



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 123: LEGAL SYSTEMS AND METHODS

STREAM: Y1 S2

TIME: 2 HOURS

DAY: MONDAY, 9:00 – 11:00 A.M.

DATE: 08/04/2024

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

Prof Onjwang states that, “the implementation of English law seem to be irreversible. The development from the ethnic state, with advent of colonialism, the cake of custom had been crumbling and continue to crumble rapidly. Customs had been the basis of orderly life in society, when cake of customs crumble, a hiatus task is exposed with entire social order which must be filled by agency of stability or normative authority. This need is met by the statute law, a regime of law founded on western law.”

- a) Discuss the authority of customary law in Kenya’s courts today.
(10 marks)
- b) Discuss the supremacy of constitution vis a vis international law.
(10 Marks)
- c) Discuss the place where the lawyer may look to find the law to apply to a particular fact situation.
(10 marks)

QUESTION TWO

The government of Kenya is divided into three branches. Judiciary is one of the three branches of government. The courts in Kenya are classified into two: the superior courts and subordinate courts. Each court has its powers and jurisdictions as per the constitution and various Acts of Parliament.

- a) Discuss the power and jurisdiction of supreme court vis a vis court of appeal. (10 marks)
- b) Discuss composition, powers and jurisdictions of High Court in Kenya. (10 marks)

QUESTION THREE

It is every legislative drafts man's dream of drafting and seeing enacted into law a statute of his devising that leaves no contingency unprovided for and its clear and unambiguous in its direction as to each and every conceivable situation which may arise in the word. However, the gulf between aspirations and accomplishment is usually unbridgeable no matter what the draftsman does.

- a) Discuss the causes of uncertainty in statutes law. (10 marks)
- b) Discuss the main source of uncertainty. (10 marks)

QUESTION FOUR

"The primary use of canons of interpretation and presumptions is probably justificatory in that they justify an interpretation an interpretation which has been arrived at by a general consideration of the facts of the case, the statutory rule and its purpose." Anonymous

- a) Compare and contrast golden rule and mischief rule of interpretation. (10 marks)
- b) Discuss unitary approach to the interpretation of the constitution. (10 marks)

QUESTION FIVE

Write explanatory notes on the following:

- a) Sharia law (5 marks)
- b) Legal Profession (5 marks)
- c) Comparative study (5 marks)
- d) Common Law (5 marks)