

**COUNCIL OF LEGAL EDUCATION**

**EXAMINATION FOR AWARD OF DIPLOMA  
IN LAW (PARA-LEGAL STUDIES)**

**JULY, 2009**

**GENERAL PRINCIPLES OF CONSTITUTIONAL  
LAW AND LEGAL SYSTEM 1**

**Instructions**

- (a) Answer **QUESTION 1 and ANY OTHER THREE QUESTIONS**
- (b) QUESTION 1 is **COMPULSORY** and carries 25 marks
- (c) All other questions carry 15 marks each
- (d) Marks may be lost for illegibility
- (d) Time allowed is **Two (2) Hours**

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1. You are a civic education trainer specializing in para-legal studies. Your employer, a local legal Non-Governmental Organization has tasked you to make a presentation to a group of youth leaders drawn from across the country.

Prepare a comprehensive report on your presentation highlighting the following key points:

- (a) The meaning and origins of law and its unique character as compared to other instruments of social control;
- (b) Theoretical approaches to definition of law;
- (c) Functions of law in society;
- (d) Major legal systems in the world today;
- (e) Classification of law.

**(25 marks)**

2. (a) Apart from the Constitution of Kenya there are several other "written laws" which form part of the laws of Kenya. Identify these and explain their place in the hierarchy of the formal sources of law in Kenya.

**(8 marks)**

- (b) Describe the process of law-making by Parliament in Kenya.

**(7 marks)**

3. (a) Explain in detail the origins and meaning of "common law" and "equity" and show the extent to which these are sources of law in Kenya. (9 marks)
- (b) What do you understand by the following concepts?
- (i) Stare decisis
  - (ii) Ratio decidendi
  - (iii) Obiter dicta
- (6 marks)
4. Discuss in detail the establishment, composition and jurisdiction of the High Court of Kenya. (15 marks)
5. Identify the proper forum for filing each of the following cases, giving reasons for your answer:
- (a) M, a Muslim wishes to sue N, a non-Muslim, over a dispute relating to a contract for the sale of a motor vehicle valued at Kshs.1.5 million;
  - (b) A, a member of Kenya Mpya Sacco Society wishes to sue the Sacco over some unpaid savings;
  - (c) X, a tenant at a shop in Nairobi wishes to sue Y, the landlord, over some alleged illegal rent increment;
  - (d) Mary wishes to sue Peter for maintenance of their child Tom;
  - (e) Wanareli Workers Union wishes to sue on behalf of its members for alleged violation of a Collective Bargaining Agreement.
- (15 marks)
6. Write short notes on the following:
- ~~(a)~~ The Chief Justice;
  - (b) The Attorney-General;
  - ~~(c)~~ Removal of a judge from office;
  - (d) Distinction between lawyer and advocate;
  - (e) Role of Para-legals.
- (15 marks)
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