
Chapter 1

INTRODUCTION TO LAW AND THE LEGAL SYSTEM



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1.1 What is law?

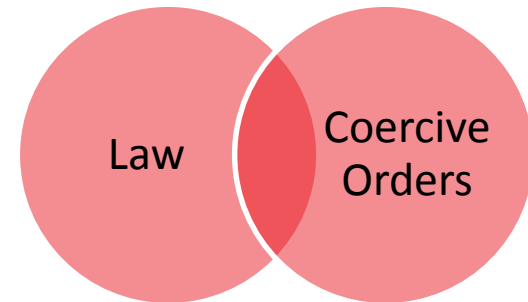
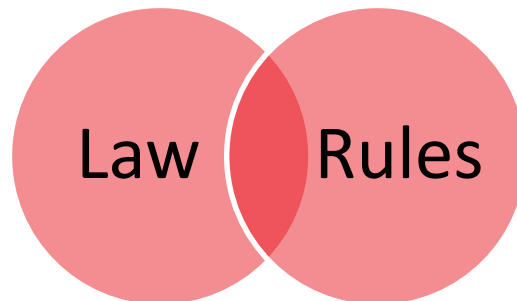
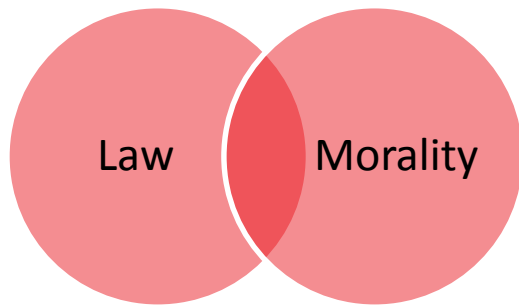
- Poet W.H. Auden said, ‘The law is The Law’ and we tend to know it when we see it. But it is a question that philosophers and legal theorists have expended many pages in trying to answer.
- Prof. H.L.A. Hart in his work titled ‘The Concept of Law’ says that “few questions concerning human society have been asked with such persistence and answered by serious thinkers in so many diverse, strange and even paradoxical ways as the question what is law?”



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- For Hart, there is a difficulty in answering the questions because of what he calls ‘the three recurring issues’, namely,
 - The relationship between law and morality.
 - The relationship between law and rules.
 - The relationship between law and coercive orders.
 - According to Hart, unless and until there are answers to these recurring questions the issue of what is law will continue.



According to Hart, unless and until there are answers to these recurring questions the issue of what is law will continue.



The following are some definitions of various academics reduced to its most basic form:-

- Law is a system of rules laid down by a body or person with the power and authority to make law;
- Law is what legislators, judges and lawyers 'do';
- Law is a tool of oppression used by the ruling class to advance its own interests;
- Law is a system of rules grounded on fundamental principles of morality.





- **Simply stated, 'Law' can be defined as a set of rules which we are bound to obey (i.e. those rules which are enforced by the State).** Failure to obey laws would result in us having to face certain repercussions. Like legal rules there are social rules as well. Society may be governed by social rules as well. It goes without saying that the two types of rules are clearly distinct from each other. Social rules could include 'proper' behaviour or etiquette.
- Killing a human being is both wrong legally and socially. It is hard to say which social rule should receive the force of law and which should not. You are likely to be fined for failure to wear a helmet while travelling on a motorbike. But it might not be frowned upon as being socially unacceptable to not wear a helmet. How a social rule becomes law may depend on the society you live in. i.e. religion, ethnicity, culture, tradition etc.



1.2 What is law for?

Maintenance of public order and safety

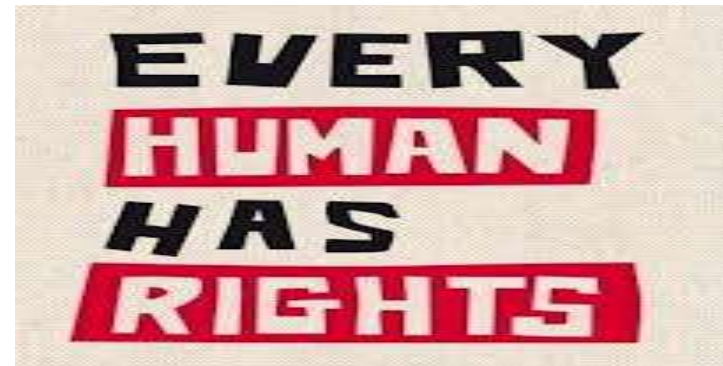
Law is seen as the 'glue' that holds the fabric of society together. The law protects us from complete social disorder and anarchy (i.e. lawlessness).



1.2 What is law for?

Protection of individual rights and liberties

This is to ensure that everybody is equal before the law and that nobody is above the law. Therefore powerful persons are all controlled by the laws in place and this would mean that all individual rights are protected equally.



1.2 What is law for?

The organisation and control of the political sphere

The law sets out the boundaries of politics by preserving the political structure and process under which governance is possible. The best example of the relationship between law and state is a written constitution, although U.K. does not have a written constitution.



1.2 What is law for?

The regulation of economic activity

Facilitates and encourages national and international trade in goods and services by setting out legal frameworks by which parties can be bound.



1.2 What is law for?

The regulation of human relationships

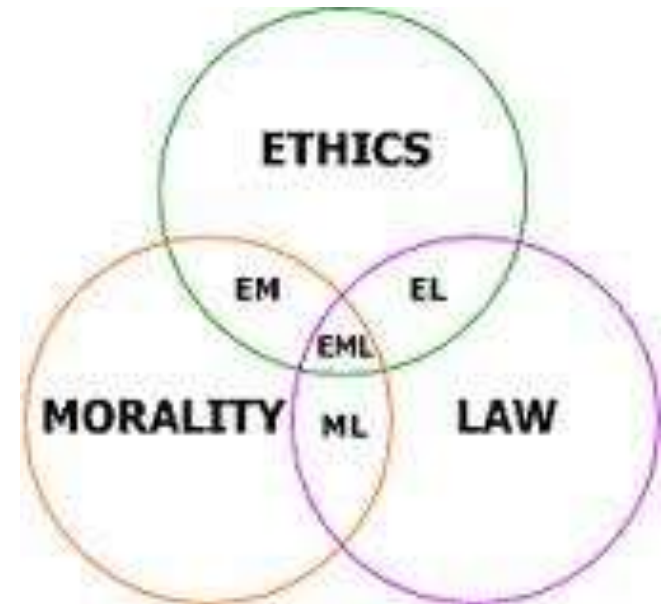
It serves to legitimise and control various aspects of interpersonal relationships such as entering into marriages, distribution of family wealth, regulation of the parent-child relationship etc.



1.2 What is law for?

The preservation of a moral order

Sometimes law and morals overlap.
Some morals are given the force of law.



1.2 What is law for?

The regulation of international relations

The regulation of international relations is also done by a branch of law called public international law. The creation of states, definition of state boundaries, diplomacy, international humanitarian law etc.



Regulation of legal rules and social rules

- Law, in the sense that we are using it, is definable as a system of rules. It guides and directs our activities in much of day to day life: the purchases we make in a shop, our conduct at work, and our relationship with the state are all built upon the foundation of legal rules.
- However it is important to note that apart from legal rules society is also governed by a mass of other rules which are not laws in the formal sense, but merely social conventions or perceptions of 'proper' behavior.
- But the differentiation of these rules is found in the mechanisms used to enforce these rules. Thus, while anyone would accept that stealing should be liable to a penalty under the criminal law, we might be surprised to see someone being prosecuted for eating an apple using a flick knife. Regulating the latter is not important enough to our society so as to require the force of law.



Any kind of behaviour which is accepted as proper by the society may be defined as social rules and any behaviour regulated by law are legal rules. The difference between these rules can be identified by analyzing the consequences of violating these rules.

For example –

- Breaking the law will result in punishment by courts
- Violating a social rule will result in only criticism



Partington points out that one of the problems of the many functions of law is that sometimes functions can be in conflict

- For example, the objective of preserving social order may conflict with the protection of civil liberties or the right to expression.
- This conflict occurs when citizens want to take to the streets to demonstrate to express their dissatisfaction about some issue and the police are concerned that such a demonstration might lead to violent disorder. Which objective should prevail? Freedom of expression or social order?
- Similarly, when governments are facing terrorist threats they must balance the desire to protect society through enlarging the power of the police and courts against the danger to civil liberties and infringement of human rights.



1.3 Sources of law

- Law made by Parliament - This is UK domestic legislation, referred to as 'Act' or 'Statutes'. Written law that expresses the will of the legislature.
- Law decided in courts - Referred to as 'Case Law' or 'Common Law'. Decisions of judges in particular cases applied by other judges in later cases through the process of precedent.
- European Union Law - Referred to as 'EU law' comprising law emanating from the European Commission, Council of Ministers and Court of Justice of the European Union.
- European Convention on Human Rights - Referred to as Human Rights Law or ECHR, emanating from the European Court of Human Rights (ECtHR) and now incorporated into UK law through the Human Rights Act 1998.
- Academic Texts - Legal opinions of Academics on the law available in texts and articles.



1.3.1 Acts of Parliament

- Acts of Parliament are passed by both Houses before it becomes law.
- An act of Parliament is first introduced to Parliament in a draft 'bill' form after the Government has gone through a consultation process for introducing same.
- They will publish what is called a '**Green Paper**' which sets out the tentative proposals for changes to the law and invite comments.
- This will be followed by a '**White Paper**' which contains the government's firm proposals for new law and may have the draft Bill attached.
- Following consultation, the draft 'Bill' is introduced in Parliament and then debated, discussed and amended.
- Once a Bill has gone through all of the necessary Parliamentary processes it will be signed by the Queen (Royal Assent) and then published as an Act. A valid Act of Parliament takes precedence over common law or case law. Indeed, it takes precedence over everything except EU law.



1.3.1 Acts of Parliament

- Each act of Parliament has a name (short title) and this name can sometimes be common to other acts as well.
- For example there are five different acts by the title 'Criminal Justice Act'.
- Therefore each act has a unique method of identification. An act of Parliament has a year (in which it is passed) and a chapter (the number of the act for the year).
- So it is possible to identify an act by only citing the year and chapter number. If you search for '1988 c.33' you will find that it is the Criminal Justice Act of 1988. Acts are usually cited by its short title and year.



1.3.1 Acts of Parliament

- **Statutory Instruments** :- where an act of Parliament grants the power to make, confirm or approve any orders, rules, regulations or other subordinate legislation on the Queen or a Minister of the Crown and the Queen or a Minister does so, such instrument would be referred to as a statutory instrument. In short, where an enabling act grants the Queen or a Government Minister the power to make delegated legislation, the Queen or the Government Minister can make such delegated legislation which is referred to as statutory instruments.
- Statutory instruments are also published by the Stationary Office and are available as separate bound annual volumes.
- Statutory instruments are often referred to as secondary legislation or delegated legislation. These have the force of law but can be implemented with less scrutiny than primary legislation.



1.3.2 Case Law/Judge made law/Common Law

- The Common Law System is based on precedents and case law is therefore a vital source of law. In this context common law refers to laws that have been created by the judiciary through the decisions in the cases they have heard and decided on.
- England and Wales is a common law system, meaning that many of our most fundamental legal rules and principles have been established by judges deciding individual cases, rather than these rules being laid down by Parliament.
- So, for example, most of the law relating to the formation of binding contracts is to be found in the common law rather than in statutes. When a lawyer or judge is looking for the rules on the formation of contract they will refer to important legal cases which set out the legal principles.



1.3.3 European Union Law

- The European Union is a political, economic and legal organisation of twenty-eight Member States.
- It was founded as the European Economic Community (EEC) by the six original members (France, Germany, Italy and the Benelux countries – Belgium, Netherlands, Luxembourg).
- The European Union grew out of the EEC and was formally established by the Treaty of Maastricht on 1st November, 1993. The United Kingdom has been a member of the European Community/European Union since 1973.



1.3.3 European Union Law

The United Kingdom having entered the EC and having incorporated this by domestic legislation in the form of the European Communities Act 1972 has changed the effect of EC/EU treaty law on the domestic legal system. Section 2(1) of the Act states that :-

*“All such rights, powers, liabilities, obligations and restrictions from time to time created or arising by or under the Treaties, and all such remedies and procedures from time to time provided for by or under the Treaties, as in accordance with the Treaties are **without further enactment to be given legal effect or used in the United Kingdom shall be recognised and available in law**, and be enforced, allowed and followed accordingly; and the expression and similar expressions shall be read as referring to one to which this subsection applies.”*



1.3.3 European Union Law

- Due to the fact that all EU treaty law becomes part of the domestic law, it has become necessary for all laws passed by the U.K. Parliament to be interpreted in a manner which is not in conflict with the treaty law. **If there is a conflict between English domestic law and European law, for example in the field of equal pay, the English courts must apply European law.**
- Furthermore, there are the secondary sources of EU legislation in the form of regulations and directives. **Regulations, like treaties become part of the domestic law without an enabling act.** Directives on the other hand become part of English law when an act of parliament is passed giving effect to it.
- Where an act to that effect has not been passed by parliament the English courts are however under a duty to interpret all other statutes having regard to the purpose of directives. Once a directive is recognised by a judgment of a domestic court, it becomes part of the common law.



1.3.3 European Union Law

- It is possible for a domestic court to refer a matter to the European Court of Justice for interpretation of a convention provision which affects domestic law.
- Once the ECJ gives its ruling on the matter the domestic court will decide the case in the light of the interpretation given by the ECJ.
- The European Union which mainly consists of civil law countries is dominated by civil law judges who apply civil law legal tradition. Therefore the ECJ uses the purposive rule of interpretation of convention laws which in turn are applied in domestic courts in England. The English courts are therefore influenced by the civil law tradition and have therefore, in recent times, used the purposive rule to greater effect.



1.3.4 European Convention on Human Rights

- By the enactment of the Human Rights Act 1998 the United Kingdom has given effect to the European Convention on Human Rights domestically.
- Its aim is to "give further effect" in UK law to the rights contained in the [European Convention on Human Rights](#).
- The Act makes available in UK courts a remedy for breach of a Convention right, without the need to go to the [European Court of Human Rights](#) in [Strasbourg](#).



1.3.4 European Convention on Human Rights

- The Convention itself is an instrument of international law. The UK signed up to the Convention in 1953 and was one of the first countries to do so. Some 47 countries have now signed up to the Convention including most of the east European, former communist countries and several countries that were once part of the Soviet Union.
- Its unusual feature as a matter of international law is the right of individual petition to the ECtHR in Strasbourg against the state rather than against individuals. Someone who takes a case to Strasbourg takes it against the Government, alleging that it has infringed or failed to take steps to protect some convention right ; even if the failure is a failure to provide protection for the applicant from an infringement of his or her rights by a private third party.



1.3.4 European Convention on Human Rights

- One of the difficulties in ensuring compliance with the ECHR by the 47 member states of the Council of Europe is the diverse cultural and legal traditions of the various states.
- To accommodate this, the European Court of Human Rights (ECtHR) has developed the doctrine of a '**margin of appreciation**' when considering whether a member state has breached the Convention.
- It means that a member state is permitted a degree of discretion, subject to Strasbourg supervision, when it takes legislative, administrative or judicial action in the area of a Convention right. The doctrine allows the Court to take into account the fact that the Convention will be interpreted differently in different member states, given their divergent legal and cultural traditions.



1.3.4 European Convention on Human Rights

- Closely linked to the concept of the margin of appreciation is the principle of '**proportionality**'. This concept is the means by which state interference with human rights is to be judged.
- While it is accepted that sometimes the state may need to restrict or interfere with a fundamental human right or freedom, the principle of proportionality requires that such interference should be necessary and that it goes no further than what is essential to achieve the objective. Thus any measure by a public authority that affects a basic human right must be: appropriate in order to achieve the intended objective.



1.3.4 European Convention on Human Rights

- The passing of the Human Rights Act 1998 has affected the interpretation of statutes and precedent within the English Legal System. These aspects will be discussed in depth in Chapters 2, 3 and 5.



1.3.5 Academic Texts

- Statutes and case law are the law itself. Academic texts are books on law. They are the interpretation given to the law by academics. For example there are certain textbooks which have been recommended for this course.
- Like textbooks there are also a variety of articles written by academics and practitioners on certain topics of law which are often published in law journals such as Modern Law Review, Family Law Journal, Commercial Law Journal etc.

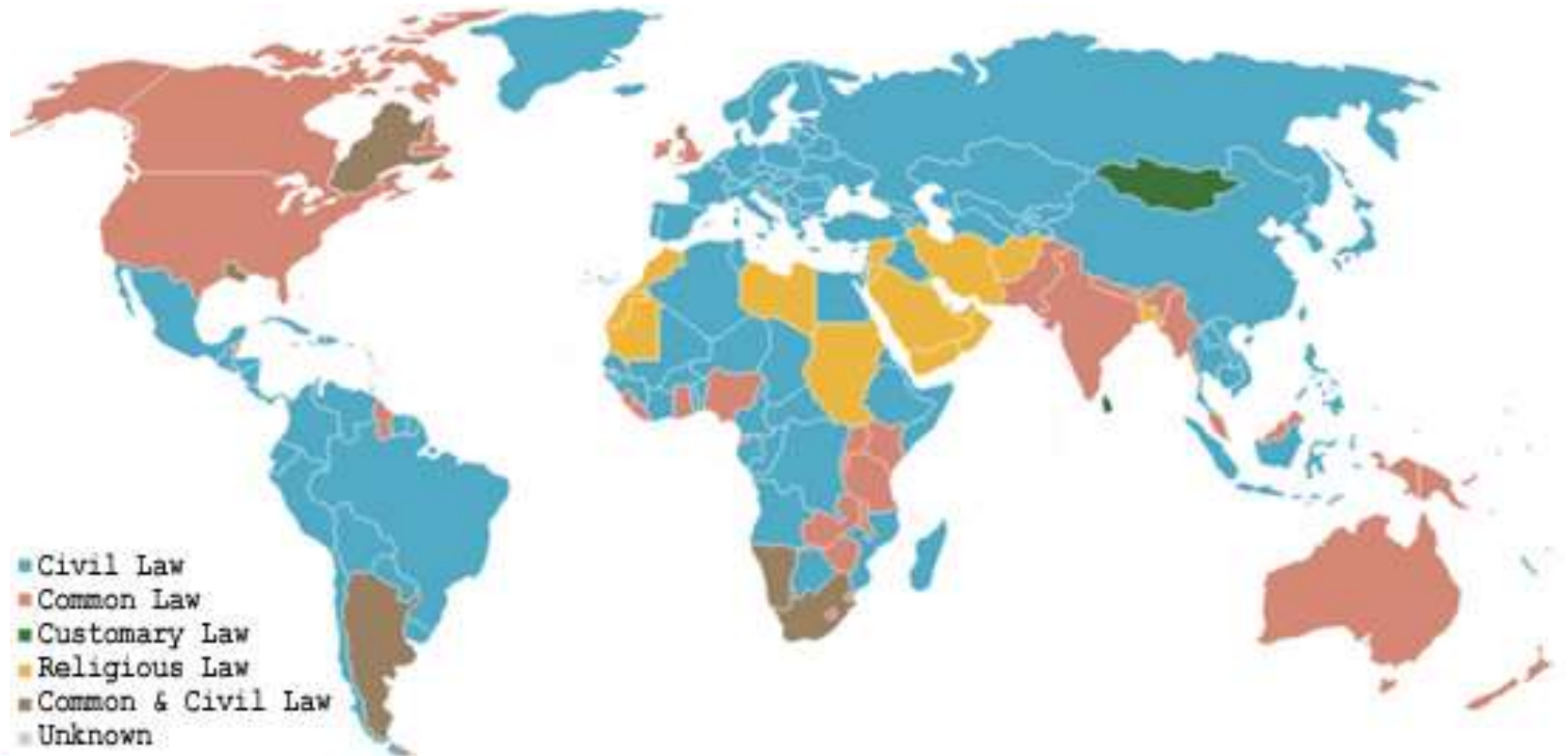


1.4.1 Legal families ; distinguishing between various legal systems

- The term ‘legal families’ refers to certain consistent similarities upon which it is possible to group together the various legal systems in the world into distinguishable ‘traditions’ or ‘families’.
- The key features used to distinguish legal systems may be based on political and social ideologies (ex :- common law, civil law/Roman law, socialist law etc.) or religion (ex :- Islamic legal system). These families are not rigidly used to separate different legal systems but as sufficient differences to distinguish between different legal systems. The characteristics used to differentiate legal systems would be :-
 - Objectives of the legal system
 - Sources of law
 - Legal reasoning and methodology
 - Structure of pre-court and trial proceedings



Other types of legal systems



1.4.2 The historical development of the common law

- The customs of the Anglo-Saxon society can be attributed to the beginning of the development of English law. **Anglo-Saxons** is the term usually used to describe the invading Germanic tribes in the south and east of Great Britain from the early 5th century AD, and their creation of the English nation, to the Norman conquest of 1066. The Anglo-Saxon period is pre 1066.
- The Anglo-Saxon customs are said to have its roots in the life of the people and reflect the social structure of that way of life. The conditions of life during that period were poor and most of England was covered by dense forest and majority of the people were illiterate. The law was therefore local custom which was largely unwritten and understood as a set of orally transmitted rules. It was a basic set of laws which directed the prevention of bloodshed by recognising elementary rights to property and personal freedom and substituting compensation in place of the rigours of fighting as revenge for injury.



1.4.2 The historical development of the common law

- Thereafter in 1066 the Norman Conquest took place where England was invaded by William the Conqueror. The Norman Conquest was said to be “a catastrophe which determined the whole future of English Law.”
- After the Norman Conquest the customary local laws gave way to a general law applying to the whole of England which became known as the common law. All lands were thereafter held by the crown (i.e. at that time by William) and individuals would have only a right in the form of a ‘freehold’ to occupy land. It was at this stage that law was used as a form of administering the Country by the Crown.



1.4.2 The historical development of the common law

Resolution of Disputes

- The King's Courts became the most important forum for resolving disputes between the subjects.
- The law developed by the King's Judges, which is the common law, replaced the local custom which was accepted as law during the Anglo-Saxon period.
- The Judges however used general custom established during the period in coming to their decisions and where there was no general custom the judges would decide upon disputes as they thought fit. Either way, a new decision would form new law.



1.4.2 The historical development of the common law

Equity

Where the common law could not provide a just decision, litigants would petition the King seeking justice. The King would pass those petitions on to the 'Chancellor' who dealt with the petitions. The Chancellor during that time was a member of the church and regarded as the conscience of the King. This resulted in the creation of a **Court of Chancery** which was presided over by the Lord Chancellor himself applying a set of rules known as 'equity' as opposed to recognized common law principles applied in the King's Courts. **The Lord Chancellor** (*Lord High Chancellor, King's Chancellor*) is the occupant of one of the oldest offices of state, dating back to the Kingdom of England, and older than Parliament itself. The Lord Chancellor is the second highest non-royal subject in precedence (after the Archbishop of Canterbury). In addition to various ceremonial duties, he is head of the Ministry of Justice, which was created in May 2007 from the Department for Constitutional Affairs.



1.4.4 Unique features of the common law system

Common law	Civil law
Inductive form of legal reasoning (i.e. decision made by going through various sources of law).	Deductive form of legal reasoning (i.e. decision made by going through pre-existing set of rules).
Court room practice may be subject to rigid and technical rules.	Court room practice is minimal and uncomplicated.
In litigation trial is the main form of dispute resolution. At the conclusion a decision is arrived at.	No rigid separation between trial and pre-trial stages. Proceedings are viewed as an entire series of hearings, meetings, written communications during which evidence is introduced through witnesses and documents
Judges do not play a large role in the trial process or get involved in fact finding.	Judge plays the role of an inquisitor. Plays a big role in fact finding.
The proceedings are controlled by lawyers and emphasis is on oral arguments by counsel.	Lawyers play a less conspicuous role with emphasis on written submissions (i.e. written arguments) rather than oral arguments.
Greater proportion of the expense falls on the litigants	Greater proportion of the expense is on the state.



1.4.4 Unique features of the common law system

- **However, this does not make a common law judge a law maker.** The judge will derive the law from the established sources. As such it is not the judge's law but the law that has been derived from established sources.
- **Furthermore, it must be kept in mind that it is not possible to treat judges as law makers given the supremacy of parliament as parliament is constitutionally regarded as the supreme law maker.**
- Another feature of the common law system is that adjudication of disputes is by an adversarial system. It is based on the concept of trial by battle. The two adversaries are pitted against each other in battle in the presence of an independent judge who will at the end of the battle (trial) declare who is the winner. In most civil law countries the method of trial is inquisitorial.



1.5 Classification of law

- **1.5.1 The meaning of Common Law**
- **1.5.2 Public law and Private law**
- **1.5.3 Civil law and criminal law**



1.5.1 The meaning of Common Law

- Common law and civil law
- Common law and equity
- Common law and statute law



1.5.2 Public law and Private law

- Private law deals with relations between individuals where the state is not directly involved – such as the enforcement of contracts or ownership of property.
- Public law, by contrast, deals with the relationship between citizens and the state, for example where an individual believes that their human rights have been infringed by an action of the state.
- **Judicial review** is the procedure by which citizens can seek to challenge the decision, action or failure to act of a public body such as a government department or a local authority or other body exercising a public law function. In an action for judicial review, the judiciary will assess the extent to which a public body or person has acted within their legal powers. This includes actions of government ministers.



1.5.3 Civil law and criminal law

- **Standard of proof:** in the English common law system, an important distinction between civil and criminal law is in the ‘standard of proof’ required for different types of case.
- The standard of proof relates to the requirement for the facts of cases to be proved by evidence. How sure is the court that the evidence proves the facts?
- In criminal cases the prosecution is required to prove the case in court ‘beyond reasonable doubt’. This is a demanding standard justified by the fact that the accused is facing the possibility of a criminal penalty being imposed if found guilty.
- In civil cases the standard of proof is on ‘a balance of probabilities’, a less challenging requirement which means that the court merely has to be of the view that it is more likely than not that the defendant is liable.



1.6 Constitutional principles and the legal system

- When we talk of a country's 'constitution' we are referring to the way a country is governed and the way that power is organised and distributed.
- Many countries, such as the USA, Germany and more recently South Africa, have **written constitutions** in which the rules for the governance of the country are laid down in a single document and are specially protected so that changes to those rules are virtually impossible to make.
- In the UK there is no written constitution which explains in one single document how power is divided and exercised. Instead, constitutional rules and principles are scattered over a range of written materials.



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- The Human Rights Act 1998, referred to earlier, is not a written constitution, but is a single set of rules guaranteeing fundamental freedoms and rights.
 - The unwritten constitution in the UK has developed over many hundreds of years and the rules relating to governance can be found in statutes, common law, custom and what are known as **constitutional conventions**, which are longstanding practices that are so widely recognised that they have become essentially unwritten rules.
 - So when it is said that the UK does not have a written constitution, it is perhaps more accurate to say that the UK constitution is partly written (in statutes and common law precedents), but that it is largely ‘uncodified’.



In the UK constitutional arrangements three of the most important principles are:

1. the separation of powers
2. the sovereignty of Parliament
3. the rule of law.



1.6.1 The separation of powers

- The idea of separation of powers is based on the existence of three distinct functions of government (the legislative, executive and judicial functions) and the conviction that these functions should be kept apart in order to prevent the centralisation of too much power.
- Establishing the appropriate relationship between the actions of the State is done by way of 'checks and balances' so as to ensure that one arm of Government does not wield too much power over the others. Understanding the inter-relationship between Parliamentary sovereignty and judicial independence is critical in understanding the separation of powers.
- A further dimension was brought about to the separation of powers by the introduction of the Constitutional Reforms Act 2005 which will be carefully looked at later.



1.6.2 The sovereignty of Parliament

- There is no single United Kingdom court with the power equivalent to the American Supreme Court to declare domestic legislation unconstitutional and therefore invalid.
- This absence of constitutional review reflects a principle called parliamentary sovereignty, or sometimes 'supremacy'. This is the idea that Parliament is the primary law maker, and that an Act of Parliament is the supreme form of English law.
- The supremacy of Parliament is important for legal method, since it creates a division between law-making and judicial functions in the state. According to this view, the role of judges is to interpret the law, not make it (although the reality is more complicated). But the doctrine of parliamentary sovereignty means that English judges are wary of exercising their powers in any way that may seem to usurp the legislative role of Parliament. Therefore, many cases that come before courts involve the question of how statute law is to be applied.



1.6.3 The rule of law

- The rule of law is a critical constitutional concept which is used to describe the factors necessary for a well-functioning or healthy state and, in particular, to constrain the exercise of arbitrary power.
- At its most basic, the rule of law dictates (a) that a citizen should only be punished if it is proved in court that they breached a law, so that people cannot be punished arbitrarily; and (b) that no person is above the law, and everyone is equal before the law.
- This means that the law applies to everyone regardless of social, economic or political status or, indeed, wealth.



1.7 Doing Justice in legal systems



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1.7.1 ‘Procedural law’ and ‘Substantive law’

- When an aggrieved person wants to seek relief from court there are two types of laws that need to be taken into account in managing their case.
- Firstly, there are **substantive laws** which are the specific rules which tell us what is the law with regard to contracts or crimes (i.e. that murder is a crime, what amounts to a breach of contract etc).
- Secondly, there is **procedural law** which sets out the process by which a case may be brought before a court and how the case is tried. The laws of procedure differ between a civil action and a criminal prosecution which is conducted by the state.
- For civil cases The Civil Procedure Rules (1998) apply while in criminal cases The Criminal Procedure Rules (2010) apply. In addition to the rules which are in the form of statutes there are a range of supplementary practice directions issued from time to time by the courts to regulate their own procedure.



1.7.1 'Procedural law' and 'Substantive law'

- For instance in England, a civil proceeding will commence with a claimant (formerly known as the plaintiff) issuing a claim which is a formal document submitted to court and to the defendant(s). The defendant(s) will then be given an opportunity to reply to the claim and/or make a counter claim. A case may thereafter be fixed for trial where parties can present their case in open court. All these procedures must be done within a certain prescribed time limit.
- For those who practice law the rules of procedure are very important, but at the academic stage of legal studies the focus is on the substantive rules. The procedural rules are usually learnt at the stage of professional training (i.e. when taking the barristers/solicitors courses).



1.7.2 'Adversarial' and 'Inquisitorial' Proceedings

- In a common law system adjudication of disputes is by an adversarial system. In an adversarial (also known as 'accusatorial') trial it is the parties through their lawyers who will organise the trial.
- The lawyers decide the law on which they would argue the case. It is they who decide what evidence to call including witness and documents. It is they who decide what questions to put to the witnesses.
- The lawyers have total control over the client's case and also the process in the court. The judge plays a passive role. It is his duty to ensure that the trial is conducted in accordance with established rules or procedure and evidence and also to deliver his judgment at the end of the trial.



1.7.2 'Adversarial' and 'Inquisitorial' Proceedings

- In most civil law countries the method of trial is inquisitorial.
- When a complaint is made by an aggrieved party the state through a judge will conduct an inquiry.
- It is the judge who will play an active role in the trial and not the parties. It is the judge who decides on what evidence to call including the witnesses and what questions to be asked from the witnesses.
- The rules of admissibility of evidence may also allow the judge to act more like an inquisitor than an arbiter of justice. The judge will advise the parties as to how to proceed.
- For instance, in a criminal case the aim of the judge is not to prosecute the accused but to gather facts. The prosecution and defence can only cause a judge to act on certain facts. At the end of the inquiry the judge will pronounce his judgment.



1.7.2 'Adversarial' and 'Inquisitorial' Proceedings

- It must be kept in mind that majority of cases in common law countries are conducted by an adversarial system and majority of cases in civil law countries are conducted by an inquisitorial system. This is not to say that common law countries do not conduct certain proceedings by way of an inquisitorial system and that civil law countries do not conduct certain proceedings by way of an adversarial system.
- The adversarial and inquisitorial systems apply to 'procedural law' and not to 'substantive law'. That is to say that both systems apply to the manner in which court proceedings are conducted. This is not to say that legal rules and principles differ between common law and civil law systems (i.e. Murder, theft, rape will be crimes in both common law and civil law countries. They may even carry a similar penalty. But the manner in which the legal system conducts the court proceedings in coming to its findings will differ).



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What are precedents?



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**What are the various stages of passing a law,
from policy to ascent?**



What is the purpose of the establishment of the EU?



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What is the purpose of the establishment of the ECHR?



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What is the margin of appreciation?



What is proportionality?



Is the ECHR applicable within UK?



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What is the effect of the ECJ on the English legal system?



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How does EU law affect the English legal system?



Explain by example how judges make law



What are statutory instruments?



What are the classifications of common law?



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What is the difference between public law and private law?



Explain sovereignty of Parliament



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Explain the rule of law



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