



KENYATTA UNIVERSITY
UNIVERSITY EXAMINATIONS 2019/2020
FIRST SEMESTER EXAMINATION FOR THE DEGREE OF
BACHELOR OF LAWS
LPR 206: CONSTITUTIONAL LAW II

DATE: WEDNESDAY, 11TH DECEMBER, 2019

TIME: 9.00 A.M. - 11.00 A.M.

INSTRUCTIONS:

1. Answer **QUESTION ONE** and any **OTHER TWO** questions.
2. Support your answers with illustrations from relevant case law, statutory provisions and any other references.
3. Your writing must be **NEAT** and **LEGIBLE**.
4. Your answer script must bear your student's **REGISTRATION NUMBER** both on the cover and every written page therein.
5. Do not scribble or draft answers on the inner or outer cover pages of your answer booklets.
6. Do not write anything except your **REGISTRATION NUMBER** on this Question Paper.
7. All Kenyatta University Examinations rules apply as if they were continued herein.

QUESTION ONE

In 2009, Ann Wanjiku was campaigning for the position of a Member of Parliaments in her local town in readiness for the 2013 general elections in Kenya. This she did so that she could better fight for the rights of her people through her involvement in the legislative arm of the government. However, in 2010 the new Constitution, Chapter 11 (eleven) introduced County governments. Ann therefore decided to wait it out so as to better understand the constitution and what it means for her as an aspirant. She however is struggling to understand the devolved government in terms of its objects, principles as well as its legislative authority. How is it different from the National Government? Is the position as a Member of Parliament still relevant?

With the help of constitutional provisions as well as decided cases, discuss:-

- (a) The objects of devolution and principles of devolved government. (15 marks)
- (b) The legislative authority of county assemblies *vis a vis* that of the National Government. (15 marks)

QUESTION TWO

"The High Court is the ultimate guardian of the Constitution on behalf of the people of Kenya. Where people feel that an individual who was appointed to some office does not meet the requirements of that office, the High Court cannot turn them away simply because the responsibility for that appointment is reserved by the Constitution to the Executive or Legislature. Whereas the appointment is a preserve of the Executive and the right of concurrence is given to parliament, the enforcement of the Constitution is left to the High Court" **Trusted Society of Human Rights Alliance v Attorney General & 2 others [2012]**

eKLR

- (a) Analyze the above statement citing decided cases and relevant constitutional provisions, in relation to the doctrine of separation of powers in Kenya. (10 marks)
- (b) Discuss with the aid of decided cases the concept of Independence of the Judiciary. (10 marks)

QUESTION THREE

Article 20 (4) of the Constitution of Kenya 2010

"In interpreting the Bill of Rights, a court, tribunal or other authority shall promote:-

- (a) The values that underline an open and democratic society based on human dignity, equality, equity and freedom; and
- (b) The spirit, purport and objects of the Bill of Rights
 - (i) With the aid of decided cases and specific provisions of the Constitution, discuss the practice by the Kenyan Judiciary. (10 marks)
 - (ii) Are there any limitations to a right or fundamental freedom? (10 marks)