



RIARA LAW SCHOOL

UNIVERSITY EXAMINATION FOR BACHELOR OF LAWS (LLB) DEGREE

JAN-APRIL 2024

RLB 319: REGIONAL INTEGRATION LAW

EXAMINER: AUGUSTUS MUTEMI MBILA

INSTRUCTIONS

1. This is the final examination in Regional Integration Law. You will earn 70% of your final grade from this final examination and 30% from Continuous Assessment Assignments.
2. This examination has **FOUR** questions. Answer **ALL FOUR QUESTIONS**.
3. This examination has 3 pages, including this one.
4. Time allocated for this examination is **TWO** (2) hours.
5. This is a **CLOSED-BOOK** examination. This means that you are not allowed to refer to any material, whether in soft or hard copy.
6. This examination is governed by the **Riara University Academic Honesty Regulations**. Students who violate those regulations will be penalized. Students have an obligation to report to the course instructor any incidences of academic dishonesty compromising the integrity of this examination.
7. Indicate your registration Number and the Title of the Exam on the cover page of the answer booklet. **DO NOT** indicate your name on the answer script.
8. You must stop writing when the time is called.
9. It is in your best interest that you write legibly.
10. Marks will be earned for close interaction with the questions, use of relevant authorities, and providing relevant solutions to the problems. Marks will be lost for irrelevance

QUESTION ONE (20 MARKS)

In 2013, the Republics of Kenya, Uganda and Rwanda teamed up to form what came to be known as “Coalition for the Willing”. Their teaming up was informed by a perception that the Republics of Tanzania and Burundi were “sluggish” in implementing provisions of the EAC Treaty and the Protocols. Specifically, these two republics had not yet decided whether to start playing their part in constructing a Standard Gauge Railway connecting the East Africa region. Kenya, Uganda, and Tanzania had already made that decision to start constructing their portions of the railway and had therefore felt that Tanzania and Burundi were delaying them.

With the help of case law developed by the East African Court of Justice, the EAC Treaty and its protocols, discuss how the principle of variable geometry allows the actions taken by Kenya, Uganda and Tanzania. Would you say that such an approach is an aid to the integration of the EAC or an impediment? (20 marks)

QUESTION TWO (20 MARKS)

“...The biggest challenge in implementing Regional Integration Law is the constitutional philosophy of the Partner States, what can be summarized as Monist and Dualist approaches to the implementation of International Law...”

Anonymous.

Critically discuss Kenya’s approach towards implementing International Law, and, in particular, East African Community Law. (20 marks)

QUESTION THREE (20 MARKS)

In *Alcon International v Standard Chartered Bank of Uganda & 2 Others*, Reference No. 6 of 2010 and *Modern Holdings (EA) LTD v Kenya Ports Authority*, Reference No. 1 of 2008, the East African Court of Justice stated that it did not have jurisdiction to hear matters that were thought to be in the purview of trade and investment, a key objective of establishing a regional trading bloc, yet the same court entertained a human rights matter in *James Katabazi & 21 Others v Secretary General of the East African Community & The Attorney General of the Republic of Uganda* Reference No. 1 of 2007.

Utilise your understanding of the Treaty on the Establishment of the East African Community, Protocol to Operationalize the Extended Jurisdiction of the East African Court of Justice, Protocols Establishing the Customs Union, Common Market and Monetary Union, and recent jurisprudence from the East African Court of Justice to prepare a well-reasoned brief on the jurisdiction of the East African Court of Justice to hear disputes arising from trade activities by citizens of Partner States of the East African Community.

Is such a jurisdiction impeded by the existence of other institutions with a similar jurisdiction? (20 marks)

QUESTION FOUR

Riara Law School is organizing a symposium on the topic “The Role of Regional Courts in Protecting Human Rights”. The symposium has been necessitated by the presence of divergent views on whether regional courts should have jurisdiction to hear disputes relating to violation of human rights by executive organs of Partner States. As an expert in Regional Integration Law, you have been invited by the organisers of this symposium to present on this topic.

Taking the East African Court of Justice as an example, prepare a brief on the issues that you will present on, regarding the importance, or lack of it, of granting regional courts the jurisdiction to hear disputes arising from violation of human rights by executive organs of Partner States. Make use of relevant jurisprudence from these two courts (10 marks).