



KENYATTA UNIVERSITY

UNIVERSITY EXAMINATIONS 2011/2012

**SECOND SEMESTER EXAMINATION FOR THE DEGREE OF BACHELOR OF
LAWS**

LIL 303: CONFLICT OF LAWS

DATE: Thursday 12th April 2012

TIME: 12.00p.m- 2.00p.m

INSTRUCTIONS

- 1) Answer question ONE and any other TWO questions
- 2) You will be penalised for failing to answer question one
- 3) Support your answer with relevant case law, statutes and any other relevant references
- 4) Write neatly and legibly
- 5) Your answer sheet must bear your student registration number

QUESTIONS ONE

Leon Bimerang, a Kenyan by birth, went to pursue further studies in UK his undergraduates. While in UK, he met a hot siren aged 15 years from Indonesia, whom he swore to his heart that he shall not leave her untouched. Unknown to him, this young naïve girl secretly admired him, and after a short period of admiring each other, the two found themselves in an inseparable position, and a after a while the wedding was hurriedly arranged and they were married in a London Anglican Church, officiated by Rev. Deya. However, unknown to the couples, Rev. Deya was not licensed to conduct marriage in Kenya.

After the wedding, the newly wedded couple relocated to United States, where Mr. Bimerang had been posited a junior diplomatic agent to the Kenyan Embassy in New York.

Although a person aged 15 years and above has the capacity to marry under the laws of Indonesia, such a person has no capacity under the Kenyan laws.

Mr. Bimerang has approached you to advise him on the validity of marriage since he feels that his wife was underage at the time of marriage and that Rev. Deya not licensed to conduct the marriage under the Kenyan laws.

(a) Drawing from the principles of Conflict of laws, give legal advice to Mr. Bimerang to address his concerns. **(15 Marks)**

(b) Assuming that the marriage has irreparably broken down, and Mrs. Bimerang wishes to file for divorce in New York, advice her if the New York has the jurisdiction and what law will apply if the petition for divorce was filed

(15 Marks)

QUESTION TWO

Explain and differentiate the following:

a) Distinguish between Domicile and Residence

(5 Marks)

b) Describe in details the doctrine of domicile and discuss the various types of domiciles.

(15 Marks)

QUESTION THREE

Write detailed notes on the following concepts of private international law Domicile of Choice

a) Choice of forum

(10 Marks)

b) Choice of forum

(10 Marks)

QUESTION FOUR

(a) Distinguish between enforcement and Recognition of a foreign judgment.

(5 Marks)

(b) Set out and discuss the rules and procedures governing the recognition and enforcement of foreign judgments in Kenya.

(15 Marks)

QUESTION FIVE

Write detailed notes on any two of the following:

a) Formal Validity of marriage

(10 Marks)

b) The rule in *Phillips vs. Eyre*

(10 Marks)

c) Capacity to marry

(10 Marks)

d) Proper law of contract

(10 Marks]