



Strathmore
UNIVERSITY

SCHOOL OF COMPUTING AND ENGINEERING SCIENCES
BACHELORS OF SCIENCE IN COMPUTER NETWORKS AND CYBERSECURITY
END OF SEMESTER EXAMINATION
CNS 4203: CYBER LAW

DATE: Friday, 13th December 2024

TIME: 08:00 – 10:00

Instructions

1. This examination consists of **FIVE** questions.
2. Answer **Question ONE (COMPULSORY)** and any other **TWO** questions.

Question One

During the Gen Zee Demonstrations, various bloggers and individuals expressed their freedom of expression by exposing the dirt in the government. Some were arrested and others were abducted. Many are at large to this day. Of interest is Mr. G who was arrested for exposing the government by travelling all over the country and exposing unfinished government projects. You have been tasked to give explanations on the following to a task force that has been set to audit misconduct and violations by various government agencies.

- A. Explain constitutional stand on the fundamental rights of citizens of arrest and trial *vis a vis* offence under the various provisions of the Computer Misuse and Cyber-Crimes Act. **(10 Marks)**
- B. Comment on the freedom of expression under article 33 of the Constitution of Kenya 2010 **(5 Marks)**
- C. Advice the government generally on improving the manner in which their agencies behaved towards purported cyber criminals? **(15 Marks)**

Question Two

Explain the various obligations of data processor and data collector to the Data subject as far as the subject's rights are concerned under Data Protection Act and Regulations. **(15 Marks)**

Question Three

- A. Briefly explain the supremacy of the Constitution in understanding protection of Data subject under data protection Act. **(10 Marks)**

- B. The Data Protection Commissioner (DPC) has “police powers.” Explain this statement. **(5 Marks)**

Question Four

- A. Explain the inherent rights of an accused person in any cyber or computer related crime. **(4 Marks)**
- B. The Data Protection Commissioner has quasi-judicial functions. Briefly explain what this means. **(4 Marks)**
- C. Analyze briefly, the intention of the Data Protection Act (DPA) in ensuring the rights in Q A are protected. **(7 Marks)**

Question Five

- A. Section 22 of the Computer Misuse and Cybercrimes Act No 5 of 2018 provides: “(1) A person who intentionally publishes false, misleading or fictitious data or misinforms with intent that the data shall be considered or acted upon as authentic, with or without any financial gain, commits an offence and shall, on conviction, be liable to a fine not exceeding five million shillings or to imprisonment for a term not exceeding two years, or to both. (2) Pursuant to Article 24 of the Constitution, the freedom of expression under Article 33 of the Constitution shall be limited in respect of the intentional publication of false, misleading or fictitious data or misinformation that— (a) is likely to — (i) propagate war; or (ii) incite persons to violence; (b) constitutes hate speech; (c) advocates hatred that — (i) constitutes ethnic incitement, vilification of others or incitement to cause harm; or (ii) is based on any ground of discrimination specified or contemplated in Article 27(4) of the Constitution; or (d) negatively affects the rights or reputations of others..” While Section 23 of the Computer Misuse and Cybercrimes Act No 5 of 2018 provides: “A person who knowingly publishes information that is false in print, broadcast, data or over a computer system, that is calculated or results in panic, chaos, or violence among citizens of the Republic, or which is likely to discredit the reputation of a person commits an offence and shall on conviction, be liable to a fine not exceeding five million shillings or to imprisonment for a term not exceeding ten years, or to both.” points at the criminal nature of defamation.
- (i) Identify the ingredients of the above offences. **(4 Marks)**
- (ii) Comment on the criminal nature of the offences and distinguish this with the civil nature of defamation in tort. **(8 Marks)**
- B. In your opinion, are the sentences imposed upon conviction commensurate with the offences committed? **(3 Marks)**