



# THE CATHOLIC UNIVERSITY OF EASTERN AFRICA

## A. M. E. C. E. A MAIN EXAMINATION

AUGUST – DECEMBER 2018 TRIMESTER

FACULTY OF LAW

REGULAR PROGRAMME

CLS 201: FAMILY LAW

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**Date: DECEMBER 2018**

**Duration: 2 Hours**

**INSTRUCTIONS: Answer Question ONE and ANY OTHER TWO Questions**

Q1. Johnson, a Christian and an employee of Rafiki Company within Nairobi met Jane a fellow employee in their place of work and they got close. In the course of their talk Johnson realized that he was two years older than Jane, they fell in love and on his 25th birthday Johnson made a proposal to Jane to marry her, they then commenced the plans that would lead to their marriage, among the plans was to have a wedding wherein Jane insisted that her close niece who had just cleared form four and her cousin who was in form four, both aged 17 were to act as the Best Man and Best Lady during their wedding for the formality of signing the marriage certificate, Johnson has no objection to Jane's proposal, Jane further insisted on a Christian wedding which Johnson was not opposed to even though he had conducted a Civil marriage earlier but had problems with that wife who was now living separately from him. John however had a problem with the Officiating Pastor as proposed by Jane, both mutually settled on one of their fellow employee, who though not a Church Minister was a good Christian and they agreed to approach him with that proposal.

The two have now approached you as a lawyer known for family law. What would your legal advice be in line with Marriage Act 2014 in respect to:

a) Whether they could continue with the marriage arrangement in the manner in which they have proposed. Clearly state the legal issues that would arise.

**[15 marks]**

b) What the position would be if the proposed marriage was to be conducted as a Christian Marriage.

**[5 marks]**

- c) What the position would be if the proposed marriage was to be conducted as a Customary Marriage. **[5 marks]**
- d) Provisions relating to the officiating and execution marriage documents. **[5 marks]**
- Q2. Citing the relevant provisions of the Marriage Act 2014, discuss the grounds and manner in which a Civil Marriage may be dissolved. **[20 marks]**
- Q3. Outline the historical development of Family Law in Kenya. **[20 marks]**
- Q4. "In this Act, "parental responsibility" means all the duties, rights, powers, responsibilities and authority which by law a parent of a child has in relation to the child and the child's property in a manner consistent with the evolving capacities of the child." Section 23(1) Children Act (No.8 of 2001).
- a) What are the 'parental responsibilities' envisaged under the Act? **[10 marks]**
- b) Who can have a parental responsibility **[10 marks]**
- Q5. Write explanatory notes on the following:
- i) Void marriages **[7 marks]**
  - ii) Prohibited marriage relationship. **[7 marks]**
  - iii) Polygamous/Potentially Polygamous marriage. **[6 marks]**

**\*END\***