



# KISII UNIVERSITY

## UNIVERSITY EXAMINATIONS

**FIRST YEAR EXAMINATION FOR THE AWARD OF THE  
DEGREE OF BACHELOR OF LAW  
SECOND SEMESTER, 2021/2022  
(FEBRUARY - JUNE, 2022)**

**LLBK 123: LEGAL SYSTEMS AND METHODS**

**STREAM: LLBK 1 S2**

**TIME: 2 HOURS**

**DAY: MONDAY, 9:00 – 11:00 A.M.**

**DATE: 23/05/2022**

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### **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**

Aggregation of foreign law is most frequently defended under ‘many minds’ arguments, which claim that the opinions of many will be better than those of just one, but there are many varieties of ‘many minds’ argument each of which has different contours and risks”. Anonymous.

(a) Discuss the role of Mischief rule in statutory interpretation and evaluate its place in the construction of statutes. **(15 marks)**

(b) Discuss the place of Golden rule in the interpretation of statutes.

**(15 marks)**

### **QUESTION TWO**

With the aid of decided cases and statutory provisions compare and contrast the jurisdiction of the Supreme Court and that of the High court of Kenya as provided in the Constitution of Kenya. **(20 marks)**

### **QUESTION THREE**

With the aid of appropriate illustrations, highlight the main distinctions between the common law legal system and the civil law legal system.

**(20 marks)**

### **QUESTION FOUR**

With the aid of case law, compare and contrast the literal rule and the golden rule of statutory interpretation and evaluate their utility in the construction of statutes.

**(20 marks)**

### **QUESTION FIVE**

I have gone at some great length into international law provisions to underscore the view I take in this matter that the central issue relating to discrimination, which this appeal raises, cannot be fully addressed by reference to domestic legislation alone. The relevant international law which Kenya has ratified, will inform my decision'; per Waki JA, in *Rono v Rono and Another* (2005) E A 363, at 371.

- (a) In the light of this case and any other authority, discuss the authority of customary law in Kenya courts. **(10 marks)**
- (b) What is the place of International Law in Kenya court in right of current Constitution? **(10 marks)**