



SCHOOL OF LAW

NLLB301: GENDER & LAW

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 the other 2 from Section B). Questions 1 and 4 are compulsory.**
- 3. Begin your answer for each question on a new page**
- 4. The examination paper carries a total of 100 marks.**
- 5. Authorized Materials: Unannotated copies of the Constitution and prescribed Statutes.**

SECTION A

ANSWER TWO QUESTIONS FROM THIS SECTION

Question 1 (COMPULSORY)

1. Read carefully through the following story and answer the question thereafter.

Kelvin has been married to his wife Melanie (Mel) for 12 years and they have two children Kelvin Junior and Enia aged 11 years and 9 years respectively. Kelvin and Mel who reside in Westside suburb also stay with Kelvin's sister Leah aged 21 years who is a university student. They also have a live-in house worker Ketty aged 20 years. All the characters in Kelvin and Mel's home have experienced violence in one form or another as outlined below;

- a) Kelvin is an alcoholic who often comes home drunk during weekends and always finds a reason to beat up his wife Mel, the most common reason being her failure to heat up his dinner when he comes home in the early hours of the next morning. This is despite the fact that there is a microwave oven in the kitchen into which Kelvin can simply pop in his cold dinner. He also beats up his children if they do not wake up to greet him in those early hours.
- b) Mel is a strict disciplinarian and always helps her children with their homework with a switch beside her; which she does not hesitate to use if one of them fails to answer a question correctly;
- c) Whenever, his wife is not around the house in the evenings, Kelvin has a tendency to go into the kitchen and always smacks Ketty's backside or fondle her breasts whenever he passes by her despite her loud protests. He alleges it's a friendly joke since Ketty's totem is the same as his wife's and hence he is playing the cultural in-laws' game called '*chiramu*.'
- d) In Westside suburb, there is a serious shortage of clean tap water and there are always long queues at boreholes where residents jostle for water. The local council and international NGOs supply bowzers of water three times a week but the queues at bowzers are even worse. Since Leah is on long vacation she is tasked with joining queues fetching water from either the borehole or water bowser. Tom, a driver with Global Water Rescuers, an NGO that delivers water in a bowser twice a week, has made a proposal to Leah that they have sexual relations and he in turn offloads 500 litres of water into a Jojo water tank at Leah's home twice a week. Hence Leah has been having sexual relations with Tom twice a week in exchange for water.
- e) Last Saturday Leah and her two friends Erica and Peggy, who are also her classmates, attended Brendon (a fellow student)'s birthday bash at a night club in town, which most of their classmates attended. Brendon spiked Leah's drink with an unknown drug and went on to have sexual intercourse with Leah while she was out. She woke up only to realize she had been compromised while out.

You are required to identify all the different forms of violence that emerge from the story above (paragraphs (a) to (e) and briefly explain what each of them entails. [25 marks]

Question 2

Giving examples and/or referring to case law where necessary, define and briefly discuss the terminologies listed hereunder;

- a) Giving at least two (2) examples from the 2013 Zimbabwe Constitution, define a 'gender-neutral' provision. [4 marks]
 - b) 'Sex' and 'Gender' and the difference between the two. [5 marks]
 - c) Define the term 'gender stereotype' and identify at least three (3) gender stereotypes of your choice, which you should proceed to briefly discuss. [8 marks]
 - d) Equality and non-discrimination. [8 marks]
- [25 Marks]

Question 3

Explain the following terms as they are understood under both the equality and non-discrimination conceptual frameworks.

- a) Formal/ Juridical (*de jure*) equality [3 marks]
 - b) Substantive/ Transformative (*de facto*) equality [3 marks]
 - c) Equality versus Equity [3 marks]
 - d) Direct versus Indirect Discrimination [3 marks]
 - e) Structural/ Systemic Discrimination [4 marks]
 - f) Institutional Discrimination [4 marks]
 - g) Multiple/Compound & Intersectional Discrimination [5 marks]
- [25 marks]

SECTION B

ANSWER TWO QUESTIONS FROM THIS SECTION

Question 4 (COMPULSORY)

Section 48(2)(d) of the 2013 Zimbabwe Constitution is grossly unfair to men while Section 48(3) is unfair to women. Simultaneously, both *sub-sections* as cited above are arguably inconsistent with Section 56 of the same Constitution on equality and non-discrimination. This is particularly more evident when read with Section 56 subsection 4, paragraphs (a) and (b) recognizing that;

“a person is treated in a discriminatory manner for the purpose of subsection (3) if - (a) they are subjected directly or indirectly to a condition, restriction or disability to which other people are not subjected; or (b) other people are accorded directly or indirectly a privilege or advantage which they are not accorded”

Sections 48(2) (d) and 48(3) should therefore be expunged or removed from the Constitution. Giving legally sound reasons for the position, you take, you are required to;

- a) critique the above statement; [8 marks]
- b) Discuss whether the status quo ante vis-à-vis the 2 sections is justified to remain as such; and [10 marks]

- c) Explain whether section 48(2) (d) and 48(3) should be expunged from the Constitution as suggested. [7 marks]
[25 marks]

Question 5

- (a) Discuss the human rights arguments that have generally been raised as justifying women's participation in politics and decision-making. [10 marks]
- (b) Giving practical examples that support your argument, briefly outline what you generally perceive to be the economic and cultural barriers and constraints that inhibit women from participating fully in the public sectors at the same level as men. [10 marks]
- (c) With specific reference to the 2013 Zimbabwean Constitution and international human rights instruments, what strategies would you recommend as essential in overcoming each of the perceived barriers you outlined in (b) above? [5 marks]
[25 Marks]

Question 6

In an African Christian country called Moroniland, a heated debate has emerged vis-à-vis the contradictory values that serve to protect women and girls' sexual and reproductive health rights on one hand and unborn children's rights on the other. Moroniland has a Constitution enacted in 2013 which is an exact replica of Zimbabwe's 2013 Constitution. Under no circumstances is any form of abortion of an unborn baby allowed under Moroniland's Anti-Abortion Act of 2018. With a view to either amend the Anti-Abortion Act or repeal it totally, the Government of Moroniland has set up a National Debate to be held at the country's Parliament Building between two officers from the Attorney General's Office namely Adolf Gitler and Florence Lightingdale. Adolf Gitler will be arguing for the retention of Anti-Abortion laws to ensure that no unborn baby's life will be terminated for any reason whatsoever, even under circumstances where the life of the baby's mother is under serious threat from continued pregnancy. He will be arguing for unborn children's right to life in line with the Constitution's provisions on children's rights. Supporting him will be the NGO, *Pro-Babies' Lives International* (PBLI) and a men's local cultural group called *Men for Babies Battalion* (MBB). On the other side will be Florence Lightingdale who is fighting for the Anti-Abortion Act to be repealed totally since it is not in line with Moroniland's Constitutional provisions that protect women's rights in general. She will build a case in support of women's sexual and reproductive health rights, arguing that women have a right to choose whether and when to have a baby. Supporting Florence is the NGO, *Women's Lives Matter Feminist Movement* (WLMFM).

Depending on which of the two debaters you support, you are required to outline the points supporting your argument in support of either Gitler or Florence and at the same time, point out the weaknesses of the other side you do not support. Refer to relevant case law and Constitutional provisions in the 2013 Zimbabwe Constitution. [25 marks]

END OF EXAMINATION