



SCHOOL OF LAW

**NLLB303: LAW OF SUCCESSION;
END OF FIRST SEMESTER EXAMINATIONS**

NOVEMBER 2024

LECTURER :DR. E. RUTSATE

DURATION : 3HRS

GENERAL INSTRUCTIONS TO CANDIDATES

- 1. Do NOT write your name on the answer sheet**
- 2. Answer FOUR questions only (2 from Section A and other 2 from Section B)**
- 3. Begin your answer for each question on a new page**
- 4. Each question is worth 25 marks**
- 5. Authorized Materials: Unannotated copies of prescribed Statutes**

SECTION A

QUESTION 1

- (a) Giving examples and/or making reference to case law where necessary, define the following terminologies within the Gender and the Law discourse?
- (i) Infanticide [3 marks]
 - (ii) Femicide and Honour Killing and the difference between the two? [4 marks]
 - (iii) Direct and Indirect violence and the difference between the two? [4 marks]
 - (iv) Participation [3 marks]
 - (v) Cohabitation in relation to its consequences post a partner's death? [3 marks]
- (b) *Section 4* of the Termination of Pregnancy Act [*Chapter 15:10*] provides three grounds upon which a pregnancy may be lawfully terminated in Zimbabwe. Which are the three grounds or circumstances? [8 marks]

[25 MARKS]

QUESTION 2

- (a) Define equality and equity and the differences between the two terms? [10 marks]
- (b) Within the equality and non-discrimination discourse as fronted by various feminist groups is a debate whereby one group supports the sameness approach while the other advocates for the differences approach to ensuring equal or equitable treatment of men and women depending on one's approach.
- Showing clearly which side of the debate you support, you are required to briefly define and discuss what the '*sameness and differences*' approach entails within the debate on equality, equity and non-discrimination. [15 marks]

25 MARKS

QUESTION 3

- (a) Violent acts can be, (i) physical; (ii) sexual; (iii) economic; (iv) psychological and (v) emotional. Explain the differences and/or similarities among these different acts of violence. [8 marks]
- (b) What are the commonly known risk factors for Domestic Violence? [6 marks]
- (c) In *State versus Gudyanga HH-167-15*, the court outlined the factors that a trial court may take into consideration in assessing sentence in a case of domestic violence.
- (i) What are these factors? [6 marks]
 - (ii) Giving reasons to support your case, what other factors besides the ones listed by the court can you think of? [5 marks]

[25 MARKS]

SECTION B

QUESTION 4

- (a) Using practical examples, which human rights do you view as being violated by the practice of child and/or forced marriages? **[10 marks]**
- (b) With specific reference to the Zimbabwe Constitution and the case of *Loveness Mudzuru and another versus Minister of Justice, Legal and Parliamentary Affairs and others CCZ 12/2015*, briefly discuss;
- (i) the manner in which Zimbabwean law has dealt with child and forced marriages. **[10 marks]**
- (ii) In your view, to what extent has the law managed to address the issue on the ground? **[5 marks]**

TOTAL

[25 MARKS]

QUESTION 5

It has been argued that there has been an overly-protective approach towards girls in some African societies where they are subjected to female genital mutilation (FGM) and yet boys also suffer GBV in the form of forced circumcision under either religious or cultural perspectives. Below is a fictitious scenario which allegedly manages to accurately demonstrate the gender equal treatment of girls and boys when it comes to rites of passage in some African communities.

During the vacation of August 2024 Enela, a 16 year old High School student whose family belongs to the Shangaan tribal grouping had to flee from home after she was informed that she would be sent to a traditional camp for Female Genital Mutilation (FGM) with elderly women performing the rites in line with their culture as outlined in the Cultural Group's constitution which states as follows;

In line with the Shangaan Tribe's cultural practice, all teenage boys and girls should undergo circumcision and female genital mutilation (FGM) respectively, during school holidays or vacations. Teenage girls are to undergo the FGM at a traditional Shangaan cultural camp, where the rites are to be performed by elderly post-menopause women belonging to the Shangaan tribe while teenage boys may be circumcised at a nearest registered medical health facility under the care of a registered male medical practitioner.

Consequently, Enela's thirteen year old younger brother, Ahlulani was circumcised at a local General Hospital by a registered medical practitioner during the same vacation she fled home. The Shangaan Cultural Group states that theirs is a positive cultural practice in line with section 16 of the Zimbabwe Constitution which treats boys and girls equally as they both have to undergo the rites of passage albeit in separate camps.

In light of the above narratives, and with reference to Zimbabwe's Constitutional provisions, you are required to ;

- (a) Discuss the human rights and gendered dimensions of the said scenario outlined above and ; **[15 marks]**
- (b) Clearly point out the issues raised in there that support your position on either the equal, equitable or non-equal or non-equitable treatment of girls and boys. **[10 marks]**

[25 MARKS]

QUESTION 6

The Parliament of Gondwanaland, an African country which has Islam as its State Religion has just passed a law termed the ‘Public Morality Act,’ which states in the following sections;

***Section 2 (a)** No woman shall be allowed to move around in the Central Business District (CBD) of any city, unaccompanied by a man, any time after 7’oclock at night.*

***Section 2(b) (i)** A woman should be dressed modestly all the time as a reflection of our religious and cultural values. Hence any woman dressed skimpily and loitering about in the CBD without the company of a man, shall be arrested and charged with the offence of “loitering for purposes of soliciting for sex and prostitution.”*

***Section 2(b) (ii)** All offenders shall pay an acceptance of guilt fine at the local police station amounting to US\$50 or alternatively serve 5 days’ imprisonment at Kabote Central Prison for women.*

You are required to identify and briefly discuss the human rights and gendered implications of the above provisions.

[25 MARKS]

END OF EXAMINATION