

**MAKERERE UNIVERSITY
SCHOOL OF LAW**

**FIRST YEAR EXAMINATIONS FOR THE DEGREE OF
BACHELOR OF LAWS (LL.B)**

ACADEMIC YEAR 2023/2024– SEMESTER II

L1210 – PRINCIPLES OF CONSTITUTIONAL LAW II

DATE: SATURDAY, MAY 11, 2024

TIME: 9:00 A.M—12:30 P.M

INSTRUCTIONS:

- (a) Only unmarked versions of the 1995 Constitution are permitted in this examination.
- (b) Answer **FOUR (4)** questions **IN TOTAL**, selecting **TWO (2)** from Section A, **AND** at least **ONE (1) EACH** from sections B and C. **PLEASE NOTE** that Question No.1—marked with an asterix (*) is **COMPULSORY**.
- (c) Your answers should be succinct and clearly thought-out, well structured and authoritatively supported, and fit in **ONE (1)** Answer book;
- (d) **DO NOT WRITE YOUR NAME ANYWHERE ON THE SCRIPT**

SECTION A

Q1.* (30 marks) COMPULSORY:

Stung by the recent sanctions imposed against her by the government of the United Kingdom (UK) and the Social Media criticism which followed, Speaker of Parliament, Rt. Hon. Anita Annet Among has decided to fight back against those “writing malicious reports” about her. Thus, on Monday, May 6th, 2024 she introduced what she called a “Speaker’s Bill” entitled the “Anti-Social Media and Other Imperialist Agents Bill,” which contains the following provisions, *inter alia*:

- (a) No person shall adversely comment on the office of the Speaker of Parliament, and in particular on the person of Anita Annet Among;
- (b) Any person who violates the above provision commits an offence against the people of Uganda and will be summarily sentenced by a new Special Anti-social Media (SPAM) tribunal to a term of five years in jail with no option of bail, and
- (c) The Speaker will make recommendations to the Director of Public Prosecutions (DPP) on which individuals should be charged under the law.

Shocked by this development, Leader of the Opposition, Hon. Joel Besekezi Ssenyonyi stood up to protest the Bill and the process by which it had been introduced to the House. In response, Hon. Among told him,

“You Joelo; shut up. Are you one of those bum-shafters who is after my life? I am the Speaker of the Parliament of Uganda, Queen of Bukedea and Conqueress of the British Empire: In this House I can do whatever I please.” She then proceeded to ask for a vote on the Bill. Despite the lack of a quorum and the overwhelming majority of members voting “Nay,” the Speaker declared “the Ayes’ have it.” When Ssenyonyi persisted with his protest, the Speaker retorted: “You are hereby expelled from the House: you will never be allowed back in this Chamber!”

That afternoon, the Speaker took the Bill to President Museveni for his assent. In response, the President told the Speaker, “This is a very good Bill; it only misses specific mention of me as the Fountain of Honour, Maama Janet, the First Lady and all my children: let me add that clause in and sign.” The Bill was duly amended and declared to have come into force on January 26th, 1986, the date on which the National Resistance Army (NRA) took over power in Uganda. That afternoon, the DPP received a letter from the Speaker directing that proceedings in the SPAM be commenced against Hon. Ssenyonyi as well as Dr. Johnny Spear and Agana Agana—two Social Media activists who organized the 2nd Social Media Parliamentary Exhibition that concluded in March this year, in which they criticized her “profligate spending” and “lack of sexual mores.” Accordingly, the three were arrested and are due to stand trial commencing next week.

Discuss all the Constitutional Law issues raised by the above scenario.

Q2. (20 marks):

Critically respond to EACH of the following developments highlighting their implications for the Rule of Law, Democratic governance and constitutionalism in contemporary Uganda:

- (a) The directive by President Museveni to the Chief Justice of Uganda requesting a review of a decision relating to the attachment of properties belonging to the Uganda Muslim Supreme Council (UMSC);
- (b) The so-called “hand-shake” and one-off service award of UGX.500,000,000/= to former Leader of Opposition (LoP) Hon. Matthias Mpuuga;
- (c) The decision of the Constitutional Court upholding the Anti-homosexuality Act, 2023, **AND**
- (d) The appointment of General Muhoozi Kainerugaba as Chief of Defense Forces (CDF) of the Uganda Peoples’ Defense Forces (UPDF).

Q3. (20 marks):

- (a) Under the 1995 Constitution, the powers of the President are checked and balanced in different ways. With reference to the relevant case law on the

matter, demonstrate how the courts of law in Uganda have checked presidential power and those instances where they have failed to do so,

AND

- (b) What are the implications and impact of the response of the courts to the exercise of executive power for the independence of the judiciary and the doctrine of the separation of powers?

SECTION B (Answer ONLY ONE (1) question):

Q4. (25 marks)

“Honestly, we do not need anything like citizenship. It only complicates people’s freedoms and rights. I think Idi Amin was right when he expelled non-citizens from Uganda. Those called “citizens” are being forced to have duties which is an infringement on their rights. I mean, we all are immigrants from somewhere. Why the stress? This whole statehood thing is also a deception.”

Per Bamu, LLB 1 Student.

Do you agree with the above statement? Justify your answer with relevant authority.

Q5. (25 marks)

Zwatta was born in the Kingdom of Mbatta. She escaped to the Republic of Bambuli because of political upheavels involving her family. Whilst there, she assumed a new name and forged an identity card. She then got married to a one Mahunda, who is a Bambulian and together they got three issue, a girl and two boys. Mahunda is the one who helped her get the forged identity card that led her to receive citizenship in Bambuli. Today, Zwatta and Mahunda are undergoing nasty divorce proceedings because he wants to get married to another woman. He also threatens to take the children away from Zwatta on the grounds that she is not a citizen of Uganda and if push comes to shove, he will persuade the Police to investigate her history. There is also the rather sticky issue that the Internal Affairs Officers of the Bambuli State have always refused to grant their children registration documents. Hence they have no access to medical or education facilities because they do not look like Bambulians.

You are clerking at the offices of Uganda Christian Lawyers Fraternity (UCLF) in Wandgeya and have been asked by your Supervisor to review this file. With reference to relevant Constitutional provisions, statute law and other authorities, prepare a detailed memorandum regarding the various issues in this case file and advise your supervisor on the way forward. Would your advice be any different in case there were no forgeries?

SECTION C (Answer ONLY ONE (1) question)

Q6. (25 marks)

“The categories of discrimination under Article 21 of the 1995 Constitution are never closed. Article 21 only creates an illustrative, rather than exhaustive, list of the prohibited bases of discrimination. It is the ever-present duty of the Courts to remain alive to, and rigorously protect, citizens from the ever-evolving capacity of human beings to find new reasons for hatred, prejudice and discrimination.’

Per LLB 1 student.

Discuss.

Q7. (25 marks)

With the aid of concrete examples, critically assess the extent to which Ugandan courts, in the interpretation of the 1995 Constitution, have faithfully applied the principle that the document must be construed generously and purposively.

Q8. (25 marks)

Juliet is a bright, young first year law student, looking forward to fully thriving at the School of Law, and thereafter pursuing a career as a public interest litigator. In the first month of her first semester as an LLB 1 student, she discovers that she is pregnant. She is sure that the responsible person is Romeo, a fellow first year student. Although not ideal, the two lovers are determined to both pursue their romantic journey and at the same time succeed in their legal studies. To this end, they decide to get married in a civil ceremony, which they plan to hold following the end of the coursework period. To their shock, the Civil Registrar refuses to accept their application, arguing that they should have obtained, and submitted, letters of no objection from their respective parents or guardians. He also notes, disapprovingly, that they are of different religious denominations, ethnicities and political party affiliations and that a union of that nature would probably be doomed to fail from the start. As they sadly leave his office, they overhear him shouting loudly for all to hear: “Kids of these days think that just because they are above 18 years of age and on campus, they can do whatever they want. Not on my watch! Studies first, romance later!” Their dismay is compounded when, a day later, Juliet receives a letter from the Office of the Principal of the School of Law, terminating her admission, on the grounds of “gross, flagrant, evident and undeniable violation of the moral standards expected of a law student.”

Romeo and Juliet are aggrieved by these developments. They approach you for legal advice, as the ‘Sir Udo Udoma’ of the LLB 1 class. Write a comprehensive legal memorandum advising them as to the legal position and the various options available to seek redress.