

UNIVERSITY OF FORTHARE
NELSON R. MANDELA SCHOOL OF LAW
EAST LONDON
African Customary Law B
DIPLOMA IN LOCAL GOVERNMENT LAW &
ADMINISTRATION
LAC 321 E
Examination
October/November 2019

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Time: 3hrs

Subject: African Customary Law B (SALGA)

Marks: 100

This paper consists of 2 pages including the cover page

Internal Examiners

External Examiner

Mr N Ndlovu

Mr A Katurura

Instructions

- This paper consists of 4 questions
- Answer all questions
- It is in your best interest to write neatly

Question 1

Identify and discuss factors that affect legal status and capacity in customary law. In your answer discuss the recent decision of *Mphephu v Mphephu-Ramabulana and others* (948/17) [2019] ZASCA 58 in relation to sex as a ground that affect status at Customary law. [25]

Question 2

Comment critically on the indigenous law of succession with reference to arguments presented *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. [25]

Question 3

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. [25]

Question 4

- a) Write a note in which you explain and discuss a family head in customary law. In the course of your answer discuss the role and importance of family headship in African families. [15]
- b) List and briefly outline any five (5) sexual wrongs that form part of the customary law of delict. [10]