

**UGANDA MARTYRS UNIVERSITY
NKOZI**

**UNIVERSITY EXAMINATION
March 2021**

FACULTY OF LAW

**BACHELOR OF LAWS (LLB) YEAR 2 END OF SEMESTER ONE FINAL ASSESSMENT
ACADEMIC YEAR 2020/2021**

**FAMILY LAW 1
LLB 2103**

DATE: Tuesday 16th March, 2021

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. Carefully read through ALL the questions before attempting
3. **SECTION A is COMPULSORY. At least one question should be attempted from SECTIONS B & C. A total of FOUR QUESTIONS SHOULD BE ANSWERED IN ALL.**
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. Ensure your work is **clear** and **readable**. Untidy work shall be penalized
7. Any type of examination Malpractice will lead to automatic disqualification
8. Do not write anything on the questions paper.
9. Use the exam answer booklet for all your rough work

SECTION A (COMPULSORY)

QUESTION 1

Peterson Kayongo is a 37-year-old businessman in Kampala who dated Namaweje Clare for a period of 5 years from 2010 -2015 when they parted company after a minor disagreement. Upon their separation, Peterson found himself another pleasant 28-year-old Baiga Grace and they got married at Rubaga Cathedral in December 2016. They started living together at Naalya in a house belonging to Peterson's father situate at Kyadondo Block 2 Plot 226. They have one child Nassali Faith aged 2 years.

In January 2018, Baiga Grace's attitude's towards Peterson Kayongo changed a lot, she started abusing Peterson, serving him cold food and she started staying out late at night coming home after midnight; moreover, being dropped off by their family friend Paul Muwanguzi. Upon being confronted by Peterson over her funny attitude. Grace cursed Peterson stating that he is a poor chap, very late and a non-starter who she regrets getting married to. She then grabbed a bottle of acid and threatened to disfigure Peterson's ugly face. A day later she deserted the home. Peterson has been trailing her movements and has on several occasions seen her with Paul Muwanguzi, driving out of Muwanguzi's house every morning. Peterson wants an end to the marriage so that he may marry another person. However, Grace insists that she must take the child away and is also entitled to an equal share of all the matrimonial property.

With the help of relevant authorities, appraise all the relevant issues from the problem and advise Peterson Kayongo on the appropriate recourse in the circumstances and the relevant remedies. (25 marks).

SECTION B

QUESTION 2

“The Supreme Court judgement of ***Julius Rwabinumu v Hope Bahimbisomwe Civil Appeal No 10 of 2009*** settles some long-standing questions relating to distribution of matrimonial property acquired before and during marriage upon divorce in Uganda’s Family Law” per Jovia Nassali, a 2nd Law Student in UMU.

Discuss the veracity of this statement. (25 marks)

QUESTION 3

Using relevant authorities, write short notes on the following;

- a) Grounds for a voidable marriage **(7 marks)**
- b) Approbation of marriages **(6 marks)**
- c) The Preliminaries of Marriages contracted in Uganda. **(5 marks)**
- d) Absolute bars to Divorce **(7 marks)**

QUESTION 4

Patrick Mukasa met Lorna Ninsiima in 2012, the two started living together immediately and had 2 children. In 2016, the couple agreed that Lorna goes to US for ‘kyeyo’ (greener pastures). While Mukasa stays home to take care of the children. She left and things went well for her in the US. Before long, Lorna started sending home her ‘kyeyo’ money so that Mukasa could use it to build the matrimonial home, support the family welfare and prepare for their wedding when she returned home in December 2018.

Mukasa indeed built a house in which the family resides and started a successful construction business. In addition, Mukasa contracted a customary marriage with Diana Kiconco at a colorful kuhingira ceremony in July 2017.

Lorna Ninsiima has learnt of all these developments and she is heartbroken. She wants to stop the intended church wedding ceremony between Mukasa and Kiconco and reinstate her position in the matrimonial home.

a) Advise Lorna Ninsiima and explain any remedies available to her. **(15 marks)**

b) Discuss the relevance/significance of the court's decision in **Mifumi & Ors v The Attorney General (Constitution Petition 12 of 2007)**. **(10 marks)**

SECTION C: (Pick only one question from this section)

EITHER:

QUESTION 5

Farouk and Faridah got married in 2016 according to Islamic law. They are blessed with 2 children and have acquired several properties some of which are owned jointly. For the last 2 years, their marriage has been an unpleasant one full of disagreements, hostility and constant fighting. One evening, Farouk returned home and as he was watching "Agataliko Nfuufu" News on Bukedde News, he saw his wife Faridah in the nude with a naked man caught red handed in one of the city lodges. This incident happened when the wife of Farida's alleged lover followed her husband unknowingly to the lodge with a camera crew. When Farouk saw that incident on TV, he was so furious and hurt and decided to confront Faridah. She denied that she was the woman in the video and that the person in the video was her sister Aisha who resembles her. Farouk felt relieved and decided to go out for a walk. Suddenly a neighbour confronted him saying to him "What kind of husband are you? You are such a

coward to keep such a filthy woman as your wife, this is the third time they are showing her on TV, the other times you had travelled out of the country and we chose not to mention it to you. We knew the consequences.” This new revelation angered Farouk so much that he went home straight and pronounced “Talak, Talak, Talak” to his wife Faridah.

- a) Is divorce legally effected or not? Support your answer with relevant authorities. **(15 marks)**
- b) Assuming divorce was effected in (a) above, advise Faridah on all the rights that she is entitled to as a divorced wife under Islamic Law. **(10 marks)**

OR:

QUESTION 6

“The formalities required for the legal effect and the incidents of a marriage under the Marriage Act and of a Mohammedan marriage under the Mohammedan law differ widely. The Act requires special formalities which are not required by Mohammedan law and the capacity for marrying and the manner of dissolution of such marriages are different.” **Per Sir Clement De Lestang in Ayoob v Ayoob (1968) EA 72, COA at Page 74.**

Critically analyse the above statement focusing on the similarities and differences between an Islamic marriage and a civil or church marriage. (25 marks)