



**FIRST YEAR EXAMINATION FOR THE AWARD OF THE
DEGREE OF BACHELOR OF LAWS
FIRST SEMESTER, 2022/2023
(SEPTEMBER-DECEMBER, 2022)**

LLBK 114: CONSTITUTIONAL LAW

STREAM: LLBK Y1 S1

TIME: 2 HOURS

DAY: WEDNESDAY, 12:00 – 2:00 P.M.

DATE: 07/12/2022

INSTRUCTIONS

- 1. Do not write anything on this question paper.***
- 2. Answer Question ONE [Compulsory] and any other TWO Questions.***
- 3. Illustrate your answer with relevant cases and statutory provisions where applicable***

QUESTION ONE

Two Members of parliament are on Citizen TV debating on whether the Constitution of Kenya 2010 should be reviewed .Mr Kaluma supports a review and champions for reintroduction of the position of the prime minister .He argues the Kenyan state being multi-cultural nation, it needs the position as a way of strengthening democracy and embedding ethnic inclusivity .Mr Kipchumba opposes this view arguing the new constitution, being the grundnorm , was intended to move Kenya away from an imperial presidency and this has been achieved . Your mum is watching the debate and seeks your views on various issues being canvassed by the two legislators. Proceed to advise her by:

- a) Defining and explaining the meaning of the terms **democracy; state; nation; constitution** and **grundnorm**. (10 marks)

- b) Comparing presidential powers under Constitution of Kenya 2010 and (repealed) Constitution of Kenya of 1969. (10 marks)
- c) Discussing the constitutional evolution of the position of prime minister in Kenya since independence. (10 marks)

QUESTION TWO

Mrs Ombek wants to vie for a political seat in Kenya. She has been advised that the seat of an MCA is very powerful because lots of monies have been devolved to the grassroots. Others have advised her that an MP's seat is better because they (MPs) control constituency development funds (CDF) and make many laws. Others have advised her that being a senator is better because she will not have lots of work to do –this can assist her to handle other private tasks. She is confused and hence she comes to your office for advice. Please advise her on the structure and the respective roles of senate, national assembly and county assembly. Also advise her on the division of functions between counties and national government. (20 marks)

QUESTION THREE

Drawing from the provisions of the Constitution of Kenya 2010 and even other jurisdictions of your choice, critically explain the meaning of these terms:

- a) Constitutionalism (10 marks)
- b) Parliamentary sovereignty (10 marks)

QUESTION FOUR

Justice Kubo in his dissent in *Dr. Rev. Timothy Njoya and others v A. G* (2004) appeared not to abandon the reasoning of the High Court of Kenya in *EL Mann v R.* (1969), where he held that interpretation of the constitution is governed by the same interpretive methodology that applies to interpretation of Statutes (ordinary law). Give your reasoned opinion as to whether interpretation of the constitution is governed by the same rules or canons that govern the interpretation of statutes. (20 marks)

QUESTION FIVE

The doctrine of “*the separation of powers*” is seldom explicitly incorporated in written constitutions around the world, though often constitutionally guaranteed in the horizontal and vertical organisation of the organs of state as well as its structure. Explain by making reference to the constitution of Kenya 2010. (20 marks)