



RIARA LAW SCHOOL

UNIVERSITY EXAMINATION FOR BACHELOR OF LAWS (LLB) DEGREE

AND

**PRE-KENYA SCHOOL OF LAW CORE COURSES COMPLIANCE PROGRAMME
JANUARY – MARCH 2023**

RLB 402: FAMILY LAW

ASSESSMENT: SUMMATIVE ASSESSMENT

INSTRUCTIONS

1. This is the final examination in Family Law. You will earn 70% of your final grade from this final examination and 30% from Continuous Assessment Assignments.
2. This examination has **THREE** questions. Please answer **ALL THREE QUESTIONS**.
3. This examination has 4 pages, including this one.
4. Time allocated for this examination is **FOUR** (4) hours.
5. This is an **NOT AN OPEN BOOK** examination. This means that you may NOT make reference to relevant course material supplied to you during the semester to aid you in crafting your answer. You are **NOT** allowed to consult third parties for assistance in the course of this exam.
6. This examination is governed by the **Riara University Academic Honesty Regulations**. Students who violate those regulations will be penalized. Students have an obligation to report to the course instructor any incidences of academic dishonesty compromising the integrity of this examination.
7. Indicate your **REGISTRATION NUMBER AND THE TITLE OF THE EXAM** at the top of the page. **DO NOT INDICATE YOUR NAME ON THE ANSWER SCRIPT.**

QUESTION ONE:

Mary and John got divorced in 2015. As a consequence of their divorce, Mary was awarded legal and actual custody of their two children both aged 5 years. John was also ordered to pay all expenses for the children. Aggrieved by the decision of the court, John comes to see you citing the following reasons why custody should not have been awarded to Mary.

1. That Mary run away after she was caught red handed in the matrimonial bed with a house boy, a father of 2 children with whom they eloped and she got married as a second wife thereby neglecting her children at very fragile ages over 20 months ago.
2. That John is the one who raised the children upon dissertation by his wife.
3. That Mary during the trial at lower court confessed in her testimony that she is of unstable mind and schizophrenic.
4. That the trial court asked the wishes of the children and they referred to themselves as “daddy’s children” but when asked who they wanted to live with they said in low tones “her”
5. That the trial court still gave Mary custody even after admission in court that she is seeking custody because she wants provision. She has reiterated that men are only meant to provide and not to bring up the children.
6. That the trial court did not consider testimony by John’s Witness PW 3 who testified that as a young mother, she is yet to meet a man like John who is never late but home by 6.30 pm daily, never slept out, never brought a woman at home and can do all the house chores when she was indisposed for over one year she looked after the children as their house help.

John does not want to take the children through another litigious process and he is also willing to mediate and enter into a mutually agreeable parental responsibility agreement.

- a) Based on your knowledge of children’s rights and parental responsibility advice John on the legal position of his case using case law and statutory provisions **(15 marks)**
- b) Draft a parental responsibility agreement that would take into account the best interests of the children and the interests of both parents. **(15 marks)**

QUESTION TWO

Kate and Bob are madly in love with each other. Kate is an heiress to a USD 10 Billion empire while Bob is a self-proclaimed “Soft-life” King. They have come to you to draft a prenuptial agreement that amongst other clauses;

1. Ensures Bob contributes in some kind of way to the couple’s lifestyle
2. Ensures Bob does not have access to Kates empire in the event of a divorce.
3. Ensures that Bob is the primary care giver of any children that the couple sires together

Draft a prenuptial agreement with at least 10 substantive clauses that address their concerns and any other matter that you think should be included in the pre-nuptial agreement. **(20 Marks)**

QUESTION THREE

Wekesa and Lucy are married under civil law in 1999 at Kitale. They are blessed with six children from their legal wedlock. Lucy runs a butchery in Kitale town, while Wekesa is a KDF officer.

Lucy intends to institute divorce proceedings against Wekesa asking for spousal support, Custody and maintenance of the minors and division of matrimonial property. She claims Wekesa chased her away from the matrimonial home, has neglected his parental responsibilities and has treated her with cruelty, insulting her with vulgar and abusive words and assaulting, and despite interventions by elders he has failed to reform. She claims she financially contributed towards the development of the four-bedroom matrimonial house. The parties had already been heard by elders several times.

She wants a refund of KES 2,000,000.00 she used in the development of the four bedroom matrimonial home. She has bank statements to support her contributions to the development of the house and receipts from Tulla Hardware. Among the entries is a payment of KES 700,000.00 to Tulla Hardware and many over the counter [OTC] withdrawals of about KES 3,260,000.00 within short periods of time between July 2015 and December 2017.

She is not sure what law applies to her situation because she is married under civil law but she has also heard that there's a children's Act that deals with all children matters in Kenya. She has come to you for advice on what the law says in respect of custody and maintenance of children, divorce and division of matrimonial property. **Advise her** **(20 marks)**