



KISII UNIVERSITY
UNIVERSITY EXAMINATIONS

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

LLBK 421: CONFLICT OF LAWS

STREAM: Y4 S2

TIME: 2 HOURS

DAY: TUESDAY, 9:00 – 11:00 A.M.

DATE: 02/04/2024

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

Simon Makonde was born in the year 1982 in the United States of America to Kenyan parents. He thus acquired citizenship of both the USA and Kenya by virtue of birth. While he was 5 years old, Simon Makonde and his parents moved back to Kenya where completed his basic education before securing a scholarship to study political science at Harvard University.

In the year 2002, as he was giving his farewell speech in preparation for travel to the United States of America, he stated as follows:

“I am very excited to be returning to the country of my birth to study political science. It is my intention to be the next Barrack Obama”

In the year 2005, Mr. Simon Makonde won a lottery and used the money to set up a home in Florida USA and invested the rest of the money in businesses back in Kenya as the USA stock market was in crisis.

In 2008 Mr. Simon Makonde was a victim of a hit and run. His friends and family have now found a will that Mr. Simon Makonde wrote while on a trip to the Kingdom of Saudi Arabia. The will was executed and signed in the Kingdom of Saudi Arabia. They have approached you, an expert in Private International Law, with a view to identify the applicable law regarding the interpretation and enforcement of the will. Advise them. (30 Marks)

QUESTION TWO

- a) You are a distinguished scholar on the law on Domicile. Using decided cases, prepare notes for presentation to the students of the University of Nonsense (UON) on the current law on Domicile as applicable in Kenya. (15 Marks)
- b) Distinguish between the concept of “domicile”, “residence” and “nationality” (5 Marks)

QUESTION THREE

- a) Discuss the Foreign Judgements (Reciprocal Enforcement) Act CAP 43 Laws of Kenya taking note of the various features of the Act that are useful to the Private International Law Practitioner. (10 Marks)
- b) Discuss the process of service of foreign legal process in Kenya as provided for by Order 32 of the Civil Procedure Rules. (10 Marks)

QUESTION FOUR

- a) With the aid of appropriate illustrations, discuss the major theories of Conflict of Laws/Private International Law (20 Marks)

QUESTION FIVE

Discuss any **TWO** of the following concepts.

- a) *Lex loci contractus* (10 Marks)
- b) *Lex Fori* (10 Marks)
- c) *Lex loci solutionis* (10 Marks)
- d) *Lex Situs* (10 Marks)
- e) *Renvoi* (10 Marks)