

14:00

31/10/07

F. HALL

EXAMS OFFICE  
USE ONLY

University of the Witwatersrand, Johannesburg

Course or topic No(s)

LAWS1005

Course topic names(s)  
Paper Number & title

PERSONS AND FAMILY LAW

Examination / Test\* to be held during  
month(s) of (\*delete as applicable)

NOVEMBER 2007

Year of study  
(Art & Science leave blank)

Degrees / Diplomas for which  
this course is prescribed  
(BSc (Eng) should indicate which branch)

LLB

Faculty/ies presenting candidates

COMMERCE, LAW AND  
MANAGEMENT

Internal examiner(s)  
and telephone extension  
number(s)

PROF T MOSIKATSANA (X 78475)  
MS M CHETTY  
PROF M PIETERSE (EXT 78452)  
MR A SIPONDO  
MS A STAROSTA

External examiner(s)

PROF A BOSHOFF

Special materials required (graph/music/drawing  
paper maps, diagrams, tables, computer cards, etc)

Time allowance

Course no: LAWS1005 Hours: TWO

Instructions to candidates  
Examiners may wish to use this space to indicate,  
inter alia,  
the contribution made by this  
examination or test towards the year mark, if  
appropriate

1. ANSWER ALL QUESTIONS. THERE IS NO CHOICE.
2. WRITE THE NAME OF YOUR LECTURER ON YOUR SCRIPT.
3. THIS EXAM COUNTS FOR 35% OF THE FINAL MARK.

**Internal Examiners or Heads of  
Departments are requested to sign  
the declaration overleaf**

**ANSWER ALL QUESTIONS**

**Question 1**

Gregory and Norma are both students at a University in the Western Cape. When they meet in 1994, Norma is in her final year of study for the LL.B degree. Gregory is in his first year of studies in accounting.

After she completes her law degree, Norma moves to Johannesburg to take up an articling position. She completes her articles and joins the law firm as an associate. In 1998 she becomes a partner in the law firm earning a high salary.

In 1999 Gregory and Norma enter into a standard antenuptial contract. At the time of entering into the marriage, Gregory has a R20 000 study loan, while Norma has savings of R50 000.

In the same year, Gregory completes a degree in accounting. He moves to Johannesburg to join Norma. Gregory cannot find employment. Norma maintains him and lends him her car to use in his job search. Instead of using Norma's car to attend job interviews as agreed between them, Gregory drives around the Johannesburg streets picking up girls and taking them to Norma's house to have sex.

On several occasions, Norma finds used condoms in her bedroom. She becomes suspicious. One day she comes home early from work only to find Gregory in bed with a strange woman. She is angry and orders them both out of her house.

In 2007 Norma finds Gregory's infidelity intolerable and she wants to divorce him.

Their total assets in 2007 are as follows:

Gregory has a net estate of R100 000 which includes:

- (i) R50 000 which he inherited from his aunt with the proviso that he does not share it with his spouse;
- (ii) R30 000 which he received as compensation for non patrimonial loss; and
- (iii) R20 000 which was donated to him by Norma.

Norma has a net estate of R500 00 which consists of:

- (i) personal savings in the amount of R300 000;
- (ii) a car worth R100 000; and
- (iii) Shares worth R 100 000.

Assume that the value of money has depreciated to half its value from 1999 to 2007.

**WITH REFERENCE TO THE RELEVANT LAW ANSWER ALL OF THE FOLLOWING QUESTIONS:**

- (1) In view of the above allegations Norma applies for divorce. Advise her of her chances of success.  
(5 marks)
- (2) In the event that a divorce is granted, how will Gregory and Norma's property be divided between them under their chosen matrimonial property regime?  
(15 marks)
- (3) Is the court likely to order forfeiture of the benefits of the marriage?  
(10 marks)

**Question 2**

'Marriage, as understood, in Christendom, may...be defined as a voluntary union for life of one man and one woman, to the exclusion of all others.' (Per Lord Penzance in Hyde v Hyde and Woodmansee (1866) LR1 P& D 130 at 133.

Critically evaluate the above statement in the context of the Constitution of the Republic of South Africa. In your answer, express an opinion on whether the consequences that flow from a valid marriage should be extended to cohabitees and whether South African law adequately protects cohabitees.

(10 marks)

**Question 3**

Discuss the usefulness of section 5A of the Divorce Act No 70 of 1979 in the context of Jewish Marriages. Include relevant case law in your answer.

(10 marks)

**TOTAL MARKS FOR QUESTION PAPER: 50**

