



# THE CATHOLIC UNIVERSITY OF EASTERN AFRICA

## A. M. E. C. E. A MAIN EXAMINATION

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MAY – JULY 2018 TRIMESTER

FACULTY OF LAW

REGULAR PROGRAMME

CLS 101 / 102: LEGAL SYSTEMS AND METHODS

Date: JULY 2018

Duration: 2 Hours

**INSTRUCTIONS: Answer Question ONE and ANY OTHER TWO Questions**

- Q1. a) Most nations today follow one of two major legal traditions. Most scholars agree that most systems generally reach the same results by different means, the main goal- to dispense justice. Discuss these various legal systems, explaining the features of each and providing examples of each country using each. **(12 Marks)**
- b) “The idea of the independence of the judiciary as it now presents itself, is a modern one. If we go back in history, we shall generally find that, although the notion that justice should be fairly administered may well have been accepted, those who adjudicated or settled cases were not expected to be in any real sense "independent" ". Hon. Mr. Justice A. M. Akiwumi  
From the above statement, discuss, with the aid of constitutional provisions and case law the reasons why you believe that the judiciary is/should be independent. **(12 Marks)**
- c) Describe the requirements which one must meet to be eligible for appointment as a judge of the High Court. **(6 Marks)**
- Q2. a) Judicial precedent is an important source of law. However, the later decisions, especially of the higher courts, can have a number of effects upon precedents. Discuss the types of precedent with the aid of relevant case law. **(10 Marks)**

- b) 'Article 48 of the Constitution makes access to justice a fundamental right. However this right has not been enjoyed by all citizens' -discuss this statement. **(10 Marks)**
- Q3. Once a piece of legislation has been passed by Parliament and thereafter received the presidential assent, it enters the statute books and will be implemented by the relevant arm of government. Questions may however arise about the scope, meaning and applicability of legislation to particular factual situations. This is when the judiciary is usually called upon to interpret the statutes. With the aid of precedent and relevant provisions of law, discuss six rules applicable in the interpretation of statutes, and circumstances which each rule may be applied. **(20 Marks)**
- Q4. The word equity ordinarily means "fairness" or "justice". As a source of Kenya law, the phrase doctrine of equity means the body of English law principles that were developed by the various Lord Chancellors in the Court of Chancery to supplement the rules of common law.
- i) Trace the historical development of equity. **(4 Marks)**
- ii) With the aid of relevant case law, identify and explain eight maxims of equity and cite circumstances under which they may be applied. **(16 Marks)**
- Q5. Write Short Notes on EACH of the following:
- a) Types of bills that may be discussed in parliament. **(5 Marks)**
- b) Rule of law. **(5 Marks)**
- c) Writs. **(5 Marks)**
- d) Tribunals. **(5 Marks)**

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