

# CENTRAL UNIVERSITY



END-OF- SECOND SEMESTER EXAMINATIONS: 2016/2017

FACULTY OF LAW

BACHELOR OF LAWS (LL.B)

LAW 104: Constitutional Law II

**TIME ALLOWED: 2 ½ HOURS**

LEVEL 100 & 200

STUDENT ID No.....

## INSTRUCTIONS

There are a total of five (5) questions. Candidates are to answer three (3) questions only.

**Question One (1) is compulsory and must be answered by all students.**

Answer Sheets will be provided. Each answer must begin on a fresh page.

Any extra answer sheet should be properly tied to the original answer sheet.

Marks will be awarded for good presentation, clarity in legal arguments and proper use of Legal Authorities

Please write legibly

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

*Examiners:* Mr. Dennis Adjei Dwomoh & Mrs. Susanna Afutu

### QUESTION ONE

There was a fire outbreak at the Central Medical Stores of the Ghana Health Service. Medicine worth over 60million dollars was burnt to ashes. It was reported by the media that certain government officials were behind the fire outbreak. The Government has failed to take any action on same thereby causing the Parliament of Ghana to request the President to set up a commission of enquiry. The President indicated that although he is not bound by the request of Parliament, he has decided to set up a Sole Member Commissioner to look into the fire disaster.

The President appointed Madam Akua Donkor, a Circuit Court judge, to sit as the sole commissioner because of her background as a former fire officer who was in charge of fire investigation at the Ghana Fire Service.

The Head of the Central Medical Stores, Mr. Marcus Thomas was invited to appear before the commissioner. The Commissioner upon interrogating Mr. Marcus Thomas came to a conclusion that he was lying to the Commission and consequently proceeded to convict him of perjury. The Commissioner added that they had the powers of the High Court so they can convict Mr. Marcus Thomas of same.

Upon completion of its investigation, it made adverse findings against Mr. Marcus Thomas as the one who intentionally set the store ablaze and recommended that he should be prosecuted. One week after the findings of the sole commissioner were submitted to the President, the President caused the Attorney General to formally charge Mr. Marcus Thomas.

Mr. Marcus Thomas has approached you for your legal assistance.

**With your understanding of the legal effect of the findings of Commission of Enquiry asses the likelihood of success of your client's case.**

[40 Marks]

### QUESTION TWO

Article 273 of the 1992 Constitution of Ghana provides that:

*The National House of chiefs shall have appellate jurisdiction in any cause or matter affecting chieftaincy*



**With the aid of decided cases discuss what is 'a cause or matter affecting chieftaincy'.**

**[30 Marks]**

### **QUESTION THREE**

“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.**

**[30 Marks]**

### **QUESTION FOUR**

How far do you agree with the assertion that the Supreme Court has concurrent original jurisdiction with the High Court over a cause or matter relating to the challenge of Parliamentary Elections in Ghana?

**[30 Marks]**

### **QUESTION FIVE**

Dr. Samson Smith, was born in Ghana on the 6<sup>th</sup> of March 1970 in Keta, Volta Region. His father was a Russian missionary who had a right of abode to live in Ghana and his mother was born in Trans Volta Togoland which is now part of Ghana. Dr. Smith is in the employment of the government as a medical officer and has a Ghanaian birth certificate. He is also Russian.

Dr. Smith is also a major supporter of the opposition party and has mounted platforms to campaign for a change in government. He has criticized how the government was running the affairs of the country especially the health sector. He regards himself as a Ghanaian with a Russian heritage. He speaks 4 local languages and did all his education in Ghana.

On or about 25<sup>th</sup> August 2008, Dr. Smith went to China for missionary work. While there he was arrested by the Chinese authorities for spying for the Russian Government and also stealing their nuclear codes. The authorities also alleged that it was contrary to the laws of China for him to preach about Jesus Christ. Two days before he was sent to court he escaped from lawful custody and eventually arrived in Ghana.

The Chinese government has requested the Government of Ghana to surrender Dr. Smith to it so that he will be made to face trial. China gives major donor support to Ghana. The Government of Ghana has been warned by the Government of Russia not to take any of such steps and that at worst they should send him to Russia if Ghana feels threatened by the conduct of China. Dr. Smith is unperturbed about this brouhaha and claims that he cannot be taken out of this country as he is

a Ghanaian. In addition he has a lot friends in the legal fraternity who will come to his aid. The Attorney General has issued a statement revoking Dr. Smith's citizenship.

**Dr. Smith has instructed ALDENT LEGAL to advise him of his rights under the law. You are a paralegal in this law firm and have been directed by the partners of the firm to prepare a legal memo on these set of facts.**

[30 Marks]