



KENYATTA UNIVERSITY

UNIVERSITY EXAMINATIONS 2011/2012

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

LIL 402: LAW, SCIENCE AND TECHNOLOGY

DATE: FRIDAY 13TH APRIL 2012

TIME: 3.00 P.M. – 5.00 P.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

QUESTION 1

A lorry owned by a Kenyan importation firm carrying genetically modified organisms (GMO) in the form of cassava stems ready for propagation on transit to Uganda from the Port of Mombasa rolled in Chasangwan village along the Nakuru-Eldoret road. As it has been the tradition in this part of the country, villagers descended on the truck and made away with containers bearing the GMO cassava stems. Some went ahead and planted the stems, despite warnings printed on the containers stating that the stems may have contained GMOs. A few farmers who are jittery about the possible impacts of the GMOs sought intervention from the authorities with jurisdiction over the matter but were informed that Kenya was not aware of the presence of the cargo and in fact, had not authorized the same to pass through the country. Ugandan authorities confirm that they had indeed authorized the importation company to deliver the consignment of maize into their country but felt it was not under any

obligation to confirm if the company had obtained the necessary authorization from Kenya. The importation firm cannot produce any document authorizing it to transport the GMO cassava to Uganda. The farmers are apprehensive that produce from the GMO plants may contaminate their produce and local environment and have thus approached you for legal advice.

- a. Explain to them the law governing this particular situation, the extent to which the law protects their interests and any legal avenues of redress and remedies should the situation get out of control?(20 marks)
- b. Briefly outline any five of the weaknesses in Kenya's legal framework on Biosafety and make suggestions for reforms. (10 marks)

QUESTION 2

- a) Differentiate between the two traditions espoused by the phrases "*science in policy*" and "*policy for science*" and explain the extent to which Kenya's law on science and technology has embraced these traditions (10 marks)
- b) Explain the main similarities and differences between the legal and scientific methods of inquiry in order to demonstrate the interface between the disciplines of law and science. (10 marks)

QUESTION 3

Article 34 on freedom of media states at sub-article (3) thus..."*Broadcasting and other electronic media have freedom of establishment, subject to only licencing procedures that- (a) are necessary to regulate the airwaves and other forms of signal distribution; and (b) are independent of control by government, political interests or commercial interests*"..

And at sub-Article (5)....."*Parliament shall enact legislation that provides for the establishment of a body which shall- (a) be independent of control by government, political interest or commercial interests (b) reflect the interests of all sections of the society; and (c) set media standards and regulate and monitor compliance with those standards*"

To what extent does the Kenya Information and Communication Act of 1998 (amended in 2007) encapsulate the essence the above constitutional provisions (20 Marks)

QUESTION 4

“Despite the rising cases of medical negligence reported regularly in the local media, it is difficult to hold negligent doctors to account for their professional misdeeds” Anonymous. Critically discuss this statement within the Kenyan legal context (20 marks)

QUESTION 5

Write brief explanatory notes on any **FOUR** of the following question:

- a) Considerations in determining lawfulness of research with potential adverse impacts on the environment
- b) Appropriateness of courts as forums for regulating scientific professions?
- c) Salient issues concerning legal regulation of traditional and indigenous knowledge in Kenya
- d) Salient issues concerning regulation of media in Kenya
- e) Weaknesses of the Science and Technology Act

