



THE CATHOLIC UNIVERSITY OF EASTERN AFRICA

A. M. E. C. E. A

MAIN EXAMINATION

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AUGUST – DECEMBER 2018 TRIMESTER

CENTRE FOR SOCIAL JUSTICE AND ETHICS

REGULAR PROGRAMME

JPE 206: LABOUR RELATIONS AND THE LAW

Date: DECEMBER 2018

Duration: 2 Hours

INSTRUCTIONS: Answer Question ONE and ANY OTHER TWO Questions. This is a limited open book exam. Students are allowed access to clean copies of the relevant Acts of Parliament only.

- Q1. a) State the statutory law applicable to the Labour environment in Kenya. **(6 marks)**
- b) Describe the various tests applicable to verifying whether a worker is on a contract of service or a contract for services. **(10 marks)**
- c) Angelina works as a gardener at Quoted Brother's house. She started working for them on 1st April 2016. By March 2018 she had only taken 20 out of 30 days of annual leave that she is entitled to. She is now expectant and the Expected Date of Delivery (EDD) is June 1st 2018. The brothers allowed her to start her leave on 25th May 2018. While on leave she lost her mother just few days before her maternity leave ends, and due to the fatigue and exposure to the elements and mosquitos she fell sick and was unable to return to work for up to 14 days. The brothers granted her 7days of compassionate leave she requested and she was granted an opportunity to make use of her untaken leave of previous year and 20days out of the leave she is entitled to in the current year. Use the provisions of employment act that relate to leave to determine when she is likely to return to work ? **(14 marks)**
- Q2. The Holy Sisters of Mount Lusozi own and operate Kabasanda millers and confectioners and they transports its employees to and from work every day. Two weeks ago, the van providing transport was involved in an accident in which Pinto the driver died, the one armed Fridah lost her remaining arm, Kambuti lost

a hand at the wrist while Kamese and Kabizi lost three phalanges each of the index figure. Meanwhile it is evident that Nakajanja is bed ridden as a result of the accident and may have to remain that way for another 18 months. The doctors are actually not sure she will be able to operate ever again the mingler she has always operated. Kabasanda Millers and Confectioners only provides a maximum of three weeks sick leave with full pay, another two weeks on half pay and there after no payment. Advise the parties on:

- a) The relevant law applicable to this situation **(2 marks)**
 - b) The percentage of disablement for the affected employees **(10 marks)**
 - c) How Nakajanja's right to compensation will accrue **(8 marks)**
- Q3. Kambuti Agencies is the property manager for Kangaroo Holdings. Kambuti Agencies are managing a quarter acre property on Ngong Rd where their own offices are located. This property also houses nine (9) carpentry and welding workshops that belong to different registered entities. These entities employ all together 50 workers. Using the provisions of the OSHA, what are the duties placed on the parties involved for purposes of health and safety? **(20 marks)**
- Q4. Several trade unions have been going on strikes in the past two years. Some employers have even exercised their rights to lock outs. They both seem to be affirming their constitutional rights yet the relevant statutory law prohibits some strikes and lock outs. Explain this dilemma using the applicable law. **(20 marks)**

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