



RIARA LAW SCHOOL
UNIVERSITY OF EXAMINATION FOR BACHELOR OF LAWS (LLB) DEGREE
AND
PRE-KENYA SCHOOL OF LAW CORE COURSES COMPLIANCE PROGRAM
24th APRIL 2023
RLB 205: EVIDENCE LAW I
INSTRUCTOR: MR. WASHINGTON OMBIS
INSTRUCTIONS

1. This is the final examination in Evidence Law I. You will earn 70% of your final grade from this final examination and 30% from Continuous Assessment Assignments.
2. This examination has **FIVE** questions. **QUESTIONS: ONE, TWO AND THREE ARE COMPULSORY. ANSWER TOTAL OF FOUR QUESTIONS.**
3. The examination has 4 pages, including this one.
4. Time allocated for this examination is **TWO HRS** (2) hours. You must stop writing when time is called.
5. Please sign the roll sheet when you turn in your answer sheet. If you fail to sign the roll sheet, we shall have no way of establishing that you sat for this examination and your marks will not be reported.
6. This is a **CLOSED BOOK** examination. This means you are not permitted to bring ANY hard or soft materials to the examination room. You are also not allowed to access materials stored in computers, electronic gadgets or the internet. You should not bring to the examination room any of the following: cell phones, tablets, computers, statutes, notes, outlines, or books. Neither should you bring to the examination room books or materials unrelated to this course. If you need to have medicine or food items with you, please let the invigilator know before the examination begins.
7. This examination is governed by **Riara University Academic Honesty Regulations**. Students who violate those regulations will be penalized. Students have an obligation to report to the invigilator any incidences of academic dishonesty compromising the integrity of this examination.

Questions

Question One (30 Marks)

On the 1st day of March 2023, elections were conducted in Riara University.

The key elective post being the president.

The total number of students who registered for elections were 2,100 as per the final register which was also the total number of students at the university at that time.

The elections kicked off at 11 am on the said date and counting of votes began at around 7 pm.

The returning officer one Fatuma Rashid, announced the votes as follows:

i)	Stephanie Nendela	1,200 votes
ii)	Samuel	1000 votes
	Total number of votes	2,200 votes

From the record Samuel raised concerns of there being extra unexplained 100 votes since 2,100 was the total number of registered voters and also 2100 was the total number of students at the university at that time. Samuel Baraka therefore decided to challenge the results at the Riara University Elections Tribunal, as he alleged there being irregularity in the way the elections were handled and the total number of votes do not tally with the student population.

- a) Draft 10 questions which you would ask the returning officer assuming you are the advocate on record for Samuel. **(10 Marks)**
- b) Draft 10 questions which you would ask the returning officer assuming you are the advocate on record for Stephanie Nendela. **(10 Marks)**
- c) In principle highlight 5 differences between the types of questions asked in a and b, support using relevant authorities **(10 Marks)**

Question Two (15 Marks)

“[A]ll relevant evidence is not admissible but all admissible evidence is relevant” – anonymous

In light of the above and whilst citing the provisions of the Evidence Act of Kenya, critically discuss the categories of relevant evidence.

(Highlight at least 7 provisions under the Evidence Act of Kenya).

Question Three (15 Marks)

“[H]earsay or indirect evidence is the assertion of a person other than the witness who is testifying, offered as evidence of the truth of that asserted rather than as evidence of the fact that the assertion was made. It is not original evidence.” Kinyatti v Republic [1984] eKLR¹ at paragraph 4.

With reference to the above, critically discuss the circumstances under which hearsay evidence is admissible.

Question Four (10 Marks)

“[A]ll persons shall be competent to testify unless the court considers that they are prevented from understanding the questions put to them or giving rational answers to those questions...”²

Considering the above : -

- a) Distinguish competence and compellability of witnesses. **(3 Marks)**
- b) Discuss at least 5 exceptions to the rule on competence and compellability of witnesses. **(7 Marks)**

¹ Criminal Appeal No. 60 of 1983

² Section 125 of the Evidence Act of Kenya, See also Republic v FME [2020] e KLR

Question Five

(10 Marks)

Write brief explanatory notes on:

- a) Confessions. **(5 Marks)**
- b) Burden of proof and the instances of shift in burden of proof in criminal proceedings **(5 Marks)**