

# KASNEB REVISION KIT

## INTRODUCTION TO LAW AND GOVERNANCE REVISION KIT

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# CPA CS

## INTRODUCTION TO LAW AND GOVERNANCE REVISION KIT

PAST EXAMINATION PAST PAPERS WITH  
SUGGESTED ANSWERS

TOPICALLY ARRANGED

Updated With  
**AUGUST 2025**  
Past Paper with Answers

**TOPICS** **PAGE**

**PART A: PAST PAPER QUESTIONS**

<b>Topic 1:</b> Nature, purpose and classification of law .....	11
<b>Topic 2:</b> Administrative law .....	16
<b>Topic 3:</b> The court system .....	19
<b>Topic 4:</b> Alternative dispute resolutions .....	22
<b>Topic 5:</b> Law of persons .....	25
<b>Topic 6:</b> Law of tort .....	28
<b>Topic 7:</b> Law of contract .....	34
<b>Topic 8:</b> Sale of goods .....	39
<b>Topic 9:</b> Agency .....	45
<b>Topic 10:</b> Partnership .....	49
<b>Topic 11:</b> Indemnity and Guarantees .....	52
<b>Topic 12:</b> Insurance .....	55
<b>Topic 13:</b> Negotiable instruments .....	58
<b>Topic 14:</b> The law of property .....	61
<b>Topic 15:</b> Introduction to Corporate Governance.....	66
<b>Topic 16:</b> Professional Ethics.....	69

**PART B: Suggested solutions**

<b>Topic 1:</b> Nature, purpose and classification of law .....	73
<b>Topic 2:</b> Administrative law .....	97
<b>Topic 3:</b> The court system .....	113
<b>Topic 4:</b> Alternative dispute resolutions .....	132
<b>Topic 5:</b> Law of persons .....	147
<b>Topic 6:</b> Law of tort .....	159
<b>Topic 7:</b> Law of contract .....	176
<b>Topic 8:</b> Sale of goods .....	194
<b>Topic 9:</b> Agency .....	214
<b>Topic 10:</b> Partnership .....	229
<b>Topic 11:</b> Indemnity and Guarantees .....	241
<b>Topic 12:</b> Insurance .....	250
<b>Topic 13:</b> Negotiable instruments .....	260
<b>Topic 14:</b> The law of property .....	272
<b>Topic 15:</b> Introduction to Corporate Governance.....	289
<b>Topic 16:</b> Professional Ethics.....	306

## TOPIC 1

### NATURE, PURPOSE AND CLASSIFICATION OF LAW

#### QUESTION 1

##### **August 2025 Question One A and C**

- a) Citing TWO examples, distinguish between “public law” and “private law”. (4 marks)
- c) Using FIVE reasons justify the importance of law in a country. (10 marks)

#### QUESTION 2

##### **August 2025 Question Two C**

Explain FIVE circumstances under which a Kenyan court may depart from its previous decisions. (10 marks)

#### QUESTION 3

##### **April 2025 Question One A and B**

- a) In relation to sources of law, identify FOUR roles of the constitution in your country. (4 marks)
- b) Explain FOUR advantages of judicial precedence. (8 marks)

#### QUESTION 4

##### **December 2024 Question Seven B and C**

- (b) Explain THREE rules applied by the courts in the interpretation of statutes. (6 marks)
- (c) With reference to judicial precedence, differentiate between “ratio decidendi” and “obiter dicta”. (2 marks)

#### QUESTION 5

##### **August 2024 Question One C**

Discuss FIVE sources of law in your country. (10 marks)

#### QUESTION 6

##### **August 2024 Question Five B**

Outline FIVE matters which judges may consider to determine whether a dispute should be heard under African Customary Law. (5 marks)

#### QUESTION 7

##### **December 2023 Question Two B**

State THREE functions of law. (3 marks)

# PART B:

## SUGGESTED

## ANSWERS AND SOLUTION

## TOPIC 1

# NATURE, PURPOSE AND CLASSIFICATION OF LAW

### QUESTION 1

#### August 2025 Question One A and C

##### a) Distinguishing between Public Law and Private Law

**Public Law:** Public law governs the relationship between individuals and the state, and deals with issues that affect society as a whole.

**Examples:**

1. **Criminal Law:** *Example:* A person commits armed robbery and is prosecuted by the state. This is public law because it involves the state enforcing laws meant to protect public order and safety.
2. **Constitutional Law:** *Example:* A citizen challenges a new law that limits freedom of speech. This involves interpreting the constitution and the limits of government power, which affects the public as a whole.

**Private Law:** Private law regulates relationships between private individuals or organizations.

**Examples:**

1. **Contract Law:** *Example:-* A business sues another company for breaching a supply agreement. This is private law because it concerns a dispute between two private entities.
2. **Family Law:** *Example:-* A couple files for divorce and seeks custody of their children. This deals with personal relationships and obligations between individuals, making it a matter of private law.

##### c) Five reasons justifying the importance of law in a country:

1. **Maintenance of Law and Order:** Law helps prevent chaos by setting rules that define acceptable behavior.
2. **Protection of Rights and Freedoms:** Laws safeguard individual rights such as freedom of speech, right to property, and equality before the law.
3. **Promotion of Justice:** The law provides a structured system for resolving disputes and delivering justice.
4. **Regulation of Government Power:** Constitutional and administrative laws limit government actions and prevent abuse of power.
5. **Economic and Social Development:** Law creates a stable environment for businesses to operate and for investments to grow.

## QUESTION 2

### August 2025 Question Two C

Five circumstances under which a Kenyan court may depart from its previous decisions (doctrine of stare decisis):

1. **Distinguishing:** here the judge in the subsequent case demonstrates that the two cases relate to different points of law hence the earlier decision cannot be relied upon as a precedent.
2. **Changes in circumstances:** if circumstances have changed so much so that applying the precedent would be ineffectual. This is the case where the precedent has been overtaken by events.
3. **Per incuriam:** Per incuriam literally means ignorance or forgetfulness of law. Here the court demonstrates that the earlier decision was arrived at in ignorance or forgetfulness of law i.e. it is a wrong decision.
4. **Overruled by Statute:** A precedent cannot be relied upon if it has been overruled by an Act of Parliament.
5. **Improper conviction:** A court may depart from a binding precedent if applying it would likely result in an improper, erroneous, or unjust conviction in a criminal case
6. **Obscure or wide rule:** If the ratio decidendi of the previous decision is too wide or obscure, a court may refuse to rely on it.
7. **Conflicting decisions:** If the decision relied upon as a precedent is one of the many conflicting decisions of a court of co-ordinate jurisdiction.
8. **Fundamental Principle of Law:** If the ratio decidendi relied upon is inconsistent with a fundamental principle of law.

## QUESTION 3

### April 2025 Question One A and B

a) **Roles of the constitution in Kenya In relation to sources of law**

1. **Supreme Law of the Land:** The Constitution is the highest source of law. All other laws (statutes, common law, regulations) must conform to it. Any law or action that conflicts with the Constitution is considered invalid or unconstitutional.
2. **Establishes the Structure of Government:** It outlines the organization of the state, including the three branches of government: Executive, Legislature, and Judiciary. It defines their powers, functions, and the relationship between them (e.g., separation of powers and checks and balances).
3. **Protects Fundamental Rights and Freedoms:** The Constitution enshrines individual rights and liberties such as freedom of speech, right to life, equality before the law, etc. It ensures that both government and private actors respect these rights.

4. **Provides Legitimacy and Authority:** It grants legal and political legitimacy to the government and its institutions. It is the basis upon which leaders are elected, laws are passed, and justice is administered.

**b) Advantages of judicial precedence**

Judicial precedence (also known as case law or stare decisis) is a legal rule that inquires a judge hearing a case to refer to earlier cases decided by his predecessors in order to find out if the material facts of any of those cases before him and, in the event of such finding, to decide the case before him in the same way as the earlier case had been decided.

1. **Certainty and predictability:** Judicial precedent ensures that similar cases are decided in a similar manner. This allows individuals, businesses, and lawyers to predict the outcome of legal disputes and plan accordingly. Example: If a court has ruled that a particular contract clause is invalid in one case, future similar clauses are likely to be treated the same.
2. **Uniformity and consistency:** Case law enhances uniformity in the administration of justice as like cases are decided alike.
3. **Rich in detail:** stare decisis rich in detail in that many decisions which are precedent have been made by courts of law.
4. **Practical:** Principles or propositions of law are formulated by superior courts on the basis of prevailing circumstances hence the law manifests such circumstances.
5. **Convenience:** Case law is convenient in application in that judges in subsequent cases are not obliged to formulate the law but to apply the established principles.
6. **Flexibility:** It is contended that when judges in subsequent cases attempt to distinguish earlier decisions as to justify departing from them, this in itself renders the legal system flexible

**QUESTION 4**

**December 2024 Question Seven B and C**

**(b) Rules applied by the courts in the interpretation of statutes**

1. **The Literal Rule:** Under the literal rule, courts interpret the words of a statute according to their plain, ordinary, and natural meaning, without looking beyond the text. If the language of the statute is clear and unambiguous, the court will apply it as written, even if the result seems harsh or unjust.
2. **The Golden Rule:** It is to some extent an exception to the literal rule. It allows the court to depart from the literal meaning of the statute's words if the result would lead to an absurdity or an unjust outcome. The court is then allowed to interpret the statute in a way that avoids such results.
3. **Mischief rule.** Under this rule the judge will look at the Act to see what was its purpose and what mischief in the common law it was designed to prevent.