



KENYATTA UNIVERSITY
UNIVERSITY EXAMINATIONS 2018/2019
SECOND SEMESTER EXAMINATION FOR THE DEGREE OF
BACHELOR OF LAWS

LIL 305: EAST AFRICAN REGIONAL LAW

DATE: MONDAY 8TH APRIL, 2019

TIME: 12.00P.M - 2.00P.M

INSTRUCTIONS:

1. Answer **ALL** questions.
2. Support your answer with relevant illustrations from case law, statutory provisions and any other references.
3. Your writing must be **NEAT** and **LEGIBLE**.
4. Your answer booklet must bear your assigned **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 or your answer booklet.
6. Do not write anything except your **REGISTRATION NUMBER** on this question paper.
7. **ALL** Kenyatta university Examinations rules apply as if they were contained herein.

QUESTION ONE

Salaa and Hamo work for the East African Action for Good Governance, a non-governmental organization based in Nairobi, Kenya. The objectives of the organization are to track the East African Community (EAC) Partner States' adherence to rule of law and educate EAC citizens on the same.

On the 20th of March 2019, Hamo flew to Bujumbura, the capital city of Burundi, in order to attend a conference on the status of good governance and human rights in Burundi. Upon his arrival at the Bujumbura international Airport, the members of the National Intelligence Service of Burundi through an officer called one Hagabimana hurled Hamo into a trap. Hagabimana had pretended that he was one of the drivers designated to pick Hamo from the airport to his hotel in Bujumbura.

As soon as Hamo boarded the car, Hagabimana sped off into the outskirts of Bujumbura where he was joined by a group of other three members of National Intelligent Service. They arrested Hamo at gunpoint and threatened to kill him if he tried to escape or contact his conference hosts or participate in the conference. Hamo was locked up incommunicado at Karuzi Police cells from 20th to 30th March 2019 and no reasons were given to him for his arbitrary arrest and detention. In the night of 31st of March 2019, Hamo was escorted by the Karuzi police officers to Bujumbura International Airport and deported to Kenya.

On the 1st of April 2019, Salaa travelled to Kampala for purposes of offering consultancy legal services to a local Non-governmental organization which engaged him to conduct a legal research on good governance and adherence to rule of law in Uganda. On reaching the airport, the immigration officers denied Salaa entry for the reasons that the services he was consulted to offer are a threat to peace and public security of Uganda and as such unlawful. The immigration officer relied on Section 52 of the Citizenship and Immigration Control Act of Uganda which declares a person involved in unlawful activities a prohibited immigrant.

You are an advocate at the Astute & Co. Advocates. Salaa and Hamo have come to your office seeking for legal advice on how to go about the ill-treatment, arbitrary arrest and detention they went through in the hands of state officers of Uganda and Burundi. They want their references filed at the East African Court of Justice. Assume that they instructed you to file the reference at the East African Court of Justice on the 2nd of April 2019.

Write an opinion on the above legal issues.

[30 marks]

QUESTION TWO

1. Articles 6 and 7 of the Treaty for the Establishment of the East African Community establish the fundamental and operational principles that govern the achievement of the objectives of the Community.

Using relevant legal authorities, discuss four (4) operational principles of the East African Community. (12 Marks)

2. "The EAC Treaty provides for other forms of secondary legislation, such as Regulations, Directives, Decisions and Recommendations, which are adopted by the Council without any Parliamentary participation and which are binding "on the Partner States". The Council itself is composed of Partner States' ministers and Attorney Generals..." Prof. T. Milej (2018)

Using the above statement and drawing comparative examples from any other regional block, evaluate four (4) reforms to the East African Community Council (Council of Ministers) to make it more vibrant in its role as a policy organ of the Community.

(8 Marks)

QUESTION THREE

In March 2018, African states adopted the Agreement Establishing the African Continental Free Trade Area which visualizes the establishment of an African Continental Trade Area whose main objectives will be to promote intra-African trade in goods and services. The State Parties to the Agreement will undertake to remove all tariffs and non-tariff barriers impeding intra-African trade in goods and services. However, the agreement is yet to enter into force because it has only been ratified by 7 states out of the requisite 22 states. The Republic of Kenya is one of the 7 states which has signed and ratified the Agreement.

The Ministry of Trade and Industrialization has consulted your firm to advise it on five major tariff and non-tariff barriers to intra- African trade in goods. Proceed. (20 Marks)