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COLLEGE OF BUSINESS, PEACE, LEADERSHIP & GOVERNANCE

SHA210: HEALTH LAW

END OF SECOND SEMESTER FINAL EXAMINATIONS

APRIL/MAY 2019

LECTURER: C. MUNGUMA

DURATION: 3 HRS

INSTRUCTIONS

Answer **QUESTION 1** from **Section A (COMPULSORY)**

Answer any **THREE** questions from **Section B**

Marks allocated to each question are indicated in brackets at the end of the question.

DO NOT repeat material.

SECTION A

Question 1

Hardy Chidembo is the leader of the Holy Waters Church (HWC), an apostolic church that does not believe in western medicine. Members of the church are not permitted to seek medical help in the event of illness or injury. Child members are also prohibited from receiving immunization doses. Expecting women from the church are not allowed to seek both neo-natal and post-natal care from trained professionals. Instead such women go to the church's birthing camps that are under the care of a female church healer (Murapi or Nyamukuta). These healers rely on faith healing to deliver babies as well as managing the pregnancy. The camp is located in the bush and has makeshift huts that are used as the delivery rooms. For ablution facilities the women use pit latrines while water is drawn from a perennial spring located 1 kilometer from the camp. For lighting paraffin lanterns are used and firewood is used for cooking.

Hardy's first wife has lost one child at the birthing camp while his second wife has lost two children as a result delivery complications including high blood pressure at birth. Other church members have lost a number of children as well as wives during child delivery at some of the church's camps. Recently a daughter of the church leader, who was married at the age of 15 has fallen pregnant and has been taken to the birthing camp. Both the mother to the girl and the girl herself are happy with the arrangement. Hardy as the father of the 15year old pregnant girl is happy with the arrangement and believes that the Holy Spirit will deliver her from any harm. A cousin of the girl, Tamuka who is not a member of the church is very averse to the arrangement and fears that her cousin (Hardy's daughter) may die at the birthing camp because of her tender age. Tamuka reports the matter to the police as well as advising the nearest hospital about the development.

A team of health personnel and the police raid the birthing camp and discover 25 pregnant women at the camp. Of the 25 women, 20 of them refuse to leave the camp and have refused to eat or take any medication if taken away from the camp. Only 5 women including Hardy's pregnant daughter agree to leave the camp for hospital. Based on the above scenario answer the following questions:

- a) Were any constitutional rights of any person violated in the above case? Identify the persons as well as the rights violated? [13]

- b) Were any criminal offences committed by any of the people in the above case? [3]
- c) Is the conduct of the police and health personnel in raiding the birthing camp justified by law? [12]

SECTION B

Question 2

- a) Compare and contrast the role of:
 - i) The High Court and the Constitutional Court
 - ii) Magistrate Court and the Supreme Court. [15]
- b) Discuss the difference between:
 - i) Private law and criminal law?
 - ii) Substantive and procedural law? [10]

Question 3

- a) Discuss the concept of negligence as a ground of liability in civil law in Zimbabwe. [17]
- b) What are the requirements for liability based on contract? [8]

Question 4

The constitution of Zimbabwe provides for the right to health and related rights in clear detail. In view of the constitutional provisions comment whether Zimbabwe is in compliance with them. [25]

Question 5

- a) With the aid of examples analyse how the discovery of notifiable diseases is supposed to be handled from the point of discovery/identification in Zimbabwe. [15]
- b) Local authorities have the duty to inspect and approve water sources as well as slaughter houses in towns and cities. In your view why are slaughterhouses and water sources critical public health issues in any community? [10]

Question 6

- a) The Public Health Act sets out principles of public health and practice. Discuss whether the principles create substantive rights that citizens can enjoy in practice. [10]
- b) John a medical practitioner of 6 years' experience treats a patient suffering from a zoonotic disease, anthrax. After diagnosing and treating the patient John does not advise the hospital authorities because he had no time to write a report about the discovery. Two

weeks later the hospital is inundated by cases of patients suffering from the same disease. Incidentally 80% of the patients received by the hospital with the disease are coming from the same village as the patient that John attended to initially. John's superiors have become aware that John failed to inform the hospital of the anthrax case and are very furious. The authorities want to discipline John for his omission. From these facts did John commit an act of misconduct justifying disciplinary action? [10]

- c) If John had advised the hospital of the anthrax case, what steps would the hospital have taken to comply with the law? [5]

Question 7

- a) What does the Factories and Works Act (Chap 14:08) regulate in Zimbabwe? [10]
- b) Highlight the main features of the Mental Health Act (Chap 15:12). [8]
- c) Identify any religious or custom practised in Zimbabwe that affects the right to health of the public which is also contrary to the law. [7]

End of Paper