

IND203X

October/November 2008

AFRICAN CUSTOMARY LAW

Duration: 2 hours

100 marks

EXAMINERS:

FIRST:	MRS NF DLAMINI-NDWANDWE	MS SM BALOYI
	MR DD NDIMA	Adv IL NKUNA
SECOND:	PROF FPvR WHELPTON	

This paper consists of two (02) pages

INSTRUCTIONS

- ☐ Answer ALL the questions.
- ☐ Pay careful attention to the ALLOCATION OF MARKS and adapt your answer accordingly.
- ☐ DO NOT SEPARATE SUBSECTIONS OF QUESTIONS.

QUESTION 1

Discuss the nature of customary law with reference to the following:

- Group orientation
- Concrete approach
- Religious element
- Time
- Governmental functions

[20]**QUESTION 2**

- (a) Discuss the ways in which the various types of indigenous marital unions can be dissolved. (20)
- (b) Discuss (with the aid of relevant case law) the constitutionality of section 23 of the Black Administration Act, together with the regulations promulgated there under. (10)

[30]**[TURN OVER]**

QUESTION 3

Evaluate the following statements:

- (a) Indigenous law is an expression of community values. (5)
 - (b) In original customary law, a person's gender had influence on his status. (5)
 - (c) C, a headman orders D to steal X's corn at night. D is caught and he says he is justified in his conduct because C ordered him to do so. (5)
 - (d) Mediation is an important administrative function in African customary law (5)
- [20]

QUESTION 4

- (a) Describe the main principles of the African customary-court procedure (20)
 - (b) Discuss the concept of traditional leadership in accordance with the traditional leadership and Governance Framework Act 41 of 2003 (10)
- [30]

[100 MARKS]

IND203X

Oktober/November 2008

AFRIKA-GEWOONTEREG

Tydsduur: 2 uur

100 Punte

EKSAMINATORE:

EERSTE: MEV NF DLAMINI-NDWANDWE ME SM BALOYI
MNR DD NDIMA Adv IL NKUNA
TWEEDE: PROF FPvR WHELPTON

Hierdie vraestel bestaan uit twee (02) bladsye

- ☐ Beantwoord AL die vrae
- ☐ Let op die TOEKENNING VAN PUNTE en beantwoord die vrae dienooreenkomstig.
- ☐ MOENIE ONDERAFDELINGS VAN VRAE SKEI NIE.

VRAAG 1

Bespreek die aard van Afrika gewoontereg met spesifieke verwysing na volgende

- Groepgerigtheid
- Konkrete benadering
- Religieuse inslag
- Tyd
- Bewindsfunksies

[20]**VRAAG 2**

- (a) Bespreek die wyses waarop die onderskeie tipes gewoonteregtelijke huwelike ontbind kan word. (20)
- (b) Verduidelik aan die hand van relevante hofbeslissings die grondwetlikheid van artikel 23 van die Swart Administrasie Wet, asook die regulasies wat daarkragtens gepromulgeer is. (10)
- [30]**

[BLAAI OM]

QUESTION 3

Evalueer die volgende stellings.

- (a) Die Afrika gewoontereg is 'n uitdrukking van gemeenskapwaardes. (5)
 - (b) In die oorspronklike Afrika gewoontereg het geslag 'n invloed op 'n persoon se status gehad. (5)
 - (c) C, 'n Hoofman, gee aan D opdrag om in die nag by X koring te gaan steel. D word gevang en beweer dat sy optrede geregverdig is omdat C hom beveel het om die koring te steel (5)
 - (d) Bemiddeling is 'n belangrike administratiewe funksie in Afrika gewoontereg. (5)
- [20]**

QUESTION 4

- (a) Bespreek die hoofbeginsels van die Afrika gewoonteregtelike hofproses. (20)
 - (b) Verduidelik die konsep van Tradisionele Leierskap ingevolge die Wet op Tradisionele Leierskap en Regeringsraamwerk 41 van 2003. (10)
- [30]**

[100 PUNTE]