

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

Internal Examiners

Prof ES Nwauche

Adv W Moeketse

Internal Moderator

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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.

[50]

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.

[50]

[100]