INSTRUCTIONS

1. This examination paper consists of **four (4) questions**. You are required to answer **three (3)** of the four (4) questions.

2. This examination paper consists of **three (3) pages**. It is your responsibility to ensure that you have all **three (3) pages**.

3. In answering each question, you are required to write legibly and to clearly indicate the numbers of the questions and sub-questions answered by you.
QUESTION ONE

Mrs. Ndlovu-Miller is employed as a reservation clerk by Sundance Bed and Breakfast. In June 2015 she discovers that she is three months pregnant. She is reluctant to tell her employer, Mr. Johan De Klerk, because he has warned her repeatedly that her job is important and he hopes that she never decides to take long leave or to fall ill.

When she consults her gynecologist for her three month check-up, she informs Mrs. Ndlovu-Miller that there are potential complications with her pregnancy, and that she will need to attend a medical examination at least once a week for the rest of the term of her pregnancy. Whilst discussing this issue on the phone with her husband, Mr. De Klerk walks in and hears some of the conversation. He glares at her and she decides to tell him that she is pregnant and that she will need to take one day off a week for the medical consultations.

Mr. De Klerk is outraged and tells her that she is dismissed because she is dishonest and sickly. He tells her that she knew how he felt about her taking time off, and she has lied to him by not disclosing her pregnancy.

Mrs Ndlovu-Miller seeks advice on whether her employer can fairly dismiss her in these circumstances. Advise her.

(25 marks)

QUESTION TWO

Section 8 of the Promotion of Equality and the Prevention of Unfair Discrimination Act 4 of 2000 (PEPUDA) seeks to protect female members of society from gender-based discrimination. Critically discuss what is meant by the phrase ‘gender-based discrimination’ in this context with reference to the ‘difference debate’ in feminist theory.

(25 marks)
QUESTION THREE

With reference to case law, critically discuss and distinguish between the concepts of formal and substantive equality.

(25 marks)

QUESTION FOUR

Mr. Patrick Cele and his wife have two children (a son aged 13 and a daughter aged 11). Despite his wife’s opinion and displeasure, Mr Cele wishes to send his son to an Inyanga in Ulundi for an Initiation Ceremony where he will be circumcised to enable him to become a man. Mr. Cele feels that it is time for his son to become a man and the sooner this is done the better. He also wants his daughter to undergo virginity testing so that she can take part in the Royal Reed Dancing Festival in Ulundi later this year. Mr. Cele believes that as the “head of the home” his culture requires him to subject his children to these practices and that he has a constitutional right to cultural freedom which no one can take away from him, not even his wife. He also believes that not only his ancestors, but also the community will look upon him and his family favourably because he is following their customs and cultural practices.

Both Mr. Cele’s children attend private schools in the Midlands and feel that these practices are outdated and therefore do not want to undergo them. His wife is also opposed to these practices and tells him that her sister (who is a law student), has told her that there are laws that determine how circumcision and virginity testing is to occur.

Mr. Cele seeks advice regarding his decision and the laws that his sister-in-law has mentioned. In your answer you need to inform Mr. Cele fully on the gender issues involved in his decision.

(25 marks)

(TOTAL FOR PAPER: 75 MARKS)