

Volgograd State Medical University
Department of Philosophy, Bioethics and Law

Lectures on Law

Lecture 1.

Introduction to Law. Theory of State and
Law.

What is Law?

Law is a term which does not have a universally accepted definition.

- **Law** is a system of rules and guidelines which are enforced through social institutions to govern behavior.

- **Law** is the system of rules which a particular country or community recognizes as regulating the actions of its members.

- **Law** is any normative-legal act, functioning in the frame of the concrete legal system

“What is law” is one of basic questions of philosophy of law. Several schools have provided different answers to this question:

Natural law theory asserts that there are laws that are immanent in nature, to which enacted laws should correspond as closely as possible.

Natural law is a system of law that is determined by nature, and thus universal.

Just law can be "discovered" or "found" but not "created".

An unjust law is not a true law, in which 'unjust' is defined as contrary to natural law.

What is right?

Right is inalienable quality of free personality.

What is State?

State is political organization, which functions for the protection of human rights which acts on the basis of law, securing safety of people who created this State.

Sources of law

This term means the origin from which rules of human conduct come into existence and derive legal force or binding characters.

- A **custom** is a rule which has from long usage obtained the force of law. They are practices that have to be repeated for a period of time.
- A **precedent** is a rule established in a previous legal case that is either binding on for a court when deciding subsequent cases with similar issues or facts.

Legislation.

- **Legislation** is that source of law which consists in the declaration of legal rules by a competent authority. Legislation includes statutes and other legal acts. **Statute** is a formal written enactment of a legislative authority that governs a state, city or country. Legislature frames new laws, amends the old laws and cancels existing laws in all countries. In modern times this is the most important source of law making.

Legal systems

- Civil law
- Common law
- Religious law

The legal system of each country is shaped by its unique history and incorporates individual variations.

Civil law (Romano-Germanic law)

- The sources recognized as authoritative are, primarily legislation, and custom.
- Core rules are codified into statute passed by legislature.
- Civil law is interpreted rather than developed or made by judges. Only legislative enactments (rather than legal precedents, as in common law) are considered legally binding.

- Historically, civil law is the group of legal ideas and systems derived from the Roman law.
- In modern times it is the most widespread system of law in the world. Continental Europe, Latin America, Russia, parts of Asia and Africa have such legal system.

Common law (Precedent law)

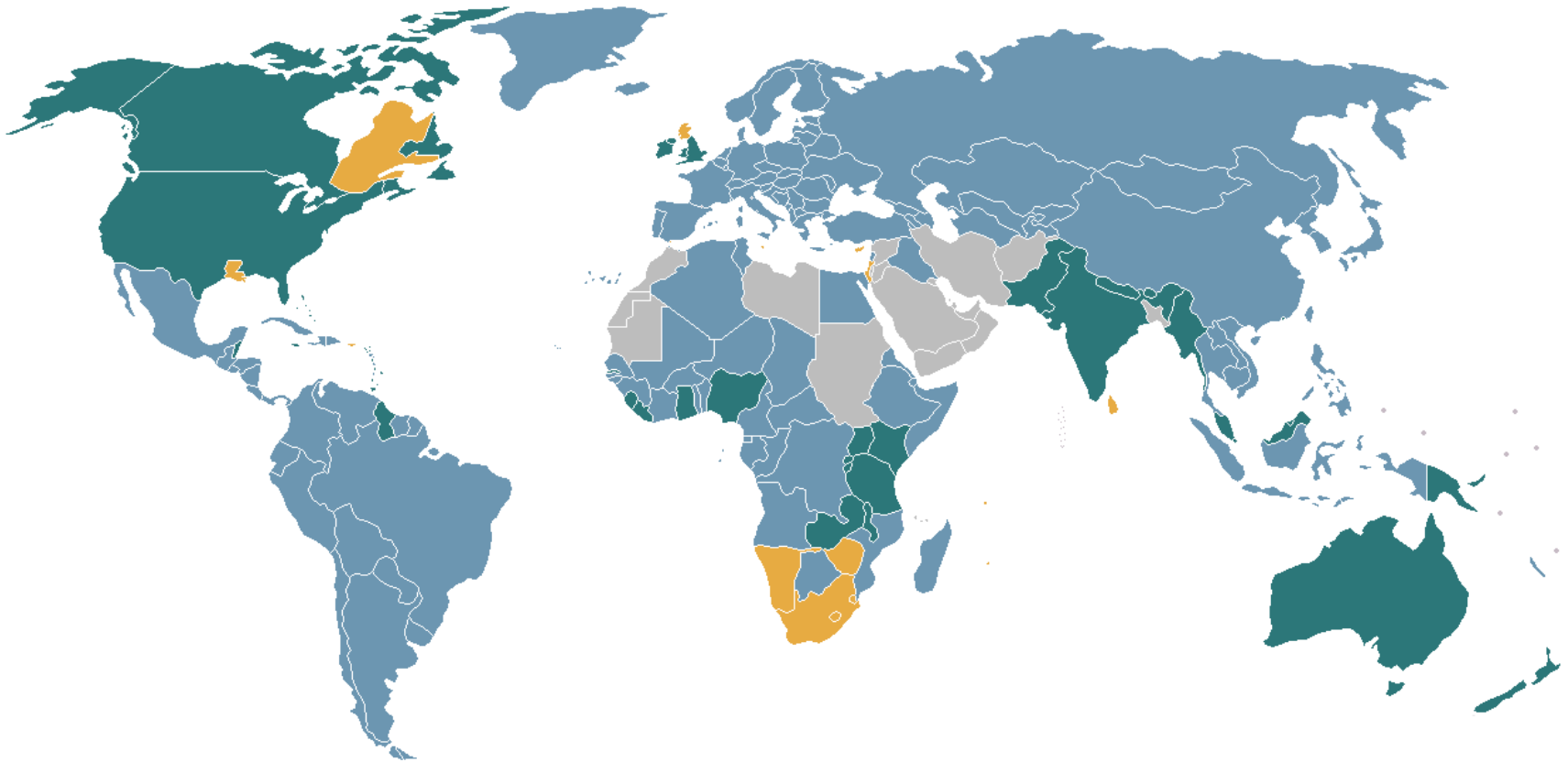
- Common law is in England where it originated in the Middle Ages, and in colonies of the British Empire, including India, the United States (with the exception of Louisiana), Canada (with the exception of Quebec), Malaysia and other countries.
- It is generally uncodified. This means that there is no comprehensive compilation of legal rules and statutes.
- It is based on precedent and developed by judges through decisions of courts.

Religious law

- Religious law is explicitly based on religious precepts.
- Examples include the Jewish Halakha and Islamic Sharia.
- Sharia deals with many topics addressed by secular law, including crime, politics and economics. There are two primary sources of Sharia law: the precepts set forth in the Quran, and the example set by the Islamic prophet Muhammad in the Sunnah.
- Most Muslim countries adopt only a few aspects of Sharia, while few countries apply the entire code.

Legal systems of the world

(blue – civil law, green – common law, yellow – mixed, gray – Islamic law)



System of law is generally divided into two main areas:

Public law is that part of law which governs relationships between individuals and the government. The relationships public law governs are asymmetric and unequal – government bodies can make decisions about the rights of individuals.

Private law is that part of law which involves relationships between individuals, such as the law of contracts or torts (as it is called in the common law), and the law of obligation law (as it is called in civil legal systems).

Public law

- **Constitutional law** lays out the foundations of the state and basic human rights.
- **Administrative law** refers to the body of law which regulates bureaucratic managerial procedures and defines the powers of administrative agencies.
- **Criminal law** involves the state imposing sanctions for defined crimes committed by individuals, so that society can achieve its brand of justice and a peaceable social order.

Private law

- **Contract law** or **law of obligations** is the area of laws and justice which involves relationships between individuals and organizations. Contract law varies greatly from one jurisdiction to another.
- **Family law** is an area of the law that deals with family-related matters and domestic relations.
- **Labour law** mediates the relationship between workers (employees), employers, trade unions and the government.