



# THE CATHOLIC UNIVERSITY OF EASTERN AFRICA

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**MAIN EXAMINATION**

**AUGUST - DECEMBER 2014 TRIMESTER**

**FACULTY OF LAW**

**REGULAR PROGRAMME**

**CLS 101 & 102 LEGAL SYSTEMS & METHODS**

**Date: DECEMBER 2014**

**Duration: 2 Hours**

**INSTRUCTIONS: Answer Question ONE+ and Any other TWO questions**

Q1. The adversarial system is a fundamental aspect of the Kenyan Legal System. Various roles or functions assigned to Advocates before, during and after trial.

Consider the extent to which those roles are thought essential to:

- a) One interests of the actual litigants
- b) One broader public interest in the integrity of the system for the administration of justice. **(30 marks)**

Q2. Having studied the theory on Natural Law propagated by St.Thomas Aquinas, what in your view would be his answer to one of the following questions.

- a) What is the source and basis of validity of natural law?
- b) What are the characteristics of natural law?
- c) What are the relations between natural law and human law and how is conflict amongst their dictates resolved? **(20 marks)**

Q3. The Traditional roles of statutory interpretation disguise the wide element judicial discretion inherent in the non-logical choice between many different and contradictory rules. Analytically discuss. **(20 marks)**

- Q4. Write short notes on the following:
- a) Criminal liability **(6 marks)**
  - b) The rule of law **(7 marks)**
  - c) Judicial precedent **(7 marks)**

Q5. On the 24<sup>th</sup> December 2005, Mzee Raja a widower and his two adult sons, Who are residents of Shimba Village, prepared a meal of chickens and chapattis in preparation for Christmas lunch the next day. Having finished cooking and storing away the food, the three decided to go for a drink at their local pub, at about 8p.m. When they god back home at about midnight, they saw one of their neighbors, Hamisi, quickly disappear into his house, they shouted greetings but he did not respond. They also noticed that their door that they had locked was ajar. They nonetheless went to sleep. The next day, they noticed that their old radio was missing and so was the food that they had cooked. They immediately made a report to the police, who embarked upon investigations on the same day. Upon inspecting Hamisi's house, they found the food containers in which the chicken and chapattis had been packed. Hamisi has however indicated that the med was brought to him by another neighbor Barasa. Upon searching Barasa's house, Mzee Raja's radio was found therein. Both Barasa and Hamisi are being held at Shimba Police Station awaiting Prosecution.

You are an intern at the Department of Public Prosecutions and you have been requested to advise on the criminal trial process to be followed in the above circumstances. **(20 marks)**

**\*END\***