LJU4802

PROFESSIONAL ETHICS

Duration 2 Hours 100 Marks

EXAMINERS
FIRST
SECOND
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Closed book examination

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This paper consists of 2 pages

1. ANSWER ALL THE QUESTIONS
2. READ THE QUESTIONS CAREFULLY BEFORE ANSWERING THEM

QUESTION 1

Law is practised as a profession and is not merely a job. What distinguishes a profession from other jobs, businesses or trades? [8]

QUESTION 2

2.1 In the history of South Africa there have been legal practitioners whose political commitments brought them into conflict with their duty to uphold the law. Refer to case law and indicate the influence such political commitments had on them in being "fit and proper" to practice law or not (25)

2.2 The "fit and proper" test has been constitutionally challenged on two occasions. Refer to case law and indicate the Constitutional Court's verdict in both cases (8)

2.3 It seems as if the duty test and not the character test, is applied by the courts in the new South Africa. Illustrate this view by referring to case law where an applicant's belief has brought him into conflict with the law (7) [40]

[TURN OVER]
QUESTION 3

3.1 Under what circumstances will resistance to the law (civil disobedience) be justified? (5)

3.2 May you as a legal practitioner engage in civil disobedience? Explain (5)

[10]

QUESTION 4

Despite lofty ideals and strong disciplinary prescriptions there is criticism from both the side of the profession and the public against legal codes of ethics. Discuss (12)

QUESTION 5

Bearing in mind the division of the legal profession (advocates and attorneys) discuss the lawyer’s relationship with clients under the following headings

5.1 Acceptance of a mandate from clients (5)
5.2 The duty of confidentiality owed to a client (5)
5.3 Recourse for clients who are not satisfied with a legal practitioner’s work (5)

[15]

QUESTION 6

6.1 Is the traditional approach to legal ethics still acceptable? (10)

6.2 What OTHER ethical approach do you personally think will change the legal profession for the better? Explain why you suggest that specific approach briefly (5)

[15]

TOTAL: [100]