

How laws are made and classified assignment

Law



This assignment will demonstrate how laws are made and the number of ways in which laws are classified. Goodey et al. (2008 p. 6) states that ' law can be defined as a set of rules created by the state which forms a framework to ensure a peaceful society. If the rules are broken they can be enforced by mechanisms created by the state and sanctions imposed. ' Law is made through constitutions that give people rights but also imposes responsibilities. An example of this is the legal case of Miller v Jackson 1977 QB 966.

Although the UK's constitution is unwritten, they can be found in different sources such as Acts of Parliament, Common law and Europe. The UK Parliament is the highest source of law because it has the right to make any law it chooses and nobody can override that law. The UK Parliament is made up of two houses; House of Lords which is the highest court in the UK and House of Commons where members are democratically elected, therefore taking priority over the House of Lords. The UK Parliament can give power to public bodies to make laws. This is known as subordinate legislation.

All Parliamentary Acts start as a bill which is a proposal for a piece of legislation. An example of this is the Abortion Act 1967. The three main types of bills are; Public bills, Private Members' bills and Private bills. Although Acts of Parliament are thoroughly discussed and written by experts, there are times when the wording is not clear. In situations like this the courts have to provide a definition by determining Parliament's intentions and put them into practice. There are two different European sources of law; European Union (EU) and European Convention on Human Rights (ECHR).

Areas covered by EU law are regarded as supreme and the UK Parliament cannot pass a law that conflicts with EU law. EU law covers matters of trade and freedom of movement of workers. The formation of EU resulted in the making of rights and responsibilities in areas like; consumer protection, employment protection and company law. The ECHR was designed to protect basic individual needs like; the right to life, right to freedom of expression, right to liberty and security and right to a fair trial. This is where the Human Rights Act 1998 stems from. This Act requires the UK Parliament, devolved legislatures and the courts to only create law that complies with the provisions of the ECHR. Common law comes from case law which are laws developed through the court system. An example, based on negligence is that of *Donoghue v Stevenson* 1932 AC 562 (HL). The UK has a Common law legal system that covers how all the Civil and Criminal laws are made, used and enforced. Civil and Criminal law is one of the two types of classifications of law.

The difference between these two laws is that Criminal law is in place for the protection of the society as a whole and it provides punishment for those who break those laws. Criminal cases are brought by the Crown Prosecution Service (CPS) on behalf of the Crown (state) and they are to maintain law and order and to protect the society. Criminal cases take place in Crown Courts or Magistrate Courts and they must be proven beyond reasonable doubt. Civil law is used to settle disputes between individuals.

Civil cases are brought by a claimant namely an individual, a company or corporation. They are to uphold the individual's rights and to provide redress. Civil cases take place in a Tribunal or Court of Law and only have to

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be proven on the balance of probabilities. The second type of classification of law is Public and Private law. The difference between these two laws is that Private law is concerned with the smooth running of the society and covers areas like; work, business dealings, education and everyday life.

Employment law, law of tort and law of succession fall under Private law.

Public law involves the state or government and there are three main types of law that fall into it; Constitutional law (which controls how the government operates and is used to resolve disputes over constitutional matters), Administrative law (which controls how Ministers of State and public bodies should operate and make decisions), and Criminal law (which comes under public law because crime is regarded as an action against society and the state as a whole).

In conclusion, the examples given and the essay overall has shown the number of ways in which laws are classified and how laws are made. 768 words Reference List Acts Abortion Act 1967 Human Rights Act 1998 Cases Miller v Jackson 1977 QB 966 Donoghue v Stevenson 1932 AC 562 (HL) Materials Godey, J. A. , Howells, C. And Zambellas, A. (2008) Starting with Law, Milton Keynes, The Open University