Table 6.1

Gender	Attitudes towards the legalisation of surrogacy		
	Positive	Neutral	Negative
Females	88	77	73
Males	102	59	101

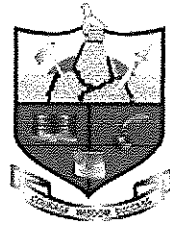
Showing all the necessary steps, conduct a chi-square test at 5% significance level to establish if there is an association between gender and attitudes of Zimbabweans towards the legalisation of surrogacy. [60]

(c) Explain why Spearman's rank order correlation coefficient is marginally inferior to Pearson's product moment correlation coefficient [5]

(d) Explain the difference between:

- (i). a sample and a population [5]
- (ii). a pie chart and a histogram. [5]
- (iii). a parametric test and a non-parametric test. [5]

END OF EXAMINATION PAPER



HERBERT CHITEPO LAW SCHOOL

BACHELOR OF LAWS HONORS DEGREE

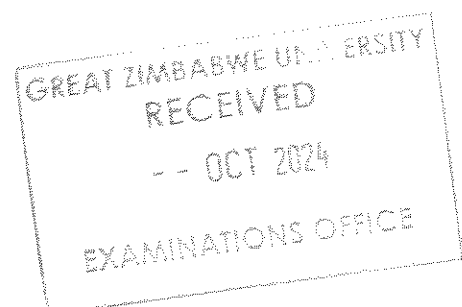
LEVEL 5 SEMESTER 2

EXAMINATION QUESTION PAPER

MODULE CODE	LLB (S) 524
MODULE NARRATION	CLINICAL LEGAL EDUCATION 11
DATE	NOVEMBER- DECEMBER 2024
DURATION	3 HOURS

INSTRUCTIONS TO CANDIDATES

- 1. This examination paper is divided into TWO SECTIONS. SECTION A and SECTION B**
- 2. Answer THREE questions in ALL. Question number ONE which is compulsory from Section A and any other TWO questions from Section B**
- 3. Write legibly**
- 4. This Examination paper is FOUR (4) Pages in length**
- 5. This examination paper shall be marked out of a total of 100 marks**
- 6. Candidates are allowed to use unannotated copies of the High Court Civil Rules, the high Court of Zimbabwe Act, and lecture Notes.**



SECTION A

QUESTION 1

John Banda a male adult aged 27 years resides at 47 Marula drive, Rhodene, Masvingo and is married to Alice Shyne aged 22 years. Before his marriage to Alice; John bought an immovable known as Stand number 2700 Mukono Street, Morningside, Masvingo. The property is registered in the names of John Banda under Deed of Transfer number 2006/14. John and Alice officially solemnized their marriage on 24 December 2023 in terms of the Marriages Act of Zimbabwe. The marriage still subsists. The parties have been domiciled in Zimbabwe since 2023. On 14 April 2024 Alice Shyne left the matrimonial home being 47 Marula drive, Rhodene, Masvingo after several disagreements with John Banda. Between 24 December 2023 and 14 April 2024, John and Alice jointly acquired the following matrimonial assets.

- (a) A Toyota Fortuner vehicle registration number ADB 2437 registered in John Banda's names and worthy US\$30 000.
- (b) An undeveloped stand known as 1238 Makusha Street Mucheke D, Masvingo jointly registered in John and Alice's names, valued at US\$7 000.
- (c) An undeveloped stand known as 6742 Muvhimi drive, Mucheke registered by way of a cession in the names of Joyce Banda aged 1 year who is a daughter to John and Alice, valued at US\$30 000.

Alice alleges that John is engaged in an adulterous relationship with Mary Gold, a female aged 19 years who resides at 42 Clooney Avenue, Eastvale, Masvingo.

In your capacity as a junior legal Practitioner at Munetsi Law Chambers of 54 Hofmeyer Street, Masvingo; you have been approached by Alice to institute divorce proceedings against John Banda. Draft the Plaintiff's Declaration which must comply with the Intergrated Electronic Case Management system and the High Court of Zimbabwe Rules. The Declaration should among other things adequately canvass the following.

- (a) Reasons for divorce
- (b) Sharing of matrimonial assets
- (c) Custody of the minor child
- (d) Right of Access to the minor child

- (e) Maintenance in respect of the minor child
- (f) Cost of suit

[40 Marks]

SECTION B

QUESTION 2

i) Explain the meaning of the following legal terms

- (a) Notice of Appearance to defend [5 marks]
- (b) Notice to plead and intention to bar [5 marks]

ii) Draft a sample of the following

- a) Notice of Appearance to defend [10 marks]
- b) Notice to plead and intention to bar [10 marks]

Total marks [30 marks]

QUESTION 3

Citing relevant case law authorities;

Discuss the similarities and differences if any between an ordinary High Court Application and an urgent Chamber High Court Application. You must also refer to the relevant High Court rules in your answer

Total marks [30 marks]

QUESTION 4

Discuss the legal requirements of an Ex parte Application. Cite relevant High Court of Zimbabwe rules to illustrate your answer.

Total marks [30 marks]

QUESTION 5

Discuss the circumstances under which it is permissible to modify the format of a high Court Application in terms of the High Court rules of Zimbabwe.

Total marks [30 marks]

QUESTION 6

Discuss the legal relevancy of Heads of Argument in the Drafting of High Court pleadings in application proceedings.

Total marks [30 marks]

End of Examination Paper

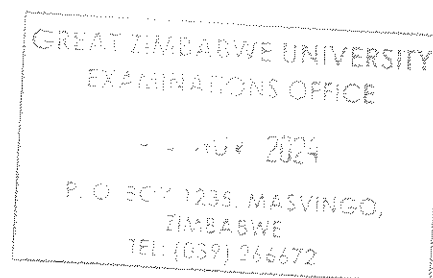


HERBERT CHITEPO LAW SCHOOL
BACHELOR OF LAWS DEGREE
EXAMINATION QUESTION PAPER

MODULE CODE	LLB615
MODULE NARRATION	INTERNATIONAL TRADE LAW
DATE	2024
DURATION	3 HOURS
TOTAL	70 MARKS

INSTRUCTIONS TO CANDIDATES:

- 1. Write legibly.**
- 2. Section A is compulsory.**
- 3. Answer any two questions in section B.**
- 4. This question paper consists 4 pages.**



SECTION A

THIS SECTION IS COMPULSORY

QUESTION ONE

- a) Examine the impact and role of subsidies and dumping International trade.

[10 marks]

- (b) With emphasis on the IMF and World Bank, examine the role of financial institutions in international trade and the impact they have on developing countries

[20 Marks]

SECTION B

ANSWER ANY TWO QUESTIONS IN THIS SECTION

QUESTION TWO

Note: All countries are WTO Members.

Boland, a developing WTO member, has recently had a spike in HIV/AIDS infections and related deaths. Initially, the government responded with increased access and availability to generic anti-retroviral drug therapy (ART), however, the number of AIDS related deaths continues to increase with little or no noticeable difference despite the wide availability and distribution of generic ART drugs.

The government of Boland commissions a study, through the Boland AIDS Commission (BAC), to provide an explanation on the current situation and provide possible solutions to the health crises. The BAC presents the following findings to the Boland government:

- Clinical studies had confirmed the emergence of a new hybrid HIV variant which was similar to HIV-1 and HIV-2, but the mutation had resulted in resistance to generic ART drugs used in treating HIV-1 and HIV-2 infections. The sample of the new HIV variant had been sent to the World Health Organisation (WHO) which had confirmed the emergence of a new HIV-3 variant;
- All existing generic ART drugs had proved to be ineffective in treating the new HIV-3 virus;
- To date, only one ART drug, *Philovera*, had proved to be effective in treating the HIV-3 variant. The patent for *Philovera* is held by a pharmaceutical company, Diabax, based in Goodland, a developed WTO member, and costs USD5000,00 per patient per annum.
- Diabax has declined to enter into negotiations for the granting of licenses for pharmaceutical companies in other countries to manufacture *Philovera*, which if accepted, would have decreased the cost of the drug;
- There is no technology and knowledge capacity to manufacture *Philovera* in Boland, and Boland cannot afford to procure the drug from Diabax;
- Capacity to manufacture *Philovera* exists in Hopely, a developing WTO member, however, Boland has not acceded to the Protocol Amending the TRIPS Agreement of 2005.

You are the chief trade legal advisor to the government of Boland and are required to provide a legal brief on options available in the WTO system for Boland to procure *Philovera* at an affordable and reasonable price to assist in dealing with the HIV-3 pandemic. **[20 Marks]**

QUESTION THREE

- a) To what extent, if at all, do regional trade agreements undermine the agenda of the WTO? **[10 Marks]**
- b) It is ultimately in the interests of Zimbabwe to form part of the WTO and its structures. Do you agree? **[10 Marks]**

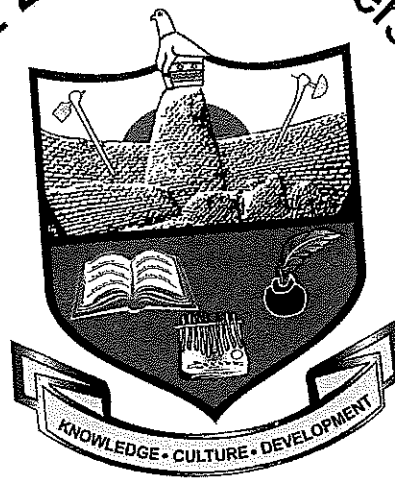
QUESTION FOUR

Write a brief essay describing and analysing the dispute settlement system of WTO with emphasis to, negative consensus, remedies available and the timelines. **[20 marks]**

TOTAL MARKS: 70

END OF QUESTION PAPER

Great Zimbabwe University



HERBERT CHITEPO LAW SCHOOL

BACHELOR OF LAWS HONOURS DEGREE

LEVEL 3 SEMESTER 1

EXAMINATION QUESTION PAPER

MODULE CODE

LLB 315

MODULE NARRATION

CIVIL PROCEDURE II

DATE

NOVEMBER 2024

DURATION

3 HOURS

INSTRUCTIONS TO CANDIDATES

1. This examination paper consists of 7 questions.
2. Answer all questions in section A, One question from section B and one question from section C.
3. All your answers must be supported by relevant authority.
4. Candidates are permitted to enter the examination room with clean, unannotated copies of the High Court Act [Chapter 7:06], High Court Rules, 2021, (as amended) and the Constitution.

c) Thandy Mabhiza is married to Mr Jay Jay in terms of the Marriages Act [*Chapter 5:17*]. The two of them own a house in the Majange residential suburb of Masvingo. Their marriage is however an unhappy one due to endless squabbles over allegations of infidelity. Thandy has since filed for divorce with the High Court at Masvingo. Yesterday she learnt that Mr. Jay Jay intends to sell the Majange property to Tiller key and that the agreement of sale is set to be signed the day after tomorrow. Thandy informs you that as far as she is concerned the sale of the house is intended to prejudice her in the division of assets upon the divorce which is imminent. She therefore would like to find out if she can obtain an order as quickly as possible to stop the sale and maintain the status quo until the divorce matter is concluded. Advise Thandy what the court will consider in deciding whether or not to hear her application on an urgent basis. [4 Marks]

d) Saint Plow is a student at Great Zimbabwe University pursuing a degree programme in Law. He was brought before the University's *ad hoc* disciplinary Committee on allegations of leading a violent student demonstration at the university. The demonstration was aimed at airing the students' grievances on the failure by the University to obtain Starlink internet kits for the students to address internet connectivity challenges. The *ad hoc* committee found him guilty and suspended him from the University for two years.

The Great Zimbabwe University Regulations provide that any student aggrieved by the decision of the disciplinary Committee can approach the High Court for relief. Saint Plow is particularly aggrieved by the procedure adopted at the hearing. He claims firstly that the *ad hoc* disciplinary committee has no jurisdiction to entertain the disciplinary hearing, as this is the exclusive preserve of the "permanent" disciplinary committee and that the entire *ad hoc* disciplinary committee was biased against him in a number of ways. Saint Plow is however unsure if he should appeal against that decision to the High Court or lodge a review. Advise him. [4 Marks]

The lease agreement was entered into in July 2023 and its main terms are that the rent is US\$1000 per month payable in advance on or before the 4th day of each successive month. The duration of the lease is 24 months.

Lately, however, the PGC has been experiencing serious cash flow problems and has been struggling to meet its financial obligations including the payment of rent to the Moyo Family Trust. It is now four months in arrears with no foreseeable prospect of settling its indebtedness.

The Moyo Family Trust has now instituted an application in the High Court sitting at Masvingo seeking against the PGC seeking an order for the payment of the outstanding arrear rentals and its eviction from the premises in question.

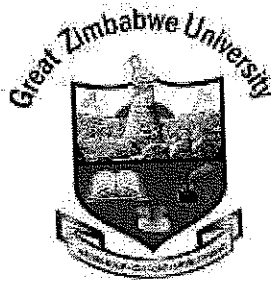
The application is opposed by PSC. In its opposing affidavit it is averred by PSG that in a meeting held between the parties, the trustees verbally waived the payment of rent for a period 6 months on “compassionate” grounds. This is denied by the Trustees in their answering affidavit. In addition, raises three points *in limine*, namely:

- i) That the Moyo Family Trust is not a legal persona and as such has no locus standi to institute the proceedings
- ii) That the PGC has been wrongly cited as it too lacks *locus standi in judicio*.
- iii) That the applicant adopted the wrong procedure as it should have proceeded by way of action instead of application.

You are the legal practitioner acting for the applicant, advise the applicant, briefly on each of the following:

- a) Whether a Trust has the right to sue or be sued. [4 Marks]
- b) The requirements that have to be satisfied before an association of persons such as the PGC can be said to have *locus standi in judicio*. [3 Marks]
- c) The test that the court will use to determine whether the matter should have proceeded by way of action or by way of application. [4 Marks]
- d) The options that are available to the court in the event that it finds that the applicant ought to have proceeded by way of action instead of application. [4 Marks]

END OF EXAMINATION PAPER



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EXAMINATIONS OFFICE
NOV 2024
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HERBERT CHITEPO LAW SCHOOL

DEPARTMENT OF LAW

BACHELOR OF LAWS HONOURS DEGREE

LEVEL 3 SEMESTER 2

EXAMINATION QUESTION PAPER

MODULE CODE	LLB 323
MODULE NARRATION	JURISPRUDENCE
DATE	NOVEMBER 2024
DURATION	3 HOURS

INSTRUCTIONS TO CANDIDATES:

1. Answer ALL questions from Section A and TWO questions from Section B.
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. Students are allowed to bring any written material on hard copy into the exam.
5. This paper consists of three pages.

SECTION A

THIS QUESTION IS

COMPULSORY

QUESTION ONE

Discuss in summary the Speluncean Explorers' case and critically analyze the Judicial/Judges findings there from. Further compare those decisions with any relevant legal theories or schools of thought applicable to the findings if any.

[30 Marks]

SECTION B

**CANDIDATES MUST ANSWER TWO QUESTIONS
FROM THIS SECTION**

QUESTION TWO

Discuss the similarities and differences between the realist school of law and critical legal studies movement.

[20 Marks]

QUESTION THREE

“It sometimes happens that the goal of social change is reached more quickly through legal development by the judiciary than by the legislature. This is because judges have a certain amount of latitude in the process of interpretation and application of the law. They take part in the process of creation. Law-making is an inherent and inevitable part of the judicial process”. (per Gubbay ACJ, McNally and Manyarara JJJ, in *Zimnat Insurance Company Ltd V Chawanda* 1990(2) ZLR 143

(SC)@154.

Critically discuss these sentiments in the light of any relevant legal theories.

[20 Marks]

QUESTION FOUR

“John Austin’s Command theory has been praised and criticized by many scholars”. Discuss Austin’s Command Theory highlighting its features, strength and weaknesses.

[20 Marks]

QUESTION FIVE

“The distinction between natural law and positivism falls apart when one considers the theory of Ronald Dworkin” Do you agree?.

[20 Marks]

TOTAL MARKS: 70
END OF QUESTION PAPER



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HERBERT CHITEPO LAW SCHOOL
BACHELOR OF LAWS HONOURS DEGREE
LEVEL 3 SEMESTER 1
EXAMINATION QUESTION PAPER

MODULE CODE **LLB 312**
MODULE NARRATION **COMMERCIAL LAW**
DATE **2024**
DURATION **3 HOURS**

INSTRUCTIONS TO CANDIDATES:

1. Read all questions and follow instructions.
2. The examination is out of 70 marks.
3. Section A is compulsory.
4. Answer any 2 questions in Section B.
5. This examination is a closed book, students shall not use any material in the exam room.
6. This paper consists of four pages including this cover page.

SECTION A

THIS SECTION IS COMPULSORY

QUESTION ONE

- a) Moses and Ben met over lunch one day to negotiate the buying by Moses of a pedigree cow from Ben. The two parties agreed to enter into a contract of sale and they took some time to examine and admire the animal. They eventually agreed not to fix a price but instead to wait for the price of the cattle to stabilise so that Moses could pay a reasonable price for the cow.

A few days after the meeting between Moses and Ben, there was a heavy storm. The cow which had been the subject of negotiations between Moses and Ben was struck by lightning and it perished in the storm. Ben's lawyers have since written to Moses demanding payment of \$ 1 000.00 being the current market value of a pedigree cow like one which perished in the storm.

Advise Moses.

[10 marks]

- b) Students at Arundel were greatly touched by the plight of orphans at the Mount Pleasant SOS Village. They, therefore, petitioned their headmaster to make a donation to the village. The headmaster obliged by endorsing at the back of this particular cheque, "please pay Mount Pleasant SOS Village' in addition to his signature. The cheque was then handed to the children's village.

The director of the village used the cheque to discharge a (personal) debt which he had with Simba, a local farmer. Simba banked the cheque at Chibi Bank Ltd. Chibi Bank Ltd presented the cheque to Gang Bank Ltd, the drawee on the cheque concerned.

- i) Assuming Gang Bank Ltd honoured the cheque would the bank be liable to any of the parties to these transactions? [5 marks]
- ii) Assuming the bank dishonours the cheque, what would be Simba's rights against the other parties to these transactions? [15 marks]

[Subtotal 30 Marks]

SECTION B

ANSWER ANY TWO QUESTIONS IN THIS SECTION

QUESTION TWO

- a) Mark buys a cow which a few days later dies of anthrax. It is established that the cow was infected when Mark bought it but there was no sign of the disease at the time and Mark was not aware. The Seller, however was aware that it was infected with anthrax. Mark immediately burns the carcass but unfortunately the rest of his herd becomes infected and has to be destroyed.

Advise Mark of his rights if the seller sold the cow “voestoets”

[10 marks]

- b) “Apparent or ostensible authority, as it is sometimes called, is not real authority at all. To use the words of Professor Montrose “Apparent” authority is really equivalent to the phrase “appearance of authority” Markesin and Munday, *An Outline of the Law of Agency* (2nd ed.) Butterworths at p.30.

Comment on this statement particularly in view of the fact that in our law an agent must be given a mandate by the principal and yet we recognise agency by estoppel, agency of necessity and ratification.

[10 marks]

QUESTION THREE

- a) Discuss;
- i) A note payable to bearer [5 Marks]
- i) A crossed cheque written “NOT NEGOTIABLE” [5 Marks]
- b) Explain the warranty against eviction and discuss the instances where the warrant will not apply. [10 marks]

QUESTION FOUR

- a) Lucia approaches Tatenda, an estate agent to find a purchaser for her house. She makes it clear that she wants at least \$ 50 000.00 for her house. Tatenda introduces Salome to Lucia, who after inspecting the house tells Lucia that she will pay not more than \$ 40 000.00 for

the house as it has some defects. A week later Lucia approaches Salome without informing Tatenda and informs her that she has given the matter a second thought and is willing to accept \$ 40 000.00 if she is still interested. Lucia and Salome then conclude a valid contract of sale without the involvement of Tatenda. Tatenda comes to hear of the transaction and demands his customary 5% commission.

Advise Tatenda [10 marks]

- b) Explain the role of sellers in hire-purchase transactions in relation to buyers on the one hand and finance companies on the other hand. [10 marks]

TOTAL MARKS: [70 marks]

END OF QUESTION PAPER



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HERBERT CHITEPO LAW SCHOOL

DEPARTMENT OF LAW

BACHELOR OF LAWS HONOURS DEGREE

LEVEL 5 SEMESTER 2

SUPPLEMENTARY EXAMINATION

MODULE CODE: LLB 522

MODULE NARRATION: LAW AND ECONOMIC DEVELOPMENT

DURATION: 3 HOURS

INSTRUCTIONS TO CANDIDATES:

1. Answer ALL questions from Section A and TWO questions from Section B
2. Students MAY NOT take any material into the examination.
3. You are advised to read all questions carefully before attempting to answer any.
4. You are advised to cite relevant authorities to support your answers.
5. This paper consists of two pages including the cover page.

SECTION A

THIS QUESTION IS COMPULSORY

QUESTION ONE

Douglas North emphasised the importance of institutions in economic development. It is argued that institutions provide the incentive structure of an economy and as that structure evolves, it shapes the direction of economic change towards growth, stagnation, or decline.

Critically analyse the above assertion within the context of Zimbabwe.

[30 Marks]

SECTION B

CANDIDATES MUST ANSWER TWO QUESTIONS FROM THIS SECTION

QUESTION TWO

Write succinct notes on the following terms as used in International Investment Law

- i. Non-discrimination
- ii. Minimum Standard
- iii. Right to Regulate
- iv. Sustainable Investments

[20 Marks]

QUESTION THREE

Discuss the economic benefits of the African Continental Free Trade Area for a developing economy like Zimbabwe.

[20 Marks]

QUESTION FOUR

From the perspective of law and economic development, what do you consider to be the strengths and weaknesses of the Draft Legally Binding Instrument to Regulate, in International Human Rights Law, the Activities of Transnational Corporations and Other Business Enterprises?

[20 Marks]

TOTAL MARKS: 70

[THE END]

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BARCHELOR OF LAWS HONOURS DEGREE
EXAMINATION QUESTION PAPER

MODULE	LLB512
MODULE NARRATION	ACCOUNTING FOR LEGAL PRACTICE
DATE	2024
DURATION	3 HOURS

INSTRUCTIONS TO CANDIDATES

1. Answer **ALL** questions.
2. You are advised to read all questions carefully before attempting to answer any.
3. Use of calculators is permitted.
4. This examination paper has 4 pages including cover page.

QUESTION 1

Comment on each of the following.

- a) T and M Legal Practitioners operate a business current, a business savings, a trust current as well as a trust savings account. On 10 November they withdrew a sum of \$20 000 from the trust savings account being interest earned which amount they then deposited into their business current account. (5)
- b) The legal practitioner received cash in the sum of \$30 000 00 from his client on a Monday. Of that sum, \$20 000 00 was for onward transmission to a creditor whilst \$10 000 00 was a payment for services the legal practitioners had rendered to the client some weeks ago. The legal practitioner deposited the \$30 000 00 into his business account the following Friday. (5)
- c) A legal practitioner's practicing certificate was due to expire on 31 December 2023. She submitted her application for renewal of the practicing certificate together with the audit certificate on 7 December and on 15 December 2023 she paid the Compensation Fund the interest due to it. (5)
- d) The bank despite being informed that Mr Lawyer was under investigation for abusing his trust account, honoured a transfer request for \$500 000 payable to Mr Lawyer and drawn on Mr Lawyer's trust account. (5)
- e) On 15 May 2021, a legal practitioner prepared a list of his clients' credit balances as at the 30 March 2019 and noted them in a prominent manner in his ledger. On 30 May 2023 the legal practitioner destroyed the list of the clients' credit balances (as at the 30 March 2019). (5)

(25 Marks)

QUESTION 2

The following Trial Balance was extracted from the books of a legal practitioner at the financial year end, the 31 December 2023.

	Dr	Cr
	\$	\$
Client Debtors	4 750	
Stationery and office expenses	2 150	
Capital		12 500
Furniture and Equipment	6 000	
Employees' Salaries	12 000	
Clients Trust Accounts		8 600
Library	10 000	
Interest on Trust Savings		400
Balances at bank: Business Current Account		890
Trust Current Account	6 550	
Trust Savings Account	2 050	
Fees		20 000
Business Creditors		3 100
Drawings	1 990	
	<u>45 490</u>	<u>45 490</u>

YOU ARE REQUIRED TO prepare the income statement (profit and loss account) of the firm for the year together with the statement of financial position (balance sheet) as at that date.

(20 Marks)

QUESTION 3

On 30 December 2023 the Trust Cash Book of Magwagwa Law Practice showed a debit balance of \$1 600. The Bank Statement showed a credit balance of \$2 210. A comparison of the books showed the following differences:

- i. Ledger fees of \$30 had been charged against the Trust Current Account. The bank was in possession of standing instructions that the charges were to be debited against the Business Current Account;
- ii. Cheques totaling \$890 had not been presented for payment;
- iii. A deposit of \$240 from a client had been returned to client marked 'Referred to

Drawer' iv. A cheque for \$340 had in error been entered as \$330 in the Cash Book but the Bank had entered the correct amount.

YOU ARE REQUIRED TO adjust the Cash Book and thereafter prepare a bank reconciliation statement to reconcile the difference between your adjusted Cash book and the Bank statement as at 30 December 2023. **(15 Marks)**

QUESTION 4.

Explain how the bookkeeper of the firm M & N Legal Practitioners would enter each of the following transactions in the firm's books of account.

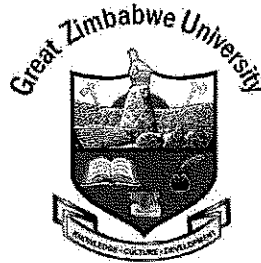
- (a) Purchase of revenue stamps worth \$10 000 for use as and when required. [2]
- (b) The payment to Mr Baker of \$60 000 being the sum collected from his debtors. [2]
- (c) The receipt of the sum of \$20000 from Daggie as a payment in respect of a debt owed to your client Sam. Sam owes the firm an amount of \$300, 00 for services rendered on his behalf. [2]
- (d) Payment of rental for the office premises in the sum of \$500. [2]
- (e) The purchase of a computer to be used for the preparation of trust accounts. [2]

(10 Marks)

TOTAL MARKS: 70 MARKS

END OF QUESTION PAPER

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HERBERT CHITEPO LAW SCHOOL
BACHELOR OF LAWS HONOURS DEGREE
LEVEL 5 SEMESTER 1
EXAMINATION QUESTION PAPER

MODULE CODE **LLB 626**
MODULE NARRATION **CONVEYANCING**
DATE
DURATION **3 HOURS**

INSTRUCTIONS TO CANDIDATES:

- 1. Answer ALL questions.**
- 2. Read all questions carefully before attempting to answer.**
- 3. All your answers must be supported by relevant authority.**
- 4. Write legibly.**
- 5. NOTE when drafting documents use your own data unless if it is supplied.**
- 6. Students may bring into the examination room the text, The Guide to the Law and Practice of Conveyancing in Zimbabwe as well as any relevant statutes provided that the text and statutes are not annotated.**

QUESTION 1

Dr. Andrew 'Goat' Machanga intends to donate his property to his daughter. The property is called STAND 78423 VALLEYDALE TOWNSHIP OF LOT 1 OF SUBDIVISION 5 OF WILLOVALE situate in the District of Harare and is held by Dr Goat under deed of transfer number 98967/88. The property has been valued at the sum of US\$793 090.00. The holding deed is a Deed of Transfer No. 98967/88 endorsed with a mortgage in favour of FBC Building Society in the sum of US\$500 000.00. Dr. Goat's daughter is aware of the existence of this mortgage and has agreed to replace her father as the debtor if the property is transferred into her name.

The conditions clause in the holding deed reads as follows: "Subject to all such terms and conditions as are in the said Deeds mentioned or referred to, including the relevant conditions of establishment of the said Township contained in Rhodesia Government Notice No. 11895 dated 5th February 1965." Ownership must now be conveyed from Mr Goat to his daughter, Samatha.

- i) Draft the Deed of Transfer **[8 marks]**
- ii) Calculate the stamp duty to be paid to the Registrar of Deeds for the registration of this transfer. **[3 marks]**
- iii) Draft the Consent to Substitution. **[5 marks]**
- iv) Assuming you have also been instructed to attend to the substitution of debtor, draft your lodging cover. All the documents you are to lodge for this transfer must be listed on the lodging cover. **[4 marks]**

QUESTION 2

Olivia Chenai is the registered owner of certain piece of land. She has transferred certain piece of land to Jowa Matombe under Deed of Transfer number 227216/2019. A court order has been granted for the cancellation of the Deed. Olivia now wishes to transfer the property to Tendai.

- (a) Which title deed will be the holding deed that you will use to register this transfer? Why? Explain.

[5 marks]

b) Give a brief explanation of the following terms relating to Mortgage Bonds:

- i) Participation Bond
- ii) Pactum commissorium
- iii) Kustingbrief
- iv) Indemnity Bond
- v) Parate executie

[5 marks]

(c) Ironside Mabhene owns two farms which he wishes to consolidate. What requirements are set out in the Deeds Registries Act before a Certificate of Consolidated Title can be issued by the Registrar of Deeds?

[4 marks]

QUESTION 3

Chirinda Matura has obtained a permit to subdivide his property called Stand 1983 Mandara into two subdivisions. The Diagrams have been framed and approved. The property is bonded to ABC Bank Limited. The owner has sold the Remaining Extent thereof to the Highfield Community Centre for \$50 000.00. The Bank has consented to the said transfer without requiring any amount to be paid in reduction of their bond.

(i) List (only) ALL the documents which must be drawn to enable transfer to be registered.

[6 marks]

(ii) DRAFT i) the deed of transfer

[7 marks]

ii) the Power of Attorney to give transfer to the Remaining Extent. [5 marks]

iii. A permit to sub-divide or consolidate is applied for in terms of section 40 of the

Regional Town and Country Planning Act [Chapter 29:12]. Why is it important to acquire this permit?

[5 marks]

QUESTION 4

Explain the difference between:

(i) a Deed of Transfer and a Certificate of State Title;

(ii) a dispensation certificate and a diagram;

(iii) a participation bond and a collateral surety bond;

(iv) a holding deed and a diagram deed

[8]

b) Explain the rationale behind the rule that deeds must follow the sequence of their relative causes in terms of Section 11 of Deeds Registries Act. What challenges might be encountered if this rule is not strictly enforced.

[5]

QUESTION 5

The number of cases of sale of urban land by unregistered land developers has risen in recent years. Many home-seekers have lost thousands of dollars in these illegal transactions. What would you advise the relevant ministry to do in order to safeguard the public from this problem? Assuming a person who wants to purchase such property approaches for you advise, what potential pitfalls would you highlight to them before they conclude the sale.

[10 marks]

END OF QUESTION PAPER
TOTAL 70 MARKS



HERBERT CHITEPO LAW SCHOOL

BACHELOR OF LAWS HONOURS DEGREE

LEVEL 5 SEMESTER 2

LEVEL 3 SEMESTER 2

EXAMINATION QUESTION PAPER

MODULE CODE	LLB611
MODULE NARRATION	ALTERNATIVE DISPUTE RESOLUTION
DATE	2024
DURATION	3 HOURS

INSTRUCTIONS TO CANDIDATES:

1. Clearly number all the questions you are answering.
2. Question 1 in Section A is compulsory.
3. Answer two questions in section B.
4. Mark all answer sheets with your student number.
5. This Examination is out of 70 marks.
6. Candidates may bring unannotated copies of the Arbitration Act and the Arbitration (International Investments Disputes) Act into the examination room
7. This question paper is three pages long including the cover page.

SECTION A

This section is compulsory

Question 1

The Chitungwiza City Council owns an Olympic Pool and Training Centre which is managed by a Mr Charova. Until February 18, 2021 the facility had been used by both the Under Water Hockey Association of Zimbabwe and the National Synchronized Swimmers' Association. This has been possible because, up to now, the national teams of the respective associations have not made heavy use of the only available time in which the pool is closed to the public, that is, from 6:00am to 8:00am. Both groups have now decided to use Chitungwiza as the base for their Games training programmes and, as a consequence, they are claiming the right to the full two hour session every day. Both parties assert that priority usage agreements have been signed with the Chitungwiza City Council. Mr Charova is not willing to extend the hours at which the pool is open because this would incur excessive overtime costs and any variation of hours would not only inconvenience him but would impact on the use of the pool by the general public. In addition to the dispute over the use of the pool itself, the two groups have become increasingly antagonistic. The all-male Under Water Hockey Squad objects to the music played by the synchronized swimmers and claim that discarded hair pins and dislodged nose pegs left on the floor of the pool have caused the hockey players to sustain minor injuries during practice. For their part the women swimmers have taken offence to pictures of scantily clad females which have been placed in communal areas by the Hockey Squad and at the frequent remarks with sexual innuendo made by the Hockey Squad members. The men also have a record of leaving equipment around the pool and expecting the women to clean up at the end of the training sessions.

What would you suggest as the appropriate dispute resolution method suitable for this dispute? Give your reasons.

[30 marks]

SECTION B

Answer any two questions from this section

Question 2

The Arbitration Act (Chapter 7:15) regulates the arbitration laws in Zimbabwe. Discuss the purpose of the Act and the kind of disputes that are arbitrable and non-arbitrable under the Zimbabwean Arbitration system. **[20 marks]**

Question 3

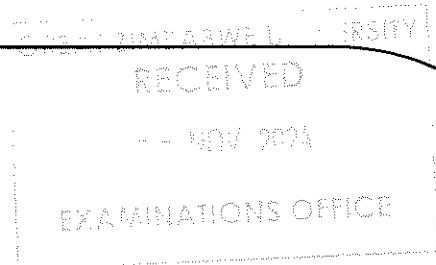
Discuss the procedure to execute a valid final arbitral award. **[20 marks]**

Question 4

Discuss the application of the Arbitration Act to Compulsory Arbitration in Labour Disputes. **[20 marks]**

Total marks: 70

End of examination



HERBERT CHITEPO LAW SCHOOL
BACHELOR OF LAWS HONOURS DEGREE
LEVEL 5 SEMESTER 1
EXAMINATION QUESTION PAPER

MODULE CODE: LLB514
MODULE NARRATION: ADMINISTRATIVE LAW AND LOCAL GOVERNMENT LAW
DATE: JUNE 2024
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.
3. You are advised to cite relevant authorities to support your answers.
4. Write legibly.

SECTION A

Question 1 [This question is compulsory]

Julie White is a Zimbabwean citizen by birth whereas John Black holds citizenship of the United States of America. John entered Zimbabwe sometime in January 2021. He was issued with a temporary employment permit for the period of January 2021 to March 2022. The application was made on his behalf by a religious group called Cornerstone Fellowship International. During John's stay in Zimbabwe, he met and fell in love with Julie. After the expiry of his employment permit John returned to his home country for a short period. He then returned to Zimbabwe on a holiday visa in May 2022 to spend time with Julie. During this period, Julie and John solemnized their marriage in terms of the Marriage Act (*Chapter 5:11*) and made a decision to settle, and start their own family, in Zimbabwe. This decision prompted John to take the necessary legal steps to attain the status of a lawful resident of Zimbabwe. He applied for a residence permit on the basis of his marriage to a Zimbabwean citizen. He was granted a thirty day extension on his holiday visa whilst his application for a residence permit was being considered.

On or about the 2nd of June 2022, John is invited for a meeting with immigration officers under the control of the Minister of Home Affairs. He is told to leave the country as he is deemed to be a "prohibited" person in terms of s 14(1)(e)(i) of the Immigration Act [*Chapter 4:02*] ("the Act"). He is then given two options, that is, to leave the country immediately or to be deported. This was pursuant to s 17 of the Act.

John chooses the former option and on 2 June 2022 he leaves for South Africa together with his wife. Before leaving Zimbabwe, the applicants instructed their legal practitioners to appeal against the prohibition notice, which appeal was duly noted with the Minister of Home Affairs, in terms of S8 of the Act.

The Deputy Minister in the absence of the Minister of Home Affairs and in consultation with the Chief Immigration Officer decides in favour of John and sets aside the prohibition notice in

question. John is informed by his legal practitioners of this development on 30 June, 2022, and he leaves South Africa for Zimbabwe two days later, believing that he would finally settle down in Zimbabwe. His joy is, however, short-lived as he is denied entrance into Zimbabwe at the Beitbridge Border Post by immigration officers, on the basis that he was still a prohibited person despite the setting aside of the prohibition status. Julie proceeds with the journey without her husband who is left in the hands of immigration officers.

Upon inquiry John's legal practitioner is informed that the Minister returned from leave on the 1st of July 2022 and set aside the Deputy Minister's decision to lift John's prohibition status. The reason he gave was that, he is not approving any residence applications from foreigners due to the fast spreading of monkey pox. The legal practitioner is also informed that, the decision is final and non-appealable since the Minister is authority on all immigration issues. The legal practitioner upon research finds out there is an automatic appeal in terms of the Immigration Act and the appeal is to the Immigration Board and the Minister seats as President of the board.

The Legal practitioner approaches the board and upon seeking clarity on the nature of the automatic appeal, he is given a questionnaire to complete. The next day he receives a phone call from the Immigration board to submit any supporting documentation and affidavits for the hearing of the appeal. He is informed that, the appeal will be decided on written submissions. On the day of the hearing of the appeal, out of the five panel members three are present including the Minister, who decides to proceed with the hearing since he thinks it is a straight forward matter which ought to be dismissed. The other two panelists do not object to the Minister's suggestion due to their subordinate positions in the Ministry of Home Affairs.

- (i) Assuming that you are John's legal practitioner, advise him on the grounds to challenge the Minister's decision to revoke upliftment of his prohibited person's status and the decision of the automatic appeal by the immigration board.

[Total:20marks]

- (ii) Advise John on the appropriate remedy or remedies available to him in order to challenge these unfair decisions.

[Total: 10 marks]

[Sub-Total: 30 marks]

SECTION B

Answer any two questions from this section.

Question 2

Muchaneta has been issued with a license to sell food from her food stall. The licensing officer who issued the license followed the written and formal requirements for the issuing of licenses set out in the municipal by-law to the letter. However, he also demanded that Muchaneta pay him an amount of US\$1500.00, as "commission" for issuing the license. (There is no such provision in the by-law.) Muchaneta sells food every day at her stall.

A few months later the municipality opens a community centre next to her stall. Amongst other things, food is sold at the community centre. One day Muchaneta is told by Ms Justina from the centre to remove her stall . She refuses. The next day Ms Justina arrives at the stall with a letter from the municipality informing Muchaneta that the municipality has decided to cancel/revoke her license with immediate effect and that she has to remove her stall immediately. Muchaneta approaches the licensing department at the municipality. The officials refuse to give her any reasons for the cancellation of her license.

However, she is told she can appear in person before a special meeting of a license review committee in a week's time. At the hearing she is not allowed to present her side of the story, neither is she allowed to raise any questions about the cancellation of the license. She is also prevented by the chairman of the committee, Mrs Shady Chimbadzo, from asking whether the community centre will offer employment to local residents.

The review committee rules that the cancellation of Muchaneta's license was lawful since provision is made for the cancellation of licences in the by-law. Muchaneta suddenly remembers that, she has heard that, Mrs Chimbadzo is the manager of the community center, in terms of a licence

issued by the municipality. At the special meeting, Muchaneta is informed by the Chairperson that, she has no recourse whatsoever and that she should count her loses and move on.

Write a legal opinion to Muchaneta advising her of her administrative justice rights which have been violated and also advise her on the appropriate avenues of redress.

[Total: 20 marks]

Question 3

On 7 November 2023, Mr Moyo received a radio communication from the Commissioner General of Police to the effect that he had been discharged from the Police Service with effect from the 2nd day of November 2023. Aggrieved, applicant filed his notice of intention to appeal to the Chairperson of the Police Service Commission on 7 November 2023. On 14 November 2023 he filed his notice and grounds of appeal with the Chairperson of the Police Service Commission.

However the 1st respondent did not reinstate the applicant pending the determination of his appeal. Instead, in a letter dated 20 November 2023, served to his legal practitioners, Mr Moyo was advised that the Chairperson of the Police Service Commission had turned down his appeal. He was not informed of the reasons despite asking for them verbally.

Advise Mr Moyo on whether or not he can challenge the decision of the Chairperson of the Police Service Commission, the grounds he can use to challenge the decision and the court he can approach for a legal recourse.

[Total: 20 marks]

Question 4

With the increasing complexity in modern administration and the functions of the state being expanded and rendered to economic and social spheres too, there is a need to shift to new reforms and providing more powers to different authorities on some specific and suitable occasions. In a country like Zimbabwe, control over private trade, business or property may be needed to be imposed, and for implementation of such a policy so that immediate actions can be taken, it is needed to provide the administration with enough power. And so, therefore for immediate and suitable actions to be taken there has been an immense growth of delegated legislation Zimbabwe.

Assess the correctness of the above statement and discuss the importance and usefulness of subsidiary legislation in modern state administration.

[Total: 20 marks]

Question 5

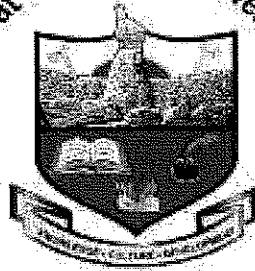
Since the adoption of the Zimbabwean 2013 Constitution, there have been discussions on the issue of decentralization of government powers. Although there have been debates on this subject, little has been done to implement the ideas of decentralization. With this in mind write a legal opinion to the Minister of local Government, Public Works and National Housing clearly explaining the nature and scope of Administrative devolution.

[Total: 20 marks]

TOTAL MARKS: 70.

END OF QUESTION PAPER

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EXAMINATIONS DEPARTMENT

HEBERT CHITEPO LAW SCHOOL

BARCHELOR OF LAWS HONOURS DEGREE
EXAMINATION QUESTION PAPER

MODULE CODE	LLB 221
MODULE NARRATION	LAW OF EVIDENCE
DURATION	3 HOURS
TOTAL MARKS	70
YEAR	2024

INSTRUCTIONS TO CANDIDATES

- 1. You are advised to read all questions carefully before attempting to answer any.*
- 2. Section A is **COMPULSORY**.*
- 3. Answer any TWO Questions from Section B.*
- 4. Students are allowed to bring into the examination room, the Constitution of Zimbabwe Amendment (No. 20) Act 2013, the Criminal Procedure and Evidence Act [Chapter 9:07] and the Civil Evidence Act [Chapter 8:01].*
- 5. This examination is 4 pages including the cover page.*

SECTION A

Answer **all** questions in this section.

QUESTION 1

1.1 Differentiate between the following:

- a) Circumstantial and Direct Evidence. [2 marks]
- b) Primary and Secondary Evidence. [2 marks]
- c) *Facta probanda* and *facta probantia*. [2 marks]
- d) The Parole evidence rule and the Best evidence rule. [4 marks]
- e) Prima facie proof and conclusive proof. [2 marks]
- f) Competence and Compellability. [3 marks]

[Sub-Total 15 marks]

1.2 Benjamin is on trial for an offence of Bribery. He tells the court that he is an honest man and he can call witnesses to prove that he is not the sort of person who would steal. What advice would you give the court as to whether, firstly Benjamin may give evidence about his honesty and secondly, in what exceptional instances may Benjamin testify and call other witnesses to testify about his good manners.

[15 marks]

[Sub-Total 30 marks]

SECTION B

Answer any 2 questions from this section.

QUESTION 2

- a. Describe the principle of professional privilege. Are there any circumstances in which communications between lawyers and clients may be disclosed to the court?

[5 marks]

- b. John is a witness called by the prosecution in a criminal trial. He has been called to give evidence about a road traffic accident that he saw one evening when he was driving home from work. When he got home from work he discussed the incident with his wife and, because he was shaken by what he saw, she wrote down what he told her. He now wishes to refer to his wife's notes while he gives evidence. What advice would you give the magistrate who is trying the case? Would your answer differ if he had only wanted to look at the notes before coming into court?

[10 marks]

- c. In dealing with circumstantial evidence, the court is called upon to draw inferences from the circumstantial evidence. Explain the approach of the courts in dealing with inferences to be drawn from circumstantial evidence in criminal proceedings and civil proceedings.

[5 marks]

[Sub-total 20 marks]

QUESTION 3

Peter marries Mary who has a 14-year-old daughter from her first marriage. A few months after the marriage the daughter alleges that Peter raped her and he is prosecuted. The prosecution wishes to call Mary but Peter objects saying that his wife cannot give evidence against him. What advice would you give the magistrate? Will corroboration of the daughter's evidence be required?

[20 marks]

QUESTION 4

In a civil suit before the High Court in Bulawayo, the Plaintiff claimed damages for breach of contract. The contract involved a highly complex financial transaction between the parties. The Defendant disputed the Plaintiff's interpretation of the contract. At the trial of the matter, each party called its own experts to deal with the question of the proper interpretation of the contract. The evidence led in court by the parties dealt in the main with the correct interpretation of the contract between the parties. The judge is confronted with conflicting evidence of the parties' expert witnesses on the correct interpretation of the contract. As the judge's research assistant, you have been asked to assist in dealing with this issue.

- a) With reference to case law and/or statute law explain the admissibility of opinion evidence

[10 marks]

- b) Explain and briefly discuss the approach of the courts to hearsay evidence.

[10 marks]

[Sub-total 20 marks]

TOTAL MARKS: 70

END OF QUESTION PAPER.

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HERBERT CHITEPO LAW SCHOOL

BACHELOR OF LAWS HONOURS DEGREE

LEVEL 2 SEMESTER 1

EXAMINATION QUESTION PAPER

MODULE CODE	LLB215
MODULE NARRATION	CRIMINAL PROCEDURE
DATE	2024
DURATION	3 HOURS

INSTRUCTIONS TO CANDIDATES:

1. Clearly number all the questions you are answering
2. Answer all questions.
3. Mark all answer sheets with your student number
4. This Examination is out of 70.
5. Candidates may bring unannotated copies of the Criminal Procedure and Evidence Act into the examination room
6. This paper is 3 pages long including the cover page.

Question 1

Explain the concept of "presumption of innocence" in Zimbabwean criminal procedure. How does it influence the burden of proof in criminal cases? [10]

Question 2

Discuss the considerations made by the public prosecutor when determining whether or not to prosecute a criminal case. [6]

Question 3

In Zimbabwean criminal procedure, what is the purpose of a remand hearing? [4]

Question 4

An accused is brought for trial by the prosecutor facing charges of having sexual intercourse with a young person. During trial the complainant states that the accused person threatened her with assault if she refused to sleep with him. She only agreed to sleep with him as a result of fear.

Explain the procedure to be adopted by the magistrate under these circumstances. [10]

Question 5

At a murder trial the State wishes to produce a confirmed warned and cautioned statement in evidence. However the accused challenges its production stating that the police assaulted her forcing her to admit to the killing.

Explain the procedure the court should follow to determine the admissibility of the statement.

[15]

Question 6

Explain, indicating considerations to be made during an application for:

- a. Bail pending trial [5]
- b. Bail pending appeal and [5]
- c. Appeal against refusal of bail [5]

Question 7

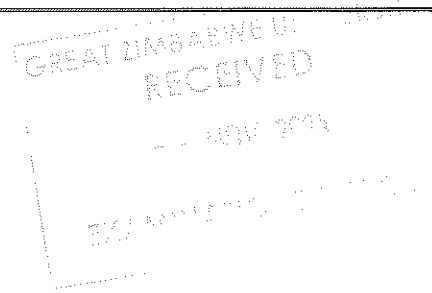
The judicial service commission has just recruited junior magistrates and need an expert to explain the trial procedures where an accused is pleading guilty. You are invited to make a presentation on the subject.

Briefly explain the two procedures to be adopted by magistrates in such circumstances.

[10]

TOTAL : 70 MARKS

END OF QUESTION PAPER



**HERBERT CHITEPO LAW SCHOOL
BACHELOR OF LAWS HONOURS DEGREE
LEVEL 3 SEMESTER 2
EXAMINATION QUESTION PAPER**

MODULE CODE	LLB321
MODULE NARRATION	LAW OF SUCCESSION AND ADMINISTRATION OF ESTATES
DATE	2024
DURATION	3 HOURS

INSTRUCTIONS TO CANDIDATES:

1. Answer Three questions: Answer all questions from Section A and Two from Section B.
2. Unannotated Module outlines are allowed in the examination room
3. Unannotated copies of the following Statutes and amendments may be taken into the examination room.

Administration of Estates Act Chapter 6:01
Births and Deaths Registration Act Chapter 5:02
Burial and Cremation Act Chapter 5:03
Customary law and local Courts Act Chapter 7:05
Customary Marriages Act Chapter 5:07
Deceased Estates Succession Act Chapter 6:02
Deceased Persons Family Maintenance Act Chapter 6:03
Estate Administrator's Act No.16/98 Chapter 27:20
Missing Persons Act Chapter 5:14
Wills Act Chapter 6:06
Zimbabwe Constitutional Amendment Number 20

4. It is required that students present their work legibly and logically
5. Reference to case law and statutes will earn the student higher credit.

This question paper is 3 pages long

SECTION A

ANSWER ALL QUESTIONS FROM THIS SECTION

Question 1 (a)

All Wills are revocable. This is an expression of the freedom of testation. The freedom to make a Will extends to cover the freedom to revoke it.

In light of the above statement, discuss the three methods of voluntary revocation of Wills citing the relevant statutory provisions and case law. [15]

Question 1(b)

With reference to relevant case law and legislation, outline the preliminary protection of an estate in relation to an inventory, interim custody and property grabbing. [15]

SECTION B

ANSWER TWO QUESTIONS FROM THIS SECTION

Question 2

With reference to case law, critically analyse Section 68 (3) and Section 68 (4) of the Administration of Estates Act Chapter 6:01. [20]

Question 3

Thomas was employed as a soldier with the Zimbabwean National Army. Thomas was sent to the Democratic Republic of Congo, a war zone as part of the Zimbabwe National Army peacekeeping force on behalf of the United Nations. Thomas was sent to the Democratic Republic of Congo 5 years ago. One year into his mission the truck which Thomas was traveling in was ambushed by rebel fighters and was blown up by grenades and burnt down. Thomas's body was never found. Thomas's brother Farai, applies for an order presuming death of Thomas at Masvingo Magistrates Courts which is duly granted. Farai proceeds to register and administer the estate of Thomas. Farai as the only surviving closest relative of Thomas, is awarded all the property including a supermarket which he continues to run after the presumption of death of Thomas. Three years after the order presuming death of Thomas, he reappears alive and well after he is rescued from capture by rebel forces. Farai is not happy with this development as he was now enjoying the property which he had gained after administering the estate of Thomas.

You are a Legal Officer with Legal Resources Foundation and Thomas approaches you for advice on the following:

- a) He wants to know the legal entitlements he has of the property including the supermarket which are now in the control of his brother Farai.

Advise him fully. [12]

- b) The factors that would have been taken into account by the Magistrates court in granting the order presuming death of Thomas.

Advise him fully. [8]

Question 4

Discuss the doctrine of freedom of testation in relation to the disinheritance of a surviving spouse through a will. Your answer should be support by case law and legislation.

[20]

Question 5

“Even if the court were to accept, with no medical evidence proffered that the cause of death related to a mental illness, at the time she executed her will she was not suffering from that illness at all. In my view therefore the applicant has failed to establish that at the time that the deceased executed the will she was mentally incapable of appreciating the nature of her actions.” As per Matanga vs Denhure and Another HH 88/2008

Discuss the legal issues from the above statement.

[20]

Total Marks :

[70]

*****END OF QUESTION PAPER*****



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EXAMINATIONS DEPARTMENT

HERBERT CHITEPO LAW SCHOOL
BACHELOR OF LAWS HONOURS DEGREE
SEMESTER 1
EXAMINATION QUESTION PAPER

MODULE CODE **LLB 620**
MODULE NARRATION **INCOME TAX AND ESTATE PLANNING**
DATE **2024**
DURATION **3 HOURS**

INSTRUCTIONS TO CANDIDATES:

1. Answer ALL questions from Section A and TWO questions from Section B.
2. You are advised to read all questions carefully before attempting to answer any
3. Students may bring into the examination copies of the Income Tax Act [Chapter 23:06, the Capital Gains Tax Act [Chapter 23:01] and the Value Added Tax Act [Chapter 23:12] and Estate Duty Act [Chapter 23:03]
4. You are advised to cite relevant authorities to support your answers
5. This paper is three (3) pages long, including the cover page.

SECTION A

THIS SECTION IS COMPULSORY

QUESTION ONE

Using case law explain the difference between the concept of actual source and deemed source.

[15 marks]

QUESTION TWO

Using case law discuss the concept of amount received by the tax payer.

[15 marks]

Total Marks for Section A: 30

SECTION B

CANDIDATES MUST ANSWER TWO QUESTIONS FROM THIS SECTION

QUESTION THREE

Bill is a 25 year old recently qualified accountant who still lives with his parents in Masvingo. He is employed by Global Chartered Accountants as an auditor. It is the Company's policy that its audit staff can undertake private accounting working to earn extra income. Bill, with the consent of his parents, converts one of the vacant rooms at their place of residence into an office. Bill goes on and buys office equipment, a computer, fax machine, printer and copier from ABC Auctions. Since Bill is operating from their family home, he does not open separate accounts for telephone and electricity consumed when operating from his makeshift office. The electricity and telephone accounts are all invoiced in his parents' name. Before Bill's new business venture, the electricity bill was USD 10.00 and the telephone bill was USD 20.00. However, when he commenced his operations the bills went up by 50%. Bill does not operate a separate business banking account and uses his personal banking account for all purposes. For the months of January 2021 to February 2022 Tom issues a cheque to TelOne and the Zimbabwe Electricity Transmission and Distribution Company [ZETDC], for the entire amount invoiced by them to Bill's parents for the telephone charges and the electricity charges respectively.

Advise Bill on the following:-

a) Whether he can claim costs of the office equipment he bought as tax deductible on the grounds that it is expenditure of a non- capital nature. [10 marks]

b) The question of the tax deductibility of telephone and electricity payments. If you are of the view that any or both of the payments is/are deductible, will the amounts be deductible from the 2021 year of assessment or the 2022 year of assessment? [10 marks]

QUESTION FOUR

a) Explain the tax implications of the disposal of specific assets which form part of a deceased estate if they are sold

i) By the executor as part of the liquidation for the purposes of distribution [5 marks]

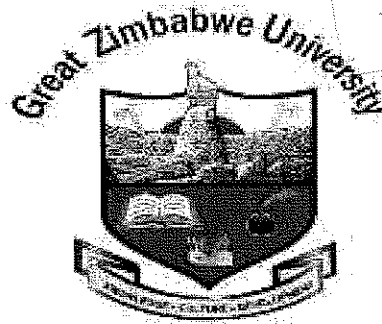
ii) By the heir to any other party [5 marks]

b) With reference to case law; explain the estate duty treatment of non-Zimbabwean properties or assets [10 marks]

QUESTION FIVE

Discuss the concept of abnormality with reference to Section 98 of the Income Tax Act. [20 marks]

TOTAL MARKS: 70
END OF QUESTION PAPER



**HEBERT CHITEPO LAW SCHOOL
BACHELOR OF LAWS HONOURS DEGREE
EXAMINATION QUESTION PAPER**

MODULE CODE:	LLB 222
MODULE NARRATION	CIVIL PROCEDURE (LOWER COURTS)
DATE	2024
DURATION	3 HOURS

INSTRUCTIONS TO CANDIDATES:

- 1. Answer ALL questions**
- 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.**
- 5. Candidates may bring into the examination room clean copies of:**
 - Magistrates Court Act, Magistrates Court Civil Rules**
 - Customary Law & Local Courts Act**
 - Constitution of Zimbabwe**
 - Prescription Act**
 - Domestic Violence Act**
- 6 This examination paper is three pages long including the cover page.**

Question One

- a) With reference to case law authorities, explain the difference between an Appeal and review. In your answer and with the aid of case law, specify if launching an appeal or a review automatically suspends the operation of the judgment under scrutiny. (10)
- b) Differentiate between Action proceedings and Application proceedings with the aid of case law authority. In the process, outline circumstances where each procedure is untenable. (5)
- c) Where a litigant chooses Application proceedings, outline the steps he/she will be expected to take in prosecuting his/her claim to its logical conclusion. (10)
- d) Where the court makes a finding to the effect that material disputes of fact exist in an application, what are the options available to the court in dealing with such a finding? (5)

Subtotal [30 Marks]

Question Two

After years of fighting for the office of village head with Ziso his brother, Chegotsi finally decides to institute proceedings in the magistrates' court seeking, amongst other relief, an order declaring him the rightful village head of the Tinosekwa Village, under Chief Chihombiro, Masvingo. He tasks his right hand-man, Musorobhangu, to serve the summons on Ziso at his rural home in Tinosekwa. Musorobhangu leaves the summons at the gate of Ziso's home and assures his boss, Chegotsi, that he has effected service on Ziso.

As to be expected, Ziso does not file any appearance to defend and Chegotsi obtains a default judgment against Ziso. Five months later, Ziso hears rumours to the effect that Chegotsi is the new village head, having obtained an order to that effect in the magistrates' court. Ziso has engaged you to institute the requisite proceedings.

- a) Explain to Ziso what is wrong, if anything, with Chegotsi's service of summons. Further explain to Ziso what constitute proper service of summons. (5)

- b) What application, if any, should be done in order for Ziso to defend Chegotsi's claim? (5)
- c) In the event that the Application in b) succeeds, advise Ziso of the defence he should raise to Chegotsi's claim? (5)
- d) What remedy will be available to Ziso in the event that the application in b) is dismissed? (5)

Subtotal [30 Marks]

Question Three

- a) What is the procedure of bringing a case in the Chief's court? (5)
- b) Where a Respondent defaults a Chief's court and judgment is entered against him/her, what remedy is available to him/her? (5)
- c) Where the Chief's court rules in favor of an Applicant, what recourse is available to an aggrieved Respondent? (5)
- d) How does a litigant enforce an order of a Chief's court? (5)

Subtotal [30 Marks]

TOTAL MARKS

[70]

END OF QUESTION PAPER



HEBERT CHITEPO LAW SCHOOL

BARCHELOR OF LAWS HONOURS DEGREE

EXAMINATION QUESTION PAPER

MODULE CODE	LLB 614
MODULE NARRATION	ENERGY AND MINING LAW
DATE	2024
DURATION	3 HOURS

INSTRUCTIONS TO CANDIDATES

- 1. Answer question one from section A, which is compulsory and any two questions from section B.*
- 2. This paper carries 70 marks.*
- 3. You are advised to read all questions carefully before attempting to answer any.*
- 4. You are reminded of the need to cite relevant authorities to bolster your arguments and/or convictions.*
- 5. This question paper is three (3) pages long, including the cover page.*
- 6. You can bring in all relevant unannotated pieces of legislation*
- 7. Write legibly.*

SECTION A

This question is compulsory

Question 1

Simon, a successful businessman of Namibian origin is the Chief Executive Officer of ABC Mining Syndicate, a foreign company incorporated in Namibia. He approaches you for advice in respect of a mining development his conglomerate is planning. He tells you that they intend to open a new branch in Zimbabwe. They are also intending to carry out prospecting activities, followed by mining in certain areas under the jurisdiction of the Masvingo Rural District Council (MRDC). He wants you to inform him of the rules and regulations that are applicable to prospectors and miners and in particular, if there are any limitations imposed by law on the exercise of such rights. Part of the land which has been targeted by ABC Mining Syndicate for mining purposes is currently an open space, of which it has been set aside by the MRDC for the development of a local aerodrome while the remainder of the land has been reserved for road works linking the surrounding villages to the envisaged aerodrome. Simon tells you that an undisclosed official from the Department of Mineral Resources informed him that nothing can stop them from prospecting and mining on the area because the Mines and Minerals Act [Chapter 21:05] takes precedence over regional and town planning laws.

Simon wants your advice on whether this is the correct position at law. In the course of your answer, make reference to the applicable law. **[30 Marks]**

SECTION B

Answer any two questions from this section

Question 2

With reference to case law and statute, analyse how the Mines and Minerals Act Chapter [Chapter 21:05] has made significant inroads to the common law property maxim *cuius est solum eius est usque ad caelum et ad inferos*, (the owner of the land is the owner of everything built upon the land and everything below the surface). **[20 Marks]**

Question 3

Examine the impact of mining activities on climate change in Zimbabwe and evaluate the legal measures in place to mitigate these effects. In your answer, assess the effectiveness of current regulations in promoting sustainable mining practices and reducing greenhouse gas emissions from mining operations. **[20 Marks]**

Question 4

Evaluate the legal framework and policies in Zimbabwe that promote the development and utilization of renewable energy sources. Analyse the effectiveness of these measures in achieving sustainable energy practices. **[20 Marks]**

Question 5

Discuss the recent reforms in Zimbabwe's mining legislation aimed at promoting investment and the sustainable development of mineral resources. **[20 Marks]**

TOTAL MARKS: 70

END OF QUESTION PAPER



HERBERT CHITEPO LAW SCHOOL
BACHELOR OF LAWS HONOURS DEGREE
LEVEL 2 SEMESTER 1
EXAMINATION QUESTION PAPER

MODULE CODE **LLB 212**
MODULE NARRATION **CONSTITUTIONAL LAW**
DATE **2024**
DURATION **3 HOURS**

INSTRUCTIONS TO CANDIDATES:

1. You are advised to read all instructions and questions carefully before attempting to answer any.
2. Answer **THREE** questions in all.
3. Answer **Question ONE**, which is compulsory, in section **A** and any **TWO** questions in section **B**.
4. You are advised to cite relevant authorities to support your answers.
5. Candidates are allowed to bring clean unannotated copies of the Constitution for use during examination
6. This paper is Three (3) pages long, including the cover page.

SECTION A [30 Marks] This section is compulsory

QUESTION 1.

The Kingdom of Zimunda recently attained independence on the 6th of September 2023 after a long period of colonial rule by the British. The country is divided into seven provinces, and each province has a provincial government which is accountable to the central government at its headquarters, Lombard, the capital city of the country.

The people of Zimunda are not happy with the Westminster Export Model Constitution that was imposed on them by the British government at independence. They wish to make their own autochthonous Constitution, which will detail how they (as the indigenous people of Zimunda), want to govern themselves. A Constitution Review Commission (CRC) has been set up and given the task to review the independence Constitution.

- a) You are the Attorney General of Zimunda and you are given the task to advise the CRC on, amongst other things, the different classifications of Constitutions to enable them to come up with a home-grown type of a Constitution for the people of Zimunda. **[15 MARKS]**
- b) Give the CRC detailed advice on, amongst other things, the various classifications of constitutions of the world. Specify also, the advantages and disadvantages (if any) of each class, and the class(es) that you recommend for Zimunda. **[15 MARKS]**

Total: [30 MARKS]

SECTION B. [40 Marks] Answer any two Questions from this Section.

QUESTION 2.

In the *Cape Bar Council v JSC* 2012 (4) BCLR 406 (WCC), the court held that the „JSC serves a unique and crucial function in the South African judicial system“. In the light of this quote write an essay in which you critically discuss the purpose, composition and workings of the Judicial Services Commission in our Zimbabwean Constitution. **[20 MARKS]**

QUESTION 3.

- (a) Why should courts and unelected judges who staff them have the power to strike down the decisions of a democratic legislature and representative government? **[10 MARKS]**
- (b) Discuss the principle of the rule of law and explain the procedural and substantive components thereof. In your answer, identify current threats to the rule of law in Zimbabwe. **[10 MARKS]**

QUESTION 4

The doctrine of separation of powers is not a fixed or rigid constitutional doctrine. It is given expression in many different forms, and made subject to checks and balances of many kinds while democracy is a static concept that is not changeable. Critically analyse this statement.

[20MARKS]

TOTAL 70 MARKS

END OF QUESTION PAPER



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EXAMINATION

HEBERT CHITEPO LAW SCHOOL

BACHELOR OF LAWS DEGREE

EXAMINATION QUESTION PAPER

MODULE CODE	LLB623
MODULE NARRATION	CHILDREN AND THE LAW
DATE	2024
DURATION	3 HOURS

INSTRUCTIONS TO CANDIDATES:

1. You are advised to read all questions carefully before attempting to answer any.
2. Section A is **COMPULSORY**.
3. Answer any **TWO** Questions from Section B.
4. Students are allowed to use the following Statutes;
 - a) *African Charter on the Rights and Welfare of the Child, 1990*
 - b) *Constitution of Zimbabwe Amendment (No 20) Act, 2013*
 - c) *United Nations Convention on the Rights of the Child, 1989*
 - d) *Children's Act (Chapter 5:06)*

SECTION A

NB: THIS QUESTION IS COMPULSORY

The Committee on the Rights of the Child in General Comment 16 of 2013 on state obligations regarding the impact on the business sector on children's rights remarked that:

The Committee on the Rights of the Child recognises that the business sector's impact on children's rights has grown in past decades because of factors such as the globalized nature of economies and of business operations and the ongoing trends of decentralisation, and outsourcing and privatising of State functions that affect the enjoyment of human rights. Business can be an essential driver for societies and economies to advance in ways that strengthen the realisation of children's rights through, for example, technological advances, investment and the generation of decent work.

However, the realization of children's rights is not an automatic consequence of economic growth and business enterprises can also negatively impact children's rights.

With the above in mind, you are required to unpack the intersection between children's rights and businesses, including the conduct of technology companies, internet service providers multinational companies and the extractive industries. The analysis should be informed by domestic and international law focusing on how best to improve regulation and compliance without undermining economic development imperatives. **[30 Marks]**

SECTION B

*Answer **ANY TWO** questions from this Section*

QUESTION 2

Tatenda is a 16year old girl and is a Form 16 student at Kambizi School. She is in love with Josephat, a 32year old married man. Josephat has promised Tatenda that he will soon divorce his wife and marry her as soon as she completes her ordinary level. He showers her with gifts and gives her money for her and her family's upkeep. Tatenda's parents are aware of the relationship and they approve of it and are looking forward to receive the lobola from Josephat.

On the 28th of January 2024 Tatenda was coming from school and met Josephat in a nearby bush. They started being romantic with each other and had consensual sexual intercourse. Unfortunately Mr Katai, the deputy headmaster passed by and heard some weird noises and decided to check what was going on and he found them in the act. As a responsible teacher, he reported the matter to the police station and Josephat was arrested and charged with having sexual intercourse with a young person. In his defence, Josephat admitted to having sexual intercourse with Tatenda and told the police officer that Tatenda is her girlfriend and that she consented to the sexual act. He also said that he loves Tatenda and wants to marry her. Further, Josephat told the police officer that Tatenda 16 years and is not a young person and can consent to sexual intercourse. He further said that Tatenda's parents approve of their relationship, as such, there is nothing wrong with him having sexual intercourse with Tatenda. When asked by the police officer, Tatenda confirms that she willingly had sexual intercourse with Josephat.

With reference to relevant authority, discuss whether the arguments raised by Josephat will succeed in a in a court of law in Zimbabwe.

[20 Marks]

QUESTION 3

Critically comment on how the following human rights issues affect the enjoyment and implementation of children's rights in Zimbabwe;

a) Reproductive health rights. (10)

b) Statelessness. (10)

[20 Marks]

QUESTION 4

Child marriage is a deeply rooted social issue worldwide, in Southern Africa and in Zimbabwe, with severe consequences for the well-being and development of children. In many countries, where child marriage is pervasive, there exists a body of laws that prohibit and impose sanctions against the practice. The problem is the continued prevalence of child marriage despite international, regional and domestic regulations to combat child marriages.

With reference to relevant authority, discuss the above statement within the Zimbabwean context. In your answer, include a discussion of the potential strategies that could be implemented to address the issue of child marriage effectively considering the complexities involved.

[20 Marks]

TOTAL MARKS 70

END OF QUESTION PAPER



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**HERBERT CHITEPO LAW SCHOOL
BACHELOR OF LAWS DEGREE
EXAMINATION QUESTION PAPER**

MODULE CODE	LLB615
MODULE NARRATION	INTERNATIONAL TRADE LAW
DATE	2024
DURATION	3 HOURS
TOTAL	70 MARKS

INSTRUCTIONS TO CANDIDATES:

- 1. Write legibly.**
- 2. Section A is compulsory.**
- 3. Answer any two questions in section B.**
- 4. This question paper consists 5 pages.**

SECTION A

THIS SECTION IS COMPULSORY

QUESTION ONE

- a) Read the facts set out in the briefing paper below on *Tobacco Product Regulation and the WTO: US — Clove Cigarettes* and then answer the questions that follow:

Tobacco Product Regulation and the WTO: US — Clove Cigarettes

On 2 September 2011, the World Trade Organization (WTO) released the report of a panel tasked with considering a complaint brought by Indonesia concerning prohibitions on certain flavoured tobacco products implemented by the United States (US). The panel concluded that the US violated WTO law and recommended that the US be asked to bring its laws into conformity with WTO law. This briefing paper gives some background to those aspects of the dispute most relevant to public health, explains the panel's decision, examines the implications for tobacco control and public health more generally and outlines the options open to the US.

Background

In 2009, the Family Smoking Prevention and Tobacco Control Act amended the Federal Food, Drug, and Cosmetic Act.¹ Among other things, the change to the law created a prohibition on cigarettes containing a constituent that is a characterizing flavour of the tobacco or tobacco smoke, other than menthol or tobacco. Section 907(a)(1)(A) of the former Act states: a cigarette or any of its component parts (including the tobacco, filter, or paper) shall not contain, as a constituent (including a smoke constituent) or additive, an artificial or natural flavour (other than tobacco or menthol) or an herb or spice, including strawberry, grape, orange, clove, cinnamon, pineapple, vanilla, coconut, licorice, cocoa, chocolate, cherry, or coffee, that is a characterizing flavour of the tobacco product or tobacco smoke. Nothing in this subparagraph shall be construed to limit the Secretary's authority to take action under this section or other sections of this Act applicable to menthol or any artificially or natural flavour, herb, or spice not specified in this subparagraph.

Indonesia, which is an exporter of clove cigarettes, objected to the law and requested the establishment of a WTO panel. Indonesia argued that the law treats Indonesian

clove cigarettes less favourably than like menthol cigarettes of US origin, in violation of Article 2.1 of the Agreement on Technical Barriers to Trade (TBT Agreement) and Article III:4 of the General Agreement on Tariffs and Trade (GATT 1994). Indonesia also argued that the US measure is not necessary to achieve a legitimate objective, such as protection of human life or health, and that accordingly, the measure results in violation of Article 2.2 of the TBT Agreement, and is not defensible under Article XX(b) of the GATT 1994.

The US argued that the measure is non-discriminatory and that the law draws a distinction between clove cigarettes and menthol cigarettes on health grounds (rather than based on the origin of the products). More specifically, the US argued that clove cigarettes are a starter product especially attractive to youth, whereas menthol cigarettes are not starter products because they are attractive to youth and adult smokers in similar proportions. After the US had made its first and second written submissions to the panel, this argument was undermined by a report of the Tobacco Products Scientific Advisory Committee (TPSAC). This body was mandated by the Family Smoking Federal Food, Drug, and Cosmetic Act, 21 U.S.C. § 387g(a)(1)(A) Family Smoking Prevention and Tobacco Control Act, HR 1256, section 907(a)(1)(A) Prevention and Tobacco Control Act to report to the US Food and Drug Administration (FDA). Notably, the report concluded that the availability of menthol cigarettes increases initiation among youth.

TPSAC does conclude that the availability of menthol cigarettes has led to an increase in the number of smokers and that this increase does have adverse public health impact in the United States. TPSAC found evidence that the availability of menthol cigarettes increases initiation; of particular concern was the high rate of menthol cigarette smoking among youth and the trend over the last decade of increasing menthol cigarette smoking among 12- to 17-year-olds, even as smoking of non-menthol cigarettes declines. TPSAC also concluded that cessation is less likely to be successful among smokers of menthol cigarettes. Thus, the availability of menthol cigarettes increases initiation and reduces cessation, thereby increasing the number of people who are smoking. This increase in the number of smokers represents an adverse impact of the availability of menthol cigarettes on public health.

Although this development moved the ground beneath the US arguments, the US had also argued that a regulatory distinction was drawn between clove and menthol cigarettes because the extent of menthol consumption in the US means that prohibiting menthol could create significant risks of illicit trade as well as problems for the US health system (given the addictive character of nicotine).

These and other arguments were Mitigated against the backdrop of the World Health Organization Framework Convention on Tobacco Control (WHO FCTC), which has 174 states parties. Although neither the US nor Indonesia is a Paid to the WHO FCTC (the US has signed but not ratified), the Convention gives expression to the public health goals pursued through tobacco control and the strength of support for tobacco control among states. The Fourth Session of the Conference of Parties to the WHO FCTC adopted Partial Guidelines on Regulation of the Contents of Tobacco Products and Regulation of Tobacco Product Disclosures. The Partial Guidelines address the use of flavourings and other substances as means of mating tobacco products more attractive or palatable. The Partial Guidelines state:

Masking tobacco smoke harshness with flavours contributes to promoting and sustaining tobacco use. Examples of flavouring substances include benzaldehyde, maltol, menthol and vanillin.

Spices and herbs can also be used to improve the palatability of tobacco products. Examples include cinnamon, ginger and mint.

The Partial Guidelines then make the following recommendation:

Parties should regulate, by prohibiting or restricting, ingredients that may be used to increase palatability in tobacco products.

Ingredients indispensable for the manufacturing of tobacco products and not linked to attractiveness should be subject to regulation according to national law.

If you were appearing for Indonesia, how would you frame your arguments against the ban on clove cigarettes?

If you were appearing for the US, how would you defend section 907(a)(1)(a) of the Family Smoking Prevention and Tobacco Control Act.?

Your answer should make maximum use of the facts set out in the briefing paper. It is not necessary to examine the WTO TBT agreement for purposes of this question.

(30 marks)

SECTION B

ANSWER ANY TWO QUESTIONS IN THIS SECTION

QUESTION TWO

Note: All countries are WTO Members.

Boland, a developing WTO member, has recently had a spike in HIV/AIDS infections and related deaths. Initially, the government responded with increased access and availability to generic anti-retroviral drug therapy (ART), however, the number of AIDS related deaths continues to increase with little or no noticeable difference despite the wide availability and distribution of generic ART drugs.

The government of Boland commissions a study, through the Boland AIDS Commission (BAC), to provide an explanation on the current situation and provide possible solutions to the health crises. The BAC presents the following findings to the Boland government:

- Clinical studies had confirmed the emergence of a new hybrid HIV variant which was similar to HIV-1 and HIV-2, but the mutation had resulted in resistance to generic ART drugs used in treating HIV-1 and HIV-2 infections. The sample of the new HIV variant had been sent to the World Health Organisation (WHO) which had confirmed the emergence of a new HIV-3 variant;
- All existing generic ART drugs had proved to be ineffective in treating the new HIV-3 virus;
- To date, only one ART drug, *Philovera*, had proved to be effective in treating the HIV-3 variant. The patent for *Philovera* is held by a pharmaceutical company, Diabax, based in Goodland, a developed WTO member, and costs USD5000,00 per patient per annum.

- Diabax has declined to enter into negotiations for the granting of licenses for pharmaceutical companies in other countries to manufacture *Philovera*, which if accepted, would have decreased the cost of the drug;
- There is no technology and knowledge capacity to manufacture *Philovera* in Boland, and Boland cannot afford to procure the drug from Diabax;
- Capacity to manufacture *Philovera* exists in Hopely, a developing WTO member, however, Boland has not acceded to the Protocol Amending the TRIPS Agreement of 2005.

You are the chief trade legal advisor to the government of Boland and are required to provide a legal brief on options available in the WTO system for Boland to procure *Philovera* at an affordable and reasonable price to assist in dealing with the HIV-3 pandemic.

(20 marks)

QUESTION THREE

You are an independent legal practitioner and are asked for an opinion on whether Zimbabwe should continue to be part of the World Trade Organisation. Write a report objectively setting out your legal opinion.

(20 marks)

QUESTION FOUR

Two of the key premises on which international trade is based are those of 'most favoured nation-treatment' and 'national treatment'. With reference to the WTO Agreement and Dispute Settlement Body Reports, what do you understand by these concepts?

(20 marks)

**TOTAL MARKS: 70
END OF QUESTION PAPER
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HERBERT CHITEPO LAW SCHOOL
BACHELOR OF LAWS HONOURS DEGREE

LEVEL 3 SEMESTER 1

EXAMINATION QUESTION PAPER

MODULE CODE: LLB 314

MODULE NARRATION: LABOUR LAW

DATE: NOVEMBER 2024

DURATION: 3 HOURS

INSTRUCTIONS TO CANDIDATES:

INSTRUCTIONS TO CANDIDATES:

- 1. This question paper comprises of 3 pages.**
- 2. Answer THREE questions in all. Answer question ONE from SECTION A, Which is compulsory, and any other TWO questions from SECTION B.**
- 3. All your answers must be supported by relevant authority.**
- 4. Students may bring clean copies of the Labour Act and SI 15 of 2006 (National Employment Code)**

Section A: THIS SECTION IS COMPULSORY

Question one:

- a) Dlamini was employed by Zimbabwe Insurance Company as an insurance agent. By the terms of the agreement he was;
- i. remunerated by commission,
 - ii. prohibited from acting directly or indirectly for other insurance companies,
 - iii. not required to work full time and could do other work,
 - iv. given use of a company vehicle for official as well as private use but he had to pay for fuel and servicing of the vehicle, and
 - v. not under strict supervision by the officials of the company although he worked in close collaboration.

On his way to work on November 29th, 2023, Dlamini sustained an accident in the company vehicle and suffered severe bodily injuries. He has now submitted a claim for compensation and payment of medical expenses to Zimbabwe Insurance Company. The company policy only caters for employees of Zimbabwe Insurance Company.

Advise Dlamini looking at the terms of his contract on whether he can be covered under the policy as an employee. **[20 Marks]**

- b) Under what circumstances may the Minister responsible intervene in industrial strike action? **[10 marks]**

Section B: Answer Any Two Questions from this section

Question 2:

Mary Jane was employed as a supervisor at the Delicious Delight Supermarket. She was dismissed after having been found guilty of breach of company procedure and consuming the company's product without proper authority. She was captured on video on three separate occasions (between September and December 2023) eating slices of bread inside the Supermarket with the door

closed. The bread in question was left on the outer counter, to be disposed of later as it was broken or damaged and could not be sold to customers. It was often given away for free to local farmers.

It is the company's policy that no employee may consume food whilst in the Supermarket. All staff are required to only eat in the staff canteen. In mitigation, she had argued that she had 15 years' service, and had never been found guilty of an offence previously. She therefore pleaded with the employer to give her a final warning as the bread had no value to the company. Delicious Delight Supermarket dismissed her despite her plea in mitigation. She wishes to challenge the dismissal on the basis that the sanction of dismissal is too harsh in the circumstances.

Give full advice, with reference to legislation and case law.

[20 Marks]

Question 3

The Constitution seeks to alter the existing labour law by affording workers certain fundamental rights. In your opinion, what impact has the constitution had on labour law.

[20 marks]

Question 4

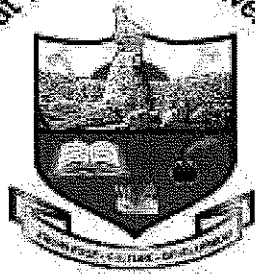
- a) With reference to decided cases, Constitution and legislation clearly outline the procedures that have to be followed by employees in Zimbabwe before they may engage in a lawful (protected) strike. **[10 marks]**
- b) Discuss the rights of workers who engage in a protected strike in Zimbabwe. **[10 marks]**

[10 marks]

TOTAL MARKS: 70

END OF QUESTION PAPER

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EXAMINATIONS DEPARTMENT

HEBERT CHITEPO LAW SCHOOL

BARCHELOR OF LAWS HONOURS DEGREE
EXAMINATION QUESTION PAPER

MODULE CODE	LLB 612
MODULE NARRATION	ENVIROMENTAL LAW AND POLICY
DATE	2023
DURATION	3 HOURS

INSTRUCTIONS TO CANDIDATES

1. Answer question ALL from section A, which is compulsory and any two questions from section B.
2. This paper carries 70 marks.
3. You are advised to read all questions carefully before attempting to answer any.
4. You are reminded of the need to cite relevant authorities to bolster your arguments and/or convictions.
5. This question paper is four (4) pages long, including the cover page.
6. Students shall enter the exam with copies of the Constitution and the Environmental Management Act.

SECTION A

This question is compulsory.

Question 1

- a) Compare and contrast the anthropocentric approach and the biocentric approach in environmental law. **(5 Marks)**

- b) Critically discuss the application of the principle of sustainable development in the National Development Strategy 1(2021-2025). **(15 Marks)**

- c) GenCorp is a subsidiary of LutherFlex, a mining and construction company. GenCorp wants to start mining operation in Chivange area. As a legal adviser to GenCorp, the managing director instructs you to give him an opinion on the environmental steps that have to be taken to ensure that their mining operations will be to the standards of the Environmental Management Act (EMA).

Write a legal opinion for the managing director explaining the steps that must be taken by GenCorp in accordance with the relevant provisions of EMA. **(10 Marks)**

[Sub-Total: 30 marks]

SECTION B

Answer any Two questions from this section.

Question 2

The polluter pays principle has become established in environmental law worldwide as a necessary tool for environmental law enforcement.

From your understanding of the polluter pays principle, provide responses to the following questions:

- a) What is the polluter pays principle? **(2 Marks)**
- b) How is this principle reflected in Zimbabwean legislation? In answering this question, please indicate the relevant statutory provisions. **(5 Marks)**
- c) Describe, with the support of case law or case study examples, the practical application of the polluter pays principle. **(13 Marks)**

[Sub-Total:20 Marks]

Question 3

- a) Write brief notes on two identifiable environmental law principles within section 73 of the Constitution of Zimbabwe. **[10 Marks]**
- b) Most international environmental law principles are interconnected with other rights. This is evident in the realisation of the principle of environmental justice.

With the support of case law, discuss the connection of the principle of environmental justice and other rights in the Zimbabwean Constitution. **(10 Marks)**

[Sub-Total: 20 Marks]

Question 4

Critically discuss the extent of states' rights and obligations in relation to transboundary environmental harm and the measures put in place by Zimbabwe to ensure no such harm occurs.

[20 Marks]

Question 5

“Human activities, principally through emissions of greenhouse gases, have unequivocally caused global warming, with global surface temperature reaching 1.1°C above 1850-1900 in 2011-2020. Global greenhouse gas emissions have continued to increase, with unequal historical and ongoing contributions arising from unsustainable energy use, land use and land-use change, lifestyles and patterns of consumption and production across regions, between and

within countries, and among individuals” – Climate change 2023 Synthesis Report by the Intergovernmental panel for climate change.

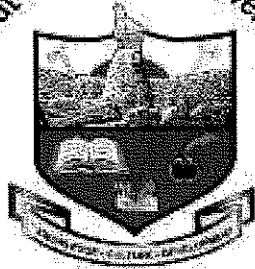
Critically discuss Zimbabwe`s policy and institutional response to climate change mitigation.

[20 Marks]

TOTAL MARKS: 70

END OF QUESTION PAPER

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BARCHELOR OF LAWS HONOURS DEGREE EXAMINATION QUESTION PAPER

MODULE CODE	LLB 311
MODULE NARRATION	PROPERTY LAW
DURATION	3 HOURS
TOTAL MARKS	70
YEAR	2024

INSTRUCTIONS TO CANDIDATES

- 1. You are advised to read all questions carefully before attempting to answer any.*
- 2. Section A is COMPULSORY.*
- 3. Answer any TWO Questions from Section B.*
- 4. Students are allowed to bring the Constitution of Zimbabwe Amendment (No. 20) Act 2013, the Deeds Registries Act and the Land Acquisition Act into the examination room.*
- 5. This examination is 6 pages including the cover page.*

SECTION A

Answer **all** questions in this section.

QUESTION 1

1.1 Ruth recently bought and moved into a house near the Masvingo central business district. The street on which her house is located has several other houses as well as a couple of small businesses and a church. The church has a bell attached to it, and this bell is rung every fifteen minutes daily. The bell chimes part of a tune every fifteen minutes and the full tune every hour. Ruth finds the ringing of the bell to be very annoying as it disturbs her sleep. She approached some of her neighbours to find out if they could all approach the church to request that the ringing of the bell be paused during the night. Her neighbours, however, told her that they had approached the church several times and that at all times they said that doing so would be a violation of their religious practice. Ruth eventually approached the church on her own and she was told that; (a) the bell has been ringing in this way for nearly ten years and (b) it would be very expensive to change the timing mechanism in the bell tower.

Ruth approaches you for legal advice. She wishes to know if she can legally force the church to stop ringing the bell, at least during night time. Advise her. **[10 marks]**

1.2 Miss A has been leasing a flat from Mrs B for 2 years of which ten months have already elapsed. One of the terms of the lease agreement reads as follows:

“Breach of contract:

In the event of the lessee falling in arrears with payment of the monthly rental or if she breaches the contract in any other way, the lessor becomes entitled to the immediate return of the property. The lessor may take possession of the property without further notice to the lessee.

Miss A fell in arrears with her rental payment and in the same month she was locked out of her flat by Mrs B.

1.2.1 What remedy may Miss A use in this instance? **[1 mark]**

1.2.2 Discuss the requirements for the remedy mentioned in 1.2.1 and Miss A’s prospects of success in using the remedy. **[5 marks]**

1.2.3 State the defences that are admissible in law against the remedy identified in 1.2.1 above.

[4 marks]

[Sub-total 20 marks]

QUESTION 2

Distinguish between real rights and personal rights with reference to the Personalist and classical theories.

[10 marks]

[Sub-Total 30 marks]

SECTION B

Answer any 2 questions from this section.

QUESTION 3

3.1 Mr Smith has recently bought a dairy farm at Inyathi District and was surprised to see his neighbour, Bob, driving over a portion of his farm on an almost daily basis. Upon investigating this, it became apparent to Mr Smith that Bob was taking water to his farm by means of an irrigation system which stretched right across Mr Smith's farm. When Mr Smith approached Bob to ask him why he had not first asked permission to do so, Bob was mean in his response, he told Mr Smith that if he had read the title deed to his own farm, he would have seen that he has a servitude, entitling him to do so. Bob further said that he did not need Mr Smith's permission at all and if he didn't know this, he should go back to school. Mr Smith is angry about this rude behaviour and approaches you, as his legal practitioner, to advise him. Explain to Mr Smith the meaning of a servitude and clearly set out the differences between praedial and personal servitudes.

[10 marks]

3.2 In terms of section 57 of the Deed Registries Act on Creation of servitudes, it is stated that:

“(1) save as is provided in any other law, a servitude in perpetuity or for a limited period may, subject to subsections (2), (3) and (4), be created— (a) by a deed prepared in accordance with section fifty-nine or (b) in a deed of grant or transfer of land where it encumbers— (i) the land transferred.....”

In what instances will an unregistered praedial servitude bind successors in title? **[5 marks]**

3.3 An owner of a property may burden it with a praedial servitude for the benefit of another person. To effectively create such a servitude, it should be registered in terms of the Deeds Registries Act. What are the requirements for preparation and submission of a deed of servitude?

[5 marks]

[Sub-Total 20 marks]

QUESTION 4

4.1 Michael is in the business of lending people money and receiving it back with interest. Sometime in 2023, he lent Brian USD2 000,00 who had to repay the money in installments of USD100,00 monthly. In order to secure the repayment of the principal debt, Brian pledged his motor vehicle, car keys and registration book as security for the debt to Michael. The terms of the agreement provided that Brian grants Michael the express right to effect change of ownership of the motor vehicle upon Brian’s failure to repay the loan on the agreed date. Unfortunately, although Brian had paid half of the principal debt, he did not repay the full loan by the due date, whereupon Michael proceeded to effect change of ownership of the motor vehicle to his own name in terms of the agreement. Brian approaches you as his legal practitioner unhappy with this unforeseen turnaround of events and seeks to recover his motor vehicle from Michael.

In light of a *pactum commissorium* and relevant case law, advise Brian on whether he has a valid claim against Michael and comment on whether the agreement to forfeit the pledged property is lawful and enforceable. **[10 marks]**

4.2 Brian informs you that Michael admitted that prior to Brian's default in repaying the loan, he was using Brian's pledged motor vehicle to obtain extra income for himself. This was done with no agreement to the owner Brian. State the rights and obligations of Michael, the pledge insofar as the pledged property is concerned. **[10 marks]**

[Sub-Total 20 marks]

QUESTION 5

5.1 Mr and Mrs Shoko recently found out about the sale of a farm in Gwanda. They have always wanted a farm and they believe this is an opportunity worth grabbing. As they do not have the required cash upfront to purchase the farm, they approach their bank they have been using for a decade to request a loan. The bank gives them 3 options to secure the debt:

Option 1. They can register a bond on the farm in favour of the bank or

Option 2. They can register a bond on their expensive cars namely the latest BMW car and a Range Rover car or

Option 3. They can have their daughter who is a successful businesswoman agree to and sign an undertaking with the bank to repay the cash loan should her parents, Mr and Mrs Shoko fail to do so.

5.1.1 If Mr and Mrs Shoko opt for option 1 above, which type of security and bond will be registered in the Deeds Office? Briefly explain the consequences thereof. **[5 marks]**

5.1.2 If Mr and Mrs Shoko opt for option 2 above, which type of security and bond will be registered in the Deeds Office? Briefly explain the consequences thereof. **[5 marks]**

5.1.3 If Mr and Mrs Shoko opt for option 3 above, which type of security will be concluded and how does this identified security differ with the one identified in 5.1.2 above. **[5 marks]**

5.2 Section 71(3) of the 2013 Constitution of Zimbabwe provides as follows:

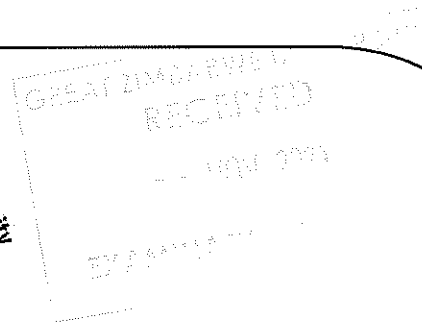
“(c) the law requires the acquiring authority— (i) to give reasonable notice of the intention to acquire the property to everyone whose interest or right in the property would be affected by the acquisition; (ii) to pay fair and adequate compensation for the acquisition before acquiring the property or within a reasonable time after the acquisition; and (iii) if the acquisition is contested, to apply to a competent court before acquiring the property, or not later than thirty days after the acquisition, for an order confirming the acquisition.”

Generally speaking, the determination of a just and equitable compensation is based on a value judgment, which entails weighing rights of both sides, namely the public interest and the interests of those affected. What relevant factors are generally taken into account in the determination of a just and equitable compensation? [5 marks]

[Sub-Total 20 marks]

TOTAL MARKS: 70

END OF QUESTION PAPER.



HERBERT CHITEPO SCHOOL OF LAW SCHOOL AND BUSINESS SCIENCES

DEPARTMENT OF LAW

BACHELOR OF LAWS HONOURS DEGREE

LEVEL 2 SEMESTER 1

EXAMINATION QUESTION PAPER

MODULE CODE **LLB 213**
MODULE NARRATION **LAW OF CONTRACT**
DATE **2024**
DURATION **3 HOURS**

INSTRUCTIONS TO CANDIDATES:

- 1. Answer Question 1 from Section A, which is compulsory and any TWO questions from Section B.**
 - 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. This paper consists of four pages including the cover page.**
 - 5. Write legibly.**
-

SECTION A

THIS QUESTION IS COMPULSORY

QUESTION 1

During the month of February, Cathrine was in negotiations with Fred for him to install an enhanced cyber-security system for 3rd party data held by Cathrine. Cathrine was under an obligation to have the system in place by 1 May, otherwise her insurance premium would be increased by \$1000.00. Cathrine and Fred had agreed that the price for the work was \$5000.00 and the completion date agreed was 15 April. Although Cathrine and Fred were satisfied that there was nothing else left to agree, they wanted the agreement put into a legally binding contract and so they asked their respective lawyers to do this.

However, while their lawyers were continuing to negotiate over small details of the final contract, Fred told Cathrine on 10 March that unless he began work on the project soon, he would not be able to guarantee that he could have the work completed by the 15 April deadline. Both Cathrine and Fred agreed that Fred could start work immediately because they were in agreement over the main issues and what was left to agree was just “for the lawyers”.

On 1 April, Fred called Cathrine to say that as they were working on the cyber-security system it had become clear that due to the delay in starting the project because the lawyers could not get their act together, he would be unable to meet the 15 April deadline. Cathrine said that this was unacceptable since Fred had promised to be able to complete the project if he was allowed to start it on 10 March. Fred said that as they still did not have a contract in place, he was under no legal obligation to continue working on the project at all. However, he said if Cathrine would pay Fred for two additional programmers, at a total cost of \$2000.00 in addition to the agreed \$5000.00 the project could still be completed by the 15 April deadline. Cathrine reluctantly agreed.

The project was completed on 15 April without a formal written contract having been signed. Cathrine has now told Fred that she will only pay the \$5000. 00 that they had initially agreed but not the extra \$2000.00 that she had promised. She did not believe that Fred had ever employed the additional programmers.

Advise Fred as to his legal position under the law of contract in these circumstances. **[30 Marks]**

SECTION B

ANSWER ANY TWO QUESTIONS FROM THIS SECTION

QUESTION 2

In what circumstances will our courts grant an interdict as a contractual remedy? Does it make a difference whether the interdict sought is an interlocutory or a final one? **[20 marks]**

QUESTION 3

With reference to case law and other authorities, critically analyse the extent to which our Courts adhere to the notion that Courts do not make contracts for the parties, especially where the contract is allegedly void for vagueness and where one party prays for an implied term to be read into a contract. **[20 Marks]**

QUESTION 4

Sheila agrees with Jane, the owner of a shopping mall in Masvingo, that Sheila will lease the restaurant premises situated on the second floor from Jane from 1 January 2024. The rent of \$8000.00 is payable at the end of every period of four months. Jane undertakes to see to it that the worn-out and stained pink carpets in the existing restaurant are replaced with terracotta tiles, because they look better and are easier to clean. The existing restaurant had no liquor licence and the parties agree that in exchange for a single payment of \$1 000.00 to be paid on 6 April, Jane will obtain the necessary permission from the Masvingo Town Council for liquor to be sold from the premises after the normal trading hours.

When Jane had received no rent by 10 May 2024, she makes enquiries. Sheila informs her that she does not intend to pay any rent for the first four months. When she attempted to take occupation of the premises on 1 January 2024, Sheila found that the decorators, Fabulous Flooring (Pvt) Ltd, had not finished their work. One half of the restaurant could not be used since the carpets had been ripped out, but no tiles laid. Fabulous Flooring (Pvt) Ltd only completed their work on 27 January 2024, with the result that the grand opening which Sheila had planned for her restaurant, and to

which she invited several television celebrities, had to be cancelled. She estimates that she had lost at least \$10 000.00 as a result of the cancellation of this event which would have provided her restaurant with excellent publicity. Furthermore, no liquor licence had yet been granted and Sheila was involved in a long and tiresome battle with the council to obtain a licence.

Did Sheila breach the contract? If so, is Jane entitled to any remedy (ies)? **[20 Marks]**

QUESTION 5

Write brief notes on the following terms in as far as they relate to the law of contract, each term carries 5 marks.

(a) Supervening impossibility.

(b) Compromise.

(c) Novation.

(d) Delegation.

[20 Marks]

TOTAL MARKS: 70

END OF EXAMINATION



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HERBERT CHITEPO LAW SCHOOL
BACHELOR OF LAWS HONOURS DEGREE
LEVEL 3 SEMESTER 1
EXAMINATION QUESTION PAPER

MODULE CODE **LLB 313**
MODULE NARRATION **CLINICAL LEGAL EDUCATION 1**
DATE **2024**
DURATION **3 HOURS**

INSTRUCTIONS TO CANDIDATES:

1. You are advised to read all instructions and questions carefully before attempting to answer any.
2. Answer **THREE** questions in all.
3. Answer **Question ONE**, which is compulsory, in section **A** and any **TWO** questions in section **B**.
4. You are advised to cite relevant authorities to support your answers.
5. Candidates are allowed to bring clean unannotated copies of the Magistrates Court of Zimbabwe Civil Rules and the Magistrates Court Act.
6. This paper is Four (4) pages long, including the cover page.

SECTION A [30 Marks] This section is compulsory

QUESTION 1.

Your client Sarah Fine has been served with Summons Commencing Action issued from the Masvingo Magistrates Court. The Plaintiff's particulars of claim reads as follows:

1. Plaintiff is Mary Seven, a female adult whose address for service is Ndebele Legal Practitioners, 50 Jones Street, Masvingo.
2. Defendant is Sarah Fine, a female who is a manageress at a local supermarket and she resides at 2711, 3rd Street, Mucheke, Masvingo.
3. On 27 August 2020 Plaintiff was driving her motor vehicle with registration number ABC-1174. On the day in issue the Plaintiff's vehicle was involved in a collision with a motor vehicle registration number ACE 2737 driven by defendant and also belonging to defendant Sarah Fine.
4. The collision was caused solely by the negligence of the defendant who was negligent in one or more of the following aspects: -
 - (a) She negotiated a right turn when it was not safe to do so.
 - (b) She turned without giving way to oncoming traffic.
 - (c) She failed to keep a proper look out for other road users
 - (d) She failed to take any evasive action when the accident appeared imminent.
 - (e) She drove at an excessive speed in the given circumstances.
5. As a result of the collision, Plaintiff's motor vehicle was damaged.
6. The plaintiff has accordingly suffered damages in the sum of US\$3 500 being the fair and reasonable cost of effecting the necessary repairs to the vehicle.
7. Despite demand defendant has refused or neglected to pay the sum of US\$ 3 500

8. Wherefore Plaintiff claims against defendant

- (a) Payment in the sum of US\$3 500
- (b) Cost of suit.

From the particulars of claim of the Plaintiff above prepare

- (i) An appearance to defend **[5 Marks]**

- (ii) Prepare a detailed Plea on behalf of the Defendant using the above particulars of Claim. **[25 Marks]**

SECTION B.[40 Marks] Answer any two Questions from this Section.

Question 2.

On 4 July 2023 Abel Tamuka was driving a bus belonging to Smart transport owned by Smart Private Limited, a company duly registered in terms of the laws of the country. The bus had 36 passengers on board. At the 20km peg along the Masvingo - Harare road, the bus encroached into the right lane and side swiped a motor vehicle owned by John Jack. As a result of the accident John Jack sustained a fractured right leg and a laceration on his right hand. He paid for his medication and all in all used \$10 000 for medical expenses. He also suffered pain and may require future treatment. The vehicle was damaged and John Jack paid a total of \$1 000 to the panel beaters.

Draft the summons commencing action and detailed particulars of claim on behalf of John Jack. **[20 Marks]**

QUESTION 3.

Mr Johnson and Mrs Johnson are on separation they have been married for 7 years. Their marriage was blessed with a baby girl Clare who is now 3 years old. Mrs Johnson is the one who is staying with the baby during the separation. Mrs Johnson who is a nurse, has just got a job offer in Dublin

Scotland as a nurse aid. Mrs Johnson has been sorting out her papers and her child's papers to live Zimbabwe and this she was doing without telling Mr Johnson or getting his consent. The travelling documents for Mrs Johnson and her baby are ready and Mrs Johnson is planning on living the country in the next 24 hrs with her baby girl. One of Mrs Johnson's relatives who was not in support of this move calls Mr Johnson and tells him that Mrs Johnson is living the country in the next 24hrs with his baby girl Clare. Mr Johnson is heartbroken and devastated with what is about to happen he approaches you a legal practitioner for advice on what options he has to stop his wife from taking his minor baby girl out of the Country.

- a) Advise Mr Johnson on the options he has in this matter. **[5 Marks]**
- b) With the advice you have given Mr Johnson on part (a) above draft the relevant court documents which are necessary for Mr Johnson so that you stop Mrs Johnson from taking the minor baby Clare to Dublin Scotland without his consent. **[15 Marks]**

QUESTION 4

You have been approached by Mr Gentleman Jack a male adult aged 34 years. Mr Jack has just been served with summons commencing action issued by the Magistrates Court of Masvingo. From Mr Black Label

- a) Discuss the options available to Mr Gentleman Jack and give advice to Johnson regarding the legal implications of pursuing each of the options available to him. **[20 Marks]**

TOTAL [70 MARKS]

END OF QUESTION PAPER



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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 flushed 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.

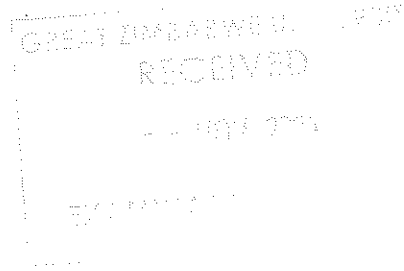
Further to this, on her return to Masvingo General Hospital to confront the Director as to why he had not informed her about the HIV test and results, she was shocked about the hostile attitude of the Director, who ordered her out of his office. To further add insult to the plaintiff's injury, the second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



HERBERT CHITEPO LAW SCHOOL

DEPARTMENT OF LAW

BACHELOR OF LAWS HONOURS DEGREE

LEVEL 3 SEMESTER 2, LEVEL 5 SEMESTER 1, LEVEL 5 SEMESTER 2

EXAMINATION QUESTION PAPER

MODULE CODE	LLB629
MODULE NARRATION	WILDLIFE LAW
DATE	2024
DURATION	3 HOURS

INSTRUCTIONS TO CANDIDATES:

1. Answer ALL questions from Section A and THREE questions from Section B.
2. Students may not take any materials into the examination.
3. You are advised to read all questions carefully before attempting to answer any.
4. You are advised to cite relevant authorities to support your answers.
5. This paper consists of five pages.

SECTION A

Question 1

This is a compulsory question

Peter shot an impala under permission and with a Hunting Permit in Mr Matutu farm. The Impala crossed to the next Chigwizi farm. Chigwizi Farm is owned by Mr Matsiga . Peter entered Chigwizi Farm with the purpose of retrieving the Impala. The injured Impala upon seeing Peter and his hunting party started running, Peter continued following the animal and was caught by Mr Matsiga the owner of Chigwizi farm. Peter was arrested while following the Impala

1. Who owns wildlife in Zimbabwe? **{5 marks}**
2. What are the implications of owning wildlife in Zimbabwe? **{4 marks}**
3. Is Peter guilty of an offence? Explain fully. **{5 marks}**
4. Explain hunting in terms of the relevant legislation in Zimbabwe. **{5 marks}**
5. With the aid of Case law and citing the relevant provisions of the legislation name and explain the classification of wildlife in Zimbabwe **{6 marks}**

Total Marks: {25}

Section B

Answer any 3 questions.

Question 2

Analyse the Supreme Court's decision in the case of **State vs Tarr 1999 (2) ZLR 308 (HC)** in relation to wildlife protection, classification of land use and hunting of wildlife . In your analysis, identify whether there are any the gaps in the law based on the decision of this case. Discuss whether the Supreme Court reached the correct decision, justifying your answer. **{15 marks}**

Question 3

- a) Define Human Wildlife Conflict, citing practical examples? **{3 marks}**
- b) Discuss the causes of HWC and ways to mitigate it. **{12 marks}**

[Subtotal 15 Marks]

Question 4

Farai was arrested whilst illegally hunting in Hwange Park. After arresting Farai, the Parks officers went on to shoot and kill his dogs. Farai argued that it was unlawful to kill his dogs since the dogs were in his company and he had not resisted arrest.

4.1. Were the Parks Officers right and what advice would you give Farai in the case **[5 Marks]**

4.2 Discuss the importance of classification of Land use in the Parks and wildlife estate

[10 Marks]

[Subtotal 15 Marks]

Question 5

Wildlife Law as a component of the Zimbabwean legislative framework and the judicial system does not exist in isolation. Like many other forms and components of our law it is intricately intertwined with other facets of the law. In light of the above statement, accompanied by accurate legislative examples and case law, describe and explain how Wildlife Law intersects with Environmental Law in Zimbabwe. **[15 marks]**

Question 6

- 6.1. In terms of the provisions of section 8 of the Parks and wildlife Regulations, there are Prohibitions to preserve the Parks and wildlife estate. List any five of these provisions and explain them **[10 Marks]**
- 6.2. Through giving examples, explain the reasons for the existence of subsidiary legislation in the context of wildlife management in Zimbabwe **[5 Marks]**

[Subtotal 15 Marks]

TOTAL 70 MARKS

END OF QUESTION PAPER



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BACHELOR OF LAWS HONOURS DEGREE

LEVEL 2 SEMESTER 2

EXAMINATION QUESTION PAPER

MODULE CODE	LLB 225
MODULE NARRATION	HUMAN RIGHTS AND INTERNATIONAL HUMANITARIAN LAW
DATE	2024
DURATION	3 HOURS

INSTRUCTIONS TO CANDIDATES:

- 1 This question paper is divided into TWO SECTIONS. These are SECTION A, which is compulsory and SECTION B.**
- 2 Answer THREE Questions in ALL. Answer all questions in SECTION A and any two other questions of your choice from SECTION B.**
- 3 You are allowed to bring clean copies of the Geneva Conventions, 1949, and the Optional Protocols, 1977 and The Constitution of Zimbabwe Amendment No.20 of 2013 for use during the examination.**
- 4 Write legibly and refer to relevant authority.**
- 5 This question paper is six pages long.**

SECTION A

This section is compulsory. Answer all questions.

QUESTION ONE

(a).Ms Waivepi Hlupo is a Form V student. In her first three years at high school she was very rebellious and constantly flouted school rules. She recently became very religious and has started wearing a head scarf to school with her existing school uniform. She has been warned verbally by her class teacher and the principal that this is in contravention of the school's strict rules regarding uniforms. On 1 October 2021, her parents received a letter from the school stating that she is required to comply with the school uniform rules which provide that only 'school hats may be worn with school uniforms and designated white sport hats with sports uniforms. No other headgear may be worn by learners'. The letter informs Ms Hlupo's parents that a headscarf is not a school hat and may not therefore be worn at the school. The letter states further that the school's reasons for its approach are:

- (i) The school's uniform policy serves the purpose of ensuring that learners are neat and tidy for school. It also ensures that all learners wear appropriate clothing including sun hats when they are outside;
- (ii) The school is non-denominational and the school does not want to show favouritism towards any one religion; and
- (iii) They believe that this is simply another of Ms Hlupo's antics that reflect her defiant attitude towards authority.

Ms Hlupo's and her parents are very angry at the school's refusal to accommodate her religious beliefs. Ms Hlupo's feels that she is being treated like a child and that none of her teachers take her religious beliefs seriously which undermines her dignity. Ms Hlupo's and her parents approach you for advice on the following issues:

Write a legal opinion advising Ms Hlupo and her parents on the human rights that have been violated. **(10 Marks)**

(b).The States Alpha and Beta are engaged in a war caused by an unresolved border dispute. The armed conflict was started by Alpha which invaded Beta's territory across the disputed border by using its army and airforce, while its navy blockaded all Beta's ports. Beta responded in kind attacking targets deep inside Alpha territory causing damage to hospitals, schools, shrines and other vital public utilities such as national dams, roads, electricity installations and government buildings. The situation resulted in each occupying part of the other's territory. During the fighting thousands of civilians were killed, lost their homes, food and domestic animals. Each side in the conflict engaged in indiscriminate attacks on both person and property. Both presidents of the two states ordered their senior military officers to do everything necessary to destroy each other's territory.

Identify which principles of International Humanitarian Law have been violated and by whom. **(10 Marks)**

(c) Mujaki is a famous artist and anti-war campaigner who uses photography and video to create controversial works of art. His latest exhibition is about the atrocities of war. It contains many pictures and film clips taken from the aftermath of the recent bombing of a city involved in an ongoing conflict. Some of the pictures and film clips are shocking. Many of the images are available on the internet. The exhibition divides opinion. Some people claim it is a challenging but vital work whilst many others are offended and outraged. The local council asks Mujaki to remove the most offending images. He refuses to make changes to his work claiming this is 'an act of censorship'. The council imposes a temporary suspension of the gallery's licence. This effectively closes the exhibition.

Advise whether Pavel has a strong legal case to challenge the ban or whether the council can prevent him from exhibiting. **(10 Marks)**

[Sub-Total 30]

SECTION B

Answer any two questions of your choice from this section

QUESTION TWO

(a).Gari is a Zimbabwean who follows the Gaba religion. The religion states that women are perpetual minors; they are not allowed to make decisions without the approval of their

husbands. The religion further allows the punishment of women through flogging by their husbands. The religion also allows the smoking of marijuana and that their male children should not shave their hair and beard. Ndangi the son of Gari was enrolled at Maose High School together with his twin sister. Maose High School is a private school that is run in accordance with Christian values. Some of the values were that the school does not allow the smoking of marijuana; marriages whilst enrolled at the school and keeping of beard and long hair. In addition, every pupil at the school was expected to go for morning and evening prayers. Ndangi did not shave his beard as per his Gaba religion. He was also smoking marijuana at 6 pm every day at the school in line with the Gaba religion. He also refused to attend prayer sessions on the basis that it was against his religious beliefs. During the school holidays, Esinath got married and was expelled from the school when the schools opened because of her pregnancy. Her brother, Ndangi, was also expelled from the school because he was keeping a beard and long hair; refusing to attend prayer sessions at the school and smoking marijuana. When Gari enrolled his children at the school, he signed a contract with the school where he agreed that his children would be bound by school values.

Identify the human rights violations and remedies available to Gari in Zimbabwe.

(10 Marks)

(b). During an armed conflict between states Chigamba and Muhali both states use chemical and gas weapons of all types against each other's people. Food and water sources are also poisoned to eliminate as many enemy citizens as possible. Many deaths as well as the maiming of people and animals are caused by the use of these weapons. Both states in defence of their actions argue that they are entitled to use whatever weapons, methods and means of warfare to preserve their existence. To what extent can the arguments of the two states be supported by international humanitarian law?

(10 Marks)

[Sub-Total 20]

QUESTION THREE

(a). In reacting to a failed attempted *coup d'état* against his government, President Makanda and his senior colleagues unleash a reign of terror against the citizens of his country accusing them of having supported the unsuccessful military *coup d'état*. Makand's orders are that all 'traitors' should either be killed, raped, assaulted, tortured or severely assaulted. Survivors must be forced out of the country against their will. What international crimes have been committed by Makanda and his colleagues and which court/s have jurisdiction to try the perpetrators of this violence? **(10 Marks)**

(b). Ms Spiwe Chara applied to the Sunnyside Boys' High School, a government school, for admission. At the interview, she was told that it was school policy to admit only boys. She was advised that there were many other single-sex schools in the region and that all school activities were designed for male learners. If female learners were admitted, significant changes would have to be made. For example, the school would have to make arrangements for bathrooms and change rooms for girls. The school believes that it is not acting unfairly. Ms Chara asks for your advice on this issue. Write a legal opinion advising Ms Chara.

(10 Marks)

[Sub-Total 20]

QUESTION FOUR

(a). During the initial phases of the invasion in the State of Mukwati, by a rebel group using the name Mukwati Army Resistance, (MAP) a number of Mukwati soldiers were captured by MAP. On the way to bringing them to a Prisoner of War (POW) camp, they realise that three of the captives are mercenaries from the state Jamali, hired by one Mukwati's Army Commander to assist his armed forces in defending against the invasion. The POW Camp Commander asks you, as a legal advisor, how these mercenaries should be classified, and if there are any treaty obligations related to their treatment. Advise him.

(10 Marks)

(b). The Universal Declaration of Human Rights (1948) is no longer relevant for dealing with human rights issues in the twenty-first century. Evaluate this statement with reference to authorities.

(10 Marks)

[Sub-Total 20]

QUESTION FIVE

(a). In an armed conflict between states Ayatola and Bhamhara, Ayatola is accused by Bhamhara of having provoked Bhamhara by repeatedly launching missiles into Bhamhara's territory which killed a number of Bhamhara's citizens and destroyed property worth billions of American dollars. Ayatola was launching the missiles from its territory. Bhamhara responded to Ayatola's provocation by invading Ayatola's territory. Aerial bombardments were carried out by Bhamhara in support of its ground forces who were equipped with armoured tanks. Bhamhara's military operations are indiscriminate in nature. Civilians on both sides are killed and wounded. Many mortally wounded combatants on both sides are 'finished off' to avoid taking prisoners. Property including churches, schools and hospitals are bombed and destroyed. Bhamhara's military capability is far superior to state Ayatola's.

What principles of international humanitarian law have been breached and by which state?

(10 Marks)

(b) Jubeki Jani and Dinga Dimbiri have been arrested on suspicion of a \$2 million bank robbery in Harare. This investigation generates a lot of publicity from the press and consequently Jubeki and Dino receive a number of death threats from the public. They request the police to give them 24-hour police protection for fear of their lives. The police denied this request. Further, the police manage to obtain a warrant, based on false information, to tap their telephones. As a result of the telephone tap, highly incriminating evidence is revealed about the robbery. The state wishes to use this evidence while Jubeki and Dinga's lawyer oppose the admission of this evidence.

Apply the requirements for a valid limitation of fundamental rights as contained in Section 61 of the Constitution of the Republic of Zimbabwe, Amendment No.20 of 2013 to the above set of facts. Examine the conduct of the police against each of the requirements of the limitation clause, and explain whether or not their conduct is lawful in each respect. **(10 Marks)**

[Sub-Total 20]

TOTAL MARKS: 70

END OF QUESTION PAPER

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HEBERT CHITEPO LAW SCHOOL

BARCHELOR OF LAWS HONOURS DEGREE
EXAMINATION QUESTION PAPER

MODULE CODE	LLB 211
MODULE NARRATION	FAMILY LAW
DURATION	3 HOURS
TOTAL MARKS	70
YEAR	2024

INSTRUCTIONS TO CANDIDATES

- 1. You are advised to read all questions carefully before attempting to answer any.*
- 2. Section A is COMPULSORY.*
- 3. Answer any TWO Questions from Section B.*
- 4. Students are allowed to bring the Constitution of Zimbabwe Amendment (No. 20) Act 2013 into the examination room and the Maintenance Act (Chapter 5:09) into the examination room.*
- 5. This examination is 5 pages including the cover page.*

SECTION A

Answer **all** questions in this section.

QUESTION 1

Martha and Ben married customarily in 2014. In 2020, Martha left for the United Kingdom and she left the child in the care of her parents. Sometime in 2021, Ben took his child for the Christmas holiday and did not return her. In 2022, Martha visited home and sought an access order which was granted in the Magistrates Court. She avers that Ben makes access unreasonably difficult and it is against this background that she wants an order compelling the return of the child into her custody as per the position when she left in 2020. She wants custody on the alleged ground that custody remains with the mother and guardianship is exercised by the father in consultation with the mother. Martha strongly believes that she should be granted custody of the child because first, of the child's pending adolescence (being a female child, the child will soon be approaching puberty making her better placed to address these challenges), secondly, the need for strong maternal ties (the child is her only child and she should not suffer the effects of separation) and lastly, her financial capacity in the United Kingdom to look after the child and provide better opportunities is better than that of Ben in Zimbabwe. When the child was called and asked about her wishes, she said she wished to remain with her father and in the environment of a wider family setting as her father lives with his mother and siblings. She further said that since she has well-adjusted in her home and school and enjoys a close relationship with her father, she wishes to continue in her father's custody and she will be engaged in video calls with her mother frequently. Martha conflicts with this arrangement and believes her child's future will be well taken care of if she is granted custody considering the economic stability within a western setting.

1.1 In all matters concerning a child, including the issues of custody, guardianship and access, what is the constitutional yardstick that the courts are mandated to apply and what does the yardstick thereof entail? **[4 marks]**

1.2 Martha averred that she is deserving of the child's custody on the ground that custody remains with the mother and guardianship is exercised by the father in consultation with the mother. Advise Martha on the legal validity of this argument. **[6 marks]**

1.3 With the definition of the terms guardianship, custody and access, advise Martha on what is considered by the courts in granting guardianship, custody and access of a child and whether in this particular case, she has any prospects of success in her claim of custody of her minor child. **[15 marks]**

1.4 If Ben was to be granted custody by a court of law and Martha forcibly takes the child to UK against the court order. What remedy will be available to Ben in terms of the Child Abduction Act (Chapter 5:05) to restore the custody of the child. **[5 marks]**

[Sub-Total: 30 marks]

SECTION B

Answer any 2 questions from this section.

QUESTION 2

2.1 Write brief notes on the following: -

- a. A civil marriage **[4 marks]**
- b. A qualified civil marriage **[4 marks]**
- c. A customary marriage **[4 marks]**
- d. An unregistered customary law union **[4 marks]**

2.2 Briefly outline the key rights and obligations of spouses during marriage and at its dissolution. **[4 marks]**

[Sub-Total: 20 marks]

QUESTION 3

Mr and Mrs Bhila were customarily married and the marriage was blessed with four children. In 2020, Mr Bhila passed on without a will prompting the registration of the deceased estate. Upon having advertised the estate, Mrs Bhila got to know that her late husband had 3 children born out of wedlock. The guardians of those 3 children sought to inherit the children from their late father's estate. Mr Bhila left two houses, one in Masvingo where he was living in with his wife Mrs Bhila and the other one in Harare. Mrs Bhila is unhappy to hear about the deceased's children that are unbeknown to her as her husband did not inform her about them. She has informed the guardians of the said children that they are precluded from inheriting the free residue of the deceased estate because they are children born out of wedlock.

3.1 What is meant by the term "free residue" of the deceased estate? **[2 marks]**

3.2 What property if any is Mrs Bhila entitled to inherit as the surviving spouse? **[4 marks]**

3.3 With reference to case law and legislation, advise Mrs Bhila if her argument that children born out of wedlock are precluded from inheriting the free residue of their father's deceased estate is justified. **[10 marks]**

3.4 If Mr Bhila was in a polygamous customary marriage and had left 2 other wives apart from Mrs Bhila. What would be inherited by all wives considering that Mrs Bhila was the first wife?

[4 marks]

[Sub-Total: 20 marks]

QUESTION 4

Monica Kakono is married to Oliver Kakono. They were blessed with two children namely Tafara aged 10 and Jasper aged 12. Oliver is a managing Director with an accounting firm.

Monica is a nurse at Mpilo hospital. Oliver had been behaving violently towards Monica, drinking heavily and coming home in the early hours of the morning. Unable to take his behaviour any further, Monica asked Oliver to move out of the matrimonial home. Monica discovered that one of the reasons why Oliver was violent towards her is that he was having an affair with his secretary Joyce Mutema. The latter attended Monica and Oliver's white wedding. She is a single mother of two. Monica is particularly hurt because Joyce often visits her and they attend the same church. Oliver has been consistently paying monthly maintenance for his children as per the court order.

4.1 Monica is very angry with Joyce. Advise Monica of her rights and claims if any against Joyce. **[10 marks]**

4.2 Oliver's company has not been doing well recently and he is afraid he would default the payment of the exact amount ordered by the court. In light of these changed circumstances, advise him if he has any alternate route to follow, and if so, what procedure will you advise him to take. **[10 marks]**

[Sub-Total: 20 marks]

TOTAL MARKS: 70

END OF QUESTION PAPER.

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EXAMINATION

Great Zimbabwe University



HERBERT CHITEPO LAW SCHOOL

BACHELOR OF LAWS HONOURS DEGREE

LEVEL 1 SEMESTER 2

EXAMINATION QUESTION PAPER

MODULE CODE	LLB123
MODULE NARRATION	CRIMINAL LAW
DATE	2024
DURATION	3 HOURS

INSTRUCTIONS TO CANDIDATES:

1. Clearly number all the questions you are answering
2. Section A is a compulsory question.
3. Choose any two questions to answer in section B
4. Mark all answer sheets with your student number
5. This Examination is out of 70 marks.
6. Candidates may bring unannotated copies of the Criminal law (Codification and Reform) Act into the examination room.

SECTION A

THIS QUESTION IS COMPULSORY

Question 1

Donny, who is eighteen, learned that his fifteen-year-old sister Heather was dating thirty-year-old Victor. He ordered his sister to stop seeing Victor, but she just laughed at him and said, "We love each other and nothing can come between us."

Donny decided to teach Victor a lesson. One afternoon, he obtained a realistic looking toy pistol and drove to Victor's house. He parked outside the house and waited for Victor to come home from work.

When Victor returned and was parking his car, Donny approached, holding the toy pistol behind his back. When Victor opened the car door, Don displayed the toy pistol and announced, "I am Heather's brother. I want you to stop seeing her."

Victor immediately reached under his car seat, pulled out a real handgun and pointed it at Donny. Don grabbed the gun in Victor's hand and the two struggled for possession of it. While they were struggling the gun discharged, killing Victor.

1. You are working for the prosecutor. She informs you that she is thinking of seeking a murder indictment against Donny. She asks your advice. Please advise using the Criminal Law (Codification and Reform) Act [C.A.P. 9:23] [15 Marks]
2. The prosecutor is worried that the defendant may raise a defence of self-defence and asks whether such a defence would be available. Please advise using the Criminal Law (Codification and Reform) Act [C.A.P. 9:23] [15 Marks]

SECTION B

ANSWER ANY TWO QUESTIONS FROM THIS SECTION

Question 2

To what extent has the law on intoxication as a general defence been developed to reflect policy concerns? Give reasons to support your answer. [20 Marks]

Question 3

Diana and Vivian are neighbours. Diana agreed to keep an eye on Vivian's house whilst Vivian was away, limited to collecting the mail and making sure the house was secure. Vivian gave Diana a set of house keys. On the day of Vivian's departure, Diana let herself into the house, borrowed Vivian's digital camera and used it for a couple of days before replacing it, having downloaded some photographs onto her own computer. On another occasion, she took a bottle

of wine and drank half of it. Just as she was replacing the bottle she heard Vivian return. The bottle slipped from her hand and smashed on the floor. In a fit of anger, Vivian chased Diana from the house, grabbing her bag as she did so. She took \$20 from Diane's purse and then threw both purse and bag over Diana's fence into her garden.

Discuss the crimes if any committed by the two women.

[20 Marks]

QUESTION 4

“There is one coherent thread underpinning the case law in the field of causation, which is that people should be accountable for the consequences of their own unlawful actions unless it would be clearly inappropriate for reasons of morality, common sense or otherwise.”

Discuss

[20 Marks]

TOTAL MARKS: 70

END OF QUESTION PAPER

GREAT ZIMBABWE UNIVERSITY
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EXAMINATION



**HEBERT CHITEPO LAW SCHOOL
BACHELOR OF LAWS HONOURS DEGREE
EXAMINATION QUESTION PAPER**

MODULE	LLB111
MODULE NARRATION	INTRODUCTION TO LAW
DATE	2024
DURATION	3 HOURS

INSTRUCTIONS TO CANDIDATES:

- 1. Clearly number all the questions you are answering.**
- 2. Section A is compulsory.**
- 3. Answer any (2) two questions from Section B.**
- 4. Mark all answer sheets with your student number.**
- 5. Support your answers with relevant legal authority.**
- 6. This paper is (4) four pages long including the cover page.**

SECTION A

This section is compulsory.

QUESTION 1

- a) Legal certainty is a necessary legal principle that forms the basis for the rule of law. Individuals must find solace in the predictability of a legal outcome. However, that is not always the case in law.

Critically analyse the above statement. In your analysis, include factors that affect legal certainty. **(10 marks)**

- b) Differentiate between criminal law and civil law. In your answer, explain the rationale behind the differentiation in the standard of proof. **(10 marks)**

[Sub-Total: 20 marks]

QUESTION 2

- a) Shantel is a single mother who works as a government clerk. She is barely able to support her 3 children. One day, she receives a summons stating that she owes her landlord rent. Despite her financial strains, she claims she paid all her rent and even has a witness who saw her pay the rent. But she does not have a lawyer and does not know what the court will want her to produce as evidence.

What are the two available avenues to obtain legal aid for Shantel and the relevant factors considered?

(10 marks)

[Sub-Total: 30 marks]

SECTION B

Answer any two questions in this section.

QUESTION 3

- a) Zimbabwe has a dual legal system. The inclusion of customary law in the Constitution reflects the country's embrace of cultural and heritage-based industrialisation. What is development without a solid cultural basis? However, the limited reach of customary law denounces heritage-based development and slowly washes out culture.

Critically discuss the above statement. **(10 marks)**

- b) Law and morality thread a very thin line in some jurisdictions while in other jurisdictions, it is separate. Discuss the relationship between law and morality in Zimbabwe as compared to other jurisdictions. **(10 marks)**

[Sub-Total 20 marks]

QUESTION 4

- a) According to Madhuku, "The process of how proposals eventually become bills is largely shrouded in secrecy".

Explain in detail the pre-bill stage in Zimbabwe as outline by Madhuku. **(10 marks)**

- b) Mary is married to Eric under civil law. It's a weekend and she decides to throw Eric a belated surprise birthday party. She plans everything and on the day of the party, she sneaks into Eric's office to surprise him when she finds him having sex with his secretary.

What is the available legal remedy for Mary against the secretary, if any?

(10 marks)

[Sub-Total 20 marks]

QUESTION 5

- a) Daniel applies to the High Court for admission as a legal practitioner. However, his application is rejected on account of his previous conviction of fraud and theft. He feels that it is unfair since he committed all those crimes years ago. He appeals the decision.

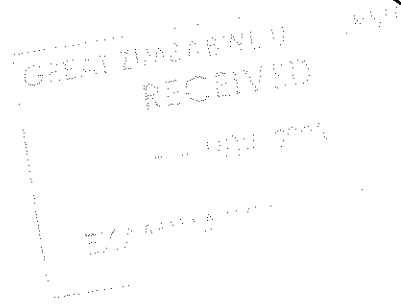
Having regard to the relevant legislation, what are the prospects of success of his appeal? **(10 marks)**

- b) Critically discuss the concepts of judicial activism and judicial deference and how they affect legal certainty. **(10 marks)**

[Sub-Total 20 marks]

TOTAL MARKS: 70

END OF QUESTION PAPER



HERBERT CHITEPO LAW SCHOOL
BACHELOR OF LAWS HONOURS DEGREE
LEVEL 1 SEMESTER1
EXAMINATION QUESTION PAPER

MODULE CODE	LLB 112
MODULE NARRATION	FOUNDATIONS OF ZIMBABWEAN LAW
DATE	2024
DURATION	3 HOURS

INSTRUCTIONS TO CANDIDATES:

- 1. This question paper comprises of 5 pages and it is divided into TWO SECTIONS. These are SECTION A, which is a compulsory question and SECTION B.**
- 2. Answer THREE questions in all. Answer question ONE from SECTION A, which is compulsory, and any other TWO questions from SECTION B.**
- 3. All your answers must be supported by relevant authority.**
- 4. Write legibly.**
- 5. You are allowed to bring clean copies of the Customary Law and Local Courts Act [Chapter 7:05] and The Constitution of Zimbabwe Amendment No.20 of 2013 for use during the examination.**

SECTION A

Question 1 [This question is compulsory]

(a). Hillary Moyo is a first-year student at Herbert Chitepo Law School. The University threw a freshmen party for all its first-year students at the local clubhouse. Hillary does not drink alcohol but only soft drinks. At the party he meets Pamela a neighbour from his hometown in Marondera. Unbeknown to Hillary, Juliet a drug to Hillary's drink in order for him to loosen up and enjoy the freshman party. On his way home at 2 am whilst driving under the influence of alcohol he passes the Chimusana depression at a high speed of 120km whilst the speed limit is 60km/hr and accidentally encroaches on the oncoming traffic lane therefore colliding with Mr Gari on his way to Beitbridge. No one was injured in the accident but when the police reported to the scene they concluded that Hillary was negligent due to his driving under the influence of alcohol.

The policeman seeing how devastated Hillary was, advised him to negotiate with Mr Gari to fix his car and pay the policeman US\$100 for him not to open a docket and take the matter to court. Hillary is afraid this might jeopardize his career in law so he agrees to pay the bribe.

Using the two primary legal schools of thought discuss whether or not Hillary's actions are wrong. **(10 marks)**

(b). Keith is under a lot of stress because of his retrenchment by NMB bank. This has caused him to start smoking and drinking alcohol. His family is mostly upset about this because it leaves him in a bad mood and makes him burst out in anger. Carol his wife says that he will get cancer and it is not ideal to smoke considering that they live in a Muslim community that frowns upon any bad behavior. Martie his friend argues that it is morally wrong to smoke and drink alcohol. One of Keith's friends tells him that smoking is a sin but Keith is convinced it is not because it is not forbidden at his church. One evening, Keith lights a cigarette in the non-smoking section of a city restaurant. When the manager asks him to put out the cigarette, Keith starts to argue with him. Keith argues that he does not think that it is morally wrong to smoke, but the manager replies that he is not interested in Keith's "moral arguments", because smoking in the non-smoking section of the restaurant is in contravention of the law (in this case, one of

the municipal by-laws). Keith is so upset that he storms out without ordering any food. What are the merits of Keith's argument and what are the merits of Carol, Martie and the manager's argument considering the relationship between law, religion and morality.

(10 marks)

(c.)

With specific reference to the Customary Law and Local Courts Act, explain how customary is ascertained in Zimbabwe.

(10 marks)

[Sub Total 30]

SECTION B

Answer any two questions from this section.

Question 2

(a). If positivism is interpreted as requiring that nothing is not law that does not conform to socially accepted criteria, it is inconsistent with positive law. This is because the law purports to be morally in order. Hence it is always possible to argue against a certain interpretation of the law that it is morally indefensible and there is always a certain pressure within a legal system to render it morally defensible. In that way critical morality necessarily becomes a persuasive source of law.

By Tony Honore, (2002), The necessary connection between Law and Morality, Oxford Journal of Legal Studies, Vol. 22, No. 3 (2002), p489

Critically examine the relationship between law and morality with reference to authorities.

(10 marks)

(b). Explain the difference between, transplantation and imposition in the reception of Roman-Dutch Law in South Africa.

(10 marks)

[Sub Total 20]

Question 3

(a). Why was the *Corpus Iuris Civilis* not well received in its time? **(5 marks)**

(b). Briefly discuss how law and religion were intertwined during the Monarchy. **(5 marks)**

(c). Distinguish the difference between things in commerce (*res in commercio*) and things outside commerce (*res extra commercium*). **(5 marks)**

(d). What is the difference between a personal and a real action? **(5 marks)**

[Sub Total 20]

Question 4

(a). How did Ubuntu change the concept of human rights in Africa? **(10 marks)**

(b). Roman Law is the legal system developed by the Roman civilisation over a period of 1300 years from 753 BC to 563CE. Today principles of Roman law are still part of the Zimbabwean legal system. Outline how the legal developments of Roman Law during the Monarchy era, the Roman Republic and the Empire era have influenced our legal system.

(10 marks)

[Sub Total 20]

Question 5

(a). Equality for Men is a non-governmental organisation that was formed in 2018 after the Masvingo High Court and the Masvingo Magistrate Court received several claims of delict of seduction. The Primary objective of the Equality for Men is advocacy for the rights of men. The organisation's agenda for 2022 is to advocate for the abolition of the delict of seduction. They believe that the delict of seduction is outdated and infringes on the right to equality before the law. You are a lawyer with the organisation. You are asked to prepare a comprehensive paper on the law of seduction, covering the customary law of seduction, and the decision in *Katekwe vs Muchabaiwa SC 87/84*. Your paper should also state whether or not the delict of seduction infringes the equality clause in the Zimbabwean Constitution (Amendment No. 20)2013.

(10 marks)

(b). (i) With reference to case law identify and describe the requirements for a custom to be recognised as a legal rule. **(5 marks)**

(ii). What is the difference between a legal subject and a legal object? **(5 marks)**

[Sub Total 20]

TOTAL MARKS

[70]

END OF EXAMINATION



**HERBERT CHITEPO LAW SCHOOL
BACHELOR OF LAW HONOURS DEGREE
EXAMINATION QUESTION PAPER**

MODULE CODE	LLB513
MODULE	BUSINESS ENTERPRISES LAW
DATE	2024
DURATION	3 HOURS

INSTRUCTIONS TO CANDIDATES

- 1. READ ALL QUESTIONS AND FOLLOW INSTRUCTIONS.**
- 2. THE EXAMINATION IS OUT OF 70 MARKS.**
- 3. SECTION A IS COMPULSORY**
- 4. ANSWER ANY 2 QUESTIONS FROM SECTION B**
- 5. THIS IS A CLOSED BOOK EXAMINATION.**
- 6. WRITE LEGIBLY.**
- 7. THIS PAPER CONSISTS OF THREE PAGES, INCLUDING THE COVER PAGE**

SECTION A (COMPULSORY QUESTION)

1. Mr Vardy is a director of Chelsea (Pvt) Ltd. The board of directors comprises of seven directors in total. Mr Vardy has, without any apology, failed to attend any meetings of the board of directors for the past year. Chelsea (Pvt) Ltd, is a company based in Bulawayo and has one hundred and fifty (150) shareholders, who are based predominantly in Cape Town, Cairo and Bulawayo. The Company's Memorandum of Association states that the quorum for a shareholders' meeting is 20 shareholders present in person or in proxy. The Company wishes to make an amendment to its Memorandum of Association. The amendment to the Memorandum of Association will provide that the quorum for a shareholders' meeting will be 25 shareholders present in person or by proxy. Chelsea (Pvt) Ltd convenes a shareholders meeting in Bulawayo to vote on this amendment. However, only eight shareholders attend the meeting.
- a) Advise the board of directors of Chelsea (Pvt) Ltd whether this is a ground for the removal of Mr Vardy as a director. If so advise them how they may remove Mr. Vardy as a director from the board of directors [15marks]
- b) Advise the board of directors of Chelsea (Pvt) Ltd if there are any options open to the company in order to overcome this problem. [10 marks]
- c) Explain the requirements and formalities that must be complied with if a Private Business Corporation (PBC) wishes to convert into a company. [5 marks]

Sub -Total: [30 marks]

Section B

Answer only 2 questions from this section

Question 2

Critically discuss the changes brought about by the new Company and Other Business Entities Act, COBE, from the Companies Act. **[20 marks]**

Question 3

Oblaak, Trent and Steven want to form a partnership. They want to buy and sell second hand motor vehicles. It is agreed that Trent will contribute \$100 000. 00 for the purchase of the first two vehicles, Oblaak will service and clean the vehicles and Steven will be the sales person. It is further agreed that the net profit derived from the sale of vehicles will be divided equally between Oblaak and Trent while Steven will be paid a stipulated salary every month. Explain whether a valid partnership exists. In the course of your answer explain the impact of the Companies and Other Business Entities Act [Chapter 24:31] on partnership agreements.

[20 marks]

Question 4

Discuss and explain the requirements and the formalities that must be complied with in order for an affected person to obtain a court order to place a company under the business rescue process. **[20 marks]**

Question 5

With reference to *Kelner v Baxter 1866 L.R. 2 C.P. 174 WLUK 81*, provide a legal analysis on whether individuals who sign a contract on behalf of a non-existent company can be personally held liable for the obligations under that contract.

[20 marks]

TOTAL MARKS: 70 MARKS

END OF EXAMINATION



HERBERT CHITEPO LAW SCHOOL
DEPARTMENT OF LAW
BACHELOR OF LAW HONOURS DEGREE
EXAMINATION QUESTION PAPER

MODULE CODE	LLB121
MODULE	LEGAL RESEARCH, WRITING AND REASONING
DATE	2024
DURATION	3 HOURS

INSTRUCTIONS TO CANDIDATES

- 1. READ ALL QUESTIONS AND FOLLOW INSTRUCTIONS.**
- 2. THE EXAMINATION IS OUT OF 70 MARKS.**
- 3. SECTION A IS COMPULSORY**
- 4. ANSWER ANY 2 QUESTIONS FROM SECTION B**
- 5. THIS IS A CLOSED BOOK EXAMINATION; STUDENTS SHALL NOT USE ANY MATERIAL.**
- 6. THIS PAPER CONSISTS OF FOUR PAGES, INCLUDING THE COVER PAGE**

SECTION A (COMPULSORY)

QUESTION 1

Talent and Horatio have been married for over 20 years. They have three 'children' who include three girls (all of whom are over the age of 18 years) and a boy aged 8 years. While driving from their farm to Harare, where Horatio (the Husband) works, the couple is involved in a fatal car accident that leaves the wife severely injured and fighting for her life. By the grace of God, Talent eventually survives the car crash and is able to lead a relatively normal life again. During the subsistence of the marriage, the husband was the sole breadwinner and the wife never took any sort of formal employment. It turns out that they had built a mansion in Borrowdale Brook, Harare, where they and their children lived for a better part of their lives ie over 15 years. They also acquired a farm and numerous businesses in mining, manufacturing and agriculture. At Horatio's burial, two other women with one boy each emerge and allege that the two boys are Horatio's children. The two even had birth certificates indicating that Horatio is their father. A serious legal dispute emerges relating to whether these children should inherit and if so, how much. In the meantime, there are also disputes relating to whether the deceased's estate was appropriately valued and the surviving spouse thinks she and her 'children' only are entitled to inherit. Six years after her husband's death, Talent decides to remarry in community of property, even as the inheritance dispute rages on, and unfortunately dies in the third year of her second marriage, leaving one infant from the second marriage and the other 'children' from the first marriage.

You are a judge of the High Court of Zimbabwe and have been tasked with determining the issues involved, the relevant law and the final determination of the legal question.

(a) Identify the legal issues involved. In your answer, explain the steps that must be considered in issue identification. [10]

(b) Identify the applicable law and apply the relevant provisions thereof to the issues before you. Explain whether the premises stipulated in the applicable law have been met. [20]

[Total Mark 30]

Section B

Answer any two questions

Question Two

Describe the following methods of legal analysis:

- (a) Policy-based analysis; [5]
- (b) Tradition-based analysis [5]
- (c) Textual analysis and legislative intent [10]

[Subtotal 20 Marks]

NB in your answers to the questions stipulated above, explain the different contexts in which the different forms of legal analysis are often used.

Question Three

The ability to use methods of reasoning is one of the most essential cognitive skills that lawyers can acquire. Discuss and distinguish the various reasoning methods listed below and give relevant legal examples and or case law to demonstrate relevance.

- a) Deductive Reasoning (4)
- b) Inductive Reasoning (4)
- c) Conductive Reasoning (4)
- d) Analogical reasoning (4)
- e) Some of the most often-encountered fallacies are cases irrelevant to the premises. For such during a road traffic accident matter the prosecutor asked the following questions:

Prosecutor: "Did you have bottles of Castle Light under the driver's car seats at the time of the accident?"

Accused: “Look, If I had been drunk at the time of the accident I would not have been able to stop the car as quickly as I did”.

Define what is a fallacy and further identify the type of fallacy in the above scenario. (4)

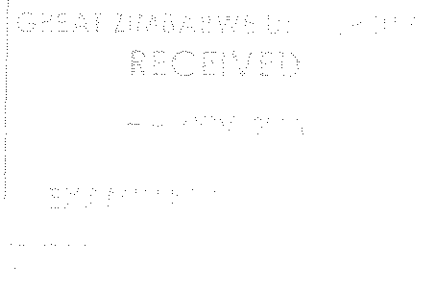
Question 4

- a) Explain what is meant by the word non sequitur. (2)
- b) Discuss the hierarchy of courts and the implications of this on the precedent system. In your discussion also mention the strengths and weaknesses of the precedent system. (8)
- c) Explain what is meant when a case is said to be “on point”. What is the significance of having a case on point? (10) [subtotal 20 Marks]

Question 5

As a response to the corona virus pandemic, the Government of Zimbabwe placed the nation under lockdown. According to the Minister of Health, this was done to slow down the rate of infection. Discuss how the nationwide lockdowns affected the enjoyment of rights and give an opinion as to whether this limitation of rights was in line with the requirements of section 86 of the 2013 Zimbabwean Constitution. [20]

TOTAL MARK OUT OF 70



HERBERT CHITEPO LAW SCHOOL

BACHELOR OF LAWS HONOURS DEGREE

LEVEL 1 SEMESTER 2

EXAMINATION QUESTION PAPER

MODULE CODE: LLB124
MODULE NARRATION: Customary Law
DATE: June 2024
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.
5. This examination paper contains 5 pages including the cover page.

Section A

Question 1 (This question is compulsory)

Madube is a 50 year old woman who resides in Gororo village which is located in Chivi. She has been married to Manhamo for 30 years and they have no children together. Madube believes that, her aunt Machuma is a witch and she is responsible for her life misfortunes. She also believes that Machuma is responsible for her numerous miscarriages. One evening Madube decided to confront Machuma over her life issues. She went to Machuma's homestead and demanded that Machuma produces all the paraphernalia which she uses for the witchcraft activities.

Madube initially professed ignorance and she was assaulted by Machuma. After being assaulted she produced a piece of white cloth, a horn and a clay pot allegedly used for witchcraft activities. Machuma further assaulted Madube all over her body using mulberry tree switches. The following day, Madube was taken to hospital where she was admitted and died after a week due to the injuries she sustained from being assaulted by Machuma. This led to the arrest of Machuma for the 'murder' of Madube.

Write a legal opinion advising Machuma on whether or not she can use her belief in witchcraft as a defense to the charge of murder and also how the Zimbabwean and South African criminal jurisprudence has grappled with this issue.

[Total: 30 marks]

Section B

Answer any two questions from this section.

Question 2

After dating for 2 years, Chiedza and Njabulo decided to formalize their relationship by entering to a customary marriage. Njabulo approached Chiedza's family and paid the bride price. Out of the 20 Cattle which were demanded by Chiedza's family Njabulo only managed to pay 5 cattle.

After following the Shona traditional customary practices, Chiedza and Njabulo got married on the 14th of February 2024 under the registered customary law marriage. They received their marriage certificate on the 16th of February 2024 and which clearly indicated that they had entered into a Registered Customary Marriage Chapter 5:07. On the 20th of March 2024 Njabulo decided to divorce Chiedza for unknown reasons.

He approaches you for legal advice on the following issues;

- (a) Whether not payment of lobolo is requirement for the validity of a registered customary marriage? [15 marks]
- (b) Whether or not his marriage certificate is valid? [5 marks]

[Total: 20 marks]

Question 3

Section 176 of the Constitution of Zimbabwe Act No. 20 of 2013, gives the Constitutional Court, Supreme Court and the High Court inherent power to develop customary law. It reads;

S176 Inherent powers of Constitutional Court, Supreme Court and High Court.

‘The Constitutional Court, the Supreme Court and the High Court have inherent power to protect and regulate their own process and to develop the common law or the customary law, taking into account the interests of justice and the provisions of this Constitution’.

Some scholars have stated that the insertion of the above clause in the Constitution has led to the piecemeal recording of living customary law.

In light of this write an overview of the nature and sources of customary law.

[20 marks]

Question 4

The Republic of Zimbabwe will have its general elections this year (2024). There is a general concern which has been raised by rural communities on the involvement of Chiefs in political issues.

Chief Shumba is one of the chiefs who has been pointed out for criticising the ruling government on different social media platforms and around his community in Guruve. His house has also been used as a storage facility by the opposition party for food and campaigning regalia for their supporters.

With reference to relevant authorities write a legal opinion on the involvement of Chiefs in political affairs and also the disciplinary procedures of chiefs in Zimbabwe.

[20 marks]

Question 5

- (a) Over the past year the role of Traditional Courts in our society has been prone to criticism. Some scholars have argued that, these court are archaic and they do not have a place in the modern court system while other scholars have labelled the courts as the custodians of our culture.

In light of the above discuss the **jurisdiction, advantages and disadvantages** of Traditional Courts in Zimbabwe. **[10 marks]**

- (i) Chief Mboweni of Mutasa passed away on the 10th of October 2023. Soon after his burial the President of Zimbabwe unilaterally appointed Mabiza a villager as the new Chief of Mutasa. After hearing about the appointment, Thabiso the young brother to Chief Mboweni who was supposed to be the next Chief in terms of the Shona cultural practices approaches you for legal advice. He wants to challenge the unilateral appointment of Mabiza as Chief of Mutasa by the President of Zimbabwe.

Advise him on the following;

- (i) The procedure he must follow to resolve this dispute. **[5 marks]**
(ii) The arguments he can make to support his case. **[5 marks]**

[Sub-total 20 marks]

TOTAL MARKS: 70

END OF QUESTION PAPER.



HERBERT CHITEPO LAW SCHOOL
DEPARTMENT OF PRIVATE LAW
BACHELOR OF LAW HONOURS DEGREE
EXAMINATION QUESTION PAPER

MODULE CODE	LLB122
MODULE	INTERPRETATION OF LAW
DATE	2024
DURATION	3 HOURS

INSTRUCTIONS TO CANDIDATES

- 1. READ ALL QUESTIONS AND FOLLOW INSTRUCTIONS.**
- 2. THE EXAMINATION IS OUT OF 70 MARKS.**
- 3. SECTION A IS COMPULSORY, ANSWER ANY 2 QUESTIONS FROM SECTION B**
- 4. WRITE LEGIBLY!!!!!!**
- 5. THIS PAPER CONSISTS OF THREE PAGES, INCLUDING THE COVER PAGE**
- 6. STUDENTS MAY BRING INTO THE VENUE THE FOLLOWING STATUTES:**
 - i) The Constitution of Zimbabwe (2013)**
 - ii) The Interpretation Act (Chapter 1:01)**

SECTION A

This section is compulsory

Question 1

‘Presumptions of legislative intent often reflect basic legal values embedded in such concepts as “The Rule of Law or the Principles of legality.” The presumption against the ousting of the court’s jurisdiction, against retrospectivity, against unreasonableness, injustice, presumption in favour of principles of natural justice, the right to legal representation, presumption of mens-rea as a requirement for criminal liability illustrate the extent to which accepted methods of statutory interpretation seek to give effect to those legal values that constitute the pillars of the edifice of Roman-Dutch law. A judge is obviously at liberty to overlook these presumptions in favour of others less intimately associated with the” Rule of Law” or the principle of legality, or to invoke other rules of statutory interpretation in the course of his search for the intention of the legislature. As there is no hierarchy of rules of statutory construction or presumptions.....On the other hand, when a judge invokes such a presumption he does so in the secure knowledge that he is employing those rules of statutory interpretation that give best effect to the principles of Roman-Dutch law. In this sense they may be considered as “preferred presumptions” in the same way as certain of the more basic rights contained in the American Bill of Rights are regarded as “preferred presumptions” per **Devenish on Interpretation of Statutes Juta and Co. 1992 at page 200 citing Duggard Statutory Interpretation.**

In light of the above statement, discuss in full the following presumptions:

- a) The presumption against the ousting of the court’s jurisdiction; [5]
- b) The presumption against retrospectivity; [4]
- c) The presumption against unreasonableness; [4]
- d) The presumption against injustice; [4]
- e) The presumption in favour of principles of natural justice; [5]
- f) The presumption that the right to legal representation is not excluded; [4]
- g) The presumption of mens-rea as a requirement for criminal liability; [4]

SUB TOTAL: 30 Marks

SECTION B

Answer any TWO questions from the following

Question 2

Compare and contrast the four judgements (decisions) handed down in the case of **Jonathan Moyo and Others v Austin Zoma and Anor**, by Justice Patel in the High Court, and by Chidyausiku CJ, Malab DCJ, and Sandura JA in the supreme Court.

Critically analyse the use of the rules and principles of interpretation by the four learned Judges and also write which decision you agree with and why. [20]

Question 3

“The reason for this is that, to determine the purpose of legislation, it is necessary to have regard to the Act as a whole and not to focus attention on a single provision as decisive..... which might well result in a wrong conclusion.” See, Venter V R 1907 TS 5 910at913; Jaga v Donges NO. and Another 1950 (4) SA 653 at 662

Discuss this statement, making use of the internal aids to construction of statutes. [20]

Question 4

Compare and contrast the purposive theory of interpretation, the teleological theory of interpretation and the objective theory or delegation theory of interpretation. [20]

Question 5

Critically discuss the relevant principles that were discussed in the following cases:

- (i) George Pretorius Quinell vs. Minister of Lands Agriculture And Rural Resettlement & Others SC 31/10 [5]
- (ii) Kuvarega vs. Registrar General & Others 1998 (1) ZLR 188 [5]
- (iii) Commercial Farmers Union vs. Minister of Lands and Others 2000 (2) ZLR 469 (S) [5]
- (iv) Jaga versus Donges & Another 1950 (4) S.A.653 [5]

END OF EXAMINATION

SUBTOTAL: 70 Marks