



KISII UNIVERSITY
UNIVERSITY EXAMINATIONS

FIRST YEAR EXAMINATION FOR THE AWARD OF THE
DEGREE OF BACHELOR OF LAWS
SECOND SEMESTER, 2023/2024
(JANUARY-APRIL, 2024)

LLBK 121: CONSTITUTIONAL LAW

STREAM: Y1 S2

TIME: 2 HOURS

DAY: THURSDAY, 9:00 – 11:00 A.M.

DATE: 04/04/2024

INSTRUCTIONS

- 1. Do not write anything on this question paper.***
- 2. Answer Question ONE and any TWO other Questions.***
- 3. Illustrate your answer with relevant cases and statutory provisions where applicable.***

QUESTION ONE

Justice Kubo in his dissent in *Dr. Rev. Timothy Njoya and others v A. G (2004)* appeared not to abandon the reasoning of the High Court of Kenya in *EL Mann v R. (1969)*, where he held that interpretation of the constitution is governed by the same interpretive methodology that applies to interpretation of Statutes (ordinary law). Give your reasoned opinion as to whether interpretation of the constitution is governed by the same rules or canons that govern the interpretation of statutes. (30 Marks).

QUESTION TWO

Montesquieu's theory on the separation of powers is seldom explicitly incorporated in written constitutions around the world, though often constitutionally guaranteed in the horizontal and vertical organization of the organs of state as well as its structure. Explain by making reference to a constitution of your choice. (20 Marks)

QUESTION THREE

The role of a judiciary, within most nations is to ensure that laws which are made by the central Parliament or legislature comply with the constitution. However, this often raises controversy over why the judges should be able to claim supremacy in correctly interpreting what the constitution means. Illustrate by making reference to the relevant powers of the judiciary in Kenya, the US, UK and South Africa, how states have dealt with the issues arising from this.

(20 Marks)

QUESTION FOUR

Discuss the sources of executive powers; the structure and mandate of the executive branch of government in Kenya.

(20 Marks).

QUESTION FIVE

“In the system of separation of powers the three governmental braches namely the executive, the legislature and the judiciary, mutually check and balance each other in the discharge of their mandates”. ... Per anonymous jurist. Discuss.

(20 Marks).