



KENYATTA UNIVERSITY

UNIVERSITY EXAMINATIONS 2017/2018

FIRST SEMESTER EXAMINATION FOR THE DEGREE OF BACHELOR OF LAWS

LPL 302: CHILDREN AND THE LAW

DATE: Thursday, 8th February, 2018

TIME: 3.00 p.m. - 5.00 p.m.

INSTRUCTIONS:

1. Answer Question **ONE** and any other **TWO** questions. Penalties accrue for failure to answer question **ONE**.
2. Support your answers 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 of your answer booklet.
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 ONE (1) (COMPULSORY)

JOHN KEN is a street child, born in 2004 along Koinange Street, Nairobi. Both of his parents, namely, **JAMES KEN** and **MARY KEN** are part of street families in Nairobi. **JOHN KEN** has been raised in streets in Nairobi which he regards as his home since his birth. He rarely has breakfast and lunch. His parents are unable to afford decent rented house due to lack of meaningful employment. He has not been to school. The family member rarely wash their clothes and are usually sickly.

On 27th July, 2016, **JOHN KEN** joined a street gang named FanyafujoUone commanded by his younger brother **KEVIN KEN**. On 28th July, 2016, the gang attacked a drunkard at night along Koinange Street. The drunkard was later found murdered along Koinange Street. The matter was referred to police and **JOHN KEN** and his brother **KEVIN KEN** were arrested, charged with murder, convicted on plea of guilty and sentenced at President's pleasure under section 25(2) of the Penal Code (Cap. 63). **JOHN KEN**'s sister **JOYCE KEN** aged 14 years is expecting a child fathered by the owner of a shop along Koinange Street. The parents of **JOHN KEN**, **KEVIN KEN** and **JOYCE KEN** have been advised that their children have rights to enforce against the National and County Governments. They have approached you as their advocate to assist their children.

- (a) Using relevant case law, local legal provisions and international instruments advise them on the main issues and rights of **JOHN KEN**, **KEVIN KEN** AND **JOYCE KEN** (25 marks)
- (b) What court orders would you be seeking for **JOHN KEN**, **KEVIN KEN** and **JOYCE KEN** (5 marks)

QUESTION TWO

DORCAS APII was born in 2003 and is the only daughter of **LUKAS APII** in the ShauriYako Village, Tur County. In 2016, while in the Standard VII at ShauriYako Primary school she gave birth to a child whom she claimed is fathered by **AKILI MBAYA**, head teacher. She left schooling and is now nursing her child at home. Her family is poor and is not able to afford maintenance of her child. Occasionally, **AKILI MBAYA** is seen talking to her near her parents' shop. The village elders have tried to mediate on the matter and advised **AKILI MBAYA** to support the child. However, he has denied any paternity and responsibility on the ground that **DORCAS APII** had confessed to him that she had sexual affairs with other male teachers at ShauriYako Primary School. The parents of **DORCAS APII** approach you as their advocate to assist their daughter and her child.

Using relevant legal provisions and case law advise them.

(20 marks)

QUESTION THREE

Discuss the main legal consequences of being regarded under the Children Act (Cap.141) as:-

(a) a child

(10 marks)

(b) an adult

(10 marks)

QUESTION FOUR

Critically discuss the principle of best interests of the child as defined under section 4(2) of the Children Act (Cap. 141) and as provided for under Article 53(2) of the Kenyan Constitution.

(20 marks)

QUESTION FIVE

(a) Discuss the challenges in the enforcement of Children's rights and welfare under the Children Act (Cap. 141).

(10 marks)

(b) What are the possible solutions to the enforcement problems regarding the Children's rights and welfare?

(10 marks)