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Definition of Terms

Citizen

Legally recognized person or national of a country or state

Citizenship

The legal right that an individual has to belong to a country or nation

Being a citizen of a state entitles one to certain rights, privileges and responsibilities

Acquisition of Kenyan Citizenship

There are 3 way of acquiring Kenyan Citizenship.
i.e.

- 1) By birth/decent
- 2) By registration
- 3) Dual citizenship
- 4) By marriage
- 5) Through adoption/ children under the age of 8 years found loitering in Kenya and their parentage or background cannot be established

Revocation of Citizenship

- 1) Being disloyal towards Kenya through speech or conduct
- 2) The person has during any war, in which Kenya was engaged, unlawfully traded or communicated with an enemy or engaging/associating in any business that may assist an enemy in war
- 3) Imprisonment of a person for 12 months or more within 5 years after the day of registration as a citizen.
- 4) The person has since becoming a citizen of Kenya resided abroad for a continuous period of 7 years without
 - ✓ Being in the service of Kenya or an international organization of which Kenya was a member
 - ✓ Registering at a Kenya consulate annually his/her intention of retaining his/her Kenyan citizenship
- 5) If the citizenship was obtained through fraud, false representation or concealment of any material fact.

The rights of a Kenyan Citizen

Rights of a Kenyan Citizen

Rights are powers of free action that individuals enjoy.

Rights constitute the following elements:

- I. They are enjoyed equally by all members of the society
- II. They are vital for the full development of the human personality
- III. Rights presuppose the existence of other members of the society.

Types of Rights

- a) Legal - can be enforced in a court of law
- b) Moral - accepted by society as desirable, but not subject to enforcement by a court of law

Every person in Kenya is entitled to the fundamental rights and freedoms of the individual irrespective of:

- i. Tribe
- ii. Place of origin
- iii. Race
- iv. Place of residence
- v. Political opinion
- vi. Colour
- vii. Religion
- viii. Sex

These rights and freedoms are to be exercised with certain limits to ensure that their enjoyment by an individual does not prejudice or harm the rights and freedoms of others

1. Right to Life

1. No one should be deprived of his life intentionally
2. No one is allowed to take their own life or that of others
3. A person shall not be regarded as having been deprived of his/her life under the following circumstances
 - i. In self-Defence or Defence of property
 - ii. To effect lawful arrest or in the process of preventing the escape of a person who is lawfully detained
 - iii. For the purpose of suppressing a riot, mutiny or rebellion
 - iv. In order to prevent a person from committing a criminal offence
 - v. In the event of a lawful act of war.

2. Right to Personal Liberty

Protects one from arbitrary arrest, detention and imprisonment without trial

Limitations:

One's right to personal liberty can be restricted under the following circumstances:

1. When effecting a court order, requiring the person to be arrested
2. Upon reasonable suspicion of one having committed a crime, or is about to commit a criminal offense
3. When securing education and welfare, for a person who has not attained the age of 18 years

4. To prevent the spread of an infectious or contagious disease
5. A person of unsound mind
6. A drug addict (confined for rehabilitation purposes)
7. A vagrant (for the purpose of his care or treatment, or the protection of the community)
8. To prevent a person from entering Kenya unlawfully or deport one who is in Kenya illegally.

3. Protection of the Law

1. If a person is charged with a criminal offence, the case shall be afforded a fair hearing
2. The case should be heard within a reasonable time by an independent and impartial court of law
3. A person charged with a criminal offence is entitled to the following:
 - i. To be informed the reason for the arrest and detention
 - ii. Be taken to court within 24 hours unless it is a weekend or public holiday
 - iii. Be presumed innocent until proved guilty beyond any reasonable doubt

- iv. Right to legal assistance to conduct his/her defence
- v. To be tried by an impartial magistrate/court of law
- vi. Must be accorded an interpreter, in the event that court proceedings are in a language that the accused is not familiar with
- vii. To appeal to a higher court if not satisfied with the ruling of a case
- viii. Right to bail
- ix. Right to have copies of the record of his/her trial
- x. Be compensated for unlawful detention.

4. Protection from Slavery and Forced labour

1. It forbids slavery, servitude and forced labour
2. It excludes the following:
 - a. Labour required in consequence of a court order
 - b. Of a person while in lawful detention, for the maintenance of the hygiene of the place where he is confined
 - c. A member of the disciplined armed forces in the course of his/her duties
 - d. During a period when Kenya is at war or in a state of emergency in order to deal with the crisis
 - e. As part of communal work /commitment e.g. work performed in the villages out of the will or school for purposes of hygiene and cleanliness.

Protection from Torture and Inhuman Treatment

1. It prohibits infliction of
 - a. Torture
 - b. Mental
 - c. Physical
 - d. Psychological
 - e. Spiritual
 - f. Degrading punishment
2. Arrested suspects should not be brutalized and degraded no matter the crime
3. Children are also protected against abuse and battering.

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Right to Own Property

1. Every Kenyan citizen has right to own property anywhere in the country, as long as the property is acquired legally
2. One's property cannot be taken away forcefully

Limitations

1. The government may compulsorily take possession of property for defence purposes Public safety
2. Development of infrastructure such as roads, schools and hospitals for public benefit
3. On acquisition of such property, the owner must be promptly compensated.

4. This protection of private property is subject to any laws allowing acquisition of private property for the following reasons:
5. To satisfy any tax, duty, rate or other levies
6. To satisfy any penalty for the breach of civil or criminal law
7. As a condition of a lease, mortgage or contract
8. In the execution of judgment or orders of the court
9. Where the property is deemed to be dangerous or injurious to the health of human beings, animals or plants

10. For the purposes of taking over temporarily for examination, investigation, trials or inquiry, or soil conservation and other agricultural developments
11. It belongs to a deceased person, a person of unsound mind or a minor for the purpose of its administration for the benefit of the persons entitled to the benefits
12. It belongs to a person or a company adjudged bankrupt. In order to administer the property
13. It is subject to a trust for the purpose of giving effect to the trust

Freedom of Expression and Speech

1. Freedom to hold opinions
2. Receive ideas and information
3. Communicate information
4. To correspond without interference

Limitations

1. One is prohibited from spreading false information through the media
2. From disclosing confidential information relating to the state
3. Publishing obscene materials
4. Commenting on matters before the court
5. Promoting hostility/inciting people against the government.

Freedom of Movement

1. No Kenyan citizen shall be deprived of his/her freedom of movement i.e.
 - a) The right to move freely throughout Kenya
 - b) The right to reside in any part of Kenya
 - c) The right to enter Kenya
 - d) The right to leave Kenya freely
 - e) Immunity from expulsion from Kenya

Limitations

1. The freedom of movement can be curtailed under certain circumstances
2. In times of crisis, a state of emergency or curfew can be declared
3. Barring unauthorized people from accessing certain areas such as defence installations
4. To compel an individual to attend court proceedings
5. For the removal of any person from Kenya to stand trial or be imprisoned in another country
6. Restriction on the movement of nomadic people
7. Restriction upon the movement of any public officer or member of the armed forces in the course of their work.

Freedom of Assembly and Association

Every person has a right to:-

1. Assemble freely
2. Associate freely with people of his/her choice
3. Form or belong to trade unions
4. Belong to welfare groups
5. Form or belong to political parties
6. Form or belong to religious organizations or other associations for the protection of his/her interests.

Limitations

- I. These unions and associations should be registered in a register established by or under the law
- II. Public disturbances are prohibited
- III. Public meetings should be licensed and the police be informed of the same beforehand
- IV. It is an offence to congregate for the purpose of overthrowing the government
- V. Public officers and members of the armed forces are restricted from joining or forming certain associations.

Freedom of Conscience and Religion

This includes:

- 1) Freedom of thought
- 2) Freedom to belong to a religion of one's choice
- 3) Freedom to change one's religion or belief
- 4) Freedom to propagate/spread one's religion publicly or privately, to observe and practice it
- 5) Every religious community is entitled, at its own expense to establish and maintain centres of education

- 6) No person except with his/her consent attending a place of education, shall be forced to observe/receive religious instruction from a religion other than his/her own
- 7) No person shall be compelled to take an oath contrary to his religion or belief.

Limitations

- i. Religious groups should be registered by the registrar of societies
- ii. A person is prohibited from using religion to create disunity or undermine the government
- iii. Its unlawful for religious leaders to force a person to go to a place of worship against his/ her will.

Protection from Arbitrary Search and Entry

- A. It prohibits the compulsory search of an individual's property and entry to his/her premises without his/her consent
- B. No person should be subjected to the search of his person/body without his/her consent.

Limitations

- I. Public officers can inspect a premise for the purpose of tax, rates or other dues expected on the property
- II. Public officers can access a private property to undertake repairs on property that belong to the government
- III. Police officers may enter private houses to arrest suspected criminals or recapture escaped prisoners
- IV. They may also gain entry upon premises by-order of a court to enforce the judgment or order of a court in civil proceedings.

Protection from Discrimination

It prohibits the giving of different treatment and privileges to different persons wholly or mainly on the basis of:-

- a) Race
- b) Sex
- c) Religion
- d) Place of origin
- e) Place of residence
- f) Political opinion
- g) Tribe e.t.c.

Limitations

The above does not apply

- I. With respect to persons who are not citizens of Kenya
- II. To issues of personal law such as adoption, marriage, divorce, burial and succession The application of customary law
- III. Requirement of special qualifications or standards (not relating to race, tribe, creed e.t.c) to appointment to an office in the public service, armed forces, e.t.c.
- IV. Withholding of consent to a transaction in agricultural land by land control bodies for the purpose of controlling transactions in agricultural land
- V. Discretion vested to courts of law in matters related to the conduct or discontinuance of civil or criminal proceedings.

Other Rights

- 1) The Rights of the child
- 2) This is provided for in the children's act 2002
- 3) It protects children from child abuse
- 4) Parents should provide basic needs for their children e.g. food, shelter, clothing.

Rights of an Alien

1. Foreigners residing in Kenya enjoy limited rights and privileges, which include:-
2. Land rights - aliens can buy, hold or sell land freely
3. Court service - such as protection by Kenyan laws
4. Social services - offered by the government such as education and medical services.

However, foreigners are barred from:-

1. Voting or being voted for in election (civil, parliamentary, presidential)
2. Cannot pilot or captain nationally registered ships or planes
3. Are not eligible for appointment to the civil service.

Those recognized by the international covenant on economic, social and cultural rights and the African chapter on peoples human rights but not outlined in the Kenyan constitution are
Right to

- i. Education
- ii. Medical care
- iii. Food
- iv. Decent salary
- v. Impartial treatment at work place
- vi. Decent housing, clothing, living conditions
- vii. Cultural life
- viii. Physical and mental health
- ix. Healthy and safe environment
- x. Development.

Responsibilities of a Kenyan Citizen

- Kenyan citizens enjoy various rights and freedoms
- They should reciprocate these inalienable rights and freedoms by carrying out various duties for the state and to one another, in the understanding that there is no freedom without responsibility

Social duties

- 1) Obeying and practicing the rule of law. based on the principle of 'equality of all before the law"
- 2) Disseminating the proper social standards and positive values to the younger generation in order to inculcate in them the spirit of formation of good national character
- 3) Taking responsibility of one's actions
- 4) Adhering to moral principles and behaving in an acceptable manner
- 5) Co-existing peacefully with others in the society

- 6) Respecting the rights of other citizens
- 7) Taking care of one self
- 8) Caring, nurturing and educating one's children
- 9) Working diligently to earn an honest living in order to provide basic needs for self and family
- 10) Promoting the welfare of each individual and the community at large
- 11) Promoting fairness in the society
- 12) Protecting social institutions such as marriage and family that are vital for a nation's continuity.

Economic duties

- 1) Paying taxes - this enables the government to meet its financial obligations and provide essential services such as education and health care
- 2) Working hard to create wealth for the country
- 3) Ensuring that the wealth created is for the common good and benefit of all citizens
- 4) Participating in development projects
- 5) Protecting the environment and natural resources of our country e.g. water resources, wildlife and forests.

Political duties

- 1) Respecting the rule of law - not taking the law into one's hands e.g. mob justice, giving it to the police/reporting wrongdoers to authorities and obeying the laws voluntarily
- 2) Participating in the democratic process. By voting in party, civic and elections
- 3) Forming/joining political parties/attending political meetings/barazas
- 4) Protecting democracy
- 5) Adhering to democratic principles

- 5) Exercising tolerance - especially in view of the composition of the Kenyan societies and their ethnic diversity
- 6) Voting during referendums
- 7) Have valid documentation as required by the law i.e.
 - i. ID
 - ii. Land titles
 - iii. Academic certificates
 - iv. Log books
 - v. Driving licenses
 - vi. Passports e.t.c.

Values of Good Citizenship

- 1) Having respect for the law
- 2) Taking part in development projects
- 3) Taking part in the democratic processes (voting, attending barazas)
- 4) Being gender sensitive
- 5) Shunning all forms of discrimination (treat all equally regardless of disabilities, illnesses - AIDS, religious or ethnic differences.
- 6) Loyalty and patriotism
- 7) Using public property responsibly
- 8) Being mindful of others welfare
- 9) Ensuring that justice is upheld at all times

- 10) Respecting others i.e. their opinions, property, privacy, culture and religion
- 11) Adhering to work ethics by being transparent, accountable, having zero tolerance to corruption, being industrious and having personal initiative
- 12) Helping to conserve the environment by keeping it pollution free, as well as planting and preserving trees
- 13) Participating in health campaigns e.g. against HIV/AIDS, drug abuse
- 14) Being honest, truthful and a person of integrity
- 15) Working in concert/collectively with others and have a sense of owning the country.

K.C.S.E. REVISION QUESTIONS