

CENTRAL UNIVERSITY



END-OF- SECOND SEMESTER EXAMINATIONS: 2017/2018

FACULTY OF LAW
BACHELOR OF LAWS (LL.B)
LEVEL 100 & 200

LAW 104: Constitutional Law II (3 Credits)

Wednesday, 1st May, 2019

TIME ALLOWED: 3 HOURS

INSTRUCTIONS:

1. There are a total of six (6) questions. Candidates are to answer three (3) questions only.
2. **Question One (1) is compulsory** and must be answered by all students.
3. Answer Sheets will be provided. Each answer must begin on a fresh page.
4. Any extra answer sheet should be properly tied to the original answer sheet.
5. Marks will be awarded for good presentation, clarity in legal reasoning and proper use of Legal Authorities.
6. Please write legibly

DO NOT TURN OVER THIS PAGE UNTIL YOU HAVE BEEN TOLD TO DO SO BY THE INVIGILATOR.

Examiners: Rev Yaw Dankwah, Mrs. Susanna Afutu, & Emmanuel Opare-Wiredu, Esq.

QUESTION 1

Answer BOTH (a) AND (b)

- a. Alice Hughes is a Canadian living in Ghana. She arrived in Ghana on the 5th of April 2018 and has lived in the country to date. Alice is gathering data for her PhD Programme and chose Ghana as her destination. This is because she has previously been to Ghana for short periods for different reasons; sometimes for a short course, sometimes as a tourist, sometimes as a visiting lecturer.

Alice is a lady of impeccable character and her pastor as well as her church members can attest to this. She also intends to live in Ghana when granted her certificate of naturalization and set up an orphanage and skills centre in one of the impoverished parts of the Northern region. Throughout her stay, Alice has made several attempts to learn a Ghanaian language but has not been successful. She however views this as a little set back and has taken it in her stride.

Alice has decided to acquire Ghanaian citizenship and has contacted Amankwah Law Consult for legal advice. Imagine you are an intern at the law firm and you have been asked to give a legal opinion on Alice's decision. Draft your opinion.

[20 Marks]

- b. The use of discretion by the minister of interior in the acquisition of citizenship by foreigners cannot be over-emphasized. Briefly discuss the constitutional guidelines on the use of discretionary power by administrative officials.

[10 Marks]

[Total: 30 Marks]

QUESTION 2

Who is a chief under Article 277? Discuss the significance of the various elements. [15 Marks]

QUESTION 3

There is no denying the fact that in many ways than one, Ghana will never be the same after the PNDC years, whether measured from the point of view of the level of violence or the scale of intimidation to which the citizenry at large were subjected or the extent to which the regime sought to destabilise established authority and settled procedures and institutions.

By Prof. C.E.K Kumado in "Forgive us our Trespasses, An Examination of the Indemnity Clause in the 1992 Constitution of Ghana [1993-95] VOL. XIX UGLJ 83—101].

With the aid of decided cases and other relevant authorities, critically discuss the nature and scope of the indemnity clauses in the Transitional Provisions in the Constitution of Ghana, 1992.

[15 Marks]

QUESTION 4

The 1992 constitution has given prerogative powers to the Executive, giving it an absolute authority to exercise at its discretion for example; power to pardon prisoners, The Judiciary equally under the constitution has also been given powers to strike out statutes and replace them with

common law such as the Supreme Court decision in the matter of *Martin Kpebu v The Attorney General*. The constitution has vested all legislative powers in Parliament but yet the Executive through its agencies or ministries have the power to make laws that affects the citizens such as the recent L.I. on Legal Education in Ghana initiated by the General Legal Council.

With reference to case law, statutes and Constitutional provisions, discuss how far it is true that the constitution provides checks and balances in respect of the organs of Government.

[15 Marks]

QUESTION 5

The Government following the recent disturbance during the Ayawaso West by-elections set up a Commission of Inquiry to investigate the cause of the trouble and prepare a report and publish its findings. Yaw Dankwah who is a senior police operational commander is of the view that he will personally be implicated and have sought your assistance to attend the inquiry with him as his lawyer. His further concern is that his superiors who have a personal vendetta against him will use the report findings to prosecute him.

Using case law and statute, advise Yaw Dankwah of the effects if any, of the report of the Commission of Inquiry and the purpose of setting up the commission

[15 Marks]

QUESTION 6

“The principle of non-justiciability of a provision of a constitution is an affront to the concept of constitutional supremacy under the 1992 Constitution”.

With the aid of decided cases and relevant statutory and constitutional provisions, fully discuss this statement within the scope of the Directive Principles of State Policy.

[15 Marks]