

Meaning, Purpose, and Sources of Law

Topic 1: Meaning, Purpose, and Sources of Law

1. Introduction & Learning Outcomes

Law governs human conduct and commercial interactions. For accounting technicians, legal literacy is essential for ensuring that daily business records, agreements, employment terms, and financial transactions comply with Kenyan statutory requirements.

Learning Outcomes

By the end of this study session, candidates should be able to:

1. Define law and distinguish legal rules from moral and social norms.
 2. Explain the fundamental functions of law in commercial operations.
 3. Identify the formal hierarchy of sources of Kenyan law.
 4. Distinguish between civil law and criminal law.
 5. Explain the supremacy of the Constitution of Kenya (2010).
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2. The Nature and Functions of Law

2.1 Law Defined

Law is the formal body of principles, statutes, and rules recognized, applied, and enforced by the state through the judicial system to regulate behavior and maintain social order.

2.2 Law vs. Morality

Dimension	Legal Rules (The Law)	Moral / Ethical Rules
Origin	Created by Parliament (Statute) or Courts (Precedent).	Arises from conscience, religion, culture, and ethics.

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Dimension	Legal Rules (The Law)	Moral / Ethical Rules
Enforceability	Enforced by the state (police, courts, prison, fines).	Voluntary; enforced only by conscience or social disapproval.
Form	Written, formalized, and published in the Kenya Gazette.	Often unwritten and subjective.
Sanctions	Fines, imprisonment, injunctions, or damages.	Guilt, remorse, or social ostracism.

3. Hierarchy of Sources of Law in Kenya

Under the **Constitution of Kenya (2010)** and **Section 3 of the Judicature Act (Cap 8)**:

1. THE CONSTITUTION OF KENYA (2010) - Supreme Law
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 2. ACTS OF PARLIAMENT (Statutes) & Subsidiary Legislation
?
 3. RATIFIED INTERNATIONAL TREATIES & CONVENTIONS (Article 2(6))
?
 4. SPECIFIC ENGLISH STATUTES OF GENERAL APPLICATION (12 August 1897)
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 5. COMMON LAW & DOCTRINES OF EQUITY (Judicial Precedents)
?
 6. AFRICAN CUSTOMARY LAW (Civil disputes only; not repugnant to justice)
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4. Key Takeaways & Exam Summary

1. **Constitutional Supremacy:** Any statutory provision conflicting with the Constitution of Kenya is void.
2. **Civil vs. Criminal:** Civil law settles disputes between individuals/firms; criminal law punishes offenses against the state.
3. **Professional Compliance:** Accounting technicians must follow statutory requirements to protect businesses from legal liabilities.