

UGANDA MARTYRS UNIVERSITY  
NKOZI

UNIVERSITY EXAMINATION  
DECEMBER 2022

FACULTY OF LAW

BACHELOR OF LAWS (LLB) YEAR 2 END OF SEMESTER 1 FINAL ASSESSMENT  
ACADEMIC YEAR 2022/2023

FAMILY LAW 1  
LLB 2103

**DATE:** Wednesday 14<sup>th</sup> December, 2022

**TIME:** 9:30 AM- 1: 00 PM

**DURATION:** 3 & HALF HRS

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**Instructions:**

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1. This is a closed book exam. Students are not allowed to bring any reading materials into the examination room.
2. Question **1 & 2** are **COMPULSORY**. The other 2 questions shall be picked at will.
3. Candidates shall attempt a total of **FOUR** questions.
4. Each question carries 25 marks.
5. No **names** should be written anywhere on the examination book.
6. Ensure that your **Registration number** is indicated on all pages of the examination answer booklet.
7. Any type of examination malpractice will lead to automatic disqualification
8. Use the exam answer booklet for all your rough work

### **QUESTION 1: COMPULSORY**

In October 2015, Musoke a struggling businessman in Kalungu district married Joanna Nakitende and they lived in Masaka city. They were happily married and got two daughters. In 2016, Kaaka's business grew by leaps and bounds. In an abid to demonstrate his new economic status and allegedly to boast his public image, Musoke had an extra-marital relationship with a notorious slay queen Straka. One occasion, Musoke took Straka to Joanna Nakitende's matrimonial home, where they bathed and carried on together for 2 weeks. He continues to be photographed by the tabloid, Hot Pepper with Straka. In 2018, Musoke had a son with an unidentified woman. This caused Nakitende to storm out of the matrimonial home in anger and pain.

In 2019, Nakitende determined to save her marriage sought the intervention of the church and resumed cohabitation with Musoke in January 2020 but slept in different bedrooms. Kanuunu gave the condition that she would only resume sexual intercourse after Musoke took an HIV/AIDS' test. Musoke counter argues that Nakitende has denied him sexual intercourse because she is a lesbian. That he had placed secret cameras in her bedroom and was shocked to eat catch her in intimate sexual behavior with another woman. Nakitende claims she simply shared a bed with her girlfriend Theresa for one week when Theresa was comforting and consoling her as she was praying and crying. Nakitende found the allegation very depressing and filed for divorce on grounds of emotional cruelty and adultery. When Musoke learnt that Nakitende had instituted divorce proceedings, he rushed to the matrimonial home in Masaka city and forcefully had sexual intercourse with her, claiming "this is what you need to cure your lesbian disease." Musoke protests the divorce because it would tarnish his potential to stand for political office.

**Advise the parties. (25 marks)**

## QUESTION 2: COMPULSORY

Farouk Kisambira aged 38 years, a businessman and Mariam aged 30 years, a nurse fell in love at first sight when they first met at the hospital in Kampala where Mariam works. After a few days of knowing each other, they decided to get married according to Islamic Law. Farouk in fact was already a married man with 2 wives and 5 children. Each wife was staying in a separate house. Each wife was staying in a separate house. Farouk disclosed these facts to Mariam but this did not hinder them from continuing with their intention. Mariam also revealed to Farouk two weeks before their marriage (Nikah) that she was a widow. Her husband had died in a motor accident six months ago. Sympathising with Mariam for the difficulties faced by her, Farouk decided to take her in marriage.

Mariam's father, Haji Abed Kivumbi refused to give his consent as Farouk is of a different tribe and he did not know much of Farouk's background and family. The couple decided to go to Busia and their marriage was solemnized. On their way to Busia, Farouk and Mariam were accompanied by some of their family members and friends both Muslims and non-Muslims. On 18<sup>th</sup> September 2017, the Nikah ceremony took place in the house of Farouk's friend Shafir. The Nikah was officiated by Imam Ibrahim Kayanja who was not so familiar with the couple's particulars. The witnesses were Mohammed Kato, a longtime friend of Farouk and Mariam's two sisters; Shamim aged 20 years and Jamila aged 14 years. Mariam's maternal uncle Swaibu acted as her *Wali* (guardian). As for Mahr (Dowry), Mariam demanded 13 million shillings but Farouk managed to give her 8 million cash. For the balance, no time was given.

Marriage certificates were issued. However, both of them have not bothered to register the marriage with Uganda Registration Services Bureau. However, Haji Abed Kivumbi has heard about this ceremony and is angry with his daughter for going through that marriage. Having heard about Haji Abed Kivumbi's remarks, Mariam comes to you for advice. **Advise her on all the legal issues involved. (25 marks)**

### **QUESTION 3**

With the use of relevant authorities discuss the following:

- a) Approbation of voidable marriages (15 marks)
- b) The concept of Domicile. ( 10 marks)

### **QUESTION 4**

Compare and contrast the formalities required for the solemnization of the marriages in the Marriage Act Cap 251 and for the marriage provided for in the Customary Marriage Registration Act Cap 248.

### **QUESTION 5**

- a) Trevor and Juliana have been living together for 7 years now. They have signed a contract establishing their agreement regarding financial matters and household duties. Trevor maintains that they are married because as he says “marriage is a contract and we have a contract.” Juliana believes that marriage is a religious undertaking and wants a Pastor at Watoto Church to co-sign their contract” to make it really a recognized marriage by the church.”

**Write a legal opinion advising the couple.**

- b) Discuss the grounds for a void and voidable marriage under customary law.

~WISHING YOU SUCCESS ~