

Chapter Two

MAJOR CLASSIFICATIONS OF LAW



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*You can't learn everything you need to know
legally.*

-John Irving



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- **Public law and Private Law**
- **Criminal law and Civil Law**
- **Municipal law and International law**
- **Substantive law and Procedural law**

INTRODUCTION



Welcome to the world of law, where order, justice, and governance intersect. In this section, we will embark on a journey to explore the major classifications of law, dissecting and understanding their fundamental roles in society.



But why categorize law? In this section, we will delve into the significance of classifying law into distinct categories. Discover how this categorization enhances our comprehension of complex legal systems.



Law isn't static; it evolves with society. In this section, we will examine how these classifications continue to play a vital role in the present day, influencing legal practice and policy.



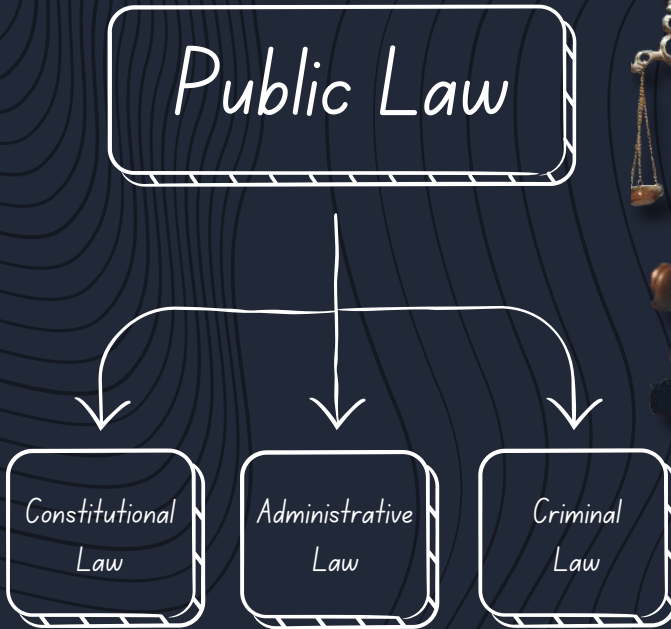
Whether you're a legal scholar, a student embarking on a legal education, or merely someone intrigued by the complexities of the legal world, this ebook offers valuable insights. Each section is designed to be accessible and informative to a broad audience.



Join us as we delve into the rich tapestry of law's classifications, each thread contributing to the intricate fabric of justice.

Public law

The area of law that governs the relationships between individuals and the government. Private law subdivide into 3 categories : Constitutional law, Administrative law and Criminal law



i. Constitutional law



Constitutional law is the branch of law that governs the structure and operation of government. Constitutional law lays down the rights of individuals in the State. It deals with the questions such as supremacy of Parliament and rights of citizens.

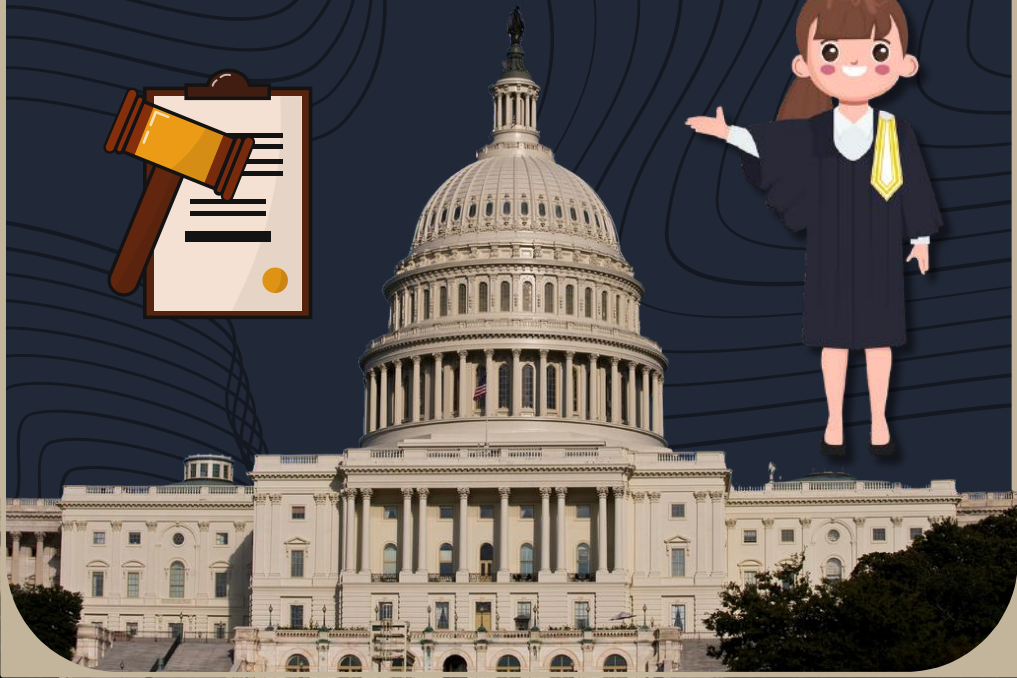
ii. Administrative law

Administrative law is the body of law that governs the administration and regulation of government agencies (both federal and state). The law that is brought to for better and convenient administration of the goverment and the goverment bodies.



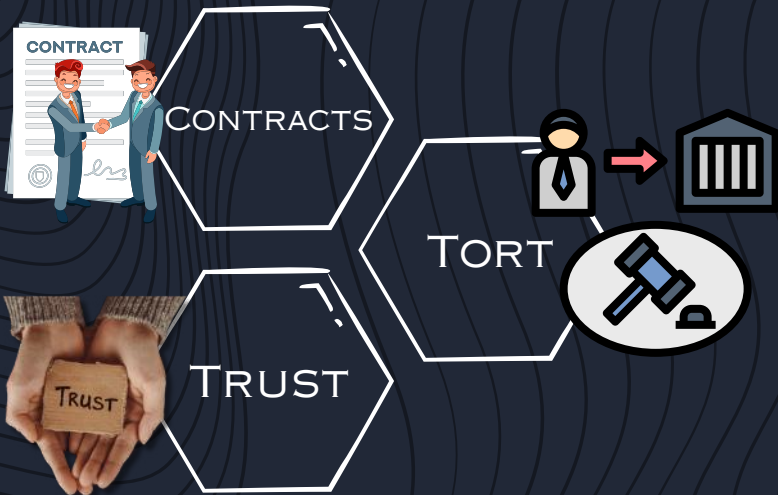
iii. Criminal law

The laws that govern criminal offenses, including murder, robbery, and kidnapping. Criminal law is important because it ensures that individuals who commit crimes are held accountable for their actions. It aims at punishing criminals and suppressing crime.



Private law

Law that is predominantly concerned with the rights and liabilities of individuals toward each other. Private law plays an important role in our society and governs many different aspects of our lives. It divided into 3 categories : Contracts, Tort and Trust.



a) Contracts

Legally binding agreement between two or more persons. When parties enter into a legally binding contract, they must fulfil their respective promises. When suing for breach of contract, the party not a fault can ask for a number of remedies. This party could :

- Ask for compensation in court for your losses.
- Request that the other party fulfill the contract as agreed (specific performance).
- Seek a court order to stop further breaches (injunction).

Essential elements in a contract

- There must be an offer.
- Acceptance of offer.
- The object must be lawful.
- There must be also be consideration.



b) Tort

The laws that govern civil wrongs (torts) committed by one individual against another. Torts can be intentional or accidental, and they can result in personal injury, property damage, or death. Tort divided into 3 categories : Negligence, Defamation and Trespass.



i. Negligence

Probably one of the most common types of personal injury lawsuits involves a claim of negligence. Negligence describes a situation in which a person acts in a careless (or "negligent") manner, which results in someone else getting hurt or property being damaged. Negligence can often be a difficult area of law to define because it involves a legal analysis of the elements of negligence as they relate to the facts of a particular case.



ii. Defamation

Defamation is a statement that injures a third party's reputation. The tort of defamation includes both libel (written statements) and slander (spoken statements). State common law and statutory law governs defamation actions, and each state varies in their standards for defamation and potential damages.



iii. Trespass

This is wrongful interference with a person or his land or goods. There are three types of trespass :

Trespass to person - This includes actual hitting or battery, threats of harm or assault and unlawfully restricting a person's freedom of movement or false imprisonment.



Trespass to land - This is interference with another person's right to the exclusive possession of his land.



Trespass to goods - This is interference with a person's goods or personal property.


c) Trust

A trust is an equitable obligation binding a person (who is called a trustee) to deal with property over which he has control (which is called trust property) for benefits of persons (who are called beneficiaries) of whom he may himself be one and any one of the beneficiaries may enforce the obligation.




DIFFERENCE BETWEEN CRIMINAL AND CIVIL LAW

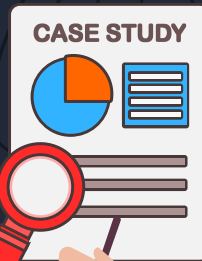


|  | CIVIL CASES | CRIMINAL CASES |
|--|---|--|
| Sources | Case-law or judicial decisions | Statue-based Penal Code |
| Aims | Control or regulate dealings between private individuals. | Protect persons or property. Punish offenders. |
| Who takes actions | Individual/Company or Organization | The state represented by Public Prosecutor or Attorney General |
| Parties | Plaintiff v Defendant Plaintiff bring case, defendant must be answer | PP/AG vs Defendant PP/AG brings case, defendant may remain silent |
| Pleadings | Defendant defends claim against him | Defendant pleads guilty or not guilty |
| Courts | Civil jurisdiction | Criminal jurisdiction |



|  | CIVIL CASES | CRIMINAL CASES |
|--|---|--|
| Burden and standard of proof | Burden of proof is on the plaintiff | Burden of proof is on the State or PP |
| Decision of the court | Decision - Liable or not liable | Verdict - Guilty or not guilty |
| Reason | Settle disputes peacefully, between private parties | To maintain order in society. To deter serious wrongdoing |
| Remedies | <ul style="list-style-type: none"> - Money damages - Injunction - Specific performance | Fines, jail and forfeitures |

CRIMINAL CIVIL



Criminal Law

- The law that relates to the act of forbidding form of wrongful conduct and imposing punishment on those who engage in such acts.
- Criminal proceedings are usually brought in the name of the State and are known as prosecutions.
- Criminal cases there is prosecutor who prosecutes the defendant for the offence committed.
- The consequences of being proved guilty are so extreme that the standard of proof is higher in criminal cases as compared to civil scenarios.

What is?



Civil Law

- Deals with the private rights and duties which arise between individuals in a country.
- The object of civil action is to correct the wrongdoing that has been committed.
- Enforcement of civil law is the accountability of the individual who has committed the wrong and the State is responsible to provide for the procedure to resolve the dispute.



Municipal Law



WHAT IS MUNICIPAL LAW ?

- Municipal law refers to the legal rules and regulations that govern cities and towns within the country. It covers matters like local governance, land use, property regulations, and other issues specific to each municipality.
- For instance, municipal law is the Constitution of Malaysia that applies only in Malaysia.



International Law



- International law is the law that governs laws between different countries. It regulates the relationship between various independent countries and is usually governed by treaties, international customs and so on.
- Examples of International law include the Universal Declaration of Human Rights, the African Charter on Human and People's Rights etc.



Substantive Law



- In the world of law, substantive law forms the sturdy foundation upon which the legal system is built. It's like the essential building blocks that define what is right and what is wrong, creating a framework for justice and order.
- It defines our rights and obligations, much like a contract between individuals and the state. For example, it guarantees our right to a fair trial and imposes an obligation not to engage in discriminatory practices.
- A real-world example of substantive law is contract law, which governs agreements between individuals and businesses.
- When you sign a contract to rent an apartment, substantive law defines your rights and obligations, such as paying rent and maintaining the property. If either party breaches the contract, there are specified consequences, such as financial penalties or eviction.



Procedural Law

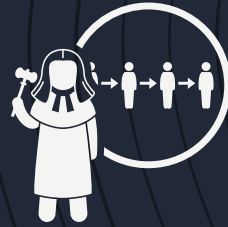


- Procedural law can be compared to the intricate steps of a dance, ensuring that the legal process flows smoothly and fairly.
- Procedural law is like the conductor of a symphony, orchestrating the legal process from start to finish. It outlines the steps to follow when resolving legal disputes.
- Enforces the principles of substantive law. For instance, if someone's property rights are violated (a substantive law issue), procedural law offers the process for seeking a legal remedy, such as a lawsuit.
- An example of procedural law in action is in a civil lawsuit. Substantive law defines the rights and obligations of parties, while procedural law lays out the steps for filing a lawsuit, serving legal notices, presenting evidence, and conducting the trial. It ensures that the legal process is followed fairly and systematically.



Common law

- Common law is like a tradition of legal decisions made by judges over time. It's like a library of past court cases and their rulings, which sets a precedent for how similar cases should be decided.
- Common law is about following past decisions to maintain consistency and fairness.



Equity

- Equity, on the other hand, is like the sense of fairness and justice.
- When the strict rules of common law may not provide a fair solution, a judge can turn to principles of equity to make a more just decision.



Abstract



This paper uses a simple dynamic model to describe the evolution of judicial decision making in civil law systems. Unlike the common law systems, civil law jurisdictions do not adopt a stare decisis principle in adjudication. In deciding any given legal issue, precedents serve a persuasive role. Civil law courts are expected to take past decisions into account when there is a sufficient level of consistency in case law. Generally speaking, when uniform case law develops, courts treat precedents as a source of “soft” law, taking them into account when reaching a decision. The higher the level of uniformity in past precedents, the greater the persuasive force of case law. Although civil law jurisdictions do not allow dissenting judges to attach a dissent to a majority opinion, cases that do not conform to the dominant trend serve as a signal of dissent among the judiciary. These cases influence future decisions in varying ways in different legal traditions. Judges may also be influenced by recent jurisprudential trends and fads in case law. The evolution of case law under these doctrines of precedents is modeled, considering the possibility for consolidation or corrosion of legal remedies and the permanence of unsettled case law.

Case Law



Traguth and Handtke vs. Zuck

In this case, a dispute arises between Fred Traguth and Otto Handtke, the author and illustrator of the book "Modern Jazz Dance," and D'Lela Zuck, the American distributor of the book. Traguth and Handtke, West German citizens, publish the book in both German and English language editions. They hire Zuck to act as an agent and distribute the American edition of the book. Disagreements lead to a legal dispute, with Traguth and Handtke alleging that Zuck failed to account for book sales proceeds and obstructed their efforts to publish a second edition.



Case Study



In the realm of civil law, the case unfolds with a series of legal actions and decisions, including motions for preliminary injunctions and requests for extensions. The court plays a pivotal role in resolving the dispute, offering Zuck an extension to secure legal representation while emphasizing the importance of adhering to this directive. The case progresses through various stages, including a notice of appeal, which ultimately prolongs the legal process.



An essential element in this case is the appointment of a magistrate to conduct an accounting of damages, crucial in determining the compensation owed to the plaintiffs. The case culminates in a final judgment in favor of Traguth and Handtke, with damages assessed at \$75,407.05.

This case study exemplifies how the civil law system is employed to address contractual disputes and conflicts related to obligations and responsibilities, emphasizing legal procedures and remedies provided by the civil court system to ensure a fair resolution of such disputes.



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