



SCHOOL OF LAW

JAN 2022 SEMESTER

CODE: LLB 105

UNIT: CONSTITUTIONAL LAW

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2 HOURS

Question 1 – 30 Marks

Joan Chelimo has noticed that there are many types of laws in Kenya such as those made by Parliament, by County Assemblies, common law, customary law, international law, laws made by Ministers or government bodies, rules made by private bodies, rules made by institutions and so on. Then there is the constitution. All these laws are meant to protect a person in one way or another. Not too often, a law or a rule may be contradictory to the Constitution. With the aid of decided cases, explain to Joan how the Constitution is the supreme law of the land and the implications of that supremacy for institutions, persons and any other laws.

Question 2 – 15 Marks

While listening to a programme on NTV - the presenters discussed at length about the arms of government. In the programme, there was a heated discussion on the executive, legislature, and judiciary. After listening for over two hours to the programme, Joseph Wambua was left more confused than informed. He is a first-year law student at a University in the Ghent. He has heard that you have studied law at a top of the range University called Daystar Law School. He approaches you to explain to him the structure, composition, functions, and powers of the Judiciary in Kenya and how powers of the judiciary are checked by other arms of government.

Question 3 – 15 Marks

Constitutional commissions cut across all arms of government. They are considered to be part of dispersion of presidential powers in the previous constitutions. Use appropriate laws to explain

the composition, powers, appointment of commissioners and removal from office of such commissioners.

Question 4 – 15 Marks

Mary Lekurt lives in a semi-arid village in Marsabit. She goes hungry on several days in a year. She cannot afford medication and general treatment at the nearby hospital as she has no source of income. She has no permanent house. Recently, the County Government demolished her only abode to construct a school on the land she had lived on for over 30 years. The County Government did not call her for a discussion before demolishing her house. When she sought information from the County Government, she was chased away by the watchmen at the gate because she looked rough and haggard. Her Assistant Chief has not been able to help her either. When she went to inquire at the Chief's office, she was arrested and kept in police custody for five days without being produced in court. She was eventually taken to court where she was charged with the offence of 'causing a disturbance'. She was neither informed of the offence with which the authorities were going to charge her, nor was she given facilities to enable her to prepare for her defence. In court, the charge was read to her, and the Magistrate proceeded to convict and sentence her to pay a fine of KShs 5,000/- or three months in jail. Her children, all of whom are under 15 years are not able to go to school nor do they know where to get food. They are suffering. Mapusi Mapusi is an advocate who is willing to offer legal services to Mary Lekurt on a *pro bono* basis. The advocate has planned to discuss with Mary Lekurt about her infringed rights. He wishes to inform her also about possible limitations of fundamental rights and freedoms. Prepare relevant notes for the advocate.

Question 5 – 15 Marks -

The legislature is deemed to be a very powerful arm of government. Discuss.