



THE CATHOLIC UNIVERSITY OF EASTERN AFRICA

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MAIN EXAMINATION

MAY – AUGUST 2019 TRIMESTER

CENTRE FOR SOCIAL JUSTICE AND ETHICS

REGULAR PROGRAMME

ACML 203: LABOUR LAWS

Date: MAY 2019

Duration: 2 Hours

INSTRUCTIONS: Answer ANY THREE Questions

- Q1. a) List the statutory law applicable to the Labour environment in Kenya. **(6 marks)**
- b) Discuss the view that the church's interest in the labour question is both moral and legal. **(14 marks)**
- Q2. You have just been assigned as administrator in charge of the transportation, fitting and maintenance workshop of CUEA. Examine your work station and make recommendations regarding the actions necessary to comply with health and safety at the workshop. **(20 marks)**
- Q3. Your employees know you have a soft spot for pregnant women. So Namanda has absented herself for several weeks without proper communication. You have warned her but she has persisted. You decide to terminate her. One of your managers in Kisoko has just decided to fire Fred who insisted on taking his leave last week. The manager said Fred the employee was not respectful. Actually the manager disregarded all the procedures relating to handling Fred's complaint. You have also been told that on hearing these issues, Dennis another of your employees who has just been on the job for eight (8) month is contesting for office with a worker's union. Your advisers say he intends to use his new office to make life hard for you. He actually reported a sanitation matter about your facility recently to the authorities. The labour officer was around three days ago to inspect and examine all latrines and other sanitary arrangement or water supply. She however found the gateman had instructions not to let her in. So she went away without inspecting the facilities. You are considering firing Dennis because you are convinced he cannot claim in unfair dismissal. Advise on the legality of

the actions taken or about to be taken by the various parties **(20 marks)**

Q4. The Little Sisters of the Circumcision run a technical training facility that teaches beading, crafting, tailoring, bricklaying and carpentry to children who have finished primary school but cannot afford secondary education. The sisters sell of the products of beading and crafts to European buyers for a profit and they buy tools for the graduating children. The Cabinet Secretary recently visited the Sisters' facility and gave them an approval for the work they do as consistent with the government policy of leaving no one behind. The area MCA is a member of the opposition and is not happy that the minister is gaining political mileage from the Sisters' Facility. He has visited the Labour officer to challenge the sisters for child labour.

Meanwhile, Lengurnet is an orphan born in 2005. He has no known guardian since he was raised by an orphanage in Kapenguria that was closed down for abusing children in 2015. He had actually escaped the abuse in 2014 and lived on the streets in Nakuru since then. He spent nights on the streets but turned up at an auto garage every day to help the mechanics while learning what they do. Last month he showed up in Nairobi at the auto garage of the Brothers of the Nazarene Carpenter seeking attachment. Br. Fidelis has tested Lengurnet and finds him far more experienced than any other intakes he gets for attachment. Actually Lengurnet wants to be bound to this auto garage.

a) Use the provisions of the relevant Law to defend to the sisters before the labour officer. **(10 marks)**

b) Advise Br. Fidelis on the legal considerations he has to make if he is to formally engage Lengurnet. **(10 marks)**

Q5. KIPAKASI is an employee recruitment agency. KIPAKASI advertised, interviewed and recommended for employment employees for KATOGO Grocers. Jane, Susan and Judith are ladies who were recruited to KATOGO Grocers a company that has hitherto employed 8 men out of 10 employees. PONSIANO and ZEBEDAYO are gentlemen who know they performed better than the ladies at the interview but have been left out. PONSIANO thinks he is discriminated against because he tested HIV positive and declared as much on the application form. ZEBEDAYO thinks that the only reason he was not taken was that he is a man. KATOGO Grocers is also aware that the number of its employees will be increasing to more than 20 in the coming months. KATOGO Grocers would like to comply with the law regarding a sexual harassment policy.. Both PONSIANO and ZEBEDAYO want to sue on grounds of discrimination.

a) Advise the relevant parties involved on who is liable to be sued and why. **(6 marks)**

b) What are the arguments in law that the person sued could use to defend themselves? **(6 marks)**

c) Advise the relevant parties on the content of the sexual harassment policy. **(8 marks)**