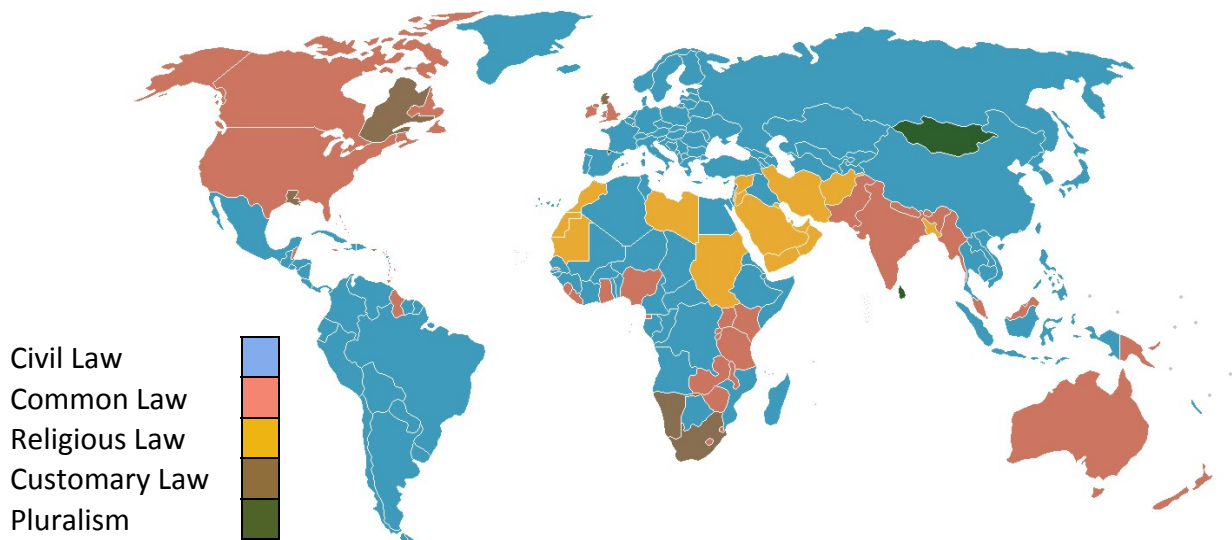


Legal Systems of the World



The five major legal systems of the world today consist of:



However, each country developed variations on each system or incorporated aspects of others into their own system.

Civil Law

Civil Law - *Continental European Law* - are codifications within a constitution or an amendable statute passed by legislature. It is the most widespread system of law in the world.

Civil Law mainly derived from the Roman Empire and extensive reform in Byzantium (ca. 529AD), resulting in the codified documents *Corpus Juris Civilis*. Civil Law was also partly influenced by religious laws such as **Canon** and **Islamic Law**. Only legislative enactments are considered legally binding.

Civil Law can be subdivided into four distinct groups:

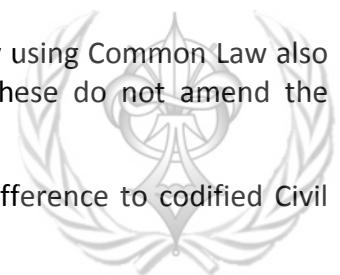
- **French Civil Law:** France, the Benelux countries, Italy, Spain, and their former colonies;
- **German Civil Law:** Germany, Austria, Croatia, Switzerland, Greece, Portugal, Turkey, Japan, South Korea and the Republic of China;
- **Scandinavian Civil Law:** Denmark, Norway, Sweden, Finland and Iceland;
- **Chinese Law:** mixture of civil law and socialist law.

The European Union Court of Justice mixes Civil Law (based on the treaties), attaching importance of *Case Law*.

Common Law

Common Law derived from *case decisions* by judges. Every country using Common Law also has a legislature that passes new laws and statutes, however these do not amend the original collected and codified body of law.

The doctrine of *stare decisis* (*precedent by courts*) is the major difference to codified Civil Law systems.





Common Law developed in England, influenced by the Norman legal concepts. Common Law was later inherited and practiced by the Commonwealth of Nations. Common Law is also practiced in Ireland, South Africa, Hong Kong and the United States. In addition to these countries, several others have adapted the Common Law into a mixed system e.g. Pakistan and Nigeria operate largely on a Common Law, but incorporate Religious Law.

One of the most fundamental documents to shape Common Law is the **Magna Carta** which placed limits on the power of the English Kings. It served as a *Bill of Rights* for the aristocracy and the judiciary who developed the law.

Religious Law

Religious Law refers to a religious system or document used as a legal source.

The main Religious Laws are **Sharia** in Islam, **Halakha** in Judaism, and **Canon Law** in Christianity. In some cases these are intended purely as individual moral guidance, whereas in other cases they are intended and may be used as the basis for a country's legal system.

Sharia

The Islamic legal system of Sharia (Islamic Law) and Fiqh (Islamic Jurisprudence) is the most widely used Religious Law. Islamic Sharia Law (and *Fiqh* jurisprudence) is based on legal precedent and reasoning by analogy (*Qiyas*), thus considered similar to Common Law. It is not a divine law, as only a fraction of Sharia law is based on the Qur'an and Sunnah, while the majority of its rulings are based on the Ulema (jurists) who used the methods of *Ijma* (consensus), *Qiyas* (analogical deduction), *Ijtihad* (reason) and *Urf* (common practice) to derive *Fatwā* (legal opinions).

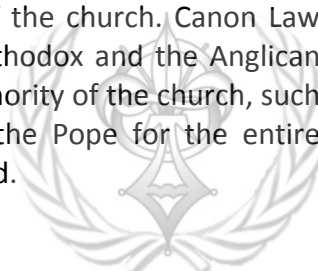
During the Islamic Golden Age, classical Islamic Law influenced the development of Common and Civil Law institutions. Sharia Law governs a number of Islamic countries, including Saudi Arabia and Iran, though most use Sharia Law only as a supplement to national law. It can relate to all aspects of civil law, including property rights, contracts or public law.

Halakha

The Jewish Halakha, for public law, has a static and unalterable quality, preventing amendment through legislative acts of government or development through judicial precedent. It is followed by orthodox and conservative Jews in both ecclesiastical and civil relations. No country is fully governed by Halakha, but dispute-based rulings in a Jewish court are legally binding.

Canon Law

Christian Canon Law is similar to Civil Law in its use of civil codes. It is not a divine law as it is not found in "revelation". Instead, it is seen as human law inspired by the word of God and applying the demands of that revelation to the actual situation of the church. Canon Law regulates the internal ordering of the Roman Catholic, Eastern Orthodox and the Anglican Churches. Canon law is amended and adapted by the legislative authority of the church, such as councils of bishops, single bishops for their respective sees, the Pope for the entire Catholic Church, and the British Parliament for the Church of England.





Legal Pluralism

Legal Pluralism is the existence of multiple legal systems within one geographic area. Plural legal systems are particularly common in former colonies, where the law of a former colonial authority may exist alongside more traditional legal systems. When these systems developed, the idea was that certain issues (e.g., commercial transactions) would be covered by Common Law, while other issues (e.g., family and marriage) would be covered by Traditional Law.

Legal pluralism also occurs when different laws govern different groups within a country. For example, in India and Tanzania, there are special Muslim courts that address concerns in Muslim communities by following Islamic law principles. Secular courts deal with the issues of other communities.

Customary Law

In law, **custom** can be described as the established patterns of behaviour within a particular culture. A claim can be carried out in defence of "*what has always been done and accepted by law.*"

Generally, customary law exists where:

1. a certain legal practice is observed; and
2. the relevant actors consider it to be law (*opinio juris*).

Customary law is a recognized - but inferior - source of law within jurisdictions of the civil law tradition, inferior to both statutes and regulations. In Canada, Australia and New Zealand, customary *aboriginal* law already has a constitutional foundation and influence.

Customary law continues to be used in many *Emerging* and *Developing* nations, usually used alongside Common or Civil Law. In 1995, the President of Kyrgyzstan announced the resumption of the *aqsaqal* courts of village elders, granting jurisdiction over property, torts and family law. Similar courts exist, with varying levels of legal formality, in other countries of Central Asia.

Kanun

The **Kanun** (*The Code of Lekë Dukagjini*) is a set of laws used mostly in northern Albania and Kosovo from the 15th century, revived after the fall of the communist regime in the early 1990s.

Although attributed to the Albanian prince Lekë Dukagjini, the Kanun evolved over time as a way to bring laws and rule to the land. The code was divided into sections: Church, Family, Marriage, House, Livestock and Property, Work, Transfer of Property, Spoken Word, Honour, Damages, Law Regarding Crimes, Judicial Law, and Exemptions and Exceptions.

These rules resurfaced in northern Albania, as people had no faith in the local government and police.

No acknowledgment of this code is made in the contemporary Albanian legal system.

