



THE CATHOLIC UNIVERSITY OF EASTERN AFRICA

A. M. E. C. E. A MAIN EXAMINATION

JANUARY – APRIL 2019 TRIMESTER

FACULTY OF LAW

REGULAR PROGRAMME

SPECIAL / SUPPLEMENTARY EXAMINATION

CLS 202: LAW AND PRACTICE OF EVIDENCE I

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Date: APRIL 2019

Duration: 2 Hours

INSTRUCTIONS: Answer Question ONE and ANY OTHER TWO Questions

- Q1. Peter lives in a flat with many residential units within Bora Uhai Area around Catholic University. On the night of 28th/29th October 2010, Peter while sleeping in his house is awakened by a commotion in Steve's house next door. Peter hears Steve's voice shout "I am dying. Zack why have you done this to me." Everything goes silent until the following morning when Peter wakes up to the news that Steve died the previous night and the cause of death was manual strangulation. In the neighbourhood that morning, tension was high and residents were overheard talking in low tones about the state of insecurity in the area. Peter particularly hears a gentleman by the name Richard inform one of the residents that Steve was last seen drinking at Mapema Pub in the company of a gentleman known as Zack. Richard further states that it was rumoured that Zack and Steve were embroiled in a love triangle for a long time and he (Richard) suspects that it is the love triangle that is the foundation of Steve's death. Peter is a witness for the prosecution in the subsequent trial of a suspect by the name Zack. Discuss the admissibility of each of the above statements of fact that Peter intends to tell the court. Unnecessary verbosity is not permissible. **(30 marks)**
- Q2. State and explain four exceptions to the Hearsay Evidence Rule remembering always to cite relevant case law to support your argument. **(20marks)**

Q3. Write short explanatory notes on the following:

- a) Circumstantial evidence **(5marks)**
- b) Fact in issue **(5marks)**
- c) Relevant fact **(5marks)**
- d) Res gestae. **(5marks)**

Q4. With reference to applicable case law explain the law on admissibility of illegally obtained in Kenya **(20marks)**

Q5. "in criminal proceedings the fact that the accused person has committed or been convicted of or charged with any offence other than that with which he is then charged or is of bad character is inadmissible" . With reference to the relevant case law, discuss the exception to this rule of evidence. **(20marks)**