PAN AFRICAN CHRISTIAN UNIVERSITY

UNIVERSITY EXAMINATIONS 2025/2026

THIRD TRIMESTER EXAMINATION FOR THE DIPLOMA IN CRIMINOLOGY AND SECURITY MANAGEMENT

DCR 115: INTRODUCTION TO KENYAN LAW AND LEGAL SYSTEM

Instructions:
There are **THREE QUESTIONS**. Answer any **TWO QUESTIONS**.

Each question is 20 marks. Support your answers with relevant examples.

SECTION A

Question 1

(a) Trace the historical evolution of the Kenyan legal system from the pre-colonial era to the promulgation of the Constitution of Kenya 2010. **(8 Marks)**

(b) In your answer, identify THREE key characteristics of each historical period. **(6 Marks)**

(c) Article 2 of the Constitution of Kenya 2010 establishes the supremacy of the Constitution. Explain the legal implications of this provision for:
i. The relationship between the Constitution and Acts of Parliament
ii. The application of customary law in Kenya
iii. The status of international treaties ratified by Kenya **(6 Marks)**

Question 2

(a) Article 10 of the Constitution of Kenya 2010 sets out national values and principles of governance. Identify any five (5) of these values and explain how they guide the interpretation and application of law in Kenya. **(10 Marks)**

(b) Kenya is described as a "mixed, pluralistic common law system." With reference to specific sources of law studied in this course, explain what this description means and provide two (2) examples of how legal pluralism operates in practice. **(10 Marks)**

SECTION B

Question 3

a) The doctrine of judicial precedent (stare decisis) is fundamental to Kenya's common law tradition. Explain:

   i) The distinction between ratio decidendi and obiter dicta **(2 Marks)**

   ii) Expound on which courts are bound by decisions of the Supreme Court under Article 163(7) of the Constitution **(3 Marks)**

   iii) One (1) circumstance in which a court may depart from an existing precedent **(2 Marks)**

b) African customary law is recognized as a source of law in Kenya under Section 3(2) of the Judicature Act. Explain:

   i. The circumstances under which customary law may be applied by Kenyan courts **(5 Marks)**

   ii. The meaning and function of the "repugnancy clause" **(2 Marks)**

   iii. How the Constitution of Kenya 2010 has modified the application of customary law, particularly in relation to the Bill of Rights **(6 Marks)**