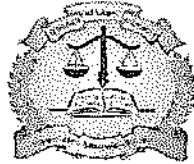


**COUNCIL OF LEGAL EDUCATION**



**EXAMINATION FOR ADMISSION  
TO THE ROLL OF ADVOCATES.**

**ATP 103: LEGAL WRITING & DRAFTING**

**THURSDAY 23<sup>RD</sup> MARCH, 2023.**

**DURATION: 3 HOURS.**

**Instructions to Candidates:**

- (a) This paper contains **SEVEN (7)** printed pages including the cover page, with a total of **SIX** questions.
- (b) A candidate **MUST** answer **FIVE (5)** questions.
- (c) Question **ONE** is compulsory and carries **20** marks.
- (d) All other questions carry **10** marks each.
- (e) Answers **MUST** be supported by relevant case law and statutory provisions where required.

**PLEASE TURN OVER**

### QUESTION ONE

- A. You are a pupil in a busy law firm known for pro-bono lawyering with a bias towards child maintenance cases. You secured the pupillage position because you were able to convince the firm that you were the best student in ATP 103, Legal Writing and Legislative Drafting. One of the firm's client, Mjeuri Sana has been served with the demand letter below from a lawyer acting for his estranged wife Utanijua Vizuri. The letter is pasted below;

Our ref: AMG/GI/2022      Your Ref: TBA      Date: 24<sup>th</sup> December, 2027.

Mjeuri Sana  
P.O. Box 124=0004000  
Nairobi  
Dear Sir

**Ref: Maintenance of Master/Sir Mwerevu Sana**

We have been promised to be paid by our client, to write to you and address you as follows;

You sired the above-named child with Utanijua Vizuri. After his birth you pretended to be broke and have since not been providing for the minor. To make it tragic, you blackmailed our client that unless she sends you "maintenance", you are going to expose her on social-media for being a "scoundrel." Your actions are so unconstitutional, Gosh!! Fortunately, the law has reliefs towards charlatans like yourself. The purpose of this letter is to demand, which we hereby do, a sum of Kenya Shillings Two Million (Kshs. 2,000,000) as alimony towards maintenance of the child. Also, stop hovering around our client as you are a witchcraft. Particulars are well within your knowledge. The legal battle that will ensue should you not respond to our letter within (ninety) 90 days from the day of this letter will make you know why chicken rarely urinate, if at all. We look forward to hearing from you.

Yours faithfully,

**WAKILI MKUBWA  
FOR: MAWAKILI HATARI SANA**

- i. Identify any Four (4) errors and omissions in the demand letter.  
(4 marks)

- ii. Assuming that your client, Mjeuri Sana has actually been maintaining the minor even though he is unsure if the minor is actually his biological son, draft an appropriate response to the letter. (5 marks)
- iii. You are a pupil in the firm of Mawakili Hatari draft a properly written letter to convey their client's grievance. (5 marks)

B. According to a leading Law School, the following passage offends the rules of plain English writing: -

The case before us alleges that the plaintiff was taken to the hospital by paramedics, where she underwent complicated surgery, and where she claims she obtained the infection by means of negligence. The parties are in agreement by stipulation that the only issues in this case are the surgeon's negligence and the staff's negligence. The trial itself should be short as, inter alia, the plaintiff's recollection included only two witnesses. As aforementioned, damages will only be discussed subsequent to the court's ruling on the issues. Assuming, arguendo, a verdict in favor of the plaintiff is returned by the jury, it is likely the plaintiff will receive a substantial award of damages.

- i. Identify any three (3) words, clauses, phrases or sentences that violate the rules of plain English writing. (3 Marks)
- ii. Illustrate how each of the words, clauses, phrases or sentences you identified in (B)(i) above can be simplified to comply with plain English writing. (3 Marks)

## QUESTION TWO

Tom Yunis is an advocate of the High Court of Gura, recently admitted to the bar. He soon gets an associate position at Sina, Haraka & Wapole LLP. His boss, Hiva Haraka, immediately gave him his first brief to handle on his own. His first client is Mwepesi. On the 24<sup>th</sup> of December, 2022 the case came up for mention to confirm whether parties had complied with Order 11 of the Civil Procedure Rules, however, it failed to proceed since the court was not sitting. Both parties were in court. It was then fixed for a further mention on the 3<sup>rd</sup> of January, 2023 by the court clerk. On the said date, Yunis failed to attend court having been unable to secure a means of transportation back into the city. The case was subsequently fixed for hearing on 18<sup>th</sup> January, 2023. The opposing counsel was instructed to serve the hearing date upon Yunis. This did not happen and the case proceeded *ex parte* without the opposing counsel producing, before court, an Affidavit of Service confirming that Yunis had been served with the hearing date of 18<sup>th</sup> January, 2023. Yunis, still reeling from the December holidays hangover, was unaware

of this date having forgotten that the case even exists. On 14<sup>th</sup> February, 2023, Yunis is shocked when he is served with a Notice of Entry of Judgment by the law firm of Hatulali Sisi & Co. Advocates indicating that a judgment was delivered on 13<sup>th</sup> February, 2023 and his client being found liable to pay Kshs. 5,000,000 to the other party. He immediately goes into a panic, but even before the shock dissipates, he gets a call from none other than Mwepesi. Yunis, an introvert suffering from a lethargically-induced phone anxiety, does not want to confront Mwepesi over the phone. He decides that the best way to deal with the uncomfortable situation is to write to his client informing him of what had transpired.

(a) With the foregoing in mind:

- i. Identify the legal instrument Yunis would use to communicate to Mwepesi. (1 mark)
- ii. Draft the document, identified in (a) above. (9 marks)

### QUESTION THREE

The Republic of Itikadi has, through its legislative assembly (the Assembly), introduced a new licensing plan (the Plan) to make sure that all persons who want to work as gallerists must hold a licence. On 6<sup>th</sup> January, 2023 the Assembly passed the Licensing (Art Dealers') Act No. 4 of 2023. The Act, at Section 5, creates a Licensing Board which is mandated to oversee the administration and implementation of the Plan. Meanwhile, Section 3 of the Act provides as follows:

- (a) The Licensing Board may issue a licence to an individual to act as a gallerist if the individual has not been convicted of a serious criminal offence and if the individual has a recognized qualification in an art-related subject from a recognized university in Itikadi.
- (b) Gallerists holding licences before the commencement of this Act must apply for a licence within three months of entry into force of the Act.

Mwanasana works for a gallerist in Itikadi. She is not sure whether she needs a licence since, at present, she does not sell art but only values it. She has no criminal convictions and has a Bachelor Degree in Art (History) from Huru University within the state of Itikadi. She applies to the Board for a licence just in case she needs to have one. Her application is refused. The Board informs her that she must stop her work immediately as she does not have the required qualification and is therefore not a fit and proper person to be a gallerist. In the letter, the Board informs her that the decision is final and cannot be challenged in any court of law whatsoever. Mwanasana makes a call to the Board to see whether she really needs a licence and speaks to the decision-maker,



one Vallejo. Vallejo informs her that he considers that women neither make good gallerists nor valuers.

Mwanasana becomes animated and calls the local newspaper who run an article in their daily publication, *Art is Life*, about Mwanasana's situation. An avid reader of the publication, Mbea Hatari, hears of the problem and approaches Mwanasana to let her know that he would be willing to challenge the decision on her behalf. Mwanasana is confused and distraught and comes to you for legal advice.

Draft the necessary legal instrument advising Mwanasana about her case and Mbea Hari's suggestion to her about his role in bringing an action on her behalf. (10 Marks)

#### QUESTION FOUR

Study the following excerpts from the Judgement of the Supreme Court of Kenya in the 2022 Presidential elections petition, *Raila Odinga & others v. William Ruto & others*, P.E.P. No. E005 of 2022. The extract has been slightly modified for purposes of this question.

[177] Under Article 88(4) of the Constitution, IEBC is not only responsible for the continuous registration of voters but also for the regular revision of the voters' roll. This later role is critical in cleaning up the voters' roll by removing from the roll voters who have died, or become ineligible to vote for other reasons or updating it with newly registered voters or those who have transferred their votes to other stations. Yet this process may be turned into a tool of mass disenfranchisement, purging eligible voters from the roll for illegitimate reasons or by design retaining deceased voters. A single purge can stop many people from voting. Often, voters will only learn they have been erroneously purged when they show up at the polls on election day and when it is too late to correct the error, considering that not every voter utilizes the window before election to verify their details in the roll.

[192] The 1<sup>st</sup> respondent's response to these claims was through the affidavit of Ashif Kassam sworn on 26<sup>th</sup> August, 2022. Ashif Kassam is an Executive Chairman of RSM Eastern Africa LLP, a firm of certified accountants licensed by the institute of Certified Accountants of Kenya. He was instructed by the 1<sup>st</sup> respondent to undertake an analysis of the votes captured in Form 34A and 34C and to respond to the issues raised by the petitioners. His evidence was to the effect that the vote differential in respect of the eight counties cited by petitioners related to votes from prisoners, who voted only for the President and not the other positions. The other factor to be considered was the rejected votes and stray ballots which are not included in the count for valid votes.

- a) In not more than 140 words, rewrite paragraph [177] with a view to remove verbosity without changing the information being communicated. (3 marks)
- b) Identify two instances where gender neutral language may be used in paragraph [192] and rewrite those sentences using gender neutral language. (4 marks)
- c) Explain what gender-neutral language is and by using examples, explain ways in which gender-neutral language can be achieved in legal writing. (3 marks)

#### QUESTION FIVE

Article 2 (5) of the Constitution of Kenya 2010 provides as follows:

*"The general rules of international law shall form part of the law of Kenya."*

You have just been employed at the Attorney General's office as a legislative drafter. The Attorney General has instructed you that the government, using the parliamentary initiative, intends to (a) amend article 2 (5) of the Constitution to remove the phrase, "rules of international law" and replace it with the phrase "principles of law recognized by civilized nations;" and (b) to insert a new provision being Article 2 (5) (a) that recognizes "international customary law" as a source of law in Kenya.

Draft an appropriate bill to convey the Attorney General's instructions. (10 marks)

#### QUESTION SIX

The government of Kenya has identified technology as one of the key drivers of the country's economy. In order to bolster the role and place of technology in the development of the country, the Ministry of Information, Communication and Technology has identified various gaps in the technology space in the country. One of the identified gap is inadequate collaboration within the different institutions in the government and the private sector. To remedy this gap, the Ministry has proposed changes to the Science, Innovation and Technology Act, No. 28 of 2013. Among the changes proposed is to amend section 5 of the Act with a view to -

- i. reduce the number of persons appointed under section 5(1)(f) from three to one; and
- ii. include the chairperson of the Commission for Universities Education established under section 4 of the Universities Act and the chairperson of the Technical, Vocational Education and Training Board established under section

8 of the Technical and Vocational Education and Training Act as members of the board.

The following is an extract of section 5(1), (2) and (3) of Science, Innovation and Technology Act.

**5. Board of the Commission**

*(1) The Commission shall be governed by a Board of which shall consist of nine persons appointed by the Cabinet Secretary as follows -*

- a) the Chairperson, who shall be an eminent scientist in any of the scheduled sciences set out in the Second Schedule;*
- b) the Principal Secretary in the Ministry for the time being responsible for research, science and technology;*
- c) b) the Principal Secretary in the Ministry for the time being responsible for finance;*
- d) the Director of the Kenya National Innovation Agency established under section 28;*
- e) the Director of the National Research Fund established under section 32;*
- f) three persons, appointed by virtue of their knowledge and experience in science, technology and innovation;*
- g) one person nominated by the body currently recognized as representing the private section; and*
- h) the Director-General who shall be an ex officio member and the Secretary to the Board.*

*(2) The members of the Commission, other than the ex officio members, shall hold office for a period of three years and shall be eligible for reappointment for one further term.*

*(3) The members of the Commission shall be appointed at different times so that their terms of office expire at different times.*

As a draftsman, you have been instructed to draft a legislative proposal to effect the envisaged changes to section 5 of the Science, Innovation and Technology Act. Using the information provided above, draft a Cabinet Memorandum. (10 Marks)

**HIGHEST  
SCORED**

63124

Officer	Initials
Checker	EO
Data Entry	CT
1 <sup>st</sup> Verification	SB



**COUNCIL OF LEGAL EDUCATION**  
**EXAMINATION FOR ADMISSION TO THE ROLL OF ADVOCATES**

UNIT CODE: 

A	T	P	1	0	3
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 SUBJECT/UNIT LEGAL WRITING & DRAFTING

REGISTRATION NUMBER:

DATE: Thursday 23<sup>rd</sup> March 2023

**INSTRUCTIONS TO CANDIDATES**

1. Enter the Unit code, Subject of the Examination, Admission Number and Date in the spaces provided. The admission number should be as it appears on the Examination Card.
2. Do not write your name anywhere in this booklet.
3. Attempt each question on a fresh page of the booklet.
4. If an additional booklet is used, it MUST be fastened at the END of this booklet.
5. Insert in the column headed 'Question Number' the numbers of questions answered in the order in which you have attempted them.
6. Kindly ensure your handwriting is LEGIBLE.

Question Number	Examiner <u>OJD</u>		Moderator		Quality Assurer	
	Mark	Initials	Mark	Initials	Mark	Initials
<u>1</u>	<u>20</u>	<u>OJD</u>				
<u>2</u>	<u>10</u>	<u>KJ</u>				
<u>3</u>	<u>09</u>	<u>YM</u>				
<u>4</u>	<u>10</u>	<u>OJD</u>				
<u>5</u>	<u>08</u>	<u>JM</u>				
<b>TOTAL MARKS</b>	<u>57</u>	<u>KJ</u>				



Write on both sides of the paper

Questions ..... 1 .....

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A i)

The letterhead of the firm Mawakilittadan Sana is not included. Every letter from a firm of advocates must have a letterhead. The letterhead must contain the name of the firm, postal address, email address and telephone; and at least one name of the partner to the firm. These details are omitted.

The letter is post-dated. The date referred to is 24<sup>th</sup> December 2027. Letters should be written with specific and current date - not a future date.

The letter does not have an instruction clause. Demand letter should in paragraph 1 convey express instructions and authority to act. The word 'promised' by our client does not give authority.

The demand letter uses threatening words and words that are abusive, frivolous and vexatious. The letter addresses Mr Ngeun sana as being 'charlatan', 'with witchcraft' and threat that 'know why chicken rarely urinate'.



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either margin

Questions ..... 1 .....

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Aii)

Wakili Shuparu & Co Advocates

The Mirage,  
Tower 2, 13<sup>th</sup> floor  
Suite No. 23

P.O Box 24-00100,

Nairobi,

Tel: 0720245792

Email: shuparuLaw@gmail.com

Partners

Wakili Shuparu LLB Hons

Mwerefu Simba LLB Hons

Mwamba Inara LLB Hons

Our Ref: WS/246

Your Ref: AMA/G/1/2022

Date: 23/03/2023

Mawakili Hatan Sana;

P.O Box

"to be delivered via"

Attention: Wakili Mkubwa

'WITHOUT PREJUDICE'

Dear Sir,

RE: RESPONSE TO YOUR DEMAND LETTER ON MAINTENANCE  
OF MASTER/SIR MWEREKU SANA

We refer to your demand letter dated 24<sup>th</sup> December, 2022  
and the above matter.

We act for our client Mjeuri Sana who has instructed us  
to write to you as follows:

Our client has taken note of the contents of your letter  
which are offensive.

Our client avers that he has been actually maintaining  
the child Utanjua Vizuri as his son even though  
he is unsure of the paternity of the child.

Our client denies any misconceived claim or notion  
that he has not been maintaining the child.

Our client denies any responsibility



Write on both sides of the paper

Questions ..... 1 .....

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either margin

We have firm instructions to defend any misadvised claim your client may have should your client continue to pursue and proceed with this suit, which may result into your liability as to costs of <sup>defending</sup> the suit.

We hope this will not be necessary.

Yours faithfully,

Wakil Shuparu

FOR: Wakil Shuparu & Co. Advocates

Cc: Mgeur Sana

P.O Box 124-0004000,

Nairobi.



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either margin

Questions ..... 1 .....

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## Mwakili Hakiri Sana Advocates LLP

Development House,  
2nd floor, Suite No. 23  
Kenyatta Avenue,

P.O. Box 262-00100  
Nairobi.  
Tel: 0720 699241  
Email: hakirisana.legal@ke

Partner  
Wakili Mubug  
LLB (Hons)

Our Ref: AMG/G/2023

Your Ref: TBA

Date: 23/03/2023

Mjeuri Sana,  
P.O. Box 124-0004000,  
Nairobi.

Dear Sir,

RE: DEMAND TO PAY MAINTENANCE OF MASTER/SIR MWEREU SANA

We act for our client Utanigua Vizuri who has instructed us to write to you and address you as follows:

Our client avers that you are the father to Utanigua Vizuri's

Our client further avers that since the birth of the child, you have not provided maintenance for the child.

Our client avers that you have instead asked her for maintenance and threatened to defame her on social media if she fails to comply.

~~WE HEREBY~~

Our client avers that she has asked you to take liability for maintenance of the child in good faith, efforts which you have frustrated.

WE HEREBY DEMAND that you pay our client a sum of (Ksh. 2,000,000) Kenya Shillings Two Million as alimony

Write on both sides of the paper

Questions .....1.....

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either margin

towards maintenance of the child.

TAKE NOTE that failure to comply with the aforesaid demand within seven (7) days of your receipt of this letter, we have firm instructions to institute legal proceedings without further reference to you.

We hope this will not be necessary.

Yours faithfully,

(Sign)

WAKILI MKUBWA

FOR: MAWAKILI HATARI SANA



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either margin

Questions ..... 1 B

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i) Three words

'are in agreement by stipulation'  
The phrase is verbose.

'the surgeon's negligence and the staff's negligence'  
This has repetition that is unnecessary of the word negligence.

'arguendo'  
This is a foreign word whose meaning is not easily understandable.

ii)

Use the word 'agree' to reduce the words from 5 words to 1 word. The word agree is the base verb and should be preferred. The other word 'by stipulation' is an unnecessary verbosity and should be omitted.

Use the word 'the staff's negligence' to shorten the sentence and reduce words from 7 words to 3 words. The phrase 'staff' includes both the surgeons and other staff and is therefore a more appropriate generalization.

Omit the word 'arguendo'. It is a foreign word and won't be easily comprehended. It also serves no major purpose in the sentence.

20



Write on both sides of the paper

Questions ..... 2 .....

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either margin

i) Letter to Client

ii)

SINA, HARAHA &amp; WAPOLE LLP

Wakili Square, Office No. 24,

Lang'ata South Road

P.O. Box 2654-00200,

NAIROBI.

Tel: 072654 3241

Email: shw@legal.ke

Partner: Hira Haraka

Associate: Tom Yunis

Our Ref: GL/43

Your Ref: TBA

Date: 23/03/2023

Mwepesi,

P.O. Box

NAIROBI.

Advance copy via  
email

Dear Sir,

RE: UPDATE ON YOUR CASE NO. GL/543

We refer to the above matter and wish to update you on the progress of your case as follows.

On 24<sup>th</sup> December, 2022 I attended court and the matter came up for pretrial directions to consider whether parties complied with pretrial considerations. Both parties were present, and The court was however not sitting and



was fixed for a further mention on 3rd January 2023.

On 3rd January 2023, I was unable to attend court as I was unable to secure a means of transportation back to the city. The case was fixed for hearing on 18th January 2023. The court instructed opposing counsel to serve the hearing date upon our firm, which was not done.

The case thereon was heard in ~~my~~ <sup>my</sup> absence and judgment entered against you for Ksh. 5000,000 on 13th February 2023.

Nevertheless, take note that we intend to challenge the said judgment in court on the grounds that we were not served with a hearing notice and that the opposing counsel did not produce an affidavit of service. We will seek to have the execution of judgment stayed.

We hope to have the matter reinstated by the court to proceed as scheduled. We still hope and intend to have the ~~case~~ case disposed of legally.

We hope this ~~is~~ <sup>is</sup> a apologise for any inconvenience caused and hope that we will be your reliable advocates. In case of further clarifications on the above, feel free to reach the undersigned.

Yours faithfully,

Tom Yunis

FOR: SINA, KARAKA & WAPOLE LLP



Write on both sides of the paper

Questions ..... 3 .....

Do not write in  
either marginWAKILISHOPA VU & CO. ADVOCATESDevelopment House  
Suite No. 23, 3rd floor  
Kenyatta Avenue  
Nairobi ItikadiPO Box 249-00200  
Nairobi Itikadi  
Tel: 0720245679  
Email: wv@legal.co.kePartner  
Wakilishopa VU

Our Ref: GEN254

Your Ref: TBA

Date: 23/3/2023

Mwanasana,  
P.O Box 54-00200,  
Nairobi Itikadi.

Dear Madam,

RE: LEGAL OPINION ON LICENSING OF ART DEALERS AND  
REPRESENTATION

We refer to the above matter and our meeting with you in our offices on 22nd March 2023. Our legal opinion to you is based on the facts as provided by you.

BACKGROUND

You applied for license

~~You are a~~ <sup>work for</sup> ~~gallerist.~~

You work for a gallerist and only value art. You applied for a license under the Licensing (Art Dealers) Act No. 4 of 2023 and was denied or refused a license, and further prohibited from working. The reason for refusal by the Licensing Board is that you are not fit and proper person as gallerist and do not have the required qualification. Mbea Hlatari (a citizen) is willing to represent you in challenging this decision. You also want to know whether

of the Board.

01



### ISSUES FOR CONSIDERATION

1. Whether you are qualified to hold a license under the Licensing (Art Dealers) Act?
2. Whether the decision of the Licensing Board was unconstitutional?
3. Whether the decision of the Licensing Board to refuse <sup>your</sup> licence was discriminatory?
4. Whether the decision of the Licensing Board can be challenged?

### LAW APPLICABLE

1. The Constitution of Kenya, 2010
2. The Fair Administrative Actions Act, 2015
3. The Licensing (Art Dealers) Act, 2023
4. The International Covenant on Civil and Political Rights
5. The Convention on Elimination of All forms of Discrimination Against Women

### ANALYSIS

Issue 1: Whether you are qualified to hold a license, Section 3 of the Licensing (Art Dealers) Act provides that the Board may issue a license to an individual to act as gallerist if:

- a) the individual is not convicted of a serious criminal offence
- b) the individual has a recognized qualification in an art related subject from a recognized university in Kenya

From the facts, you meet the qualifications since you have no criminal convictions and secondly, you have a Bachelor Degree in Art (History) from Harambee University within Kenya. This degree is a recognized qualification and is in an art related subject.



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Questions ..... 3 .....

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Issue 2: Whether Board decision was unconstitutional.  
The Board decision did not follow the rules of natural justice as it was unfair under Art 47 Constitution of Irikadi which provides for fair administrative action and giving an opportunity to be heard.

Issue 3: Whether Board decision discriminatory.  
The Board decision reason given by the decision-maker (Allegio) was that the women neither make good gardeners nor valueers. This is The Constitution Article 27 provides that no one be discriminated against on the basis of their gender or sex.

Issue 4: Whether Mwanasana can be represented by Mbeu  
Article 22 of Constitution provides that an aggrieved party can challenge approach the High Court for redress of rights violated. The aggrieved party in this case is Mwanasana and only her has locus standi to bring the suit.

### CONCLUSION

In summary therefore, you have a prima facie case with a chance of success. The above analysis has clearly shown that your rights have been violated, You can institute a petition in the High Court seeking judicial review orders and a declaration of rights.

### RECOMMENDATION

Based on the facts given to us, we recommend that you appeal the decision of the Board in High Court.

Yours faithfully,

02



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Questions ..... 3

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Wakiti Shupavu

For : WAKILI SHUPAVU BCO AS

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Questions ..... 4 ..... 4

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a)

Under Article 83(4) of the Constitution, IEC is responsible for continuous registration of voters and regular revision of the voters roll. The later ~~is~~ removes from the roll deceased or ineligible voters and updates newly registered or transfer voters. This process may purge eligible voters from the roll or retain deceased voters. Voters only learn they have been erroneously purged on election day when it is too late to correct the error.

[13 words]



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Questions ..... 4 .....

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b)

'an Executive Chairman'

Ashif Kassam is the Executive Chairperson of RSM Eastern Africa LLP, a firm of certified accountants, licensed by the Institute of Certified Accountants of Kenya.

'He was instructed by the ICA'

The Chairperson was instructed by the ICA respondent to undertake an analysis of the votes captured in Form 34 A and 34 C and to respond to the issues raised by the petitioners.

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c)

Gender neutral language is use of words or phrases that do not specify a particular gender and the words or phrases can be used to refer to any gender category.

Gender neutral language is achieved by looking out for sexist words. An example is using chairman or chairwoman. One should instead introduce 'person' instead of 'woman' or 'man'. Another example is use of 'lordship' instead of 'my lord' or 'my lady'.

Gender neutral language is achieved by avoiding gender qualifiers. This is seen in phrases like 'lady-judge', 'cleaning lady'. This trivializes a person's occupation and enhances the discrimination.

Instead, use 'justices' for the former example and 'cleaner' for the latter.

This can also be achieved by

10



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Questions ..... 5 .....

Do not write  
either marginConstitution of Kenya (Amendment) Bill, 2023Arrangement of Clauses

Clauses

PART I - PRELIMINARY

1 - Short title

2 - Commencement

3 - Application

PART II - AMENDMENT

4 - Amendment provision

5 - Inserted provision

PART III - TRANSITIONAL PROVISIONS

6. Saving provision

ANNEXED:

MEMORANDUM OF OBJECTS



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Questions ..... 5. ....

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## THE CONSTITUTION OF KENYA (AMENDMENT) BILL, 2023

A Bill for

AN ACT of Parliament to amend Article 2(5) of  
the Constitution of Kenya, 2010.

ENACTED by Parliament of Kenya as follows:

### PART I - PRELIMINARY PROVISIONS

1. This Act shall be cited as the Constitution of  
Kenya (Amendment) Act, 2023.

2. This Act shall come into force upon assent by  
President.

3. This Act shall apply to the territory of Kenya.

### PART II - AMENDMENT PROVISIONS

4. Article 2(5) of the Constitution of Kenya, 2010, is HEREBY  
amended as follows:

Article 2(5): The general ~~rule~~ principles of  
law recognized by ~~civilized~~ nations shall  
form part of the laws of Kenya.

5. Article 2(5) is further amended by inserting  
below the provision the words:

Article 2(5)

(a) The international customary  
law rules shall form part of  
the laws of Kenya.

### PART III - TRANSITIONAL PROVISIONS

6. The application of ~~former affected~~ sections  
shall continue to operate until commencement.

Marginal  
notes

Short Title

Assent

Commencement

Application

Article 2(5)  
Amended

Insert

Savings Provision



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Questions .....5.....

Do not write in  
either marginMEMORANDUM OF OBJECTS AND REASONS

The object of the Bill is to amend article 2(5) of the Constitution of Kenya, 2010. Article 2(5) reads 'the general rules of international law shall form part of the laws of Kenya'.

The amendment Bill seeks to remove the phrase 'rules of international law' and replace it with the phrase 'principles of law recognized by civil nations'.

The Bill further seeks to insert Article 25(E) to recognize international customary law as a source of law in Kenya.

Part I of the Bill contains preliminary provisions on short title, commencement and application.

Part II contains the amendment section clauses.

By Wakat

Dated 23<sup>rd</sup> March 2023,

Wakat, Shuparu  
(Member of Parliament)

08  
10

# LEAST SCORED



63517

Officer	Initials
Checker	E.O
Data Entry	CT
1 <sup>st</sup> Verification	SJB



**COUNCIL OF LEGAL EDUCATION**  
**EXAMINATION FOR ADMISSION TO THE ROLL OF ADVOCATES**

UNIT CODE:

A T P 103

SUBJECT/UNIT

LEGAL WRITING &amp; DRAFTING

REGISTRATION NUMBER:

DATE:

23/3/2023

**INSTRUCTIONS TO CANDIDATES**

1. Enter the Unit code, Subject of the Examination, Admission Number and Date in the spaces provided. The admission number should be as it appears on the Examination Card.
2. Do not write your name anywhere in this booklet.
3. Attempt each question on a fresh page of the booklet.
4. If an additional booklet is used, it MUST be fastened at the END of this booklet.
5. Insert in the column headed 'Question Number' the numbers of questions answered in the order in which you have attempted them.
6. Kindly ensure your handwriting is LEGIBLE.

Question Number	Examiner KO		Moderator		Quality Assurer	
	Mark	Initials	Mark	Initials	Mark	Initials
1	04	KO				
2	00	KO				
4	02	OJD				
5	03	Jm				
6	03	KO				
<b>TOTAL MARKS</b>	12	KO				



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Questions ..... 1

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either margin

B The four (4) errors and omissions in the demand letter are:

a) The heading of the reference indicated as Your Ref: TBA should ~~be~~ not be part of the demand letter to Mr. Mean Sama.

b) The demand letter should start with to having being instructed by the client and not to be have been promised to be paid because that is not the concern of the demand letter.

c) The threats of the demand letter with the language used should is not legal friendly. The demand letter should not contain the threats but with prejudice.

d) The amount of demand of Kshs 2,000,000 is not tabulated for there should be breakdown of itemised requirements of the child.

e) The language used in the demand letter of intimidation is not legally acceptable like knowing why chicken rarely urinate.

f) The demand letter should indicate



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Questions .....

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the client who has given instructions.  
and the date of 24th December, 2027 is ~~erroneous~~ <sup>Wrong</sup>.

11) Draft of response.

12th December, 2022

Waxiti Mkubwa  
Ref: AMG/GI/2022

RE: MAINTENANCE OF MASTER MWERU  
SINDA

This is in reference to your  
demand letter dated 24th December,  
2027.

I hereby state the demand letter  
information allegation that I am  
~~not~~ maintaining Master Mweru  
is untrue and unfounded. I have  
evidence to show that I do maintain  
the child upkeep of even though  
unsure if the minor is my biological  
son. In the circumstances therefore  
it is my wish to have the test  
to carried out to confirm if  
indeed the ~~son~~ is Master  
Mweru is my biological son.

Meanwhile I continue with  
the maintenance maintenance  
as we await for the results  
of the ~~test~~ to be carried out.

Yours faithfully  
Meari Sanga



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Questions .....

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either margin

(11)

Mwaka, Hateri Sang  
24th December, 2022

~~Njeuri Sang~~  
Ref: AN/G/2022  
Njeuri Sang  
P.O. Box 124 Code 0004000  
Nairobi

Dear Sir,

Re: MAINTENANCE OF MASTER MWERU

We have been authorized by our client Utamya Vizi to demand maintenance of Master Mweru who is your son.

As per the instructions we address you that you have failed to maintain your son and alleging you are broke to provide for the minor. You have used threats to our client which are unconstitutional.

We hereby demand that you keep maintaining the child for his food housing, medical and welfare.

Failure to which in responding we will file the matter in court at your own expense.

Yours faithfully,



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either margin

Questions .....

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Waxi' Mawakiti Hateri Sang.

B)

1) Punctuations, commas and length



Write on both sides of the paper

Questions 2.

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either margin

1) The legal instrument that Xunies would use to communicate to Muepsi is that of notice of Motion.

11) NOTICE OF MOTION

ORDER 11 OF CIVIL PROCEDURE RULES  
REPUBLIC OF KENYA  
HIGH COURT OF GURA

NOTICE OF MOTION  
UNDER ~~ORDER 11~~ ORDER 11  
OF CIVIL PROCEDURE RULES

We bring here to the attention  
of the Court as hereunder

1) THE MATTER stated in the procees  
exparte heard in the Court on  
18th January, 2023 was not served  
with an Affidavit of Service.

2) THE ruling given will prejudice  
my client for being unheard

3) THAT my client seeks the  
ruling to be set aside  
as we file the notice  
of Motion.

4) THAT I pray the Court  
to consider the notice  
of Motion for justice to



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Questions .....

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to be seen done.

Drawn by

Yemis

To BE SERVED

Mwepesi

00



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Questions ..... 4 .....

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a) Under Article 88(4) of the Constitution, IEBC is responsible for continuous registration of voters and regular review of the voters roll. Regular updating of the voters roll is critical which will include removal of those who have died and those who have transferred to other stations. This process may be used as a tool of mass disenfranchisement for the pitiable reasons or by design. A single purge can stop many people from voting. Voters will only learn they have been purged when they show up on the election day and late to correct the error.

b) Gender ~~is~~ <sup>may</sup> be used instances in paragraph (192) cited by petitioners related to votes from prisoners, who only voted for the president and not other positions. The other instance is that of a firm of Certified Accounts licensed by the Institute of Certified Accountants of Kenya.

~~A firm of Certified~~  
RSM Eastern Africa LLP, is a firm ~~Certified~~ licensed by Institute of Certified Accountants of Kenya to undertake an analysis of voters captured in ~~in~~ Form 34A and 34C and respond to issues raised by petitioners.

RSM Eastern Africa LLP response



in respect of the eight Counties cited  
by petitioners relating to votes from  
Prisoners, vote differential was only  
those who voted for the President.

c) Gender-neutral language is that  
which distinguishes and is clear  
of particulars. It differentiates  
aspects and is analytical with  
ease. The examples are like  
Who is responsible and can  
be identified for a particular  
action. Can one to be distinguished  
from the act.

Gender-neutral language can be  
achieved by being distinctive  
and constructive for it to be  
clear. It should avoid ambiguity  
of its statements and errors.



Write on both sides of the paper

Questions ..... 5Do not write in  
either marginTHE AMENDMENT ARTICLE 2(5) OF THE  
CONSTITUTION OF KENYA 2010

THE GENERAL RULES OF INTERNATIONAL  
LAW TO FORM PART OF THE KENYAN LAW

a) The Parliamentary Initiative,  
intends to amend Article 2(5)  
of the Constitution to remove the  
phrase, Rules of International Law  
and replace it with the phrase  
"Principles of law recognized by  
civilized nations"

b) To insert a new provision being  
Article 2(5)(a) that recognizes  
"International Customary law"  
as a source of law in Kenya.

03

10



BILL FOR MINISTRY OF INFORMATION CHARGES  
TO THE SCIENCE, INNOVATION AND TECHNOLOGY  
ACT NO. 28 OF 2013.

Amend Section 5 of the Act with  
a view to: ~~red~~

1) 1) Reduce the number of persons  
appointed under section 5(1)(A) from  
three to one

4) Include the Chairperson of the  
Commission for Universities  
Education under section 4 of  
the Universities Act and the  
Chairperson of the Technical,  
Vocational Education and  
Training Board established  
under section 8 of the Technical  
and Vocational Education and  
Training Act as Members of the  
Board

2) Board of the Commission

1) The Commission shall be governed  
by ~~the~~ a Board of which shall  
consist of nine persons appointed  
by the Cabinet Secretary as follows.

a) The Chairperson, who shall  
be an eminent Scientist in any  
of the Scheduled Sciences set out  
in the Second Schedule

b) Principal Secretary in the Ministry  
for the time being responsible for  
Finance



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Questions .....

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e) Director of the National Research Fund Innovation Agency established under section 28,

e) Director of the National Research Fund established under section ~~28~~ 32,

f) Three persons, appointed by virtue of their knowledge and experience in science, technology and innovation,

g) ~~Three~~ One person to be nominated by the body currently recognized as representing the private sector, and

h) ~~The~~ Director-General who shall be an ex officio member and the secretary to the Board

c) Principal Secretary in the Ministry for the time being responsible for research, science and technology

3) The members of the Commission other than the ex officio members shall hold office for a period of three years eligible for reappointment for one further term



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either margin

Questions .....

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4) Members of the Commission  
shall be appointed at different  
times so that their terms of  
office expires at different times.