



**Strathmore**  
UNIVERSITY

**STRATHMORE LAW SCHOOL  
MASTER OF LAW (LL.M)  
SUPPLEMENTARY EXAMINATION  
LLM 8003: LEGAL ETHICS**

**Date: Tuesday, 7<sup>th</sup> May 2024**

**Time: 3 Hours**

**Instructions**

1. This examination consists of **FOUR** questions.
2. Answer **Question ONE (COMPULSORY)** and **any other TWO questions**
3. You should spend a fair amount of time organizing your thoughts before starting to write.
4. Careful organization and clarity will be highly valued.
5. Please start your answer for each question on a new page

**QUESTION 1**

Ethics are not reducible to rules, and knowledge of values of itself will not make a lawyer ethical. There is no really effective forum for their enforcement save individual acceptance and peer expectation. ... [A]mong those who see themselves as members of a profession, peer expectation is sufficient to maintain the profession's ethical code (Sir Gerard Brennan AC, address to the Queensland Bar Association, 3 May 1992).

Describing Aristotle's philosophy on ethics, Will Durant says:

“Excellence is an art won by training and habituation: we do not act rightly because we have virtue or excellence, but we rather have these because we have acted rightly . . . we are what we repeatedly do. Excellence, then, is not an act but a habit . . .”

The Story of Philosophy 87 (1926)

- (a) With reference to the foregoing, discuss the Aristotelian understanding of virtue and how you think it can contribute to forming lawyers whose “graceful and honourable” conduct befits the “status of an advocate”, going beyond the mere avoidance of misconduct spelt out in codes of ethics.

**[15 Marks]**

- (b) You are approached by Law Society of Kenya to check the drafting of a new code of ethics for lawyers. Write a memo in which you:

- i) Describe the main principles you recommend for developing an effective code of conduct. **[7 Marks]**
- ii) Express your views on the legitimacy crisis which codes of ethics suffer among both insiders and outsiders to the profession (ie the criticisms levelled against them by insiders and outsiders to the profession).

**[8 Marks]**

## **QUESTION 2**

Many young lawyers enter the legal profession because it offers great opportunities for wealth and prestige. Lawyers feature among the richest in any society. Is this perception, in your view, problematic in any way? Discuss the salient features of professionalism and indeed the legal profession, that such thinking lacks, and which are necessary to give an accurate picture of the profession and thus inform the youngsters' choice of career. In your answer, explain how a profession differs from an ordinary job.

**[15 Marks]**

## **QUESTION 3**

The cab rank rule is a common law principle which places a professional obligation on advocates to provide legal representation for a client regardless of any personal feelings of said advocate about the client's chances of success, about the client as a person, or about the facts of the case. In a Continuing Legal Education lecture, The Hon Sir Gerard Brennan of the Bar Association of Queensland said of the rule:

The cab rank rule is, paradoxically, the chief security of the Bar for its professional future. If the public perceive that the Bar's services are truly available to anybody who is in genuine need of those services on payment of a reasonable fee, the Bar may expect to gain the respect, if not the affection, of the public.

The Hon Sir Gerard Brennan AC KBE, Bar Association of Queensland,  
Continuing Legal Education Lectures No. 9/92, May 1992.

In light of the existing legal and constitutional provisions on the right to representation in court and the right to access to justice, discuss the applicability of the cab rank rule in Kenya. In your discussion, you should also make reference to the prevailing codes of ethics for legal professionals in Kenya.

**[15 Marks]**

## **QUESTION 4**

Can a "hired-gun" (availability of advocate to do anything the client asks) approach to legal practice ever be justified? Discuss. **[15 marks]**