



“Investing in Africa’s Future”

SCHOOL OF LAW

NLLB101 INTRODUCTION TO LAW

END OF FIRST SEMESTER EXAMINATIONS

NOV/DEC 2023

LECTURER: C. MUNGUMA

DURATION: 3HRS

GENERAL INSTRUCTIONS TO CANDIDATES

1. Do NOT write your name on the answer sheet.
2. Answer **one** question from Part A and any **three** questions from Part B.
3. Begin your answer for each question on a new page.
4. Marks allocated to a question are indicated at the end of the question.

Part A (Compulsory for all candidates)

Question 1

Chief Nhari is a traditional leader. As a Chief he presides over customary law disputes in his chieftainship. In one case of adultery heard before him, Chief Nhari allowed the plaintiff's wife to prove the act of adultery by striking Quinton the defendant on the head with her undergarment. This procedure is an old customary practice called the 'Shashiko' way of proof of an act of sexual intercourse between a man and a woman. After that was done, the chief and his assessors ruled that the act of adultery was proved. No further evidence was led, other than the allegation of John the plaintiff, that he had previously seen the defendant following his wife while she had gone to fetch firewood in the forest. According to John, the fact that the defendant was following his wife to the forest was proof of an illicit relationship between the two. He went further stating that if he had not intercepted the two, they were going to engage in sexual acts that day. Despite Quinton's denials, the court ruled that he had committed the act and was ordered to pay five head of cattle and USD300 as damages for adultery.

In another case, Mrs Munyama approached the court with a claim for damages for defamation after her nephew had labeled her a witch who had killed her children and grandchildren using goblins. The Plaintiff claimed damages in the sum of USD1000. The defendant who was her nephew persisted with her allegation even before the court. The nephew, Parai claimed that countless prophets and spirit mediums had pointed to her aunt as the cause of the numerous deaths in the extended family. Instead of deciding the case on the basis laid before him Chief Nhari ordered the plaintiff and defendant and other family members to consult spirit mediums on what was 'causing numerous deaths in the family'. Mrs Munyama a devout Catholic protested the idea of consulting spirit mediums to resolve the case to no avail.

After the family consultation of the mediums, it was found by the mediums that indeed Mrs Munyama had some evil charms that she inherited from her late husband. She was using these to harm family members. The charms were allegedly causing deaths biannually in the family. The Chief then ordered that a spirit medium be engaged by the family to cleanse the family and to get rid of the charms. Mrs Munyama was ordered to foot the cost of engaging the spirit medium to cleanse the home. The claim for defamation damages was completely ignored by the chief. In fact, after the consultation of spirit mediums the case changed from one of defamation to one of witch hunting.

Assuming that you are the Magistrate who has received the above two *cases on appeal* from the Customary Law Court, *write your judgment* in the above two cases showing the errors if any and the correct steps that were taken by the Chief in each case. [25marks]

Part B

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

Question 2

Explain the hierarchy of any four civil courts of record in Zimbabwe. In your discussion highlight the type of cases that the said courts handle. **[25marks]**

Question 3

- a) Discuss instances where customary law applies to a dispute in Zimbabwe. **[18marks]**
- b) After their appointment, judges have security of tenure. Explain security of tenure in relation to judges in Zimbabwe. **[7marks]**

Question 4

- a) Write a position paper discussing how the Legal Aid system in Zimbabwe may be improved so that those who cannot afford legal services of legal practitioners but desperately need the services of lawyers can access it. **[20marks]**
- b) How can customary law courts be capacitated to dispense better and fair decisions in customary law disputes **[5marks]**

Question 5

- a) The procedures followed in trials before courts in both civil and criminal cases are generally the same. Highlight the procedures that are **different** between a civil and a criminal trial. **[10marks]**
- b) It is alleged that the requirement for presidential assent to legal bills before they can become law distorts the separation of powers concept in Zimbabwe. What is your view of this assertion? **[15marks]**

Question 6

- a) Explain civil imprisonment and execution of property in a civil case. **[7marks]**
- b) Identify and explain any four professional duties of lawyers. **[18marks]**

End of Examination Paper