

**EMERGENCY SCHOOL OF LAW ACADEMIC BOARD MEETING  
(VIRTUAL AND PHYSICAL)**

**MONDAY 20TH MAY 2024, 9.00 A.M.**

**Agenda**

1. Communication from the Chairperson
2. Reactions to communication from the Chairperson
3. Report from Head of Department, Public and Comparative Law about L1210 Principles of Constitutional Law II Examination AY 2023/2024
4. Discussion, observations, comments and Resolutions

**1: COMMUNICATION FROM THE CHAIRPERSON**

The Chair called the meeting to order at 9:15 am and welcomed all to the meeting which was both physical and online.

He thanked members for turning up in big numbers and at short notice.

He also congratulated members for successfully completing administering the Semester II examinations and asked that the marking should immediately start, with priority to be given to marking fourth year examinations given the deadline for submission of names to Law Development Centre

He informed members: That the major agenda for this meeting was to investigate the L1210 Principles of Constitutional Law II exam that was done on 11<sup>th</sup> May 2023

He also read out the letter from the Vice Chancellor Professor Nawangwe dated 15<sup>th</sup> May 2024 that required him to convene an emergency School Academic Board (SAB) meeting to investigate the above.

He emphasized that specifically, the letter required SAB to address the following issues:

- (i) Whether the paper meets the minimum academic standards of Makerere as a premier University;
- (ii) Whether there are ethical issues that fall below expected standards, and
- (iii) To investigate the past three papers set by the same examiner

He further informed members

- i) That in the said letter, the Vice Chancellor asked that a report be submitted to Chairperson Senate for discussion at the meeting scheduled on 21<sup>st</sup> May 2024.
- ii) That even before receiving the letter from the Vice Chancellor, given the mix of both praise and concerns in social media, and the extensive discussion members of SAB had on their



WhatsApp forum, he had requested the Dr. Benson Tusairwe, the Ag. Head of Department of Public & Comparative Law (where the course unit in issue falls) to review the said examination paper and advise him whether it breached any standards

- iii) That when he received the letter from the Vice Chancellor, he then asked him to also address the specific issues raised therein
- iv) That he urged members to be calm in discussing/investigating the issues

He expressed hope that members had through read the said examination paper since it was shared online and that for colleagues that had not had opportunity to look at the said exam and the past papers in the said course units, they were available and going around in the meeting room

He also further informed members:

- i) That Professor Oloka-Onyango had approached him and requested that he be excused from the meeting as the Head of Subject and Chief examiner of the paper.
- ii) That he advised him to turn up and as the chief examiner, make a statement to SAB about the issues and thereafter excuse himself

He noted that this also raised issues about the participation of the other co-examiners in the meeting and observed that, since SAB was asked to "investigate", Senate and other organs that might consider SAB's decision may not take it serious for having allowed colleagues who set the paper in question to take part in the proceedings. He asked for the Board guidance on the matter

#### **MINUTE 2: REACTION TO COMMUNICATION FROM THE CHAIR**

Members in considering the above resolved that the examiners of the paper in question should fully attend the meeting

Professor Joe Oloka-Onyango informed the meeting:

- i) That as Head of Subject, he was chief examiner and took full responsibility for the paper.
- ii) That he disagreed with the entire process leading to the convening of the SAB emergency meeting which he found to be an infringement of his academic freedom enshrined in Article 29 of the Constitution. He thereafter excused himself from the meeting.

Members

- i) Expressed strong reservations about the wording of the letter from the Vice Chancellor which required SAB to "investigate" and the timing where a letter dated 15<sup>th</sup> May 2024 gave SAB a deadline of 20<sup>th</sup> May 2024 to conclude investigations and provide a report. Moreover this was during examination period and included a weekend.
- ii) Strongly protested the very idea of being required to investigate an examination of a paper set by colleagues, in effect to question their competence, notwithstanding that





- they are internationally recognized experts in their area who have taught in this University for decades and also
- iii) Expressed its profound concern that the meeting in effect violates the right to academic freedom enshrined in Article 29 (1) (b) and
  - iii) That a meeting of this nature poisons the teaching and learning environment and undermines the status and credibility of teachers and above all, has a chilling effect on academic life . Indeed a number of lecturers indicated that after the Principal called for the meeting to investigate a paper set by senior colleagues, they had to revisit the examination questions they had set for their course units. This cannot be healthy.

Considering the above, SAB seriously considered not proceeding with the meeting but later agreed to meet UNDER PROTEST and resolved that in future, they will not participate in meetings of this nature that are inconsistent with their right to academic freedom

### **MINUTE 3: A REPORT FROM THE AG HEAD- PUBLIC & COMPARATIVE LAW DEPARTMENT.**

Received a Report from Dr. Benson Tumasirwe, the Ag Head- Public & Comparative Law Department (where the course unit in issue falls). He started his report by summarizing the major areas that the Vice Chancellor's letter required SAB to address, namely:

- (i) Whether the paper meets the minimum academic standards of Makerere as a premier University;
- (ii) Whether there are ethical issues that fall below expected standards, and
- (iii) Investigate the past three papers set by the same examiner(s).

He reported:

- i) That to come up with his report, he used a mixture of methods including reviewing the examination paper in question, perusing several past examination papers in the same course unit for comparison purposes; studying relevant institutional policy documents including the following: Makerere Quality Assurance Policy; Makerere University Academic Integrity Policy (undated); the Makerere University Academic Policies Manual (Revised General Academic and Examinations Regulations of 2022); the Human Resource Manual; the 1995 Constitution of the Republic of Uganda and the Universities and Other Tertiary Institutions Act. In addition he had reviewed the Course Outline for L1210 Principles of Constitutional Law II, the Reading List, and relevant case law.
- ii) That additionally, he perused international policy documents and studies dealing with responsibilities of University faculty and ethical issues with reference to examination and academic freedoms. These include: the Kampala Declaration on Academic Freedom and Social Responsibility 1990; the Lima Declaration on Academic Freedom and Autonomy of Institutions of Higher Education 1988; and the Code of Conduct for Teachers.
- iii) That he also had a discussion with the three Lecturers that set the said examination paper.





**His findings were as follows:**

- i) That On area (i), he found that the examination paper in issue did not violate the minimum academic standards as enshrined in Makerere University policies and the Course outline for L1210 Principles of Constitutional Law II 2023/24.
- ii) On area (ii) of the Investigation, he found that the Makerere University policy documents are largely silent on the expected ethical standards, save for the requirement of moderation. He confirmed that nothing express in the University Policies and regulations relating to ethical standards was infringed. Neither did he find any violation of internationally established ethical standards relating to examinations. He confirmed that the examination was internally moderated.
- iii) With respect to area (iii) of the investigation, he found that the exam did not deviate from the structure and content of past exams in this course unit.

**MINUTE 4: DISCUSSIONS, OBSERVATIONS, COMMENTS AND RESOLUTIONS**

**Members Observed:**

- i) That the course unit in issue deals with complicated real life issues, the exercise of governmental authority, confrontations between government and citizens and that these realities have to be reflected in both the teaching and examination of the subject
- ii) That matters involving governance, politics and state craft will always raise controversy but it is the job of the academic to provide his/her students with a comprehensive and relevant overview of these issues without fear that they will be sanctioned or penalized for so doing
- iii) That the public has often criticized the University for Teaching Abstract Concepts. To address these concerns, academics have increasingly used real live situations in imparting knowledge in line with the University Quality Assurance Policy and Framework. Clause 4 (2) thereof provides that the objectives of the policy are to ensure inter alia: that the quality of academic programs of the university met the stakeholder's expectations and that graduates attain valuable skills, knowledge and attitudes
- iv) That the examination in question, particularly Question 1, which appears to have raised controversy, explicitly required the learners to discuss "...the issues raised by the above *SCENARIO*", meaning it was hypothetical and not factual.
- v) That the background to the scenario which was partially factual stated matters which were already in the public domain and the subject of ongoing intense public discussion which students needed to engage with by applying legal principles thereto.
- vi) That the course outline for course unit in question for the academic year 2023/2024 lists four expected outcomes, namely ensuring that students (a) have grasped the basic elements of Constitutional Law; (b) appreciate its over-arching character in relation to ordinary legislation; (c) fully comprehend the main principles (Rule of Law, Separation of Powers, and Fundamental Human Rights) and (d) be able to apply the key principles of Constitutional Interpretation.





- vii) That looking at the paper in question as a whole; it comprehensively covered all the topics and themes laid out in the course outline and that the examination questions were clearly designed to test the achievements of the expected outcomes as laid out in the course outline

**AGREED:**

- (i) That L1210 Principles of Constitutional Law II 2023/24 examination met the minimum academic standards of Makerere University.
- (ii) That there were no ethical standards of Makerere University relating to the examinations that were breached. That this examination also met internationally accepted ethical standards.
- (iii) That the examination did not deviate from the content and structure of past examinations in the same course units. Indeed the past examinations all had problem questions founded on actual events to which the examiners added scenarios meant to tease out the many legal problems covered.
- (iv) The use of names of known public figures and the events associated with those events is also not unprecedented and no queries have been raised in the past about such use.
- (v) That in case of problem questions having a mix of factual and hypothetical scenarios against real names of individuals, what matters is that a student or any reasonable observer would be to tell that the actions and statements attributed to those names/ public figures are simply hypothetical

**ON ACADEMIC FREEDOM MEMBER AGREED:**

- i) That like all other freedoms, academic freedom is not absolute. However, the only permissible limitations to the enjoyment of academic freedom are limitations which are acceptable and demonstrably justifiable in a free democratic society as provided in Article 43(2) (c) of the constitution of the Republic of Uganda.
- ii) That a situation where Boards of Academic Units are required to enquire into the details of how an academician teaches and examines students inevitably undermines academic freedom and cannot serve the long-term interest of the academic institution and the country at large.
- iii) That an examination is a method of assessment that follows broad parameters as well as specific considerations relevant to the specific discipline. It is important to note the University regulations are quite specific on the pedagogical and other mechanics of teaching however they are silent on examinations apart from the requirements of moderation.
- iv) That the silence was deliberate in order to leave room for a wide range of assessment methods, and to ensure that no limits are placed on the range of issues and ideas that a student might confront in real life. For example, today the issue of Artificial Intelligence (AI) has come to the fore when it was previously a non (or peripheral) issue in the study and teaching of the law.



