



**Mutichillo v Council of Legal Education (Appeal E001 of 2021)
[2021] KELEAT 347 (KLR) (Civ) (28 July 2021) (Judgment)**

Mike Mutichillo v Council of Legal Education [2021] eKLR

Neutral citation: [2021] KELEAT 347 (KLR)

REPUBLIC OF KENYA

IN THE LEGAL EDUCATION APPEALS TRIBUNAL

CIVIL

APPEAL E001 OF 2021

R.N MBANYA, CHAIR, EO ARWA, R.W KIGAMWA & SM GITONGA, MEMBERS

JULY 28, 2021

BETWEEN

MIKE MUTICHILLO APPELLANT

AND

COUNCIL OF LEGAL EDUCATION RESPONDENT

JUDGMENT

Introduction and background.

1. Mike Mutichilo the appellant instituted an appeal against the Council of Legal Education the respondent at the Tribunal on the 20th May, 2021. The appeal seeks to challenge the decision of the respondent as communicated on the 21st. April, 2021 and reaffirmed on review on the 6th May, 2021 by the respondent declining to recognize and approve his foreign law degree from the Southern Federal University in Russia. The genesis of the decision of the respondent is based on the public notice placed by the Kenya School of Law inviting applications for admission to the Advocates Training Programme (ATP) for the 2021/2022 academic year. In the said notice the eligibility requirements for foreign law degree holders were indicated under the title of graduates of foreign universities and of relevance to this appeal included inter alia:-
 - a) Hold or be eligible for conferment of a recognized LLB degree from a foreign university; and
 - b) Obtain clearance from the Council of Legal Education.
2. The appellant in his appeal seeks for prayers:-



- a) That the decision of the Council of Legal Education dated 21st. April, 2021 and reaffirmed on 6th May, 2021 be quashed and be set aside.
 - b) That the appellant's request for a clearance letter for persons with LLB from foreign universities from the respondent be issued to the appellant for purposes of admission to the Advocates Training Programme (ATP) for the 2020/2021 academic year.
3. The grounds of appeal by the appellant as framed by Kipng'eno and Associates Advocates are as follows;
- a) That CLE erred in their decision Not to recognize and approve the appellant's LLM degree it was ultra vires, unreasonable and irrational.
 - b) That the CLE erred in their decision Not to recognize and approve the appellant's LLM degree based on the allegation that the appellant's law degree was not from a Common Wealth Jurisdiction thus discriminatory and biased.
 - c) That the CLE erred in their decision by finding that one of the requirements for admission to the ATP was one must have a degree from a Common Wealth Jurisdiction.
 - d) That CLE erred in their decision and failed to recognize that the appellant had been eligible for admission under section 1 (A) of the 2nd schedule of the *Kenya School of Law Act, 2012* as amended in 2014.
 - e) That the CLE erred in their decision by conferring upon itself the mandate of recognition and approval of foreign legal qualifications it did not have and was never demanded for under the Kenya School of Law Admssionn to the ATP For The 2021/2022 Academic Year.
 - f) That the CLE decision has breached the appellant's right to education under article 43 of the *Constitution*.
 - g) That the appellant attained the required qualification in his KCSE examination for admission to study law and having studied for 6 years and qualified with an LLM degree in law had a legitimate expectation to be admitted to the ATP Program for the 2020/2021 academic year."
4. The Tribunal by way of directions on disposal of the appeal directed that service be effected upon the respondent. An affidavit of service was lodged with the Tribunal. The Tribunal reviewed the evidence of service and satisfied itself that the same had been duly effected. It proceeded to give directions that this appeal does proceed for disposal by way of written submissions and highlighting by the appellant. The respondent did not appear or file any response to the appeal. The appellant duly complied by filing the submissions and highlighted through his Learned Counsel Mr. Amutala.

2. The impugned decision and documents filed.

5. The decision under challenge by the respondent is embodied in a communication dated the 21st. April, 2021. Due to its relevance to the appeal it is reproduced as follows;

“Ref No. CLE/RA/11VOL. V/(20)

Date: 21st. April, 2021.



Mr. Mutichilo Mike

Dear Mr. Mutichilo

Recognition And Approval of Foreign Qualifications In Law – LLB Southern Federal University, Russia

Reference is made to your application for recognition and approval of the LLB Degree of the Southern Federal University, Russia for purposes of section 8 (1) (e) of the *Legal Education Act, 2012*.

At its meeting held on 23rd. March, 2021 Council (Board) considered the matter and resolved that based on previous similar cases, it could not recognize and approve a degree obtained in a jurisdiction outside the common wealth.

The bench mark qualification recognizable by the Council of Legal Education is the Bachelor of Laws (LLB) Degree qualification undertaken in a common wealth law jurisdiction. It is also the recognized qualification for entry to the Advocates Training Programme (ATP) at the Kenya School of Law as ordained by the second schedule to the *Kenya School of Law Act No. 26 of 2012* (as amended in 2014).

Relatedly, the Legal Education (Quality Assurance and Accreditation) Regulations, 2016 quality standard rule 6 complement the provisions of the *Kenya School of Law Act* to the extent that the admission criteria expressly requires the LLB Degree. Regrettably, Council declines to recognize and approve your degree qualification for purposes of section 8 (1) (e) of the *Legal Education Act, 2012*.

Council wishes you well in your endeavours.

Yours sincerely,

Dr. J. K. Gakeri

Secretary/Chief Executive Officer Council of Legal Education.”

6. To buttress his appeal the appellant presented to the Tribunal the following documentary evidence:-
 - a) A Bachelor’s Diploma translated by the Ministry of Education and Science of the Russian Federation issued on 3rd. July, 2017. An extract of which indicates;

“This diploma certifies that Mutichilo Mike successfully completed bachelor’s degree programme in the direction of 40.03.01 Legal he satisfied and successfully passed the state final examination. By the decision of the State Examination Board the qualification conferred is Bachelor, Record no. 41 from 20th June, 2017.”
 - b) An official transcript of a Bachelors Diploma which indicates that by the decision of the State Examination Board it conferred the qualification of Bachelor 40.03.01 Legal to Mutichilo Mike after a full time education period of 4 years.
 - c) Information about contents and performance of a Master’s programme. The same has a series of units of study undertaken by the appellant and the respective credit points/academic hours.



- d) A Masters Diploma translation from Russia to English issued on the 25th November, 2017 by the Ministry of Education and Science of the Russian Federation indicating;

“This diploma certifies that Mutichilo Mike successfully completed bachelor’s degree Programme in the direction of 40.04.01 legal studies and successfully passed the state final examination. By the decision of the State Examination Board qualification conferred Master. Record no. 11 from 16th November, 2019.”

- e) Information about contents and performance of the Masters programme which indicates the names of the subjects (modules), programme type, the credit points and academic hours.
- f) A letter seeking an internal review of the decision of the respondent declining recognition and approval of his qualification dated 4th May, 2021 headed as an appeal.
- g) A letter from the Ministry of Higher Education, Science and Technology of Kenya to Mutichilo Mike embodying a nomination for the Russian Government Scholarship, 2012/2013 informing that he had been nominated to study a law course to be undertaken in the Russian Federation.
- h) A recognition and equation of qualifications letter dated the 30th September, 2020 from the Commission of University Education. The contents of the letter considering the impugned decision being relevant are reproduced;

“30th September, 2020

CUE/10/9/1/vol. 514

Mutichilo Mike,

RE: Recognition of Qualifications Mutichilo

Mike.

Thank you for your application dated 18th. September 2020 requesting the Commission for University Education to recognize the following qualification awarded by the Southern Federal University in the Russian Federation.

? Bachelor in legal studies.

? Master in legal studies.

It is hereby confirmed that Southern Federation University is a recognized institution in the Russian Federation. The qualification awarded by the said institution is recognized in the Russian Federation by convention in Kenya.

Kindly note, that in addition to this recognition you may be required to meet other requirements set by Kenyan professional organizations.

Gilbert W. Opanga

For Commission Secretary/ Chief Executive Officer

GWO/ON

NB.

The Commission is not accountable for the authenticity of the certificate or the identity of the certificate holder presented for recognition and/or equation.



The Commission retains the rights to revoke recognition of the award in the event that it establishes any reason that makes the award in question ineligible for recognition and/or equation.”

- i) The decision declining recognition and approval of foreign qualifications in law – LLB Southern Federal University, Russia dated 21st. April, 2021 as communicated by Dr. J. K. Gakeri – Secretary/Chief Executive Officer of the Council of Legal Education.
- j) The communication declining internal review of the decision not to recognize and approve the foreign qualification in law – LLB Southern Federal University, Russian dated the 6th. May, 2021 and being of relevance it is reproduced;

“Ref. no. CLE/RA/VOL/VI/(17)

Date: 6th May, 2021

Mr. Mutichilo Mike

Dear Mr. Mutichilo,

Review of Recognition And Approval of Foreign Qualifications In Law – LLB Southern Federal University, Russia

Reference is made to your email dated 4th May, 2021 regarding the above subject matter.

Regrettably, the application raises no new grounds on which to found a review. As a consequence, Council re-affirms its decision as communicated via letter Ref; CLE/RA/11 VOL.V. (20) dated 21st. April, 2021.

Council wishes you well in your endeavors.

Yours sincerely

Dr. J. K. Gakeri

Secretary/Chief Executive Officer - Council of Legal Education.”

- k) A blank application form for recognition and approval of foreign legal qualifications CLE/EQ/001.
- l) The public notice by the Kenya School of Law inviting applications for admission to the Advocates Training Programme (ATP) for the 2021/2022 academic year.
- m) The Kenya Certificate of Secondary Education certificate of Mutichilo Mike from Hobunaka Secondary School for the examination period November/December, 2010 where he attained a mean grade of B (plain) with grades B (plain) in English, B + (Plus) in Kiswahili, C- (Minus) in Mathematics, B - (Minus) in Biology, C + (Plus) in Chemistry, B+ (plus) in History and Government, A – Minus) in Christian Religious Education and B + (Plus) in Business Studies.

3. The submissions and the highlighting.

- 7. The appellant through his Learned Counsel Mr. Amutala submitted that the public notice inviting applications to the Advocates Training Programme by the Kenya School of Law acknowledged that foreign universities are global teaching institutions with different types of legal systems and thus in it is wisdom decided not to include that all applicants to the Advocates Training Programme must be or



have obtained their degrees from a common wealth jurisdiction. The appellant was admitted to study law in Russia in September, 2013. In the view of the appellant's Advocate he was covered by section 1 (a) of the second schedule to the [Kenya School of Law Act, 2012](#) which provided,

“A person shall be admitted to the school if-

- (a) Having passed the relevant examination of any recognized university in Kenya, of any University, University College or other institution prescribed by the Council holds or becomes eligible for the conferment of the Bachelor of Laws (LLB) degree of that University, University College or institution...”

8. He then proceed to set out extensively paragraphs 53 – 60 of the decision in [Robert Uri Dabaly Jimma v Kenya School of Law & Another](#) (2020) eKLR by Justice Antony C. Mrima. The appellant while relying on the authority in [Martin Wanderi & 9 Others v The Engineers Registration Board](#), Supreme Court Petition no. 19 of 2015 submitted that the rejection of his LLM degree had no legal bearing at all. The form for application and approval of foreign legal qualifications he was required to fill had no legal backing. From the requisite extracts from the decision supra at paragraphs 102 and 108 it was held;

“[102] In this matter, the High Court relied on the *Black's Law Dictionary* definition of ‘recognition’, that is: ‘confirmation that an act done by another person is authorized’ and ‘accredit’: to recognize (a school) as having sufficient academic standards to qualify graduates for higher education or for professional practice.” In finding that the two terms are different, the learned Judge stated:

“I also agree that the meaning of recognition excludes any notion of accreditation. The act of recognition contemplated by the provisions of section 11 (1) (b) of the Act only refers to the act of a confirmation that the degree conferred by the holder is lawful”...

- [108] While agreeing with the learned judges' line of questions on what is to be recognized and that it did not matter whichever answer was given between recognition of the certificate or the institution issuing it, we take the view that the Board had to bear in mind that in the absence of questioning the authenticity of the degree certificate, the universities were chartered as public universities by their respective statutes which also govern the courses offered. Accreditation of universities and their courses offered was within the purview of other bodies. For the MMUST graduates in particular, the Board should have taken into consideration the transition period and the particular mode of undertaking the studies for the degrees awarded, and not merely resorting to wholesale refusal to register.”

9. The appellant then persisted on to submit on the LLM degree as opposed to an LLB degree. He insisted that he had an LLM degree which had been recognized and approved by the Commission for University Education hence the matter was beyond the respondent's mandate to seek for another recognition and approval. He sought to invoke section 5A (1) of the [Universities Act, 2014](#) which provides;

“If there is a conflict between the provisions of this Act and the provisions of any other Act in matters relating approval or accreditation of academic programmes offered by any universities, the provisions of this Act shall prevail.”



10. He then reverted to section 5 (1) (g) of the aforesaid Act which provides;

“The functions of the Commission shall be to...(g) recognize and equate degrees, diplomas and certificates conferred or awarded by foreign universities and institutions in accordance with the standards and guidelines set by the Commission from time to time;...”

11. As to whether the appellant was to seek equation from the Kenya National Qualifications Authority (KNQA) it was submitted that the requirement was not applicable to the appellant as he sat for his Kenya Certificate of Secondary Education examination in the year 2010 in Hobunaka Secondary School which was a public school approved by the Kenya National Examinations Council. Even the public notice inviting applications for admission to the Advocates Training Programme was restrictive on the applicability of the said requirement by indicating;

“N.B Applicants Holding Secondary School Qualifications other than Those Offered by the Kenya National Examinations Council (kneec) Must Seek Equation From The Kenya National Qualification Authority (KNQA).”

11. Finally, the appellant implored the Tribunal to allow the appeal with costs.

4. Analysis and determination.

12. The Tribunal has considered the appeal and finds that the respondent erred in seeking to restrict admissibility to the Advocates Training Programme to only commonwealth countries LLB degree holders. The said requirement was never incorporated in the public notice by the Kenya School of Law. The respondent could not by extrapolation seek to include the said issue as an additional requirement to exclude the prospective applicants to the Advocate Training Programme. The respondent in the letter denying admissibility to the appellant indicated that it was a practice that non – commonwealth LLB degree holders were not eligible for admission to the Programme a position the Tribunal departs from. The operations of the respondent are not managed by practice but by dint of law as it is established under a regulatory juridical framework clearly spelling out what it is to undertake in and how it is to discharge the well spelt out mandate. The Legal Education Act, no. 27 of 2012 and by extension the Kenya School of Law Act, no. 26 of 2012 including the subsidiary legislation made there - under do not incorporate a practice of exclusion of LLB degree graduates from non commonwealth jurisdictions from admissibility to the Advocates Training Programme. The respondent has also not demonstrated any enabling law entitling it to arrive at the said exception to admissibility to the Programme in the impugned decision.

13. Though the Tribunal recognizes as the Court of Appeal did in the Eunice Cecilia Mwikali Maema v Council of Legal Education & 2 others [2013] eKLR that the respondent has the duty to set standards to ensure the highest professional standards are maintained in the profession when it stated that:

“We are also of the view that the learned judge correctly applied the principle in the decision in *Susan Mungai V The Council for Legal Education* Petition No. 152/2011 to the effect that the Council has the power to set standards to ensure that the highest professional standards are maintained in the profession and it is not for the Court to be concerned with the efficaciousness of the decision made pursuant to the Regulations.”

14. The said standards ought to be documented and communicated.



15. The Tribunal thus finds that the respondent to the said extent acted in excess of its mandate and jurisdiction. The Tribunal is well fortified by section 7 (2) (a) (i) and (ii) of the Fair Administrative Action Act, no. 4 of 2015 which provides;

“ A court or tribunal under subsection (1) may review an administrative action or decision, if -

- (a) the person who made the decision -
 - (i) was not authorized to do so by the empowering provision;
 - (ii) acted in excess of jurisdiction or power conferred under any written law;...”

16. The Tribunal also faults the respondent’s decision to the extent that it sought to exclude the appellant from admissibility on the basis of want of an LLB degree acquired from a commonwealth jurisdiction as it militates against legal dynamism at a time when the world has transformed into a global village. The Constitution of Kenya, 2010 is a progressive instrument that draws values and tenets from diverse legal systems thus an exclusionary approach to legal training will be retrogressive to its spirit and letter. The decision is devoid of evidence of prior existence of an exception to admissibility. The Tribunal derives guidance from the authority in Zachariah Wagunza & Another v Office of the Registrar Academics Kenyatta University & 2 Others, (2013) eKLR in which it was held;

“ Where a decision is arrived at based on complete lack of evidence and out of the blue as it were, unless the same is based on the application of the evidential doctrine of judicial notice, if such a finding is outrageous it may amount to gross unreasonableness as to justify the grant of judicial review orders.”

17. The Tribunal now proceeds to address the issue as to whether the appellant met the requirement of holding or being eligible to the award of an LLB degree as well set out in the public notice by the Kenya School Law inviting applications to the Advocates Training Programme of the 2021/2022 academic year and entitlement to the clearance letter by the respondent. The relevant law applicable to address the appellant’s admissibility to the Programme is section 1 (b) as opposed to 1 (a) of the Second Schedule to the Kenya School of Law Act, 2012. This is because the appellant holds a foreign degree qualification from Russia. For ease of reference the provisions are stated hereunder as follows;

“ The Admission requirements will be as follows—

- (a) Admission Requirements into the Advocates Training Programme
 - (1) A person shall be admitted to the School if—
 - (a) having passed the relevant examination of any recognized university in Kenya, or of any university, university college or other institution prescribed by the Council, holds or becomes eligible for the conferment of the Bachelor of Laws (LLB) degree of that university, university college or institution;
 - or
 - (b) having passed the relevant examinations of a university, university college or other institutions prescribed by the Council of Legal Education,



holds or has become eligible for the conferment of the Bachelor of Laws Degree (LLB) in the grant of that university, university college or other institution—

- (i) attained a minimum entry requirement for admission to a university in Kenya; and
- (ii) obtained a minimum grade B (plain) in English Language or Kiswahili and a mean grade of C (plus) in the Kenya Certificate of Secondary Education or its equivalent; and
- (iii) has sat and passed the pre-Bar examination set by the school.”

18. The bachelor’s degree well spelt out is a Bachelor of Laws degree (LLB). The degree held by the appellant is a Bachelor in Legal Studies based on the letter from the Commission of University Education. The same is not the Bachelor of Laws degree (LLB) contemplated and indicated as a bare minimum in the public notice by the Kenya School of Law and the Second Schedule to its establishing law. The appellant’s degree in Legal Studies has its genesis from the interdisciplinary, liberal arts major that engages the meanings, values, practices, and institutions of law and legality. The Legal Studies curriculum examines how law shapes and is shaped by political, economic, and cultural forces. The same is different from the Bachelor of Laws degree set as a minimum entry to the Advocates Training Programme by the respondent. The distinction of the two qualifications is well espoused in Wikipedia which discusses the genesis of the LLB degree as follows;

“Origin of the LLB.

“LLB.” stands for Legum Baccalaureus in Latin. The “LL.” of the abbreviation for the degree is from the genitive plural legum (“of laws”). Creating an abbreviation for a plural, especially from Latin, is often done by doubling the first letter (e.g., “pp.” for “pages”). It is sometimes erroneously called “Bachelor of Legal Letters” to account for the double “L”. The bachelor’s degree originated at the University of Paris, whose system was implemented at Oxford and Cambridge. The “arts” designation of the degree traditionally signifies that the student has undertaken a certain amount of study of the classics. In continental Europe the bachelor’s degree was phased out in the 18th or early 19th century but it continued at Oxford and Cambridge. The teaching of law at Oxford University was for philosophical or scholarly purposes and not meant to prepare one to practise law. Professional training for practising common law in England was undertaken at the Inns of Court, but over time the training functions of the Inns lessened considerably and apprenticeships with individual practitioners arose as the prominent medium of preparation. However, because of the lack of standardisation of study and of objective standards for appraisal of these apprenticeships, the role of universities became subsequently of importance for the education of lawyers in the English speaking world. In England in 1292 when Edward I first requested that lawyers be trained, students merely sat in the courts and observed, but over time the students would hire professionals to lecture them in their residences, which led to the institution of the Inns of Court system. The original method of education at the Inns of Court was a mix of moot court-like practice and lecture, as well as court proceedings observation. By the



seventeenth century, the Inns obtained a status as a kind of university akin to the University of Oxford and the University of Cambridge, though very specialized in purpose. With the frequent absence of parties to suits during the Crusades, the importance of the lawyer role grew tremendously, and the demand for lawyers grew. Traditionally Oxford and Cambridge did not see common law as worthy of study, and included coursework in law only in the context of canon and civil law and for the purpose of the study of philosophy or history only. The apprenticeship programme for solicitors thus emerged, structured and governed by the same rules as the apprenticeship programmes for the trades. The training of solicitors by apprenticeship was formally established by an act of parliament in 1729. William Blackstone became the first lecturer in English common law at the University of Oxford in 1753, but the university did not establish the programme for the purpose of professional study, and the lectures were very philosophical and theoretical in nature. Blackstone insisted that the study of law should be university based, where concentration on foundational principles can be had, instead of concentration on detail and procedure had through apprenticeship and the Inns of Court. The Inns of Court continued but became less effective, and admission to the bar still did not require any significant educational activity or examination. Therefore in 1846 the Parliament examined the education and training of prospective barristers and found the system to be inferior to the legal education provided in the United States. Therefore, formal schools of law were called for, but not finally established until later in the century, and even then the bar did not consider a university degree in admission decisions. When law degrees were required by the English bar and bar associations in other common law countries, the LLB. became the uniform degree for lawyers in common law countries.”

19. It is clear that the appellant does not hold an LLB degree but a Bachelor of Legal Studies which renders him inadmissible for admission to the Advocates Training Programme and thus the decision declining the clearance letter by the respondent cannot be faulted on whatever score. For the avoidance of doubt the fact that the appellant may hold a higher qualification in law by way of a Masters degree does not render him admissible to the Advocates Training Programme as the minimum remains the LLB degree.
20. The appellant has refuted the capacity of the respondent to address the issue of his degree and submits that the ultimate and final authority remains with the Commission of University Education. He relies on section 5A (1) of the *Universities Act*, 2014 already adumbrated in this judgment. The said amendment was the subject of the decision in *Kenya Medical Laboratory Technicians and Technologists Board & 4 others v Attorney General; Council of Legal Education (Petitioner); Kenya Law Reform Commission & 4 others (Interested Parties)*, (2020) eKLR in which Justice Makau held while finding that the amendment of the law stripped the individual regulatory professional bodies of the powers vested in the Commission of University Education by dint of the doctrine of implied repeal as follows;

“56. Having considered the pleadings, the rival submissions and authorities relied upon by the parties. I find that the petitioners have failed to demonstrate how the amendment of the *Universities Act* through the *University (Amendment) Act*, 2016 violate their fundamental rights and freedoms under the Constitution. The Petitioners first set out the Articles of the Constitution without substantiation and that is not enough. It has further been established that Section 5A of the *Universities (Amendment) Act* 2016, grants commission of University Education the sole mandate of regulating and accrediting universities and if there is any conflict with the professional bodies, the provisions of the Act prevails, this does away with the issue of overlapping mandate.



57. From the above I find that the Petitioners have failed to demonstrate that Section 5A of the *Universities (Amendment) Act* 2016 is unconstitutional, how and in what manner.
58. To the extent of my findings herein and considering the nature of the petition, I find and hold that the Petition has no merit. I dismiss the same and direct that each party do bear its own costs.”
21. The respondent herein who was also amongst the unsuccessful petitioners in the aforesaid matter moved the appellate court vide an application for stay of execution which was disallowed by the court in *Kenya Medical Laboratory Technicians & Technologists & 7 others v Attorney General; Commission of University Education & another (Interested Parties)*, (2020) eKLR by Justices Warsame, Musinga and Sichale; JJ.A who rendered themselves as follows;
- “ 15. We are satisfied that the constitutionality of Section 5 of the *University (Amendment) Act* has been placed at the core of the intended appeal and as such, it raises an arguable point of law. We remind ourselves that an arguable appeal is not one which must necessarily succeed, but one which ought to be argued fully before the Court; one which is not frivolous. (See *Joseph Gitabi Gachau & Another v Pioneer Holdings (A) Ltd. & 2 Others*, [2009] eKLR). We are thus of the considered view that the applicant has demonstrated that the intended appeal herein discloses an arguable point of law.
16. On the nugatory aspect, it is the applicants’ contention that if stay is not granted, its appeal shall be rendered nugatory to the extent that the applicants have started engaging in the process of indexing students, and supervising that the training institutions meet the required standards, without the intervention of this Court, the aforesaid process stands stopped.
17. It is our view that, there is no positive order that can be stayed and secondly, the applicants have not demonstrated how the intended appeal will be rendered nugatory as they will remain in the exact position, as they were before the petition. For these reasons we find that the notice of motion has no merit. It is accordingly dismissed with costs.”
22. To the said extent, the Commission of University Education takes precedence over the respondent thus the appellant is correct. However, the only issue that arises is that the said institution which equated his qualification concluded that he held a Bachelor of Legal Studies which the Tribunal just as the respondent did, finds not to amount to an LLB degree for purposes of admissibility to the Advocates Training Programme. The respondent’s decision to the said extent cannot be faulted. Further, the Commission is explicit that he is subject to the individual professional organizations qualifications and regulations as may be demanded. In this case for those who aspire to be legal practitioners it is the respondent. With the finding of the High Court and the order refraining stay of execution by the appellate court it seems section 8 (3) (g) of the *Legal Education Act*, 2012 have to bow to section 5A of the *Universities Act*, 2014 the former which provides;
- “In carrying out its functions under subsection (2), the Council shall -
- (g) advise the Government on the standardization, recognition and equation of legal education qualifications awarded by foreign institutions.”



23. Same to section 8 (4) of the *Legal Education Act*, 2012 therein which provides;

“Where any conflict arises between the provisions of this section and the provisions of any other written law for the time being in force, the provisions of this section shall prevail.”

24. On the issue of the appellant’s secondary school qualifications nothing much turns on it as he had the requisite qualifications prescribed in the law to undertake a law degree and the respondent has no issue with it. It is a qualification from the Kenya National Examinations Council which does not require equation of whatever nature.

5. Disposition.

- a) The decision of the respondent to the extent that it sought to deny the appellant admission to the Advocates Training Programme on the basis that he was not a graduate or had not become eligible to a degree in law from a commonwealth jurisdiction is set aside.
- b) The decision denying the appellant admission on the basis he does not hold a Bachelor of Laws (LLB) degree as taken by the respondent is affirmed and the finding that the appellant is not entitled to a clearance letter by the respondent.
- c) Each party to bear own costs of the appeal.
- d) Any party aggrieved has the liberty to appeal to the High Court under section 38 (1) of the *Legal Education Act*, 2012 on a point of law.

It is so ordered by the Legal Education Appeals Tribunal.

DATED AT NAIROBI THIS 28TH DAY OF JULY, 2021.

ROSE NJOROGE – MBANYA - (MRS.) - CHAIRPERSON

EUNICE ARWA - (MRS.) - MEMBER

RAPHAEL WAMBUA KIGAMWA (MR.) - MEMBER

STEPHEN GITONGA MUREITHI (MR.) - MEMBER

I Certify this is a true copy of the original judgment of the Tribunal.

GILBERT ONYANGO - REGISTRAR

