

**FACULTY OF LAW – UGANDA MARTYRS UNIVERSITY NKOZI**

**BACHELOR OF LAWS (LLB)**

**Academic year: 2022/2023**

**Year of Study: 3rd Year, Semester II**

**ENVIRONMENTAL LAW (LLB 3216)**

**DATE: 26<sup>TH</sup> May 2023**

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

**FINAL EXAMINATION**

**INSTRUCTIONS**

1. This is a partially open book examination. Students are only allowed into the exam room with relevant Statutes, and hand written notes.
2. Candidates must answer **Four (4)** questions in total, with **two (2)** questions from each section.
3. Start each number on a fresh/different page.
4. Well-structured and precise answers coupled with relevant authorities shall make for good consideration in awarding marks.

**SECTION I**

**QUESTION 1**

**Write short notes about the following**

- (a) The Montreal Protocol on Substances that Deplete the Ozone Layer (1990) and the relevant amendments **(5 marks)**
- (b) The case of *Water & Environment Media Network (WEMN), National Association of Professional Environmentalists (NAPE) & AFIEGO Vs National Environment Management Authority & Hoima Sugar Ltd HCCS No. 239 & 255 of 2020*. **(5 marks)**
- (c) Waste Management Hierarchy/Principles of a circular economy **(5 marks)**
- (d) Riparian rights **(5 marks)**
- (e) The Nagoya Protocol on Access to Genetic Resources & the Fair & Equitable Sharing of Benefits Arising from their Utilisation (2010) **(5 marks)**

## QUESTION 2

- (a) The Uganda law society has contacted you, an environmental law expert to deliver a lecture to practicing advocates on the following theme/topic.

*"How to undertake effective environmental public interest litigation: Considerations for an artful advocate."*

Prepare a presentation addressing the said topic. (15 marks)

- (b) With the aid of authorities, discuss the various judicial remedies that Court may award in environmental law matters. (10 marks)

## QUESTION 3

Taltel Tiles Manufacturing Company is a new-kid-on-the-block company from Ghana. It has been recently incorporated as a tile manufacturing plant and desires to enter the ceramics industry in Uganda. The director, Ms Atim-jojo, informs you that she intends to acquire 12 square miles of land in mineral rich Karamoja, part of it is near Kidepo valley. The company intends to mine marble, set up an industry there to process the tiles and then supply them to the market all throughout East Africa.

She requires your assistance on how to get various approvals of Ugandan Authorities so that it starts with operations.

- (a) Describe for Atim-jojo the procedure and practice necessary for the environment protection agency in Uganda to give the company a green light. (15 marks)
- (b) Inform Ms. Atim-jojo on the relevant lead agencies and stakeholders that her company must consult in the process to have their activities approved. (10 marks)

## PART II

## QUESTION 4

Various clients come to you and seek legal advise. Kindly help them. USE AUTHORITIES!

- (a) Mr. Obela operates a stone blasting business and he had left some pits open. Inspectors from National Environment Management Authority ambushed



his business on 23<sup>rd</sup> April 2023. They declared that the business was dangerous to environment and then closed it and served him with an environmental restoration order. He however argues that he has done some pit covering before and needs to be granted some more time. Assist Obela (5 marks).

(b) Casablanca bar in Bugolobi has been reported to make excessive noise. As such, NEMA sued the bar and its proprietor in the High Court, civil division for emitting noise above the standard and affecting the environment. Help the owner to make a response. (5 marks)

(c) The Executive Director of Uganda Communications Commission at a recent visit to Kiira Motors Limited was informed that the car manufacturers had an issue with telecom masts. They render the electric cars immobile due to emission of radioactive rays and this will kill the market for the infant car manufacturing industry. Immediately, the ED issued a directive that all telecom masts should be transformed to 2022-Hi-Tech masts within 2 months or else they would be disconnected.

ATC a prominent telecom mast company is in your office for a solution. Provide ATC with a solution. (5 marks)

(d) An individual has set up a loud church next to your client's house which is in a residential area. The congregation prays loudly, day and night. Your client has a sick grandmother and toddlers who no longer sleep. The client comes to you for a quick remedy. How do you proceed? (5 Marks)

(e) Mr. Komugabe Kelsen has recently heard of the principle of common but differentiated responsibility in environmental law. He understands that this principle is enshrined in some international instruments but requests for clarification. Explain this principle to this old man. (5 marks)

### **QUESTION 5**

In the fight to protect the environment, one may bring an action either using common law principles or under statutory law.

(a) Justify why one would opt to use common law principles as opposed to statutory provisions of the law to protect the environment. (8 marks).

- (b) Examine the challenges of utilising common law as opposed to statutory law in environmental protection. (7 marks)
- (c) Propose relevant solutions to allow for better reliance on statutory laws in Uganda's legal system. (10 marks).

### **QUESTION 6**

Stonetown wasters Limited is a licenced waste management facility in Kibaale town. It collects all types of waste including electronic waste, domestic waste, medical, petroleum and plastics waste among others. The company sits on 10 acres of land and has some residents surrounding it.

The company, though operating a thriving business, has issues around it. The stench from the waste is unbearable. The many waste transporting trucks are a menace to the society. The facility also burns off some of the plastic and electronic waste to reduce the congestion. Also, it is said that villagers have of late developed a skin rash and it is usually suffered by village residents that fish and use water from the Musenvu swamp which is a Ramsar site down-stream from the facility.

Because Kibaale has some gold deposits, the residents inform you that the Stonetown Wasters Limited also silently engages in gold mining and uses mercury in the process by burning it and pouring residues in the swamp.

You are the head of legal in *Centre for Environmental Conservation (CEC)*, a national NGO that focuses on environment protection. The community members are before you with these facts to assist them with an appropriate solution.

- (a) Supposing you decide to take Court action, which procedure would you use? Which forum would you opt for? Who would be the parties to the court action? (5 marks)
- (b) What due diligence steps would you take before going to Court? (5 marks)
- (c) Using appropriate authorities, identify the causes of action against which you would proceed. (10 marks)
- (d) What orders would you seek from Court? (5 marks).

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