UNIVERSITY OF FORT HARE

AFRICAN CUSTOMARY LAW
LAC 223E

MAIN EXAMINATIONS

Time: 3 HOURS
Subject: LAC 223E
Marks: 100

This paper consists of 2 pages including the cover page

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INSTRUCTIONS

1. ANSWER ONE (1) QUESTION FROM SECTIONS A & B.
2. It is in your best interest to write clearly and legibly
3. Rely on relevant case law and statutory provisions

SECTION A

1. Distinguish with examples, the difference between 'living customary law' and 'official customary law'

   [50]

2. The idea that Customary Law is of the same status as Roman-Dutch/English common law is a fiction. Do you agree?

   [50]

SECTION B

3. Comment critically on the indigenous law of succession with reference to arguments presented in Bhe And Others V Magistrate, Khayelitsha And Others (Commission For Gender Equality As Amicus Curiae); Shibi V Sithole And Others; South African Human Rights Commission And Another V The President Of The Republic Of South Africa And Another 2005 (1) SA 580 (C) and any other case law on the Law of Succession.
4. One of the traditional ways of initiating marriage in customary law was through the custom of ukuthwala. Write a note in which you outline the traditional process/steps of the custom of ukuthwala fully and discuss the constitutionality of the custom referring to relevant, constitutional provisions and legislation.