



KENYATTA UNIVERSITY
EXAMINATION FOR THE DEGREE OF BACHELOR OF LAW
LPL 302: CHILDREN AND THE LAW

1ST SEMESTER 2021/2022

TIME: 2 HRS

INSTRUCTIONS

1. Answer question **ONE** and any other **TWO** questions. Penalties accrue for failure to answer question **ONE**
2. Support your answer with relevant illustrations from case law, statutory provisions and any other references
3. Your writing must be **NEAT** and **LEGIBLE**
4. Your answer booklet must bear your assigned **REGISTRATION NUMBER**, both on the cover and every written page therein
5. Do not scribble or draft answers on the inner or outer cover pages or your question paper
6. Do not write anything except your **REGISTRATION NUMBER** on this question paper
7. **All** Kenyatta University Examinations rules apply as if they were contained herein

QUESTION 1

Cate a fresh graduate, was hired for her first job at a renowned regional motor vehicle company. During orientation she was introduced to Waki, the Head of Operations at the company as her immediate supervisor. A work relationship begun that soon after blossomed into a love-affair between Cate and Waki. One year later, Cate discovered that she was pregnant with Waki's child. Cate and Waki started living together in Waki's house. Cate later gave birth to a bouncing baby girl who they named Noel seeing that she was born on Christmas eve. After Noel's first birthday, Cate and Waki began noticing that their bubbly daughter was attaining her toddler milestones very slowly. They consulted a pediatrician who diagnosed Noel with a rare muscle disorder. Cate and Waki were in disbelief but took in their stride and embarked on this new journey of parenting. The paediatrician prescribed special medication and weekly therapy for Noel. Luckily, the special medication was available in all Government hospitals at significantly subsidized costs for all children who had this rare condition upon certification by a public health officer.

A few weeks later, Cate learnt that she was pregnant with their second child. The elated love birds took extreme caution with this second pregnancy. Upon delivery, Cate and Waki discovered that their new born did not have any defined male or female sex organs. They named the child Baraka. Before discharge, Cate and Waki sought the opinion of a specialist who advised that there was no cause for alarm seeing that the hospital offered corrective surgical procedures for such cases.

However, after taking Baraka home Waki was very in-different. One day, Waki confronted Cate accusing her of infidelity. He told Cate that his family had no history of any of the conditions that Noel and Baraka had. A very infuriated Waki threw Cate and the children out of the house. In addition, Waki being an influential manager at the renowned motor vehicle company had Cate transferred to another branch and completely cut links with her and the children.

A distraught Cate was now singly raising her two children. At around this time the Government announced that the subsidized medication for Noel's condition would no longer be available because donors had stopped supplying the essentially drug. At this point, Cate and her children

were living from hand to mouth and Noel's condition which had significantly improved begun deteriorating due to lack of the necessary medication. Cate has been desperately trying to reach out to Waki to help with raising the children but Waki has refused. He is constantly bragging at social joints saying that he is neither the father of the two children and nor were they in a marriage union with Cate. The situation is further aggravated seeing that the Registrar of Births and Deaths refused to issue a birth notification card for Baraka because the doctors could not ascertain if the child was male or female. Cate is in despair and seeks your assistance as a Children Rights lawyer.

- a) Citing relevant statutory provisions and case law, advise Cate on the legal issues presented above

(20 marks)

- b) At the end of your conversation Cate tells you that she is considering giving up Noel for adoption. Using relevant statutory provisions and case law, advise Cate on who can qualify to adopt Noel and the process of adoption in Kenya.

(10 marks)

QUESTION 2

As a children rights champion and advocate in your country you have been selected to make a presentation during the celebrations set for commemorating 31 years of the African Charter on the Rights and Welfare of the Child (ACRWC). Your task is to demystify the notion that the ACRWC is a replica of the United Nations Convention on the Rights of the Child (UNCRC).

Citing statutory provisions and other relevant case law write down detailed talking points on the same.

(20 marks)

QUESTION 3

- a) With the aid of relevant authorities, discuss the principle of the best interests of the child
- (10 marks)
- b) Citing relevant authorities, discuss to what extent the child rights framework gives leeway for children to exercise individual rights without parental consent
- (10 marks)