



# COUNCIL OF LEGAL EDUCATION NEWSLETTER

April 2025 Issue

APRIL  
ISSUE

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Administration of the Bar Examination

Procurement of Legal Services in Kenya





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## APRIL 2025 ISSUE

Welcome to the 8th Issue of the CLE Monthly Newsletter!

This newsletter is not just routine work for us — it is a reflection of our passion and commitment to keeping you, our valued readers and stakeholders, informed about the activities we undertake each month.

Our efforts are guided by our Core Values, which are: Accountability, Excellence, Inclusiveness, and Innovation. We are driven by a mission to ensure quality legal education through responsive regulation and effective administration of the Bar Examination.

We are thrilled that you are part of our journey by reading this newsletter, and we hope the information shared here is both insightful and beneficial to you.

In this issue, we take you behind the scenes of the administration of the April 2025 Bar Examination — sharing how this important exercise was conducted. We also dive into the world of procurement laws, exploring key court decisions that are shaping how legal services are procured in Kenya.

And for a touch of inspiration, we crown it all up with a poem — because, after all, poetry is the heartbeat of life!



*Enjoy the read!*



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## THE SILVER LINING:


By Peter Kipyegon



Arguably, one of the most interesting examination periods was the April 2025 cycle. The examination was administered between the 10<sup>th</sup> and 24<sup>th</sup> of April 2025. A mosaic of interrelated factors played out and have made sure that the April 2025 examination cycle will go down in history as one of the most memorable moments in the calendar of the Council.

### The Intrigues of the April 2025 ATP Examination

One of the factors that made the April 2025 ATP examination period memorable is the long rains. Kenya being largely equatorial, the month of April marks the onset of the long rains.



With a little poetic license, the month of April is associated with change in weather pattern, in Kenya, from the sunny September to March to the cold and rainy days of April.

This change in weather is associated with the movement of the sun away from the equator and towards the tropic of Cancer. This movement begins between the 19<sup>th</sup> to 21<sup>st</sup> of March, every year. This period is referred as the equinox.

### The Easter Algorithm

Another factor towards the memorability of the April 2025 ATP examination is the coincidence with the Easter holiday. Easter holiday is a moveable feast. It is celebrated on the first Sunday, following the Paschal full moon-thirty days after the equinox. However, determination of the actual date requires a correlation between the lunar months and the solar year, while at the same time also account for the month, date and weekday from the Julian or Georgian calendar.



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To add to the complexity of the algorithm is the desire to take into consideration the date of the Jewish Passover, which the Christians believe is when Jesus was crucified.

With abundance of caution and not to sound too pious, the Easter holiday, which transcended the two-week ATP examination period, gave the unexpected liturgical touch and a strong tone of endurance and hope in the context of challenging weather conditions which were witnessed throughout the period.

Against the backdrop of all these, the Easter aura seemingly sent a beautiful wink to the candidates, *albeit* in a subtle manner that *'it will soon be over'*. Thoughtfully and coincidentally so, the Easter feast became the moment's silver lining to the invigilators as well as the candidates, many of whom must have spent eternity of their days in preparation for the examination.

## "The Holiday Break

To add the twinkle to the momentous grandeur, the holy week unapologetically granted the much needed half time break, following a bruising examination week which was heavily punctuated by the daily rush-in the chilly mornings, routine frisking at the entrances to the examination rooms, ringing echoes of stern and timed pitched procedural examination notices, at the nick of each hour and throughout the candidate's three rigorous hours of continuous writing, under the watchful eyes, of their proctors.

## Thanks to the Participating Team

The April 2025 ATP examination administration was by and large one of the most successful exercises going by the few cases of examination malpractices and incidences reported. To the entire team from the Council that participated in the exercise as coordinators, supervisors and invigilators, thank you for a job well done.





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## THE VOYAGE TO THE UNKNOWN- BY PETER KIPYEGON

It all began,  
Before 10<sup>th</sup> of April 2025.  
We all remember notice number 1 of  
2025.  
Setting the registration timelines.

They then logged  
Into their portal,  
Selected the Examination Units  
And mode of payment  
Then clicked submit

Then the back and forth,  
The calls and the emails,  
Fill the airwaves,  
In the grand finale-

The candidates,  
Seeking clarity on:  
Incomplete registration  
Late registration  
Examination venues  
Examination deferral  
The officers,  
Rushing to prepare:  
Stationery  
Examination rooms.

The D-day comes,  
The candidates set out;  
With their best foot forward,  
To the land beyond.  
The eyes teary from the dust,  
That engulfed the preparations,  
For the rigors ahead.

The officer,  
Briefed,  
On the do's and don'ts,  
The expectations.  
Departs;  
To the land-  
That seem NEW;  
Every cycle and time.

Standing,  
For three hours  
Pacing the room  
With eyes keenly watching  
To assure total order  
Yet deep inside  
Expecting  
The worst!



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## PROCUREMENT OF LEGAL SERVICES IN KENYA'S PUBLIC SECTOR - TIMOTHY SEUREY



The procurement of legal services in Kenya faces significant challenges due to the inherent conflict between the Public Procurement and Asset Disposal Act (PPADA) of 2015 and the Advocates Remuneration Order.

This regulatory misalignment has created a compliance dilemma for public entities, as evidenced by recent audit queries from the Office of the Auditor General that highlighted numerous instances where government institutions failed to follow competitive processes when engaging external counsel in public entities where legal services were directly procured without adherence to PPADA requirements.

The tension between these statutory requirements places public entities in an impossible position: adhering to the Advocates Remuneration Order's fixed fee structure potentially violates PPADA's competitive requirements, while implementing competitive bidding risks contravening the Advocates Act's minimum fee provisions.

According to the Auditor General's Report FY 2022/2023 (Report No. AG/SP/2023/04), the National Treasury paid approximately Kshs. 428 million in potentially inflated legal fees, with particular concern over a single case where fees of Kshs. 187 million were paid without proper documentation or competitive procurement.

Similarly, in another public entity. The Audit Report documented Kshs. 256 million in questionable legal payments where evidence of service delivery did not match remuneration levels, highlighting the urgent need for legislative reform to resolve this regulatory conflict.

## BEST PRACTICES IN PROCUREMENT OF LEGAL SERVICES

To optimize the procurement of legal services while upholding principles of fairness, value-for-money, and regulatory compliance, public and private entities should adopt the following enhanced best practices:

- **Thorough Needs Assessment:** Clearly define the scope and objectives of required legal services before initiating procurement.
- **Competitive Bidding Process:** Utilize Requests for Proposals (RFPs) or framework agreements to ensure transparency, with Quality-Based Selection (under Section 124(7) (d) of PPADA) as an alternative for specialized cases.





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- **Effective Contract Management:** Develop detailed agreements that specify deliverables, timelines, and payment terms, complemented by regular performance reviews to maintain compliance.
- **Technology Integration:** Leverage digital solutions to streamline procurement processes, minimize manual intervention, and enhance transparency, accountability, and efficiency throughout the procurement lifecycle.

## ***Regulatory Rigor: Ronoh Siteni & 4 Others v Pharmacy & Poisons Board & Another [2019] eKLR***

### *Background*

This constitutional petition challenged the Pharmacy and Poisons Board's (PPB) procurement of legal services in a disciplinary case against the petitioners (pharmacists). The petitioners argued that the Board had improperly appointed legal counsel to prosecute them in disciplinary proceedings without following proper procurement procedures. The Attorney General (AG) and other state agencies were joined as interested parties, making this a significant case on procurement compliance in professional disciplinary proceedings.



### **Key Issues**

1. **Legality of PPB's Advocate Appointment:**
  - Whether the PPB properly procured its legal representation under PPADA 2015.
  - Petitioners alleged the Board bypassed competitive procurement when hiring an external advocate.
2. **Conflict Between Statutory Powers and Procurement Laws:**
  - Whether the PPB's statutory mandate under the Pharmacy and Poisons Act exempted it from PPADA requirements.
  - Examination of whether disciplinary bodies must follow standard procurement procedures.
3. **Natural Justice Concerns:**
  - Whether irregular procurement of legal services compromised fairness in the disciplinary process.
  - Allegations that the advocate's appointment created bias and unfair advantage.

### **Court's Decision & Key Holdings**

The court ruled that statutory bodies like PPB must comply with procurement laws unless expressly exempted. It found no legal basis for PPB to avoid competitive procurement of legal services and rejected arguments that disciplinary matters require special procurement exemptions. The court quashed the disciplinary proceedings due to improper procurement and ordered fresh proceedings with properly procured legal representation.





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## Conclusion

The procurement of legal services in Kenya demands strict adherence to constitutional principles of fairness, transparency, and cost-effectiveness. Despite challenges experienced landmark cases have reinforced the judiciary's commitment to upholding procurement standards. Moving forward, both public entities must embrace competitive bidding, clear evaluation criteria, and technology integration to ensure legal services are procured efficiently and ethically. The case law precedents provide valuable guidance for navigating this complex terrain, ensuring that procurement of legal services serves public interest while maintaining professional standards.

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