



**STRATHMORE LAW SCHOOL
MASTER OF LAWS (LL.M)
SUPPLEMENTARY EXAMINATION
LLM 8307: CONTEMPORARY LEGAL ISSUES IN FINANCE**

Date: Thursday, 9th May 2024

Time: 3 Hours

Instructions

1. This examination consists of **FIVE** questions. Please answer **THREE** in total.
2. **Question ONE (COMPULSORY)**
3. Please choose any other **TWO** questions
4. **DO NOT** consult any of your classmates or anyone else during this examination.
5. You should spend a fair amount of time organizing your thoughts before starting to write.
6. Please start each question on a new page.
7. All Questions carry equal marks (20 out of 100) and the mark you will obtain will be added to the Coursework mark.

Instruction: Question 1 is compulsory.

Question 1:

Study the materials below and answer the question that follows.



Uhuru Kenyatta built roads, rail but piled a whole load of debt.

SUNDAY JULY 31 2022

President Uhuru Kenyatta flagging off Kenya's SGR phase 2A from Nairobi to Suswa on October 16, 2019 that was to terminate in Kisumu. FILE PHOTO | NMG

The EastAfrican

By JAMES ANYANZWA

On April 9, 2013, newly sworn-in President Uhuru Kenyatta pledged to "lead all Kenyans, those who voted for me and those who voted for our competitors" towards national prosperity firmly rooted in a rich and abiding peace.

Close to a decade later, he has achieved some of these goals but he is leaving his successor to deal with a huge burden of debt and unhappy taxpayers already battling a galloping cost of living.

It was during Kenyatta's tenure that billions of dollars were pumped into infrastructure projects such as roads, airports, railways, ports and in energy and telecommunications.

Kenya braces for 3 days of anti-gov't protests:

The latest round of anti-government protests in Kenya has been scheduled after tax hikes add to soaring cost of living.

Aljazeera, 18 Jul 2023

President Ruto inherited an enormous government debt. At the time Kenyatta took office in 2013, it stood at 1.79 trillion shillings (\$13bn). By the time Kenyatta left office, it had ballooned to 8.7 trillion shillings (\$61bn).

Moscow Has Forgiven \$23Billion Debts Owed By African Countries –Russian President, Putin

The Russian government has written off over \$20 billion of debt historically owed by African nations, President Vladimir Putin said on Friday.

“The total amount of debt of the African countries written off by Russia amounts to \$23 billion dollars with another \$90 million to be allocated for the same purposes,” Putin stated, with reference to historical trade and finance links between Moscow and Africa.

RT, July 28, 2023

Extracts from the statement of Rt. Hon. Raila Odinga to the International Press Association of East Africa (IPAEA) on 25 July 2023.

Paragraph 14. Going back to the Finance Act and the wider question of high taxes, the question we are struggling with as a nation is, what are citizens supposed to do when their government ignores their feelings, views and circumstances? In the run up to the vote on what is now the Finance Act, polls showed that more than 90 percent of Kenyans rejected it. Even after MPs voted in favour of the Act, polls still showed that majority of Kenyans did not like it. But the Executive proceeded and imposed punitive taxes.

Paragraph 15. We are aware that the rising cost of living is not limited to Kenya. We also know the country has debts to pay. But we know no country that has responded to high cost of living by raising taxes the way Kenya did. Nearly all other countries embraced policies that eased the pain. Kenya embraced policies that worsened the pain.

Paragraph 16. The government had the option to request for debt relief in the form of highly concessional rescheduling of external and domestic public debt, including debt owed to China.

Kenya could have pursued comparable treatment of commercial debt. It chose to burden citizens with taxes. What are citizens supposed to do in such circumstances?

Question 1

Analyse Kenya's external debt in terms of the causes of the debt, its gravity and sustainability; and critically analyse the options canvassed by the Rt. Hon. Raila Odinga for dealing with Kenya's debt including payment through increased taxes, rescheduling the debt (how, where and to what effect), obtaining concessional financing, or seeking debt forgiveness.

[20 marks]

Instruction: Choose TWO questions from the list below.

Question 2

Does the EU Crowdfunding Regulation (Regulation (EU) 2020 of the European Parliament) have any good lessons for Kenya?

[20 marks]

Question 3

The digital revolution is surely entrenched in the global economy, but it is not certain that the law is up to the task of facilitating digital trade finance. Is the law in your country adequate to facilitate trade finance; if not, what recommendations would you make for reform?

[20 marks]

Question 4

What was the background for, and what is the relevance of the European Union Taxonomy Regulation (Regulation (EU) 2020/852 of the European Parliament)? Would you recommend that your country adopts the ideas in that Taxonomy Regulation?

[20 marks]

Question 5

Okello was a Cabinet Secretary for Oil in the previous regime and now lives in London. Recently, he was notified of two separate investigations by the UK and the US authorities going back to the time he was a Cabinet Secretary. It is claimed that Texan, a US company, paid for a holiday for his family in exchange for an award of a contract, and that Londress, a UK company, bribed him with £100000. What is his potential liability under Kenyan, UK and US law?

[20 marks]

GOOD LUCK