

COUNCIL OF LEGAL EDUCATION



EXAMINATION FOR ADMISSION TO THE ROLL OF ADVOCATES

ATP 101: CRIMINAL LITIGATION

TUESDAY 6TH DECEMBER 2016

DURATION: 3 HOURS

Instructions to Candidates

- (a) This paper contains **Four printed pages** including the cover page, with a total of **Six questions**
- (b) Candidates **MUST** answer **FIVE** 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

Police have long suspected that Hamid Hamil was a member of Al Shabab, a terrorist group operating from Kenya and Somalia. Hamid travelled to Somalia for a period of six months and returned to Kenya on 1st August 2015. Police suspect that while in Somalia, Hamid received training on weapons and combat.

Upon his return, police tracked him down to a mosque in Lamu where he was delivering a lecture to the youth after prayers on one Friday. Police raided the mosque on suspicion that Hamid was in the process of radicalizing the youth and probably recruiting them into Al Shabab. Violent clashes ensued and several people were arrested and bundled into police lorries. Local media has confirmed through photos that Hamid is one of those who were arrested.

Hamid's family travelled to Lamu from Nairobi the following day to check on him after hearing the news of his arrest. They checked at Lamu Police Station where those arrested had been detained but police informed them that he had not been booked there. He was also not among those who had been arraigned in court that morning. Efforts to know his whereabouts proved futile as the police refused to disclose his whereabouts.

The family has written to the Inspector General of Police and the Director of Public Prosecutions but have not received a response.

Malkia Hamil, the distraught mother of Hamid has now instructed you to take up the matter.

Draft the necessary documents for filing in court. (20 marks)

QUESTION TWO

Young Dagame, aged 15 was initially charged with murder which was reduced to manslaughter. He pleaded guilty and was convicted. In the course of mitigation, it emerged that his family and that of the deceased had settled the matter by way of payment of "blood money" and other cultural ornaments.

The deceased family received 40 heads of cattle. The father to the deceased has written to court to have the accused person discharged.

The court directed that a victim impact assessment report be prepared. The report confirmed that the families are fully reconciled through compensation and traditional rituals and there would be no retaliation.

- (a) Locate the place of victim's impact assessment in law. (5 marks)
- (b) Identify the options for the court in Dagame's case. (5 marks)

QUESTION THREE

Over the past few weeks, there have been clashes between the police and members of a separatist group by the name of "Mali Yetu" who are agitating for autonomy of the Paku region which is to the north eastern side of Kenya bordering South Sudan. There are reported incidents