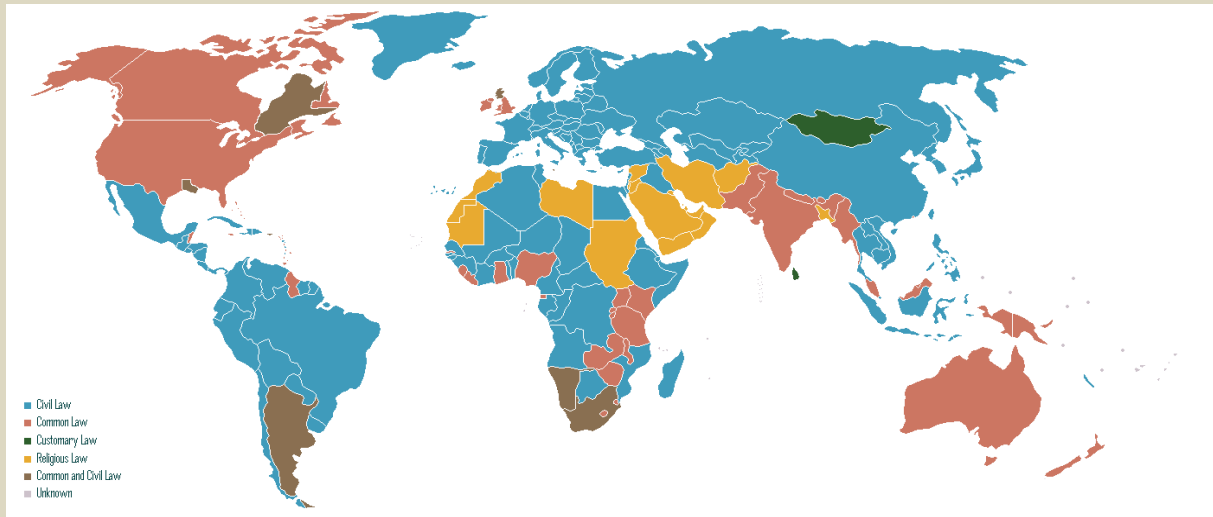


Lesson One

Civil Law versus Common Law

In this lesson we will try to explain the difference between the two most predominant legal systems of the world: **civil law** and **common law**.

Legal systems of the world



Source: <http://en.wikipedia.org/wiki/Image:LegalSystemsOfTheWorldMap.png>

From the map above you will see that the most widespread **legal system** in the world is civil law also known as European Continental Law. It originated from Roman Law and more specifically from the *Corpus Juris Civilis* issued by the Emperor Justinian ca. 529AD. Civil law is **codified**. The most influential codes in history were the Napoleonic Code of 1804, the German civil code (*Bürgerliches Gesetzbuch*) of 1900 and the Swiss codes.

Civil law is most often contrasted with common law which dominates mostly in **Anglophone countries**. Common law originated before there were any written laws and was developed by custom. In the common law tradition, case law interprets laws, via **precedents**, based on how prior cases have been decided. Precedents create a rule which courts and judges later follow when making decisions. Common law systems follow the doctrine of *stare decisis*, i.e. "to stand by things decided"— according to which **lower courts** usually make decisions consistent with previous decisions of **higher courts**. If a lower **court judge** acts against precedent and the case is not **appealed**, the lower court **decision will stand**.

In civil law countries legislation is seen as **the primary source of law**. Judges in courts **give** their **judgments** on the basis of **codes** and **statutes**. By contrast in common law system cases are the primary source of law.

The Polish Constitution of May 3, 1791 is claimed to be Europe's first modern codified national **constitution ratified** less than four years after the United States Constitution was **adopted** on September 17 1787.

Article 87 of the Polish Constitution of 1997 sets forth that "the sources of universally binding law of the Republic of Poland shall be: the Constitution, statutes, **ratified international agreements**, and **regulations**".

Glossary

| | |
|----------------------------------|-------------------------------------|
| civil law | - prawo cywilne |
| common law | - prawo zwyczajowe |
| legal system | - system prawny |
| to codify | - kodyfikować |
| Anglophone country | - kraj anglojęzyczny |
| precedens | - precedens |
| lower court | - sąd niższej instancji |
| higher court | - sąd wyższej instancji |
| to appeal | - złożyć apelację |
| a decision stands | - wyrok obowiązuje |
| a code | - kodeks |
| a statute | - ustawa |
| primary source of law | - podstawowe źródło prawa |
| to ratify | - ratyfikować |
| to adopt | - przyjąć |
| ratified international agreement | - ratyfikowana umowa międzynarodowa |
| regulation | - rozporządzenie |

EXERCISES

1. Reading comprehension

Answer the following questions in full sentences.

1. What are the two predominant legal systems in the world?
2. What countries does common law legal system dominate in?
3. What did civil law system originate from?
4. How is law interpreted in common law system?
5. What do the judges base their decisions on in civil law system?
6. What are the primary sources of law?
7. Where and when was the first constitution ratified in the world / in Europe?

2. Matching. Partnerships.

Match the words from the left with the words on the right to form legal partnerships.

| | |
|------------|--------------------|
| Source | an agreement |
| Anglophone | court |
| to ratify | against a decision |
| to adopt | country |
| lower | a precedent |
| to appeal | of law |
| to follow | the Constitution |

3. Language in Use

Use the partnerships you formed in the correct form in the sentences below.

1. The lower courts are bound to established by the appellate court for their jurisdiction.
2. The basicinclude the Constitution, statutes, and caselaw.
3. Parliament between Cabinet of Ministers and Jordan government on investment protection.
4. Iraqi election officials have confirmed that the nation.....by a majority of voters in a fair election during the Oct. 15 referendum.
5. The EU's highest court ruled Thursday that amade several mistakes when it overturned regulatory approval for Sony Corp. and Bertelsmann AG to combine their music units to form the world's second-largest record label.
6. If you could live in any in the world...
7. If your child is not awarded a place at one of your preferred schools, you can to an independent appeal panel

Answers

Reading Comprehension

1. Civil law and common law are two predominant legal systems in the world.
2. Common law system dominates in Anglophone countries.
3. Civil law originated from Roman law.
4. In common law system law is interpreted via precedents.
5. In civil law system judges base their decisions on codes and statutes.
6. In common law cases are the primary source of law; in civil law the constitution, statutes and regulations are the primary sources of law.
7. The first constitution in the world was ratified in the USA in 1787. The first constitution in Europe was ratified in Poland on 3 May 1791.

Matching

source of law

Anglophone country

to ratify an agreement

to adopt the constitution

lower court

to appeal against a decision

to follow a precedent

Language in Use

follow precedents

sources of law

ratified agreement

adopted constitution

lower court

Anglophone country

appeal / against the decision