

Role of law in modern society law essay



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The main role of law in modern societies is hard to overestimate. The systems are hard to understand, the institutions are different and range from small to mammoth, and the number of people concerned, from para-legal to federal judge, can only be proof of its central role in society. Law and legal issues are left to lawyers, legal theorists and the occasional sociologist. For most people, the law is only reluctantly confronted during those signature events in life: marriage, paying taxes, immigrating.

The history of law is closely related to the development of civilization. Ancient Egyptian law, 3000 BC, restricted a civil code that was probably broken into twelve books. It was based on the concept of Ma'at, characterized by tradition, symbolic speech, social equality and objectivity. By the 22nd century BC, the ancient Sumerian ruler Ur-Nammu had formulated the first law code, which consisted of casuistic statements and in that law they just had: "if ... then..." Around 1760 BC, King Hammurabi further developed Babylonian law, by codifying and inscribing it in stone. Hammurabi placed several copies of his law code throughout the kingdom of Babylon as steal, for the entire public to see; this became known as the Codex Hammurabi. The most intact copy of these steal was discovered in the 19th century in Britain, and has since been fully transliterated and translated into various languages, including English, German, and French.

Civil Law and Common law

The terms of common law system and civil law system are different and used to discriminate two distinct legal systems and approaches to law. The term 'civil law' refers to jurisdictions that took over the continental system of European law resulting basically from ancient Roman law, but much accept

the Germanic tradition. The term ‘common law’ refers to all legal systems, which have adopted the historic English legal system.

The distinction to be made between the two systems is that the common law system has a certain characteristic to be case-centered and hence judge-centered, allowing scope for an optional, pragmatic approach to the particular problems that show before the courts. From one point, the law can be developed on a case-by-case basis and from another point the civil law system tends to be a codified body of general abstract principles that control the implement of judicial discretion.

In reality, both these views are limited, with the former overemphasizing the extent to which the common law judges can impose their discretion and the latter underestimating the point to which civil law judges have the power to exercise judgment. It is possibly significance mentioning at this point that the European Court of Justice, established, in assumption, on civil law principles, is, in practice, increasingly recognizing the profit of establishing a body of case law. Even though, the European Court of Justice is not bound by the operation of the doctrine of stare deices, it still does not decide personal cases on a personal basis without reference to its previous decisions.

Substantive vs. Procedural Law

‘Substantive law refers to all categories of public law and private law, including the law of contracts, real property, torts, and criminal law.

First, there is a brief definition of the two terms. When you say substantive law, it actually mansions to the written or constitutional law which governs the connection between people, or between people and the state. Procedural

law is the set of rules followed when a court is hearing a case – so it basically dictates what will happen during a civil or criminal proceeding.

Compare this with procedural law, which provides a government with the machinery to implement the rights and duties as distinct in substantive law. In layman's terms, substantive law defines how the facts in a case will be handled, as well as how a particular case is to be charged. As the name implies, it's the 'substance' of the case that is being handled.

Only procedural laws can be applied to non-legal contexts, but substantive law cannot. Procedural law is more about how the law will be executed, while substantive law provides the legal result to a case.

Summing up:

1. Substantive law is about the characterization of people's rights, duties and power, while procedural law is about prescribing the form and order by which the law will be enforced.
2. Substantive law defines how the details or information in a case will be handled, while procedural law defines the step-by-step process that the case will go through.
3. Substantive law cannot be applied to non-legal contexts, while only procedural law can be applied to non-legal contexts.
4. Substantive law defines how the case is handled, and how a crime is to be charged, while procedural law describes the method in which a case will progress.

Criminal and civil procedure

Criminal and civil procedures are not similar to each other. Even if some systems, together with the English, stand for private persons to bring a criminal prosecution against another person, prosecutions are almost always in progress by the state, in order to punish the defendant. The cases are usually in different courts, and juries are not so often used in civil cases.

Civil procedure is the main body of law that sets out the rules and principles that courts follow when adjudicating civil lawsuits. These rules manage how a lawsuit or case may be commenced, what type of service of process is necessary, the types of pleadings and statements of case, applications, and orders allowable in civil cases, the timing and manner of depositions and discovery, the conduct of trials, the process for judgment, various available remedies, and how the courts and clerks should function.

Civil procedure is central, necessary and special procedural systems even criminal procedure has tended to develop or extend as variations on the civil procedure model. Civil law proceeding is that evidence is received and the summary record prepared by someone other than the judge who will decide the case.

In civil law nations, where there is no tradition of civil trial by jury, an entirely different approach has developed. There is no such thing as a trial in our sense or no single, concentrated event. The typical civil proceeding in civil law country is actually a series of isolated meetings of and written communications between counsel and judge.

Criminal

One of the most comparisons one hears made about criminal procedure in the two traditions is that the criminal procedure in the civil law tradition is called inquisitorial at the same time as that in the common law tradition is called accusatorial. The criminal trial is a challenge between the accusers and the accused with the judge as a referee. Usually the proceedings takes place publicly and orally and is not preceded by any official investigation or preparation of evidence.

At the same period of time there are important differences between civil and criminal procedures. The most civil law system consists of separate codes of civil procedure and criminal procedure. The principle of evidence plays more important role in a criminal case if the people judging it doubt the guilt of suppose and have a reason for this doubt a crime cannot be proven. But in a civil case, the court and judge will evaluate all the proof and decide what is most possible.

In civil matters the parties are the plaintiff and the defendant. In criminal matters the parties are the Crown and the defendant, in civil matters the parties are the plaintiff and defendant. A prosecutor conducts the case on behalf of the Crown. In the Magistrates Court the prosecutor is a police officer while in the higher courts the Director of Public Prosecutions conducts the prosecution. The plaintiff or prosecutor must prove their case before the court.

Conclusion

In conclusion, essay explains the differences between criminal procedure and civil procedure and different legal systems.