

CHUKA UNIVERSITY

FACULTY OF LAW

UNIVERSITY EXAMINATION 2023

FIRST YEAR EXAMINATION FOR THE DEGREE OF BACHELOR OF LAWS

BLAW: 121 CONSTITUTIONAL LAW

DATE: MAY

INSTRUCTIONS:

ANSWER THREE QUESTIONS

QUESTION ONE IS MANDATORY

a) One of the challenges that faced the Building Bridges Initiative (BBI) was how to build consensus on some of its proposed constitutional amendments. From your understanding of the history of our constitution, the hits and misses in the constitution making process, identify the strengths and weaknesses of the BBI in its attempts to introduce changes to the Constitution of Kenya **(20 Marks)**

b) By August 2010 Kenya probably had a constitution without constitutionalism. Discuss **(10 Marks)**

QUESTION TWO

Mrs Swaka wants to vie for a political seat in Kenya. She has been advised that the seat of the Member of County Assembly (MCA) is very powerful because lots of monies have been devolved to the grassroots. Others have advised her that the seat of Member of parliament is better because they (MPs) have control of constituency development funds 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 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

'Democracy is generally defined as a form of government in which all the people have an equal say in the decisions that affect their lives' - *L. Diamond*.

Discuss this statement and expound on the different forms of 'democracy' **(20 Marks)**

QUESTION FOUR

With the aid of decided cases, write explanatory notes on the following:

- a) The constituent power of the people and the limits of legislative competence in the making of the constitution. **(10 Marks)**.
- b) Does the Constitution of Kenya use 'constitutionalism' to restrain democracy in Kenya? **(10 Marks)**

QUESTION FIVE

Discuss the constitutional history of Kenya, and in each phase, explain the persons and entities who were involved, and the role each played. **(20 Marks)**