

KENYA SCHOOL OF LAW



EXAMINATION FOR ADMISSION
TO THE ROLL OF ADVOCATES

ATP 103: LEGAL WRITING AND DRAFTING

THURSDAY 21ST NOVEMBER, 2013

DURATION: 3 HOURS

Instructions to Candidates

- (a) Candidates should attempt **FOUR** questions
- (b) Answer **one question from each section** and a **fourth one from any of the three sections**
- (c) All questions carry 15 marks each
- (d) Marks shall be lost for illegibility

PLEASE TURN OVER

SECTION A

QUESTION ONE

- a) Discuss the origin and use of plain English as a technique in legal writing. (5 marks)
- b) Edit the following sentences to wit the separation of related words. Keep the subject, verb and object as close as possible at the beginning of the sentence:
- i) Hustler in the course of his struggle to provide for his family accrued huge debts owed to his friends and business associates. (5 marks)
- ii) The allegations in the original petition that the first respondent was a morally bankrupt appointee unfit to hold public office was omitted in the amended petition. (5 marks)

QUESTION TWO

Read the attached Judgment (Appendix I) and write a case brief: (15 marks)

SECTION B

QUESTION THREE

- a) Discuss the fundamental principles of legal drafting. (5 marks)
- b) Paulo Awich and Gracia Anyango of Post Office Box Number 2222-0000 Kisumu have lived as man and wife for quite some time. They claim that they got married under Luo customary law in December 2009. They now wish to join the National Health Insurance fund as self-employed persons. They however need to prove that they are married and have sought your assistance as an Advocate of the High Court of Kenya.

Draft the appropriate instrument. (10 marks)

QUESTION FOUR

You are an associate in the law firm, Wakili & Co. Advocates. The following assignment has been placed for your attention.

Wakili & Co. Advocates

To: Associate
From: Managing Partner
Date: 11 November, 2013

Re: Intelligent Solutions Ltd

I am from a meeting with the CEO of the above company which is our new client. The client intends to employ a Marketing Manager whose name is Advert Kali.

Use the information provided below to draw a draft employment contract for our discussion before presenting a final draft to the client. Consider defining any terms used repeatedly. The information is not in any particular order and I leave it to you to decide how to organize it.

1. Name of employee: Advert Kali. He lives in Nairobi. His address is P O Box 55555 – 00100 Nairobi
2. Employer: Intelligent Solutions Ltd. The company is incorporated in Kenya with address P O Box 99999 – 00200 Nairobi. It has offices in Mombasa, Kisumu, Kampala and Kigali.
3. Client is a distributor of computer software
4. Employee's position will be Marketing Manager for Kampala and Kigali. He will be based in Kampala.
5. The employment contract can be terminated for cause. For cause means:- situation where there is disclosure of confidential information or other violations of the contract, dishonesty, inability to perform duties, neglect of duties, illegal conduct or doing competing business.
6. The contract shall be signed by the parties on 2 December 2013.
7. The employee will receive a salary of Kshs.900,000 per month payable on the last day of business on every month.
8. The employee is to receive an annual 10% commission of collected gross revenue of sales of computer software attributed to him in every year of service.
9. Payments of salary and commission will be paid in Kenyan currency.
10. For purposes of calculating commission payments, revenues will be based on the current and fair rate of exchange for currency of the countries where the revenues were generated.
11. The employee is to promote the employer's software for sale. As Marketing Manager the employee duties are to be those usual and customary for marketing executives in the same industry.
12. The employee reports to the Chief Operations Officer based in Nairobi.
13. Contract terms: 5 years renewable starting 2 January 2014.
14. The employee wants 40 days annual leave. The employer is agreeable to this. Leave requested is to be allowed unless the employee is required by the employer on special assignment.
15. Housing will be provided by the employer. The employee will meet costs of furnishings and utilities in the residence provided.
16. Employee benefits: medical insurance, pension scheme, term life insurance, group motor vehicle and personal property insurance.
17. The employer agrees to pay for necessary and typical travel expenses including costs for baggage, visas, hotel accommodation, ground transportation to and from airport to place of employment or residence, gratuities and airplane tickets.

18. Mwalimu Teacher, the CEO of Intelligent Solutions Ltd will be signing on behalf of the employer.
19. Law governing the contract will be the law of Kenya.
20. Any amendments or modifications to the contract are to be made in writing and signed by both parties otherwise they are not effective.
21. If the employee's employment is terminated he is required to deliver promptly to the employer originals and copies of all documents, data, materials and property (including hard copy and electronic format), that are considered property of the employer or relate in any way to the business practices of the employer.
22. The employer can assign its rights and delegate its performance. The employee cannot.
23. The contract can terminate without cause at the employer's election upon at least 30 days prior written notice delivered to the employee.
24. The contract can terminate for cause at the election of the employer by providing the employee with written notice that states reasons for the employer's action.
25. The contract can terminate for cause at the election of the employee by providing written notice to the employer, stating reasons for the employee's action.
26. Include a provision that the employee cannot compete with the employer for a period of 3 years after termination of the contract.

(15 marks)

SECTION C

QUESTION FIVE

A member of parliament read an article on pg 29 entitled "Uganda's drug basket" in the Sunday Vision of November 7, 1999 and was very concerned. He has approached you as Parliamentary Counsel to advise him on the prospects of introducing a private member's bill to parliament. "Uganda cannot afford to be a drug basket," the MP emphasized.

Please read the entire article attached (appendix II).

- a) What preliminary research would you do? (3 marks)
- b) Advise the MP on the legal issues raised by the article. (5 marks)
- c) Supposing a legislation is necessary, what should be the salient features of the Bill? (7 marks)

QUESTION SIX

The Governor of Kilingili County has approached you to assist in drafting regulations to control any animal of the dog kind from going out at large without a collar or tag. This, he says, should be prescribed by law. He observes that a person owning, keeping, or in custody of a dog shouldn't permit or allow such dog to be on any public place or space unless such dog is firmly secured by a substantial leash not exceeding four feet in length, held by a person capable of managing such a dog, nor shall any dog be permitted to go on private property without the consent of the owner or occupier.

Draft the appropriate instrument for the Governor.

(15 marks)

REPUBLIC OF KENYA
High Court at Nairobi (Nairobi Law Courts)

Petition 94 of 2012

MATHEW OKWANDA.....PETITIONER

AND

THE MINISTER OF HEALTH AND MEDICAL SERVICES.....1ST RESPONDENT
THE MINISTER SPECIAL PROGRAMMES.....2ND RESPONDENT
THE MINISTER FOR HOUSING.....3RD RESPONDENT
THE ATTORNEY GENERAL.....4TH RESPONDENT

JUDGMENT

Introduction

1. The petitioner describes himself as a 68 year old patriotic Kenyan. He started his career as a store keeper in 1962 where he engaged in Trade Union activities culminating in his election as a Branch Chairman of the Kenya Distributors and Commercial Workers Union in 1994. He rose through the ranks of the trade union movement. He enjoyed an elevated status when he became a member of the National Executive Council of Kenya Union of Commercial Food and Allied Workers Union. Due to his position he was influential in the Kenya's fight for multiparty democracy in the 1990's.
2. In 1996, the petitioner was diagnosed with diabetes mellitus, an illness that requires proper care, diet and medication. Diabetes mellitus is characterised by a relative absolute insulin insufficiency. His complaint is that the cost associated with managing the illness is prohibitive given the fact that he has retired from active service and he has no means to take care of himself. As a result his health is at the risk of imminent and further deterioration.

The Petitioner's Case

3. The petitioner avers that in February this year he was diagnosed with a life threatening terminal disease, Benign Hypertrophy, which calls for special medical care and attention particularly in view of his advanced age. The petitioner's claim is that he is in dire need of urgent medical attention and he seeks the assistance of this court to enforce his fundamental rights and freedoms under Article 43 of the Constitution which protects social and economic rights.
4. The petitioner also claims that he is entitled to receive reasonable care and assistance as an older member of society pursuant to Article 57. Mr. Okwanda also seeks free medicines and drugs to take care of his condition in addition to free treatment at the State's prime hospitals. He also seeks a reasonable monthly stipend to rent a decent house, have food and water.
5. The petitioner avers that his requests are not unreasonable as the Constitution was intended to ameliorate his position and that of the poor and marginalised in society. The petitioner urged the court to be revolutionary in its finding and to grant the orders sought in the petition.
6. In the petition dated 26th March 2012, the petitioner seeks the following reliefs:
 - A. *A declaration that the petitioner herein is entitled to the highest attainable standards of health which include the right to healthcare services including reproductive health, accessible and adequate housing and to have adequate food of acceptable quality, to clean and safe water in adequate quantities, to social security as laid out under Article 43 of the Constitution and Article 11 of the International Covenant on Economics Social and Cultural Rights as read with Article 2(5) and (6) of the Constitution.*
 - B. *A declaration that the state through the respondents named herein have a duty and obligation under the Constitution and International Law, more particularly the International Covenant on Economic, Social and Cultural Rights to provide adequate and the highest attainable standard of health, housing, social security and reasonable standards of sanitation to the petitioner herein.*
 - C. *Order compelling the respondents herein to exercise the duties and obligations of the State as espoused under Article 43 of the Constitution, Article 11 of the International Covenant on Economic Social and Cultural Rights as read with Article 2(5) and (6) and to provide the petitioner herein with adequate and the highest attainable standards of health, housing, social security and reasonable standards of sanitation.*
 - D. *An order of declaration that the respondents have a duty and obligation to furnish the petitioner with the drugs and medication stipulated under paragraph 38 of the petition herewith or in the alternative the sum of Kshs.11,400 per month for the life time of the petitioner.*

- E. *Any further orders, declarations and writs that this Honourable Court may deem fit to grant in the interest of justice.*
- F. *That the cost of this petition be provided for.*
7. Dr. Khaminwa, learned counsel for the petitioner, submitted that this was a landmark case under our Constitution and a complete departure from our “tribal” life where problems of poverty, disease or lack of education were taken care of by the communities or family. He submitted that the State under the Constitution has taken over those responsibilities; and the individual faced with poverty, without property, without access to housing, water, food, medicine is entitled to look to the State to alleviate his or her suffering. Dr. Khaminwa further submitted that the petitioner fought for the change that led to the promulgation of the Constitution and that like other Kenyans, he remains unemployed and relies on handouts from well-wishers. Counsel referred to various international instruments which emphasize on the State’s obligations in respect of economic and social rights. He urged the court to adopt a purposive and liberal approach to constitutional interpretation. The petitioner rejected respondent’s submission that it lacked money to implement economic and social rights.

Respondent’s Case

8. The State opposed the petitioner’s case on the basis of grounds of opposition dated 21st May 2012. The respondent contends that the petition lacks clarity and precision in setting out violations, that the petitioner does not disclose any reasonable cause of action and that the petition does not show how the respondents failed to perform their constitutional duties. Ms Makori, counsel for the respondents, stated that Article 43 provides for progressive realization of social and economic rights and that the availability of resources is a key factor. She contended that in the circumstances, the Government is doing its best to meet its obligations under the Constitution.

Analysis and Determination

9. The provisions governing the economic and social rights are set out in Articles 43 which provide as follows:

43. (1) every person has the right-

- a) To the highest attainable standard of health, which includes the right to health care services, including reproductive health care;***
- b) To accessible and adequate housing, and to reasonable standards of sanitation;***
- c) To be free from hunger, and to have adequate food of acceptable quality;***
- d) To clean and safe water in adequate quantities;***

- e) *To social security; and*
- f) *To education.*

(2) A person shall not be denied emergency medical treatment.

(3) The State shall provide appropriate social security to persons who are unable to support themselves and their dependants.

10. Article 43 is to be read with Article 20(5) which provides as follows:

(5) In applying any right under Article 43, if the State claims that it does not have the resources to implement the right, a court, tribunal or other authority shall be guided by the following principles—

- (a) It is the responsibility of the State to show that the resources are not available;*
- (b) In allocating resources, the State shall give priority to ensuring the widest possible enjoyment of the right or fundamental freedom having regard to prevailing circumstances, including the vulnerability of particular groups or individuals; and*
- (c) The court, tribunal or other authority may not interfere with a decision by a State organ concerning the allocation of available resources, solely on the basis that it would have reached a different conclusion.*

11. Under Article 21, the State is obligated to take measures including the setting of standards to achieve progressive realization of the rights guaranteed under Article 43.

12. Apart from Constitutional provisions governing economic and social rights, Article 2(6) provides that treaties and conventions ratified by Kenya shall form part of the law of Kenya. Some of the relevant instruments include the *International Covenant on Civil and Political Rights* (ICCPR), the *International Covenant on Economic and Social Rights* (ICESR) amongst others. Article 25.1 of the *Universal Declaration of Human Rights* (UDHR) provides that: "Everyone has the right to a standard of living adequate for the health of himself and of his family, including food, clothing, housing and medical care and necessary social services." The *Africa Charter on Human and People's Rights* (ACHPR) guarantees every individual the right to enjoy the best attainable state of physical and mental health. The charter requires States to take necessary measures to protect the health of their people and to ensure that they receive medical attention when they are sick.

13. I entirely agree with the eloquent and forceful submissions made by Dr. Khaminwa on behalf of the petitioner that the success of our Constitution largely depends on the State delivering tangible benefits to the people particularly those who live at the margins of society. The incorporation of economic and social rights set out in Article 43 sums up the desire of Kenyans to deal with issues of poverty, unemployment, ignorance and disease. Failure to deal with these existing conditions will undermine the whole foundation of the Constitution. In the case of *John Kabui Mwai and 3 others v Kenya National Examinations Council & Others, Nairobi Petition No. 15 of 2011 [2011] eKLR* the High Court was called upon

to determine whether a government policy restricting the number of pupils from private primary schools who could join national high schools was discriminatory and in violation of the right to education. The Court held that “*the inclusion of economic, social and cultural rights in the Constitution is aimed at advancing the socio-economic needs of the people of Kenya, including those who are poor, in order to uplift their human dignity. The protection of these rights is an indication of the fact that the Constitution’s transformative agenda looks beyond merely guaranteed abstract equality. There is a commitment to transform Kenya from a society based on socio-economic deprivation to one based on equal and equitable distribution of resources....*”

14. The scope, content and nature of State obligations under Article 12 of the ICESCR have been elaborated by the *Committee on Economic, Social and Cultural Rights (CESCR)*. The *CESCR General Comment No. 14* on the right to the Highest Attainable Standard of Health, the right to health is defined in the following terms;“...a fundamental human right indispensable for the exercise of other human rights. Every human being is entitled to the enjoyment of the highest attainable standard of health conducive to living a life in dignity. The realization of the right to health may be pursued through numerous, complementary approaches, such as the formulation of health policies, or the implementation of health programmes developed by the World Health Organization (WHO), or the adoption of specific legal instruments. Moreover, the right to health includes certain components which are legally enforceable.” The **General Comment** recognizes that the right to health is closely related to the economic rights and is dependent on the realization of the other rights including the rights to food, housing, water, work, education, human dignity, life, non-discrimination, equality, prohibition of torture, privacy, access to information and other freedoms.
15. The question then is whether in the circumstances before court, the respondents have fulfilled their obligation under Article 43 as read with Article 21. The respondents have submitted that the realization of economic and social rights by the State is subject to the availability of resources at the State’s disposal. On the issue of progressive realization; *Welfare Society v Attorney General & 2 Others, Nairobi Petition No. 164 of 2011 (Unreported)* Mumbi Ngugi J. observed that, “[53] The argument that social economic rights cannot be claimed at this point, two years after the promulgation of the Constitution, also ignores the fact that no provision of the Constitution is intended to wait until the state feels it is ready to meet its constitutional obligations. Article 21 and 43 require that there should be ‘*progressive realization*’ of social economic rights, implying that the State must begin to take steps, and I might add **be seen** to take steps, towards realization of these rights. [78] Granted, also, that these rights are progressive in nature, but there is a constitutional obligation on the State, when confronted with a matter such as this, to go beyond the standard objection...its obligation requires that it assists the court by showing if, and how, it is addressing or intends to address the rights of citizens to the attainment of the social economic rights, and what policies, if any, it has put in place to ensure that the rights of citizens to the attainment of the social economic rights, and what policies, if any, it has put in place to ensure that the rights are realized progressively, and how the petitioner in this case fits into its policies and plans.” (See also *In the matter of the Principle of Gender*

Representation in the National Assembly and the Senate SCK Advisory Opinion No. 2 of 2012 [2013]eKLER, Jeffer Isaak Kanu v Ministry of Justice, National Cohesion and Constitutional Affairs & 3 Others, Nairobi Petition 556 of 2012, New Vision Kenya & 3 Others v Independent Electoral and Boundaries Commission & 4 Others, Nairobi H. C. Constitutional Petition No. 331 of 2012.

16. Therefore, even where rights are to be progressively achieved, the State has an obligation to show that at least it has taken some concrete measures or is taking conscious steps to actualize and protect the rights in question. The South African constitutional court in *Soobramoney v Minister of Health (Kwazulu Natal) 1998 (1) SA 765 (CC)* interrogated the question of right to access to health care and emergency treatment. The court was called upon to determine whether the health rights in section 27 of the Constitution entitled a chronically ill man in the final stages of renal failure to an order obliging a public hospital to admit him to renal dialysis programme of the hospital. According to the guidelines for the programme the applicant was unqualified. The court in its judgment noted that the Ministry of Health had conclusively proved that there were no funds available to provide patients such as the applicant with the necessary treatment. The court also observed that if the overall health budget was substantially increased to fund all health care programmes this would diminish the resources available for the State to meet other social needs. The court stated as follows: *"the State has to manage its limited resources in order to address all these claims. There will be times when this requires it to adopt a holistic approach to the larger needs of the society rather than focus on the specific needs of particular individuals within society."* This position was adopted in the *John Kabui Mwai case* (cited above) wherein the court observed that, *'The realization of socio-economic rights means the realization of the conditions of the poor and less advantaged and the beginning of a generation that is free from socio-economic goods and services to everyone on demand as individual rights. There has to be a holistic approach to providing socio-economic goods and services that focus beyond the individual.'*
17. Although the petitioner has submitted extensively on the nature of each of the economic social rights and the State obligation under the Constitution and international instruments, the duty of the court is to address the petitioner's case and consider whether he has made out a case for relief. In other words, the issue for consideration is whether the petitioner has established that the State has failed in its obligation to *"observe, respect, promote and fulfill the rights and fundamental freedoms in the Bill of Rights."*
18. The fact that the case is one that involves enforcement of economic and social rights does not relieve the petitioner of the responsibility to plead a case that discloses a violation of fundamental rights and freedoms with due particularity. The case of *Anarita Karimi Njeru v Attorney General (1979) KLR 154* established the principle, that in matters concerning enforcement of fundamental rights and freedoms, a petitioner must plead with particularity that of which he complains, the provision said to be infringed and the manner in which the particular right is violated. This principle is correct. I think the gloss put on it by the *Trusted Society of Human Rights Alliance v Attorney General and Other Nairobi Petition 229 of 2012 (Unreported)* case is more appropriate. In that case the court went further and noted that it was not necessary to set out the violations with mathematical precision but in a

manner that will enable the respondent have notice of the allegations and defend himself or herself and to enable the court adjudicate the violation. In order to give effect to the provisions of **Article 48** which guarantee access to justice, the Court is obliged to go further and inquire about the petitioner's grievance and see whether a case has been made out to warrant relief.

19. What the petitioner seeks in declarations A, B and C of the petition are really the State obligations and declarations to that effect will neither add to nor subtract from the petitioner's situation. As a matter of fact, no evidence was placed before the court to show that the State has breached its constitutional obligations in regard to the provision of health services in a manner that violates the State Obligation to ensure that, *"Every person has the right to the highest attainable standard of health, which includes the right to health care services, including reproductive health care."*
20. The factual basis of the petitioner's case was limited to seeking specific relief for medication. Declaration D relates specifically to the petitioner's condition where the petitioner seeks an order to be provided with specific medicines for his condition. The respondents do not dispute the fact that the petitioner requires medical treatment. In cross examination, the petitioner stated that, *"I do not earn a pension. I normally go to Government Hospital. I have never been turned away. I pay for services."* In re-examination he stated that *"I attend Kenyatta Hospital. I pay Kshs.350/00 for every attendance."*
21. It must be recalled that the right guaranteed under **Article 43(1) (a)** is premised on establishment of a "standard." This standard must be judged in a holistic manner (see *Soobramoney case (Supra)* and *John Kabui Mwai Case (Supra)*). On the basis of the material before the court, I find that at least the Government Hospitals provide healthcare to the petitioner at a cost. The question whether the form of healthcare provided in these circumstances meets the minimum core obligation or the highest standard is not one that was the subject of evidence and argument before me. The issue of the prohibitive costs involved in accessing the treatment and whether such treatment should be free bearing in mind the necessity to progressively realize these rights was not explored in the depositions and therefore there is no basis upon which I can make a finding one way or the other. The petitioner's case was founded on a specific need rather than taking a holistic approach to the issue.
22. I however hasten to add that the issues raised by the petitioner are not frivolous. The petitioner has made lengthy submissions on the high prevalence of diabetes as compared to other infectious diseases like HIV Aids, Tuberculosis and malaria and which receive much more Government attention and sponsorship as opposed to diabetes. The petitioner also avers that there is shortage of diabetic drugs in hospitals. These issues were raised in written submissions and were not subject to forensic evaluation.

23. In the case of *Kenya Society for the Mentally Handicapped v Attorney General and Others Nairobi Petition No. 155A of 2011 (Unreported)*, the petitioner brought a case alleging that the economic and social rights of persons with mental disabilities had been violated. As the allegations were of general nature I stated as follows: “[18] *I think the petitioners have brought this case to address the whole spectrum of issues concerning persons with disabilities. In their submissions, the petitioners have dealt with the right to education, the right to health, the right to employment, access to justice, the right to justice and political rights. In a nutshell, what the petitioner requires is for the Court to direct the State to take steps to adopt its proposals for reform and promotion of persons with disabilities. The Court’s purpose is not to prescribe certain policies but to ensure that policies followed by the State meet Constitutional standards and that the State meets its responsibility to take measures to observe, respect, promote, protect and fulfill fundamental rights and freedoms and to a party who comes before the court.*”
24. It is not unreasonable for the petitioner and other concerned Kenyans to demand that a concrete policy framework be rolled out and implemented to address the containment and treatment of various health afflictions. These, however, are matters of policy which the State is expected to address in light of its clear constitutional obligations. In the absence of a focused dispute for resolution by the court, I am reluctant to express myself on the broad matters raised in the submissions unless there is sufficient material that there has been violation of the Constitution and the court is required to act to provide the requisite relief.
25. On the whole therefore, while I find that the petitioner’s grievances are serious, it is with great sympathy that I find that I am unable to grant the reliefs sought in the petition. Consequently, the petition is dismissed with no order as to costs.

DATED and DELIVERED at NAIROBI this 17th day of May 2013
D. S. MAJANJA
JUDGE

UGANDA'S DRUG BASKET

A productive District turns from food to Marijuana cultivation

The area was once Uganda's celebrated food basket. Soon, however, Masaka and the neighboring districts may be known as the "the country's drug basket" as people in the area take to growing *marijuana* (cannabis).

Marijuana is not a new crop in Masaka and neighboring districts of Rakai, Sembabule, and even Mpigi. Farmers in the area have always grown a few marijuana to use as medicine to their livestock.

According to Ismail Nambenge is not an official of the Uganda National Farmers Association Masaka Branch, many farmers in the district use marijuana to treat coccidiosis and Newcastle diseases in poultry.

Its medicinal value to animals has been turned into a convenient excuse by farmers who are growing the plant as a cash crop in its own right.

The marijuana growing is concentrated around Kalungu and Bukomansimbi, while the local market is in Bukoto and Masaka municipality.

According to police statistics, about five people are arrested every month in Masaka and taken to court over illegal possession of marijuana. The culprits include addicts, peddlers and actual producers. The heaviest punishment that can be meted out to whoever is found guilty is a two-year jail term or a fine not exceeding shs.2000, 000.

This has done little to deter people in Masaka from growing marijuana, according to desk sergeant Peniel Kangurukye, the officer in-charge, anti-narcotics at Masaka police station.

Civic leaders have not been spared by the marijuana fever. Several Local Councilors have been drawn into the police net while hunting for growers. In February, 1997, a court sentenced the Member of Parliament for Koka , Gabriel Lukwago, 52 to a fine of shs 3m for unlawful possession of marijuana, a narcotic drug. Police had found 3,000 plants of marijuana on his farm. He initially said it was for treating cows.

Since that incident, big time marijuana growers have developed a system which makes it almost impossible to monitor their activities. The smarter ones now prefer to handle the drug only after it has been harvested, leaving the risky job of growing in the hands of the likes of Magdalena Mibulo a Burundian refugee.

Extract from the Daily Vision, Uganda

She has been in the business for over ten years. Early this year policemen raided her home and uprooted 200 plants. She was taken to court, but later jumped bail, and no one knows her whereabouts.

Still this year, police destroyed four acres of marijuana in Namirembe in Sembalule, belonging to one Abdu, currently on the run.

A crop that flourishes in tropical climate conditions prevalent in the area, marijuana requires minimal attention once planted. It is not hard to get the seeds. One plant can produce enough seeds to start a medium sized shamba, and the seeds need only to drop on the ground to sprout into more marijuana plants.

According to police, many dealers get caught when seeds swept unknowingly from their houses.

At Masaka police post, the area around the uniport housing the anti-narcotics department is spotted with young marijuana plants having germinated from the seeds of the plants grabbed by the police as court exhibits.

The plant is hardly affected by disease or pests unlike other crops like coffee and bananas and it takes only four months to mature. According to an expert in this field, two plants can generate enough income to support and average family in Masaka. Mature leafy branches are pruned and dried under shade just like tobacco.

One sack of marijuana sales at shs.200, 000 and the demand for the crop is high throughout the year. Both leaves and seeds can be used though the latter is said to be more portent, especially after it has been refined into hashish.

When ready, it can be smoked like tobacco or boiled in water and taken like tea. There is ready market for marijuana within and beyond Masaka. More than half of the street children in Masaka smoke marijuana according to the local councilors. Many of the taxi drivers, touts and bodaboda riders also use it to get stamina to work for long hours.

The Falkland around the Video and Disco Hall popular among Masaka's riff-raffs, the former bus park and the area around the recreation ground are popular distribution points. Peddlers target the porters, hawkers and other manual laborers who hung around in the evening.

Crimes like rape, defilement, armed robbery, house breaking, you name it, are often committed by people who are addicted to marijuana smoking, points out OC Masake Paul Okello who also attributed the worsening carnage on the roads to increased dependency on marijuana by drivers.

According to local authorities, almost 90% of the fishermen operating on Lake Victoria smoke marijuana to fortify themselves the hard conditions under which they have to work. The fishermen keep on moving from one fishing ground to another, sleeping in caves or sleeping under temporary shelters.

Extract from the Daily Vision, Uganda

Drug dealers also find Masaka town convenient conduit for marijuana and other drugs to high demand areas like Ruanda through Katuna, Tanzania and Kenya through Kasensero, and the Democratic Republic of Congo.

But the bulk of the crop ends up in Kampala. It is rolled up into sacks and sold through retail outlets in Kisenya, Bakuli, Nakulabye and Katwe. Most of the retailers are women who also sell mairungi (khat) and alcoholic beverages as a front. Their clients include manual laborers like wheelbarrow pushers, porters who need the drug to fuel up their bodies.

Then there are the armies of unemployed youths who while away their days playing cards and watching violent movies in makeshift video shacks in the slums around Kampala. Sports men, especially boxers and footballers are also known to use marijuana especially during training.

But fastest the growing market is among students of privately owned schools around the city and its suburbs. The retail price for a pair of rolled marijuana sticks varies between shs.300 and sh.500. There are several ways of packaging it. Some dealers pack it in dry banana fiber and disguise it as roasted coffee then openly peddle it.

The alternative is to roll it up into sticks like cigarettes using ordinary paper plucked from school exercise books. Others roll it up professionally using high quality Lizzra paper imported from England. To keep in step with the growing demand for marijuana, a number of enterprising people in Masaka have gone into large scale production. The majority of them are big time politicians plus some local councilors who use their political influence to intimidate whoever tries to investigate their activities.

To avoid detection, they establish their shambas in the most remote and inaccessible parts of the areas in which they operate, then mobilize the local population to be on the lookout for inquisitive strangers.

One policeman sent to investigate the suspected marijuana grower in the remote part of Masaka literally had to walk home when his motor bike got deflated while he was searching around the bushes.

One prominent politician, an MP, has successfully established an out growing scheme in his constituency. The out-growers assured of a ready market and competitive price.

The out-grower system makes it difficult for police or any other law keeper to track down the culprits, who often establish shambas in forest clearings, or inter cropped with coffee and bananas.

After harvesting and drying it, the out-growers sell their produce to the big dealers at between shs.200, 000 and 400,000 per every sack. The dealer processes into hashish before dispatching it to the market.

Extract from the Daily Vision, Uganda

There is this big dealer in Sembabule who has made a fortune from marijuana and has invested in real estate both at home and abroad. He is a common figure at fund raising functions where he donates generously towards projects like building schools, hospitals and churches.

Transporting the drug from deep in the villages where it is grown to the urban areas where it is consumed is quite easy. The most common method is by bus.

According to police, there are two well known bus companies operating in Kenya, Uganda, Tanzania and Ruanda, which earn most of their income through drug trafficking between the cities in the region. A lot of it is also transported by water through Kasensero to Tanzania, where the drug is on high demand.

According to OC anti-narcotics at Masaka, police strategy is to recruit an army of informers, mainly drug addicts, and use them to track down the people supplying them. "It is no use locking up the end users, when the producers are still free and busy growing marijuana" he argued.