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KIBABII UNIVERSITY



UNIVERSITY EXAMINATIONS

**2020/2021 ACADEMIC YEAR
SECOND YEAR FIRST SEMESTER
MAIN EXAMINATION**

**FOR THE DEGREE OF MASTER OF SCIENCE IN HUMAN
RESOUCE MANAGEMENT**

COURSE CODE: HRM 809

**COURSE TITLE: LEGAL ENVIRONMENT OF EMPLOYMENT IN
KENYA**

DATE: 23/02/2021

TIME: 8.00AM-11.00PM

INSTRUCTION TO CANDIDATES

- 1) Answer Question **ONE**(Compulsory) and **ANY OTHER TWO** Questions
 - 2) Candidates must hand in their answer booklets to the invigilator while in the examination room
 - 3) Credit is given for legibility, clarity and use of relevant examples
 - 4) Question **ONE** is **40 marks** while Questions **2-5** carry **20 marks** each
 - 5) Clearly write your **Registration Number** on each answer sheet used
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TIME: 3 Hours

KIBU observes ZERO tolerance to examination cheating

SECTION A

QUESTION ONE

CASE STUDY

CASUAL EMPLOYEES

A large Parastatal authority employs a large number of casual workers in its operations. Some of the workers have been casuals for the last twenty years at the same place. After every three months, these employees are laid off for the reasons the management says are low operational activities. They are then deployed back after a week of layoff. The workers have reported these cases to their authority's shop stewards without success. They have always complained to the ministry of labor without success. Some of the workers have so far been injured or died in the course of worker while still casual workers there. Others have now given up their fate.

In their casual employments, they are never given letters of employment, but only told to hand in their identity cards on Mondays, and get them back on Fridays when they are paid their dues. At the same time productivity at this organization has always been low irrespective of whether the full employees are given higher salaries or not. The casual's weekly pay is pegged on full time payment similarity. The management of this organization has always struggled to improve productivity without success.

- a) Can these workers join a trade union? If so which one and why? **(5 marks)**
- b) Can the present labor union relevant to their activities represent them in their present status as casual workers? **(5marks)**
- c) What do you think are the reasons these casuals are laid off every three months and then re-hired after a week has elapsed? **(5marks)**

d) Can the present shop stewards who represent permanent workers also represent them?

Discuss. (5 marks)

SECTION B

QUESTION TWO

- a) The Registrar of Trade Unions may deny a trade union registration. Examine circumstances when he or she may be forced to take such actions? (10 marks)
- b) Morara is not sure whether he is on a contract of service or a contract for service. As a result though he works at Kampuni Porojo as a security, he is not sure whether he is an employee or an independent contractor. As an expert in labor law, enlighten him on the difference between the two. (10 marks)

QUESTION THREE

“The Industrial court has awarded the former Managing Director of Nzoia Sugar Company Limited Kshs 13.5 million as compensation for wrongful termination of his contract. The court held that the Board of Directors in terminating the contract on December 31st 2008 had not followed rules of natural justice.” (Sunday Nation, 20th November 2011).

- a) With reference to the text, highlight circumstances when the court may decide that wrongful termination occurred. (8 marks)
- b) Critically examine other modes of terminating an employment contract (12 marks)

QUESTION FOUR

- a) “Conflicts between employers and employees sometimes occur because neither party understands its duties in their relationship as provided for by law.” Validate this assertion
(10 marks)
- b) With the aid of appropriate examples explain circumstances when the law may permit discrimination in employment.
(10 marks)

QUESTION FIVE

- a) The Directorate of occupational safety and health has a major legal mandate ensuring workplace safety and health. Discuss
(10 marks)
- b) Critically examine the role of the Salaries and Remuneration Commission in the public Sector
(10 marks)

END