

**UGANDA MARTYRS UNIVERSITY
NKOZI**

**UNIVERSITY EXAMINATION
April 2022**

FACULTY OF LAW

**BACHELOR OF LAWS (LLB) YEAR 2 END OF SEMESTER 1 FINAL ASSESSMENT
ACADEMIC YEAR 2021/2022**

**FAMILY LAW 1
LLB 2103**

DATE: Monday 4th April, 2022

TIME: 9:30 AM– 1: 00 PM

DURATION: 3 & HALF HRS

Instructions:

1. This is a closed book exam. No materials are allowed in the exam room.
2. Select and answer only FOUR questions. At least one question should be attempted from each section. Each question carries 25 marks.
3. **Question 4 in SECTION B is COMPULSORY.**
4. No names should be written anywhere on the examination book.
5. Ensure that your **Registration Number** is indicated on all pages of the examination answer booklet.
6. Take time to carefully think about the question, the issues involved and the planning of your answers.
7. Marks will be awarded for answers that are well thought-out. Effective use of authorities drawn from case law and Ugandan laws on marriage and divorce covered in the course will earn you extra credit.

SECTION A

QUESTION 1

- a) Discuss the grounds for a void and voidable marriages with relevant authorities. (10 marks)
- b) Jovia Nagawa aged 28 and Justin Jjuuko aged 35 are both successful lawyers. They got married in a colourful wedding ceremony in Namirembe Cathedral in August 2019. They then went to Munyonyo Commonwealth Resort for their honeymoon where they spent 2 weeks. During this time Justin kept on drinking day and night and was hardly sober. Jovia complained of his behavior but Justin told her to hold on and they would have 'sweet sex' when he was ready.

In December 2019, Justin told Jovia that he was ready for the 'sweet sex.' Justin strapped on a dildo (penis shaped sex toy) and they had sexual intercourse. This experience left Jovia extremely dissatisfied and shocked. Jovia complained to Justin who told her, "It was the way to go." He further revealed that this is how it will be whenever they are to enjoy "sweet sex" and as his wife, she must comply. Jovia has been so embarrassed to share her ordeal with anybody until now.

Advice Jovia on the legal implications of her marriage. (15 marks)

QUESTION 2

- a) Discuss the evolution of matrimonial property law in Uganda. (15 marks)
- b) Examine the relevance of the Doctrine of Breach of Promise to Marry in Uganda's modern society. (10 marks)

QUESTION 3

The case of ***Mifumi (U) and Others v Attorney General Constitutional Petition No. 12 of 2007***, made fundamental pronouncements on the custom of bride price; notably regarding refund of bride price upon divorce and mandatory demand of bride price by the bride's parents.

Discuss the significance of the Mifumi decision on the validity of bride price with regard to customary marriages and the refund thereof upon divorce. (25 marks)

SECTION B

QUESTION 4

Jackline Nyakairu and Andrew Kwezi were Uganda Martyrs University sweethearts who celebrated their customary marriage in 2016. To Jackline's disappointment in 2017, Andrew started having a sexual relationship with Jackline's cousin sister Angella. He boasted to his friends that "boys will always be boys." Andrew complains that Jackline has lost so much weight yet he was initially attracted to her "big natural African curves." He says that he no longer finds her attractive and as a result is suffering immense "cruelty." Jackline and Andrew's relationship degenerated into routine quarrels and ended with Andrew's threatening to kill Jackline for not knowing her place as a woman.

In the spirit of tit-for-tat, Jackline moved out of their matrimonial bedroom and started sleeping in the guest room next to the living room. One fateful night, Andrew woke up in the middle of the night to find Jackline sleeping with her old boyfriend, Mark Ahumuza in their matrimonial home. Andrew was so devastated but understood that divorce was not an option given their staunch Catholic background.

A week later in order to enforce his conjugal rights, Andrew spiked Jackline's drink with sleeping pills and she became unconscious. The following morning Jackline realised that Andrew had had sex with her. She was so embarrassed that she did not tell anyone about this. Andrew was overly pleased with what he described as "reawakening of the old passion" and promised to "upgrade" his traditional marriage with Jackline to a church wedding.

Jackline, on the other hand is ready for divorce to start her life afresh. She is not interested in any matrimonial property but only wants her freedom.

Advise Jackline and Andrew? (25 marks)

QUESTION 5

Using relevant authorities, write short notes on the following;

- a) Domicile (7 marks)
- b) The formalities/preliminaries required for the marriages in the Marriage Act Cap 251. (8 marks)
- c) Absolute bars & Discretionary bars to divorce. (10 marks)

SECTION C

EITHER

QUESTION 6

Critically discuss the major requirements for the solemnization of a Muslim marriage and the impediments for a prospective wife or husband to contract marriage under Sharia. Support your answers with relevant authorities. (25 marks)

OR

QUESTION 7

Hassan and Halimah have been married for 10 years. They are blessed with 3 children. For the last two years, their marriage has been hostile characterised by disagreements, accusations and counter-accusations of cheating and constant fighting. On one occasion, Halimah suffered severe bruises on her face and ended up in hospital. Their differences escalated six months ago when Halimah married a second wife Fauziah. Halimah has also confessed to her relatives that "Hassan is almost like a beast and that enough is enough with him." Hassan also does not have kind words for Halimah and feels that their marriage cannot work anymore. However, neither of them is ready to initiate the divorce process for fear of "divorce implications."

Due to increasing pressure and stress, Halimah comes to your office for advice on the divorce process and its effects. She informs you that despite their differences, she is three months pregnant. Out of the total of Ug shs 15million that Halimah demanded for *mahr*, Hassan only gave her 5 million at the time of contracting the marriage and the balance remains unpaid to-date. Through her employment and personal businesses, Halimah earned some money and jointly purchased a house with Hassan in Nansana in Wakiso District which has served as their matrimonial home. The cost of the house was Ug shs 300million. According to the records, she contributed almost 30 per cent of the total cost but her husband disagrees with that figure. Hassan has several properties in different parts of Wakiso district.

Advise Halimah on the possible form of divorce under sharia law and any relief she may claim after divorce. Support your answer with the relevant authorities. (25 marks)

GOOD LUCK