

Common law assignment



**ASSIGN
BUSTER**

1. Common Law is a law developed by judges. It encompasses application of decisions by tribunals and courts. (Quigley, 1989).

2. The concept of legality can be verified in common law mainly by basing on the judgment of the specific judges. They have the sole responsibility of determining the verdict. (Quigley, 1989).

3. Affirmative defenses and Exclusionary Rule are examples of Common Law. An affirmative defense refers to a type of legal defense usually raised by the defendant. He or she introduces additional facts in order to mitigate his or her culpability. This is done without the negation of any essential elements presented by his or her prosecutor. Common law allows the defendant to plead and prove his or her defense by producing actual evidence either through personal testimony or physical proof.

The exclusionary rule on the other hand provides protection for defendants involved in criminal cases. It ensures that cases of revenge are not realized by barring any evidence that is deemed illegally obtained. The idea of excluding given evidence is derived from English common law and in the United States of America; it represents the search and seizure as demonstrated in the constitution. (Moustaira, 2004).

Common Law v. Civil Law

4. Statutes cannot be written to take into consideration every possible fact situation. The judges in civil tradition deal with this by using the codes in their legal system to give their verdict since the codes provide basis for this system. A good example is the Napoleon code. In common law, the respective

judges make their own decisions as they have the power to do this, given in the judicial precedent. (Moustaira, 2004).

5. ECPI has a rule for students attending classes on campus that reads: It is mandatory that all students wear professional dress on Wednesday. Suppose on a Wednesday, Ronny wears his coveralls from the body shop where he works, and Trixie wears her cocktail waitress outfit from the bar where she works. Both claim that they are wearing “ Professional Dress” for their current profession. A civil tradition judge would view it as a breach of the common codes laid. Ronny does not follow the rules to the latter. A common Law tradition judge, on the other hand, will assess the situation basing on the facts brought forward. He is not tied to any codes and will eventually pass judgment based on the situation and evidence. (Moustaira, 2004).

Socialist Law

6. The Socialist Legal Tradition is a legal system mainly used in communist States. It, unlike the civil legal system, provides for state ownership of most property. (Quigley, 1989).

7. The Socialist Legal Tradition was necessary in a Communist Totalitarian state since it allowed the state to control the way people utilize property and goods. The state has maximum powers and its bodies and organs help it to achieve its goals. (Quigley, 1989).

8. Criminal law was/is written so broadly and vaguely in the Socialist Legal Tradition. This is to allow for easy amendment of the law and also since there are only few in law who understand the codes used.

9. Nations still following the social legal tradition include Republic of China, Russia and Ukraine.

Islamic Law

10. a) Hadd (hudud) is applied to Sharia, the Islamic law. It refers to a given class of punishments usually fixed for specific crimes for example the for example fornication, adultery and theft. Moustaira, E. (2004).

b) Visas refer to permits, normally issued by a state, in order to allow a citizen of another country to reside in the given country, for a period of time. This is always for a specified purpose, tourism, education or diplomatic mission. (Moustaira, 2004).

c) Tazir applies in Islamic Law where it refers to corporal punishment administered at the discretion of a judge. The punishments for the crimes are fixed for example a case of theft calls for hand amputation. (Moustaira, 2004).

d) Ridda generally applies to the Wars of Apostasy. These were a series of military campaigns that Caliph Abu Bakr launched against tribes of Arabs that were rebels after the death of Muhammad. The main aim was for the rebel groups to seek their allegiance to Caliph. (Moustaira, 2004).

e) Hiraba refers to an act of robbery with violence. The penalties for this act depend on the final result of the robbery act for example if the robber kills a victim, and gets away with the property, he or she is crucified. (Moustaira, 2004).