



UNIVERSITY  
OF  
LUSAKA

**SCHOOL OF LAW**

**FINAL EXAMINATION PAPER**

**L100- LEGAL PROCESS AND BUSINESS ENVIRONMENT**

**Tuesday, 10 December 2013**

**09:00-12:00 HOURS**

**Time allowed: 3 Hours plus 5 Minutes for reading**

**INSTRUCTIONS TO CANDIDATES:**

1. Check that you have the correct examination in front of you.
2. There are two (2) sections in this paper. Answer **Questions 1 in Section A and Section B** and **any other one (1) from both sections.**
3. Use Two (2) different answer booklets for each section.
4. Answer a total of two (2) questions from each section.
5. Each question must be answered on the answer booklet provided only.
6. Begin answering each question on a new page.
7. No books, Statutes, files, cell phones or other electronic aids are permitted in this exam.
8. There shall be no form of communication between students during the examination. Any students caught doing so will be disqualified.

**DO NOT TURN THIS PAGE UNTIL YOU ARE TOLD TO DO SO**

## SECTION A: LEGAL PROCESS

### Question 1 (Compulsory)

There are many reasons why countries including Zambia have considered it necessary to promulgate rules on interpretations of statutes. What is the rationale behind this need?

The rules below are often applied by the courts with regards statutory interpretations. Provide succinct explanations **citing relevant authority** for your response:

- i) Context Rule of interpretation;
- ii) Fringe meaning rule of interpretation;
- iii) Golden rule of interpretation;
- iv) Purposive approach;
- v) Fringe meaning rule; and
- vi) Literal or grammatical rule of interpretation.

In your view, which rule is most likely to produce an absurd result? In your response, give a case in which such an absurd result could be said to have occurred by virtue of application of such a rule. **(25 Marks)**

### Question 2

Zambia practices a dual legal system. In such a situation, conflicts and contradictions are bound to arise in the application of the law.

- i) How in your view has the application of the dual legal system worked in Zambia in promoting justice and equity? Should such a system continue to be practiced or should an attempt be made to codify and progressively develop the system into one body of law? **(8 Marks)**
- ii) When a conflict arises in the process of applying in particular, customary law system, how do courts attempt to resolve the conflict (cite relevant authority in support your answers). **(8 Marks)**
- iii) With particular reference to certain customs, such as the permissibility of polygamous marriage under one system of law and the different ages of eligibility for marriage, does the dual legal system safeguard the interests of its citizens in an equitable manner? What is the rationale for permissibility of double standards affecting the same group of people belong to the same country? **(7 Marks)**

### Question 3

The concept of precedent emanates from the common law system and continues to be followed in Zambia. It has its own advantages as well as disadvantages attached to it.

- i) How is the concept applied in the Zambian courts, which courts are bound by it? Is the Supreme Court bound by its own precedents, is there a time when it may feel bound not to follow its own precedent? **(7 Marks)**

- ii) What do you understand by binding precedent; and persuasive precedent? **(6 Marks)**
- iii) Write a succinct paragraph on each of the following principles: (a) Ratio decidendi; (b) Obiter dictum; (c) Res judicata. **(12 Marks)**

### **Section B: Business Environment**

#### **Question 1 (Compulsory)**

**Read the following case and answer questions (a) and (b) that follow.**

#### **Wal-Mart in Trouble**

The beginning of the 21<sup>st</sup> century brought with it a spate of problems for the world's largest retailer Wal-Mart. The company found itself facing one of the biggest lawsuits ever in the history of the US. In June 2001, a former Wal-Mart employee, Betty Dukes (Dukes), had filed a case accusing the company of 'sex discrimination in promotions, training and pay.'

Many more employees joined Dukes, and by May 2003, the case had taken the shape of a class action suit after the plaintiffs asked a Federal Judge to allow the case to proceed on behalf of more than 1.5 million women. Wal-Mart had for long been accused of not treating its female employees in a socially responsible manner. A study of Wal-Mart's own employee data (conducted by some experts hired by the plaintiffs) revealed that women had been discriminated against in many instances. Even the company's internal memos revealed that Wal-Mart was far behind its competitors in promoting women at the workplace. Industry observers said that the company's competitors had employed more female managers in 1975 than Wal-Mart did even in 1999.

Apart from the sex discrimination case, Wal-Mart was also accused of breaking Federal laws that protected the freedom of association of workers. The company was reportedly found guilty of retaliating against and firing workers who were involved in union organizing. In addition, Wal-Mart was alleged to have failed to provide safe workplaces, to have utilized child labor and to have offered highly unaffordable healthcare plans.

Wal-Mart faced lawsuits (filed in more than 30 states in the US) that accused it of breaking many Federal overtime laws (in some cases, company managers locked stores to prevent workers from leaving the premises).

On November 21, 2002, thousands of protestors took to the streets in 40 US cities protesting against Wal-Mart's treatment of employees. Commenting on the situation Wal-Mart was in, Kyle Johnson, Project manager at Domini 400 Social Index, a US based socially responsible investment fund, said, "Wal-Mart is a market leader in retail, yet has not taken a leadership position on labor issues and has been unresponsive to calls for change from shareholders".

**Case adopted from Business Ethics Catalogue:**

<http://www.icmrindia.org/casestudies/catalogue/Business%20Ethics/Wal-Mart%20-%20Case%20of%20Employee%20Discrimination.htm> (accessed on 22 November 2013)

- a. In this case why has Wal-Mart been termed as not 'socially responsible'? **(10 Marks)**
- b. Critically assess the importance of social responsibility and suggest ways that Wal-Mart can improve its social responsibility to enhance its competitive advantage. **(15 Marks)**

**Question 2**

- a) Using 5 situational cases as examples for Pros and Cons, critically evaluate the relevance of whistle blowing in an Organisation. **(15 marks)**
- b) With the help of examples, discuss any **FIVE of the various publics** of a business, and show how a business can maintain harmonious relations with each of these societal groups. **(10 Marks)**

**Question 3**

- a) With a definition of a Multi-National Corporation (MNC), List and explain any **five strategies** which a Multi-National Corporation can use to achieve international involvement in a Host nation. **(10 Marks)**
- b) Giving relevant examples list and explain any **five benefits** of a Multi-National Corporation (MNC) to a Host nation. **(10 Marks)**
- c) Giving your understanding of Ethics, discuss the **Utilitarian Approach** to Ethics in management. **(5 Marks)**

**END OF EXAMINATION**