

Introduction to Civil Law Civil law involves cases where there are private disputes between individuals or parties that cannot be resolved outside the court system. They do not involve or affect other members of society as in criminal law.

Summary of Basic American Legal Principles What follows are some of the fundamental principles that comprise the American legal system. Each of these is discussed in greater detail in this and other chapters of this book. They are summarized below in order to give the reader an overview of some of the basics of American common law.

Impact of Precedent—The Principle of Stare Decisis The defining principle of common law is the requirement that courts follow decisions of higher level courts within the same jurisdiction. It is from this legacy of stare decisis that a somewhat predictable, consistent body of law has emerged.

Court Hierarchy Court level or hierarchy defines to a great degree the extent to which a decision by one court will have a binding effect on another court. The federal court system, for instance, is based on a three-tiered structure, in which the United States District Courts are the trial-level courts; the United States Court of Appeals is the first level court of appeal; and the United States Supreme Court is the final arbiter of the law. Although the term most often is used in connection with the jurisdiction of a court over particular matters, one may also speak of matters being within or beyond the jurisdiction of any other governmental entity. For instance, while there is only one Supreme Court, the court of appeals is divided into 13 circuits, and there are 94 district courts. The issue of whether authority is mandatory or persuasive relates directly to the application of stare decisis principles.

Primary versus Secondary Authority The various sources of law may also be broken down into primary and secondary sources of law. Primary sources of law may be mandatory on a particular court, or they may be merely persuasive. Whether they are binding or persuasive will depend on various factors. Secondary authority is not itself law, and is never mandatory authority. A court may, however, look towards secondary sources of law for guidance as to how to resolve a particular issue. Secondary authority is also useful as a case finding tool and for general information about a particular issue.

Dual Court Systems The American legal system is based on a system of federalism, or decentralization. Most states have court systems which mirror that of the federal court system.

Interrelationship Among Various Sources of Law One of the more complex notions of American jurisprudence is the extent to which the various sources of law, from both the state and federal systems, interrelate with one another. There is a complex set of rules that defines the relative priority among various sources of law and between the state and federal systems.

What Is Common Law? Civil law systems rely less on court precedent and more on codes, which explicitly provide rules of decision for many specific disputes. Cases are legal determinations based on a set of particular facts involving parties with a genuine interest in the controversy. In cases of pure decisional law, there is no applicable statute or constitutional provision that applies. Court interpretation may rely upon prior decisional law interpreting same or some other constitutional provision. Court interpretation may rely upon prior decisional law interpreting the same or similar statute. A higher level court opinion will in effect abrogate the lower level court opinion in the same case. Has it been followed? Applied in a specific way?

The American Judicial System: A System Based on Advocacy and the Presence of Actual Controversy The American legal system is adversarial and is based on the premise that a real, live dispute involving parties with a genuine interest in its outcome will allow for the most vigorous legal debate of the issues, and that courts should not have the power to issue decisions unless they are in response to a genuine controversy.

Threshold Issues Designed to Preclude Advisory Opinions Given the prohibition against advisory opinions by the federal courts, there are certain threshold prerequisites which must be satisfied before a federal court will hear a case. Issues surrounding the applicability of these prerequisites may also arise in state courts and on petitions for review of agency orders. The principal prerequisites to court review are the following:

- Standing**—The parties must have an actual, cognizable, usually pecuniary or proprietary, interest in the litigation.
- Finality**—In the case of appeals or agency review, the action by the trial court or administrative body must be final and have a real impact on the parties.
- Exhaustion**—The parties must have exhausted any possible avenues for relief available in the trial court or administrative body.
- Ripeness**—The dispute must present a current controversy which has immediate

rather than anticipated or hypothetical effects on the parties. Mootnessâ€”The dispute must not have been resolved. Nor must the circumstances have changed in any way that renders the dispute no longer subject to controversy. No Political Questionsâ€”Courts will not involve themselves in nonjusticiable disputes that are between the other two branches of the federal government and are of a political nature. While these prerequisites are well-established, the courts tend to apply them in a pragmatic way and allow exceptions to these requirements when warranted by the facts. Courts Generally Confine Themselves to the Dispute Presented for Resolution As a jurisdictional matter, courts are supposed to restrict their holdings to the narrowest terms possible in resolving a dispute. This limitation relates to the principle of dictum, under which portions of the opinion not required for the resolution of the precise issues before the court on the facts presented by the parties are of diminished precedential value. Tendency to Avoid Constitutional Issues When Possible Federal courts also tend to avoid deciding constitutional issues when they are able to decide a case on a procedural, statutory, or some other ground. Institutional Roles in the American Legal System 1. In each of these roles, the lawyer will need to engage in factual investigation. With respect to each of these roles, the lawyer will do the following: Lawyer will work with opposing counsel to try to get a favorable resolution for the client with respect to a pending dispute. The parties may already be in litigation when they negotiate, or the parties, through their attorneys, may be negotiating a resolution to a dispute not yet in court. The art of negotiating involves many techniques individual to particular attorneys and the circumstances. The client always retains the right to accept or reject a settlement negotiated or offered by the opposing party. In litigating, the attorney will help pick a jury and participate in pretrial motions. At trial, the attorney will present evidence through testimony of witnesses, documents and perhaps demonstrative evidence e. The lawyer will also present an opening statement and closing argument, and will make and respond to evidentiary objections lodged by the opposing party. The lawyer may also make motions, sometimes supported by a memorandum in support thereof before the court, and propose to the court a set of jury instructions. Judge The judge is the final arbiter of the law. The judge is charged with the duty to state, as a positive matter, what the law is. The judge must also make evidentiary rulings, and charge the jury as to the law to be applied. In addition, the judge is to maintain order in the courtroom. Occasionally, when the parties agree, the judge may also act as trier of fact. Many state court judges are elected by popular vote. Jury The jury, a group of local citizens, is the fact-finder in most trials. The jury will receive instructions from the judge as to the law, and its members will assess the facts as they perceive them in light of the law as instructed, to return a verdict. Have questions about law school? Check out our Facebook page , follow us on Twitter or start networking with law students and lawyers on LexTalk.

Chapter 2 : Syllabus " Osaka University Open Course Ware

May INPROL Consolidated Response () Page 1 of 18 INTRO TO CIVIL LAW LEGAL SYSTEMS Background: The process of globalization is intertwining the legal systems of all nations, making an.

Preparation for Class Students are expected to come to class having read the assigned readings and prepared to participate in class discussions. Proper classroom behavior is expected at all times. The student is expected to have read each question at the end of the assigned chapter and made notes as to the answers to the questions. Class Participation Points Please note that class participation is very important in this course. Student participation creates a positive and effective thinking and learning environment. Attendance will be taken at every class meeting. Students who miss more than one class for any reason or who are habitually tardy will be asked to withdraw from the course. One absence will be allowed. Any additional absences will result in the loss of Class Participation Points. Excessive absences may eventually result in the student being withdrawn from the course. If the Instructor asks you to withdraw or if you decide on your own to drop the course, you are responsible for initiating and completing the withdrawal process. Please consult college course schedule to verify last day to withdraw this course. Reinstatement will not be granted once student has withdrawn from the course. Incompletes are not granted in this course. Scholastic Dishonesty Acts prohibited by the college for which discipline may be administered include scholastic dishonesty, including but not limited to cheating on an exam or quiz, plagiarizing, and unauthorized collaboration with another in preparing outside work. Academic work submitted by students shall be the result of their thought, research or self-expression. Academic work is defined as, but not limited to tests, quizzes, whether taken electronically or on paper; projects, either individual or group, classroom presentation, and homework. Academic Freedom Each student is expected to participate in class. In any classroom situation that includes discussion and critical thinking, there will be differing viewpoints. Students may not only disagree with each other on occasion, but the students and instructor may also find that they have different views. These differences will enhance the class and create an atmosphere where students and instructor alike will be encouraged to think and learn. Student Discipline In the event, a student acts in such a way as to significantly interfere with or disrupt the learning atmosphere of the classroom, the instructor may direct the student to leave the class and may take other measures as appropriate. Office of Students with Disabilities Each ACC campus offers support services for students with documented physical or psychological disabilities. Students with disabilities must request reasonable accommodations through the Office for Student with Disabilities on the campus where they expect to take the majority of their classes. Students are encouraged to request these accommodations three weeks before the start of the semester. Course Calendar The Course Calendar is a separate document that you will have received along with this syllabus. A Student Services Handout is attached for your review. This course does not require the use of the Testing.

Chapter 3 : Law - Wikipedia

Introduction to Civil Law Legal Systems June 22, - am In terms of the post-conflict reconstruction and development projects, there are two predominant legal cultures involved in providing technical assistance: Common Law and Civil Law.

The third edition has been fully updated to cover recent developments in case law and recent statutes such as the Consumer Rights Act. However, this new edition retains the primary focus of the earlier editions: It is written for the lawyer - whether student or practitioner - from another jurisdiction who already has an understanding of a different law of contract, but who wishes to discover the way in which an English lawyer views a contract. However, it is also useful for the English law student: After a general introduction to the common law system - how a common lawyer reasons and finds the law - the book explains the principles of the law of contract in English law covering all the aspects of a contract from its formation to the remedies available for breach, whilst directing attention in particular to those areas where the approach of English law is in marked contrast to that taken in many civil law systems.

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8. Finding the Terms of the Contract
9. Controlling the Content of the Contract: Who has the Benefit of the Contract? Who is Bound by the Contract? Change of Circumstances

The book has sufficient length to provide good explanations and detail for practising lawyers; it also is sufficiently brief to allow a good picture of the whole and its interconnectedness to be seen. The book is highly recommended.

Chapter 4 : Introduction to Civil Law Legal Systems | INPROL

Introduction to Civil Law Legal Systems (PDF 20P) by Scott N. Carlson File Type: PDF Number of Pages: 20
Description This note covers the following topics: What is Civil Law, Defining Elements of the Civil Law System, Trials and Rules of Procedure, Trends of Convergence Between Civil Law and Common Law Systems and Judicial Review: A Case Study in Convergence Across Traditions.

First page of the edition of the Napoleonic Code. Civil law is the legal system used in most countries around the world today. In civil law the sources recognised as authoritative are, primarily, legislation—especially codifications in constitutions or statutes passed by government—and custom. Modern civil law systems essentially derive from the legal practice of the 6th-century Eastern Roman Empire whose texts were rediscovered by late medieval Western Europe. Roman law in the days of the Roman Republic and Empire was heavily procedural, and lacked a professional legal class. Decisions were not published in any systematic way, so any case law that developed was disguised and almost unrecognised. From 529 AD the Byzantine Emperor Justinian I codified and consolidated Roman law up until that point, so that what remained was one-twentieth of the mass of legal texts from before. As one legal historian wrote, "Justinian consciously looked back to the golden age of Roman law and aimed to restore it to the peak it had reached three centuries before. Western Europe, meanwhile, relied on a mix of the Theodosian Code and Germanic customary law until the Justinian Code was rediscovered in the 11th century, and scholars at the University of Bologna used it to interpret their own laws. Both these codes influenced heavily not only the law systems of the countries in continental Europe e. Greece , but also the Japanese and Korean legal traditions. Common law and equity[edit] Main article: Common law King John of England signs Magna Carta In common law legal systems , decisions by courts are explicitly acknowledged as "law" on equal footing with statutes adopted through the legislative process and with regulations issued by the executive branch. The "doctrine of precedent", or stare decisis Latin for "to stand by decisions" means that decisions by higher courts bind lower courts, and future decisions of the same court, to assure that similar cases reach similar results. In contrast , in " civil law " systems, legislative statutes are typically more detailed, and judicial decisions are shorter and less detailed, because the judge or barrister is only writing to decide the single case, rather than to set out reasoning that will guide future courts. Common law originated from England and has been inherited by almost every country once tied to the British Empire except Malta, Scotland , the U. In medieval England, the Norman conquest the law varied-shire-to-shire, based on disparate tribal customs. The concept of a "common law" developed during the reign of Henry II during the late 12th century, when Henry appointed judges that had authority to create an institutionalized and unified system of law "common" to the country. The next major step in the evolution of the common law came when King John was forced by his barons to sign a document limiting his authority to pass laws. In , for instance, while the highest court in France had fifty-one judges, the English Court of Common Pleas had five. From the time of Sir Thomas More , the first lawyer to be appointed as Lord Chancellor, a systematic body of equity grew up alongside the rigid common law, and developed its own Court of Chancery. In developing the common law, academic writings have always played an important part, both to collect overarching principles from dispersed case law, and to argue for change. William Blackstone , from around 1760, was the first scholar to collect, describe, and teach the common law. Religious law Religious law is explicitly based on religious precepts. Examples include the Jewish Halakha and Islamic Sharia —both of which translate as the "path to follow"—while Christian canon law also survives in some church communities. Often the implication of religion for law is unalterability, because the word of God cannot be amended or legislated against by judges or governments. For instance, the Quran has some law, and it acts as a source of further law through interpretation, [88] Qiyas reasoning by analogy , Ijma consensus and precedent. This is mainly contained in a body of law and jurisprudence known as Sharia and Fiqh respectively. This contains the basic code of Jewish law, which some Israeli communities choose to use. Nevertheless, Israeli law allows litigants to use religious laws only if they choose. A trial in the Ottoman Empire , when religious law applied under the Mecelle Main article: Since the mids, efforts have been made, in country after country,

to bring Sharia law more into line with modern conditions and conceptions. The constitutions of certain Muslim states, such as Egypt and Afghanistan, recognise Islam as the religion of the state, obliging legislature to adhere to Sharia. I authorise and give up my right of governing myself to this man, or to this assembly of men, on this condition; that thou givest up, thy right to him, and authorise all his actions in like manner. Thomas Hobbes, *Leviathan*, XVII The main institutions of law in industrialised countries are independent courts, representative parliaments, an accountable executive, the military and police, bureaucratic organisation, the legal profession and civil society itself. John Locke, in his *Two Treatises of Government*, and Baron de Montesquieu in *The Spirit of the Laws*, advocated for a separation of powers between the political, legislature and executive bodies. Judiciary A judiciary is a number of judges mediating disputes to determine outcome. Most countries have systems of appeal courts, answering up to a supreme legal authority. The European Court of Human Rights in Strasbourg allows citizens of the Council of Europe member states to bring cases relating to human rights issues before it. For example, in *Brown v. Board of Education*, the United States Supreme Court nullified many state statutes that had established racially segregated schools, finding such statutes to be incompatible with the Fourteenth Amendment to the United States Constitution. In most countries judges may only interpret the constitution and all other laws. But in common law countries, where matters are not constitutional, the judiciary may also create law under the doctrine of precedent. The UK, Finland and New Zealand assert the ideal of parliamentary sovereignty, whereby the unelected judiciary may not overturn law passed by a democratic legislature. By the principle of representative government people vote for politicians to carry out their wishes. Although countries like Israel, Greece, Sweden and China are unicameral, most countries are bicameral, meaning they have two separately appointed legislative houses. In the UK the upper house is appointed by the government as a house of review. One criticism of bicameral systems with two elected chambers is that the upper and lower houses may simply mirror one another. The traditional justification of bicameralism is that an upper chamber acts as a house of review. This can minimise arbitrariness and injustice in governmental action. Normally there will be several readings and amendments proposed by the different political factions. If a country has an entrenched constitution, a special majority for changes to the constitution may be required, making changes to the law more difficult. A government usually leads the process, which can be formed from Members of Parliament. However, in a presidential system, the government is usually formed by an executive and his or her appointed cabinet officials. The executive in a legal system serves as the centre of political authority of the State. In a parliamentary system, as with Britain, Italy, Germany, India, and Japan, the executive is known as the cabinet, and composed of members of the legislature. The executive is led by the head of government, whose office holds power under the confidence of the legislature. Because popular elections appoint political parties to govern, the leader of a party can change in between elections. Examples include the President of Germany appointed by members of federal and state legislatures, the Queen of the United Kingdom an hereditary office, and the President of Austria elected by popular vote. The other important model is the presidential system, found in the United States and in Brazil. In presidential systems, the executive acts as both head of state and head of government, and has power to appoint an unelected cabinet. Under a presidential system, the executive branch is separate from the legislature to which it is not accountable. In presidential systems, the executive often has the power to veto legislation. Most executives in both systems are responsible for foreign relations, the military and police, and the bureaucracy. Military and police [edit] U. Customs and Border Protection officers While military organisations have existed as long as government itself, the idea of a standing police force is a relatively modern concept.

Chapter 5 : Introduction to the American Legal System | LexisNexis

»¿LLM CANON LAW 2nd year Essay 4. What is the civil law on abortion and is this at odds with the Roman Catholic canon law?Introduction The word abortion comes from the Latin 'aboriri' meaning to miscarry, where pregnancy ends too soon and the baby dies.

They are different from criminal cases in that they do not involve or affect other members of society. This lesson will introduce students to civil law, with a special focus on the law of negligence. Students will also compare civil law to criminal law and look at different methods of dispute resolution other than court. Though litigation is a traditional process for settling disagreements, there are a number of other options including negotiation, mediation, collaborative law and arbitration. Objectives Upon completion of this lesson, students will: Understand that civil laws deal with unresolved conflicts between two individuals or groups Understand that civil cases often involve torts such as negligence, as well as contracts Know what some of the types of civil cases are Be able to compare and contrast civil law and criminal law Know that sometimes the same case can have both criminal and civil counterparts Demonstrate a basic understanding of the pre-court process with lawyers Demonstrate a basic understanding of the different methods for dealing with disagreements Evaluate the appropriateness of different dispute resolution processes in a variety of situations Gain an appreciation for impact that *Donoghue vs. Stevenson* negligence case has had on Commonwealth common law Focus Questions What are civil cases and what are the principles behind them? What are some types of civil cases? How can civil law be distinguished from criminal law? What is dispute resolution? What are some dispute resolution processes? What are some pre-court dispute resolution processes? Why do we have dispute resolution processes other than going to court? What might some advantages and disadvantages be of some of the more commonly used dispute resolution processes? What does negligence mean? How can negligence be proved? Teaching Summary Topic 1: Introduction to Civil Law Students will read Handout 1: Introduction to the Civil Law and use the information to answer nine questions. Afterwards, students will apply what they have learned to answer three questions about a fictional civil case. Comparing Criminal and Civil Law Students will compare civil and criminal law and use this information to answer the questions on Handout 5: Introduction to Alternatives to Civil Court Students will learn about the topics of negotiation, mediation, settlement conferences, collaborative law, arbitration, mediation programs and arbitration. The first activity is a reading comprehension exercise. In the second activity they will work in groups with a scenario to develop the best resolution to the dispute and present this work to the class. Civil Case Study "The Paisley Snail Optional Students will watch a video called The Paisley Snail approximately 42 minutes about a negligence case that occurred in the s in Scotland to learn about the law of negligence. Students will work on vocabulary, comprehension questions and participate in a discussion. The principles laid out in *Donoghue vs. Stevenson* will be highlighted. Some of the exercises and handouts for this activity are advanced, making them more appropriate for grades The video itself is suitable for all grades.

Chapter 6 : Introduction - Criminal and Civil Law

An Introduction to American Law from University of Pennsylvania. This course will give you a glimpse into six different areas of American law: Tort Law, Contract Law, Property, Constitutional Law, Criminal Law, and Civil Procedure.

Chapter 7 : An introduction to laws

A Civil Code for Ethiopia, Considerations on the Codification of the Civil Law on African Countries (David) Civil Code of the Phil. Tolentino Chapter Summary Persons and Family Relations.

Chapter 8 : Syllabus - Introduction to Law

DOWNLOAD PDF INTRODUCTION TO CIVIL LAW

*The Civil Law Tradition: An Introduction to the Legal Systems of Europe and Latin America, Fourth Edition [John Henry Merryman] on racedaydvl.com *FREE* shipping on qualifying offers. Designed for the general reader and students of law, this is a concise history and analysis of the civil law tradition.*

Chapter 9 : UCR Extension Introduction to Civil Law and Procedure

Topic 1: Introduction to Civil Law Students will read Handout 1: Introduction to the Civil Law and use the information to answer nine questions. Afterwards, students will apply what they have learned to answer three questions about a fictional civil case.