

**QUESTION 1**

The Miltons have been married for thirty years now with three issues. They have a lot of property in France, Australia and Kenya. Their marriage came to an abrupt end last month and they have resolved to have it dissolved. The husband was a stay-at-home Dad of French descent while the wife, a Kenyan, was running the family empire. They have approached your offices to assist them avoid a public show by privately allowing them split the family fortune. However, the wife believes the husband should not get anything because he put in no financial muscle. The husband, who is of a contrary view, informs you that if this divorce is conducted in his country origin the stay-at-home dad receives a lion share because he gave non-monetary contribution of a higher value than the working spouse by nurturing the future of the nation- their children. The wife insists that the matter cannot be handled anywhere else because she is Kenyan, was born, bred, married and has nurtured her family within Kenya.

Advise the couple on the various issues they are raising including the possibility of being granted a divorce 'quietly'.

[25 Marks]

**QUESTION 2**

You are employed as a research assistant to a judge of the High Court of Kenya at Milimani Commercial Courts. Part of your responsibilities entail advising and look for authorities for the honourable judicial officer. Your most recent responsibility touches on an application seeking to enforce an arbitral award from a body whose seat was in London between an American Company and the government of Uganda. The judge seeks to know the legal feasibility of the prayers sought and the underlying principles.

[15 Marks]

**QUESTION 3**

Ital Company Limited, the Company, is a crude oil refinery company from Pakistan with a plant at Athi River Kenya. It was recently served with court documents where one of their employees, Mkhana Wanje- a finance officer, was being sued alongside the Company. The documents indicated that he occasioned fatal injuries to one Ms. Malika when he negligently managed motor vehicle registration number ZVQ 12-J along Uhuru Highway on Friday evening. The manager quickly makes a call your law offices, relays the facts and explains that that back in Pakistan, the owner of a motor vehicle should not be held liable because of the Guest Statute which exonerates him for having given a free ride to the passenger. You are familiar with the nature of law at stake and need to respond to your client's dilemma.

Discuss the legal issues arising and the likelihood or otherwise of holding the foreign Company and Mr. Mkhana culpable for the said offence.

[15 Marks]

**QUESTION 4**

Aketch was contracted by Ericsson, whose head offices are in South Africa and offices in each country, as a marketing personnel to attend to the various customer's needs of the Eastern and Central Africa region. Her portfolio involved a lot of travel which required constant application for visa and medical insurance as part of the clearance documents. Due to the nature of her job, she did live in any particular state for more than five months. Early this year she suffered a work-related injury while assisting a customer in Democratic Republic of Congo, DRC. She had to be hospitalized immediately to lower the likelihood of



her injury rendering her physically disabled. Unfortunately, her family had to do several 'Harambees' to foot her medical bill because the insurance laws of DRC do not cover injuries of that nature thereby rendering him uninsured, injured and on foreign soil.

When she finally recovered, she approached your offices to seek your advice as to why her employer behaved so. She seeks to know where she can sue, likely remedies as well as the guiding principles for preferring one State over the others.  
Discuss.

[15 Marks]

### QUESTION 5

The late Pablo Kisero was a retired English Diplomat at the British High Commission in Kenya as Principal Secretary 1. He served for two consecutive terms. While on mission he met the love of his life, Alexandria Marco Anyango at the lakeside city, Kisumu. They got married in Zanzibar by the beach while she was seventeen (17) years old. The couple was intent on relocating to Britain to setup their matrimonial home soon after Alejandro completes his diplomatic visit. However, this was not to be. The couple settled in Nanyuki, purchased thirty acres of land, set up a ranch, built a palatial home on part of the land and established a business complex on the other part of their land. Several people rented the premises for hair dressing, kiosks, curio shops, clothes stores, boutiques and offices. They were also blessed with two issues, Ami and Ama.

Pablo and his family would make trips to London and while there stay at his mother's home. From time to time the couple also travelled to Tanzania to check on their businesses and investments. He died in England during one of their trips abroad. The widow, Alexandria has discovered that her husband had drawn a will leaving his entire estate to his aging mother and his favourite dog, Timmie who would have the discretion to will it to them 'should they be of good conduct'. She is so distraught when the lawyer arrives from England and serves them with a notice to vacate the premises immediately, he cites issues such as the marriage lacking validity and the deceased discretion to deal with his estate as he wishes. As a private international law advocate, you receive instructions from the widow seeking to understand what legal recourse she may have in the circumstances.

Write a detailed legal opinion, with the aid of legal provisions and caselaw, on the various issues arising and principles applicable to resolve the problem, if any. [15 Marks]

### QUESTION 6

Write brief notes on the following sub-topics.

- a. Guiding principles on enforcement of foreign judgments. [4 Marks]
- b. The exceptions to the concept of sovereign immunity. [7 Marks]
- c. The latin maxim '*par in parem non habet imperium*'. [4 Marks]

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