

Research paper on justice system

Law, Common Law



Common law is based on the doctrine of judicial precedent. Judicial precedent is a principle which asserts that a rule made in previous case should be the basis of a legal decision of another case that is similar to it (Holmes 48). The principle of common law is that giving contrary judgments to two similar cases is unfair. This general principle is known as stare decisis which mean that a judge in determining a given case is bound by the decision of a similar preceding legal case (Michael 69). Judges usually develop this law by an analysis of various similar cases to decide the common decision to be ascribed to a given nature of cases.

Civil law is principally different from common law. In civil law, a given written code is used as a source of the law. It is also referred to as a referable system. The judges therefore have to base their decisions not by the preceding similar cases, but by the dynamics present in a case applying to it the written code. Civil law is usually inquisitorial which means that the court rather than just acting as a referee is actively engaged in determining the truth of a particular matter by actively investigating the aspects of a given case (Hartkamp and von Bar 89).

If I was charged with a street crime, such as murder, I would prefer to be tried using the civil or inquisitorial law. In common law, the judges would care less the events leading to the actual murder, and would instead consider the punishment such a crime has been given in previous cases and give their ruling. If I was to be tried by civil law, there would be thorough investigations to determine the events leading to the crime. Every event no matter how similar that particular event might have similarities with another event has something distinct. I could have acted out of self defense. The

judges therefore would give their ruling not based on what has been previously passed but based on the dynamics of this particular case.

Works cited

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