



UNIVERSITY
OF
LUSAKA

SCHOOL OF LAW

FINAL EXAMINATION PAPER

L100- LEGAL PROCESS AND BUSINESS ENVIRONMENT

Thursday, 16 January 2014

14:00-17:00 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

Zambia practices a dual system of law comprising customary law and common law. Customary law is however not applied when it conflicts with any written law and when it is considered to be repugnant to natural justice.

The principle above has been applied in several court judgments. Discuss two well-known cases below, giving the facts and ration *decidendi* of each case:

- a) ***Kaniki v. Jairus*** (1967)
- b) ***Matengula v Matengula*** (1951)

What in your view are some of the inherent problems experienced by the courts in the application of customary law? How can such problems be overcome? **(25 Marks)**

Question 2

The supremacy of the Zambian constitution is incontestable. The case of **Christine Mulundika and seven others v The Attorney General (1995)** as well as **Thomas Mumba v The Attorney General (1984)** among others, is living proof of this assertion.

In your discussion of those two cases, elucidate what provisions of the constitution were in contention and what the courts legal reasoning was in upholding the contestant's applications.

The National Economic Empowerment Party wishes to hold a political rally at which its controversial President, Mula Mula wishes to air his views regarding the stalled constitutional making process. You are requested for your legal opinion whether the party should seek a police permit in order to hold the rally. Provide your legal opinion citing relevant provisions of the constitution to support your view. **(25 Marks)**

Question 3

Zambia has a hierarchy of courts.

In your discussion of this hierarchy, what is the jurisdiction of each court? What is the rationale for the hierarchical positioning of the courts and does this advance fair dispensation of justice?

In relation to the above issue, the concept of judicial precedence plays a prominent role in the furtherance fair justice. What does this concept entail, what are the

reasons behind this principle and which courts are able to create it and which courts does it bind. **(25 Marks)**

SECTION B: BUSINESS ENVIRONMENT

Question one

Determine the shortcomings of Porter's Five forces, giving illustrations of how it is not an exhaustive tool for a **macro** analysis of the environment. **(25 marks)**

Question two

"One cannot create an industry where customers are unable to appreciate the value of the product, it is better to compete in already existing industries"

Analyze the statement above giving 4 argumenets that support this phrase and 4 arguments that do not support this phrase. **(25 marks)**

Question three

"The environment in which a firm is set up is simply a product of what its legal requirements allow it to be, it cannot go beyond the boundaries set before it by the laws that govern its structure"

Using the L in the Pestle analysis and theories of organizational structure, discuss the stament above. **(25 marks)**

END OF EXAMINATION PAPER