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**NATIONAL UNIVERSITY OF LESOTHO**

**FACULTY OF LAW**

**LL.B FINAL EXAMINATIONS**

**L182 - CUSTOMARY LAW**

**MAY 2018**

**MARKS: 100**

**TIME: 3 HOURS**

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**INSTRUCTIONS:**

1. There are **SIX (6)** questions in all; three (3) questions are in Part “A” and other three (3) questions are in Part “B”.
2. Answer **TWO** questions from Part “A” and **TWO** questions from Part “B”.
3. Write legibly and neatly; should you have to make any correction, simply ~~cancel through with a single line~~.
4. Legal authorities wherever used must be underlined.

## **PART A**

### **QUESTION 1**

(a) Identify any two social institutions/structures in your community and discuss the roles which these social institutions/structures have allocated to women.

**15 Marks**

(b) To exit the roles given to women by the above social institutions, women would ordinarily have to go through role-exit stages. Explain these role-exit stages.

**4 Marks**

(c) Social institutions/structures *do* change over a long period of time. Identify and briefly explain any three (3) factors that influence this social institutional/structural change.

**6 Marks**

**[25 MARKS]**

### **QUESTION 2**

With relevant examples, discuss the difference between the *official* and the *living* versions of customary law.

**[25 MARKS]**

### **QUESTION 3**

(a) With the aid of relevant examples, discuss the effect of colonialism and codification on the living customary law.

**18 Marks**

- (b) Describe how the living version of customary law may be ascertained by the courts in Lesotho.

**7 Marks**

**[25 MARKS]**

### **PART B**

#### **QUESTION 4**

- (a) Mr Penapou has heard that you were a student of customary law in the University of Zowe. He wants his daughter to be married under Basotho Customary law and plans to make this a very memorable event for his only child. He has come for your advice on all the essential requirements of a valid customary marriage. Please advise Mr Penapou

**15 Marks**

- (b) Mr Penapou's grandfather has also told him about other different types of customary marriages. Briefly explain to him about five of such marriages.

**5 Marks**

- (c) With authorities, discuss the principles under which *Mafisa* contracts were entered into under custom.

**5 Marks**

**[25 MARKS]**

#### **QUESTION 5**

- a) Discuss the circumstances, if any, under which divorce could be granted under custom and what are the consequences of divorce.

**10 Marks**



- (b) Discuss the five types of customary law property.

**10 Marks**

- (c) Legitimate and illegitimate children under custom have the same rights and status. Do you agree? Give reasons for your answer.

**5 Marks**

**[25 MARKS]**

### **QUESTION 6**

Miss Maleleme is an infamous woman. She is alleged to have defamed Mr Molako-lako (Lako) who is a headman of the village by saying that he is a “ritual murderer and a wizard” who was caught on top of her house naked at night.

- (a) What are the remedies available to Molako-lako under customary law?”

**5 Marks**

- (b) Define the offence of defamation under custom and five different defenses which are available to Maleleme against any claim for defamation by Lako.

**10 Marks**

- (c) In certain situations assault and killing of a person may be justifiable under custom. Do you agree? Give reasons for your answer.

**10 Marks**

**[25 MARKS]**

.....**END OF PAPER**.....