

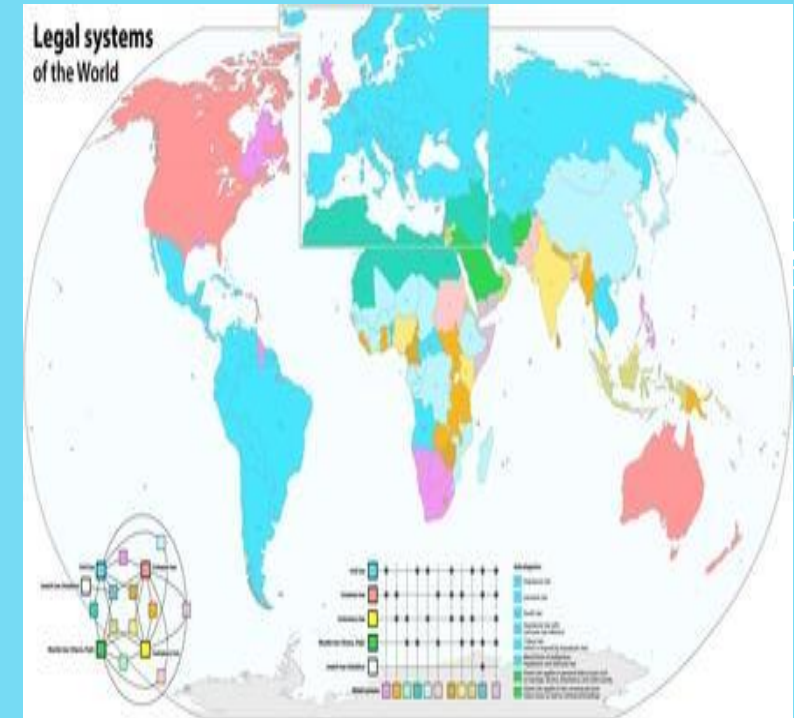
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**TOPIC: LEGAL SYSTEMS OF THE  
WORLD**

# INTRODUCTION

- ▶ The contemporary national legal systems are generally based on one of four basic systems: civil law, common law, islamic law, indian law or combinations of these. However, the legal system of each country is shaped by its unique history and so incorporates individual variations. The science that studies law at the level of legal systems is called comparative law.



# COMMON LAW

▶ Common law in England: the body of customary law, based upon judicial decisions and embodied in reports of decided cases, that has been administered by the common-law courts of England since the Middle Ages. From it has evolved the type of legal system now found also in the United States and in most of the member states of the Commonwealth (formerly the British Commonwealth of Nations). In this sense common law stands in contrast to the legal system derived from civil law, now widespread in continental Europe and elsewhere.



► **Origins of common law:** Common law is an invention of the English courts: the Kings Bench, the Court of Common Pleas and the Exchequer so as to ensure, as remains the case today, that there were laws that superceded the decisions of the lesser courts.

Judges create the common law by delivering written judgments about the cases before them. If, for example, Magistrates' Courts across England and Wales were able to make and follow their own precedent, this would create a huge variation in local and regional customs that could mean that local regimes are barely recognisable from one another.

- ▶ Statute Law in England By: Lorna Elliott LLB (hons), Barrister - Updated: 5 Oct 2015
- ▶ Statute Law is law that is written down and codified into law. Statutes begin as bills: and there are public and private bills.
- ▶ Public Acts are those that affect either the whole of the UK or some of its constituent countries: England, Scotland, Wales and Northern Ireland, whereas private Acts may grant limited powers to public bodies such as local authorities, or apply only to specific locations within the UK.



▶ Common law in united states: the American system is a “common law” system, which relies heavily on court precedent in formal adjudications. In our common law system, even when a statute is at issue, judicial determinations in earlier court cases are extremely critical to the court’s resolution of the matter before it the American system is a “common law” system, which relies heavily on court precedent in formal adjudications. In our common law system, even when a statute is at issue, judicial determinations in earlier court cases are extremely critical to the court’s resolution of the matter before it.



The United States and most Commonwealth countries are heirs to the common law legal tradition of English law. Certain practices traditionally allowed under English common law were expressly outlawed by the Constitution, such as bills of attainder and general search warrants. As common law courts, U.S. courts have inherited the principle of stare decisis. American judges, like common law judges elsewhere, not only apply the law, they also make the law, to the extent that their decisions in the cases before them become precedent for decisions in future cases.





- ▶ The actual substance of English law was formally "received" into the United States in several ways. First, all U.S. states except Louisiana have enacted "reception statutes" which generally state that the common law of England (particularly judge-made law) is the law of the state to the extent that it is not repugnant to domestic law or indigenous conditions. Some reception statutes impose a specific cutoff date for reception, such as the date of a colony's founding, while others are deliberately vague.





# CIVIL LAW

- ▶ **Civil law, also called Romano-Germanic law, the law of continental Europe, based on an admixture of Roman, Germanic, ecclesiastical, feudal, commercial, and customary law. European civil law has been adopted in much of Latin America as well as in parts of Asia and Africa and is to be distinguished from the common law of the Anglo-American countries.**

**The term civil law has other meanings not employed in this article. The term *jus civile*, meaning “civil law,” for example, was used in ancient Rome to distinguish the law found exclusively in the city of Rome from the *jus gentium*, the law of all nations, found throughout the empire. The phrase has also been used to distinguish private law, governing the relations between individuals, from public law and criminal law. Finally, in the philosophy of law, civil law sometimes refers to the positive law of the state, as distinct from natural law.**

The Law of France refers to the legal system in the French Republic, which is a civil law legal system primarily based on legal codes and statutes, with case law also playing an important role. ... The Constitution of France adopted in 1958 is the supreme law in France.



▶ In France the Revolutionary period was one of extensive legislative activity, and long-desired changes were enthusiastically introduced. A new conception of law appeared in France: statute was deemed the basic source of law. Customs remained only if they could not be replaced by statutes. The Parlements, the major courts of the nation, were dismantled and replaced by a unified system of courts that were merely supposed to apply the law and never to lay down general rules.



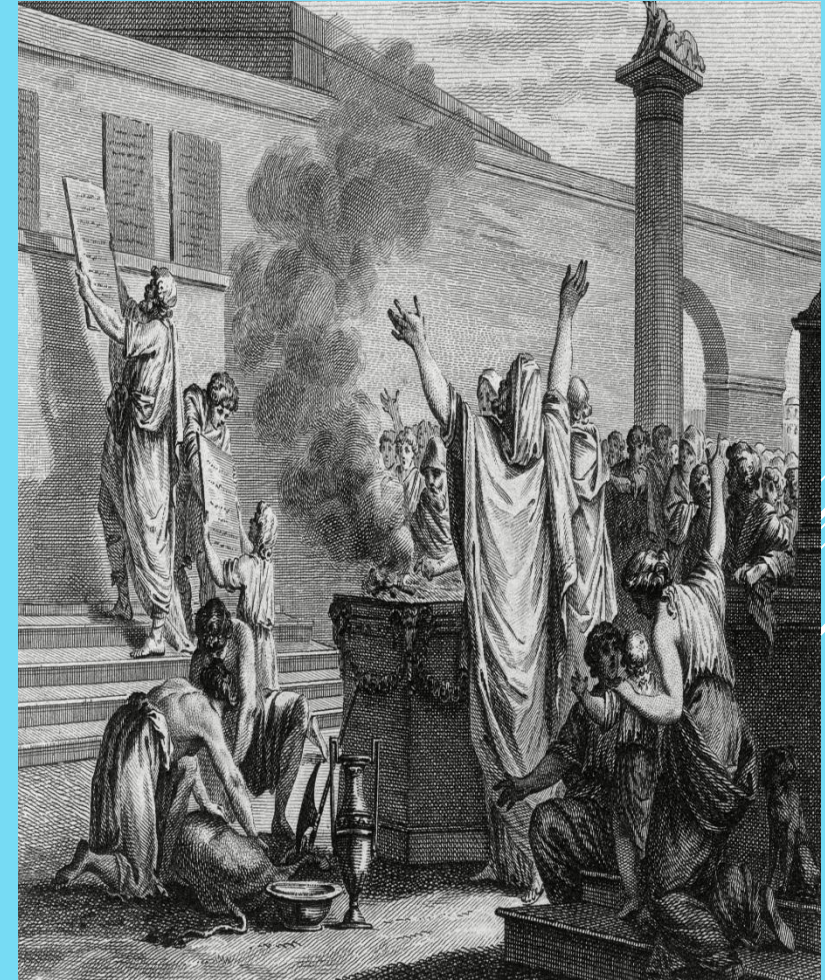
- ▶ The law of Germany (German: das Recht Deutschlands), that being the modern German legal system (German: Deutsches Rechtssystem), is a system of civil law which is founded on the principles laid out by the Basic Law for the Federal Republic of Germany, though many of the most important laws, for example most regulations ...



- ▶ Roman law, as embodied in the Corpus Juris Civilis, was “received” in Germany from the 15th century onward, and with this reception came a legal profession and a system of law developed by professionals (Juristenrecht). Roman law provided the theoretical basis for legal progress that culminated in the work of the scholars of the 19th century. Under this tradition, the legal process has been viewed in Germany as the application of more or less generally formulated rules to individual cases.



- ▶ **German courts traditionally have not been as dominant in developing the law as have their counterparts in the common-law countries. Roman law provided tools to strengthen sovereignty, as well as the correlative ideas that the legislative function is a state monopoly and that the responsibility for the development of law rests with a legally trained state-controlled bureaucracy**





# CONCLUSION:

- ▶ Legal systems vary from country to country, and sometimes within a single country. Although they develop in different ways, legal systems also have some similarities based on historically accepted justice ideals. Legal systems do fall into groups or patterns with some similar features within each group. Many countries employ more than one of these systems at the same time to create a hybrid system. In some places, the current security situation can also impact the way that legal systems work. It is helpful to understand some of the similarities and differences as you move through your case.

# ISLAMIC LAW

**HISTORY: Islamic law** grew along with the expanding **Muslim** Empire. The Umayyad dynasty caliphs, who took control of the empire in 661, extended **Islam** into India, Northwest Africa, and Spain. The Umayyads appointed **Islamic** judges, kadis, to decide cases involving **Muslims**. (Non-**Muslims** kept their own **legal system**.)

Characteristic:

- 1-Divine revelation
- 2-Completeness
- 3-Universality

- 4- Flexibility (not rigid)
- 5-Just/ Fair

# STRUCTURE

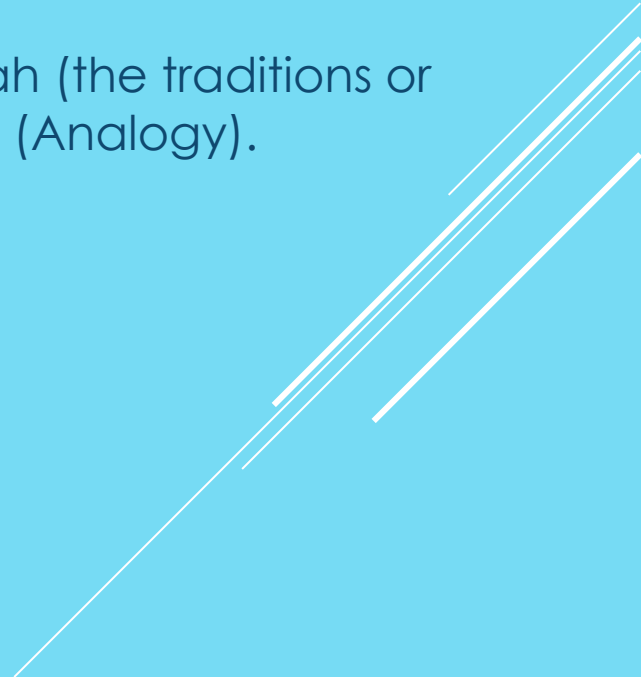
is a religious law forming part of the Islamic tradition.<sup>[1][2]</sup> It is derived from the religious precepts of Islam, particularly the Quran and the hadith. In Arabic, the term *sharī'ah* refers to God's immutable divine law and is contrasted with *fiqh*, which refers to its human scholarly interpretations.<sup>[3][4][5]</sup> The manner of its application in modern times has been a subject of dispute between Muslim fundamentalists and modernists.<sup>[6][1]</sup>

Traditional theory of Islamic jurisprudence recognizes four sources of Sharia: the Quran, *sunnah* (authentic hadith), *qiyas* (analogical reasoning),<sup>[note</sup><sup>1]</sup> and *ijma* (juridical consensus).<sup>[8]</sup> Different legal schools—of which the most prominent are Hanafi, Maliki, Shafi'i school, Hanbali and Jafari—developed methodologies for deriving Sharia rulings from scriptural sources using a process known as *ijtihad*.<sup>[3][4]</sup> Traditional jurisprudence (*fiqh*) distinguishes two principal branches of law, *'ibādāt* (rituals) and *mu'āmalāt* (social relations), which together comprise a wide range of topics.<sup>[3][5]</sup> Its rulings are concerned with ethical standards as much as with legal norms,<sup>[9][10]</sup> assigning actions to one of five categories: mandatory, recommended, neutral, abhorred, and prohibited.<sup>[3][4][5]</sup> Thus, some areas of Sharia overlap with the Western notion of law while others correspond more broadly to living life in accordance with God's will.

# SOURCE

The Qur'an is the principal **source of Islamic law**, the **Sharia**. It contains the rules by which the **Muslim** world is governed (or should govern itself) and forms the basis for relations between man and God, between individuals, whether **Muslim** or non-**Muslim**, as well as between man and things which are part of creation.]

The primary **sources of Islamic law** are the Holy Book (The Quran), The Sunnah (the traditions or known practices of the Prophet Muhammad ), Ijma' (Consensus), and Qiyas (Analogy).

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# INDIAN LAW

HISTORY: Law in India primarily evolved from customary practices and religious prescription to the modern well codified acts and laws based on a constitution. Though the recorded history of law starts only in the Vedic period, it is widely believed <sup>[by whom?]</sup> that ancient India had some sort of legal system in place even during the Bronze Age and the Indus Valley civilization.<sup>[1]</sup> The various stages of evolution of Indian law is classified as that during the Vedic period, the Islamic period, the British period and post independence.

# CHARACTERISTICS

## 8 Important Features of Indian Constitution

World's Longest Constitution. ...

Taken from various sources. ...

Federal System with Unitary **Features**. ...

Parliamentary Form of Government. ...

Balance between the Sovereignty of Parliament and Judicial Supremacy.

...

Independent and Integrated Judicial System. ...

Directive Principles of State Policy.



# STRUCTURE

The Indian Constitution has adopted a bicameral legislature at the union level. The Indian Parliament comprises two Houses, the:

*Lok Sabha* (House of the People). The political party or coalition of political parties with a majority in the *Lok Sabha* forms the government. The members of the *Lok Sabha* are directly elected by the people from their territorial constituencies.

*Rajya Sabha* (Council of States). The members of the *Rajya Sabha* are indirectly elected from the state assemblies.

However, the legislative powers of these two Houses are quite similar.

At the state level, there is the state legislature. All states have a legislative assembly (which is similar to the *Lok Sabha*) and some states may also have a second House (that is, a legislative council). Currently, only seven of the 28 states have a legislative council. The legislative assemblies have significantly more power than the legislative councils. The number of the state legislature members depends on the population of the specific state.

# SOURCE

The main **source** of **law** in **India** is the Constitution which gives due recognition to statutes, case **law** and customary **law**, consistent with their dispensations. The statutes are enacted by the Parliament, State Legislatures and Union Territory Legislatures.