

Classification of laws

Law



Classification of Laws An important method of classifying law is according to the system in which it is created. • common law Rules of law created by the courts through judicial decisions. Courts “ make law” as part of the process of deciding cases and controversies before them. The case law created in this process is based on a doctrine known as stare decisis. This doctrine is based on the notion that prior decisions provide guidance that should be followed in subsequent cases involving the same questions of law.

Thus, where a rule of law has been announced and followed by courts so that the rule has become settled by judicial decision, a precedent is established for future cases. The common law system originated in England. Therefore, because of our nation’s close historical association with England, the common law system is of significant importance in the United States. Indeed, many state constitutions specifically adopted the common law of England as the beginning point of those states’ legal systems. Civil law systems found in France and Spain are quite different from the common law system. The civil law systems rely primarily on legislative enactments, rather than judicial decisions, for law. Any court in a civil law system must defer to the legislation for the answer to a legal issue. The courts’ decisions do not become precedent. Future cases also must be resolved by reference to applicable legislation. Only Louisiana, among the various states, follows a civil law system. This is due to Louisiana’s historical ties with France. Public law Another way of classifying the law is to divide it into matters of public law and matters of private law. public law involves those matters that involve the regulation of society as opposed to individuals interacting. Examples of public law include constitutional law, administrative law, and

criminal law. oConstitutional law involves the interpretation and application of either the federal or a state constitution. oAdministrative law describes the legal principles that apply to government agencies, bureaus, boards, and commissions. Criminal law encompasses all legal aspects of crime. In each of these areas, society, or “ the people,” are directly involved in the issues. Their interests are represented by a governmental agency, officer, or official whose obligation it is to see that justice is accomplished and the ends of society achieved. Public law provides a major portion of the legal environment of business. •Private law encompasses those legal problems and relationships that exist between individuals. Private law is traditionally separated into the law of contracts, the law of torts, and the law of property. Contract law addresses agreements between two parties. •Tort law addresses wrongs other than a breach of contract, by which one party injures another. •Property law deals with all aspects of ownership and possession of both tangible things and intangible rights. Our whole economic system is based upon the rights of individuals to acquire and use private property. Another means of classifying the law is to divide it into: •Civil Law and Criminal Law, For administrative purposes, courts usually separate criminal actions from all other lawsuits.

Civil cases may include suits for breach of contract or tort cases, such as suits for personal injuries. Typically, they involve a request for damages or other appropriate relief that does not involve punishment of the wrongdoer. Criminal cases involve a representative of government attempting to prove the wrong committed against society and seeking to have the wrongdoer punished by the court system. •Substantive Law and Procedural Law Another

important classification or distinction in law is between substance and procedure.

Substantive law defines the legal relationship of people with other people or between them and the state. Thus, the rules of law governing the creation or enforcement of a contractual promise are substantive in nature. Procedural law deals with the method and means by which substantive law is made and administered. The time allowed for one party to sue another and the rules of law governing the process of the lawsuit are examples of procedural laws. Thus, substantive rules of law define rights and duties, while procedural rules of law provide the machinery for enforcing those rights and duties.

Judicial procedures involve the conduct of lawsuits and appeals and the enforcement of judgments. The rules for conducting civil trials are different from those for criminal trials. For example, each party may call the other party to the witness stand for cross-examination in a civil trial, but the defendant may not be required to testify in a criminal case. Procedural problems sometimes arise concerning papers filed in lawsuits, the admission of evidence, and various other techniques involved in trying the case. They are the rules of the game.

Next, you will study these procedural aspects of law in greater depth. In summary, For instance, Common Law was created with the purpose of establishing a set of legal rules based on previous court decisions made on similar cases, and these decisions may or may not be regulated by any already existing statutes. This form of law is based on the stare decisis doctrine. In contrast to the common law, Civil Law is dependent on statutes,

where decisions are made based on established legislative rules, therefore prior decisions from judges do not take precedence.

The second classification is based on the differentiation between Public and Private law, where public law relates to societal influences and governing structures, whereas private law deals with upholding the legal rights of individuals. Another common classification introduced is that of Civil and Criminal laws, in which the courts make a distinction between laws that pertain to the deliberate perpetration of a criminal wrongdoing, from laws that were established to enforce and ascertain the outcome of a lawsuit between disputing parties.

Finally, laws can also be classified as Substantive or Procedural laws, where substantive laws address the rights and duties that protect every person within our society, and the application of procedural laws, which governs and enforces the rules that assist in controlling the behavior of all the officers, governing bodies, and other members that form our judicial system. All members of the armed forces must adhere to military rules enforced by a document known as the Uniform Code of Military Justice, and this document provides all necessary guidelines in the compliance of the various articles delineated in the document.

In addition, we must also comply with federal, state and local regulations. For example, in order to avoid fines and legal reprisals, and also due to the technical nature of our working environment, rules and regulations generated by the Environmental Protection Agency (EPA) and the

Occupational Safety and Health Administration (OSHA) must be adopted and enforced, ensuring the safety of personnel and environmental stability.