Part I

the sources of law

“The Constitution of the United States was made not merely for the generation that then existed, but for posterity—unlimited, undefined, endless, perpetual posterity.”

– Henry Clay

Think of the law as a collection of broad principles and specific rules concerning freedom, conduct and property that establishes rights and duties designed to help people live together in communities, states and nations. The law didn’t appear overnight, but evolved over centuries from the human desire for order. As people began living closer together, this desire gave rise to customs that became accepted by the larger group and eventually became law.

The law is really not as mysterious as some people perceive, and the law that governs Ohio and the United States can be broken down into four classifications:

• constitutional law—the fundamental law of the land as spelled out in the Constitution of the United States and state constitutions;
• statutory law—laws adopted by legislative bodies such as the U.S. Congress, the Ohio General Assembly or a city council;
• administrative law—written rules adopted by (and legal interpretations issued by) various government agencies under limited authority granted by legislative bodies; and
• common law—a large body of law that has grown out of previous court decisions, customs, and usage, rather than resulting from specific legislation (statutory law).

Constitutional Law

The U.S. Constitution

Our federal government is a union of 50 separate states. The basic purposes of the U.S. Constitution are to effectively govern the entire nation while preserving a measure of state sovereignty, to promote the general welfare, and to protect the individual rights of all citizens. To achieve these ends, the U.S. Constitution defines the powers granted by the people to the federal government, reserves all other powers to the states and spells out how the states relate to each other and to the federal government. It establishes three branches of the federal government: the legislative, or lawmaking branch (Congress); the executive branch (the president and the president’s subordinates), whose duty is to see that the laws made by Congress are carried out; and the judicial branch (the national court system headed by the U.S. Supreme Court), whose duties are to interpret the laws and to administer justice.

The first 10 amendments to the Constitution, known as the Bill of Rights, guarantee individual rights and liberties such as the right to free speech or to gather freely. The U.S. Constitution is the standard against which all other laws are judged and administered.

The Ohio Constitution

The Ohio Constitution is the supreme law of the state and is like the U.S. Constitution in many respects. It establishes the government of Ohio and provides for legislative, executive and judicial branches; spells out the powers of state government; and lists fundamental individual rights. The Ohio Constitution, however, addresses more issues than the U.S. Constitution. For example, it establishes the right of referendum, whereby the people can adopt and repeal laws by direct vote;
contains detailed provisions for financing public works and various state programs; and establishes the organization and operation of local government. Still, the Ohio Constitution is subordinate to the U.S. Constitution. Thus, it would not be possible, for example, to amend the Ohio Constitution to require criminal defendants to testify at their trials, because the Fifth Amendment to the U.S. Constitution specifically states that no person shall be compelled to testify against himself or herself.

**Statutory Law**

Laws written by federal and state legislative authorities are known as *statutes*. The U.S. Congress enacts those statutes affecting the entire nation, while the Ohio General Assembly enacts Ohio’s statutes. City or village councils enact local laws called *ordinances*.

Federal laws are compiled in the *United States Code*. Ohio’s state statutes are compiled in the *Ohio Revised Code*, and each individual city and village maintains a code of municipal ordinances.

**Federal Statutes**

Federal laws are enacted by the Congress and affect the entire country. They are compiled in the *United States Code*, which, like the *Ohio Revised Code*, is arranged according to subject matter. Under the U.S. Constitution, only the U.S. Congress may deal with certain subjects, such as the armed forces, bankruptcy, patent law and interstate commerce. In other areas, federal law might govern some parts of an activity and state law might govern other parts.

Sometimes both the state and federal government have similar laws covering the same subject. Usually, state law governs a particular activity within the state, and federal law governs the same activity in interstate and foreign commerce.

For example, Ohio handles how firearms, explosives and drugs are bought, sold and controlled within the state, while federal law steps in to handle how firearms, explosives and drugs are bought, sold and controlled in interstate and foreign commerce.

In some areas, states may create laws only so long as they fit within a federal outline of law. For example, generally speaking, a state may create laws to govern over its land and waterways within its territorial boundary as long as the activities are within the state boundary. However, Congress may pass laws or the Environmental Protection Agency (EPA) may make rules with the force of laws that govern over that same land or waterway for an interstate commerce activity. There are some instances where a law of Congress may trump a state law, especially if both laws address the same subject at the same time. In other instances state and federal laws may be applied together in areas where they do not overlap to cancel each other out.

**State Statutes**

Ohio statutes (or laws) are enacted by the General Assembly and affect the entire state. Generally, Ohio statutes take precedence over city ordinances, the regulations of government agencies and the common law of the state.

Ohio statutes are compiled in the *Ohio Revised Code* and cover a wide range of subjects including:

- the organization and operation of state and local governments
- agriculture
- financial institutions
- commercial transactions
- natural resources
- business organizations
- courts and procedures
- criminal law and procedure
- family law
- education
- elections
- health and safety
- insurance
- labor and industry
- licensing of drivers
- liquor control
- motor vehicles and traffic
• occupations and professions
• protection of incompetents and children
• public utilities
• public welfare
• real estate
• roads
• taxation
• veterans and military affairs
• water and sanitation

Municipal Ordinances
Under the Ohio Constitution, municipalities (incorporated cities and villages) may adopt laws for their own self-government. These local laws are called ordinances and are adopted by the village or city council, which is the legislative branch of municipal government. Municipal ordinances are effective only within the municipality enacting them and are valid only if they do not conflict with state law.

The relationship between municipal ordinances and state law requires some explanation. Ordinances may duplicate or overlap state law, but ordinances can neither permit anything prohibited by state law, nor prohibit anything state law specifically permits.

Like state law, municipal ordinances may deal with a wide range of subjects, including the organization and operation of police and fire departments, housing, sanitation, licensing and inspection of various businesses, and many other matters.

Municipal ordinances commonly contain a traffic code, which is similar to, or even a duplicate of, the state traffic code. Further, municipal ordinances generally have many provisions similar to those of the state criminal code. This is allowed as long as the violation of a municipal traffic ordinance is not classified as a felony (whose potential penalties may include imprisonment for more than six months or even a death sentence) and provided a municipality does not try to attach felony penalties to any of its ordinances. The only penalties that can be imposed for violation of a municipal ordinance are a fine or a term of not more than one year in the local jail or workhouse, or both.

Administrative Law

It’s deer-hunting season in Ohio, so you tramp off into the woods and bag a 10-point buck. Feeling like frontiersman Simon Kenton, you begin hauling the deer away, when a park ranger asks to see your hunting license.

Oops. Forgot to buy yours? The ranger issues you a citation for violating a state administrative rule that requires you to purchase a hunting license issued by the Ohio Department of Natural Resources (ODNR). The fee to purchase the license was established by ODNR according to its authority to set rules for conserving Ohio’s natural resources. The authority to establish the fee and adopt other rules was granted to ODNR by state statute.

Many activities governed by statutes or ordinances are so technical, or change so often or so fast, that they cannot effectively be regulated by statute or ordinance alone.

Adoption and Effect of Rules
The authority to adopt administrative rules is a limited legislative power given to an administrative agency by the legislative body. It is a power granted by both the U.S. and Ohio constitutions. Administrative rules supplement statutes and are useful because activities regulated by statutes and ordinances are numerous, technical and change so often that they cannot be effectively enforced by statute or ordinance alone. Administrative rules can cover only the specific subjects authorized by the statute or ordinance.

Our state’s administrative rules are found in the Ohio Administrative Code and cover activities such as hunting, fishing, wildlife management, development of natural resources, public recreation, pollution control, health, sanitation, liquor control, insurance, housing, building construction, land use and industrial safety.
It is important to note that many of these activities are also governed by federal administrative rules. Most of these rules are published in the Code of Federal Regulations. Federal income taxation is the best known of these activities and is governed by a long list of rules adopted by the Internal Revenue Service, commonly called tax regulations.

The adoption of administrative rules in Ohio involves a detailed set of procedures, which include multiple public hearings. Once adopted, administrative rules carry the same force of law as statutes and can be enforced by the courts. Violating an administrative regulation may be a crime if the corresponding statute or ordinance says it is a crime and creates a penalty. If you fail to buy a hunting license, for example, you may be found guilty of a fourth degree misdemeanor. Because agencies do not have full legislative power, they cannot create new criminal classifications and criminal penalties. Limiting the power of the bureaucracy keeps the lawmaking functions of the state in the hands of the legislature, which is the intent of the Ohio Constitution.

Common Law

The common law is a large body of law that has grown out of society’s customs and usage, and out of previous court decisions, rather than resulting from specific legislation (statutory law). Because it is (and was) created by the courts, common law is a product of judicial rather than legislative power. It fills the gaps, interprets ambiguities and helps unify constitutional, statutory and administrative law. Based on generations of the natural development of human experience, common law gives continuity and consistency to the law. It also allows the law to respond to the changing needs of society.

Case Law as Common Law

The common law is believed to have originated in England following the Norman Conquest (1066) and was brought to North America by English colonists, along with numerous English statutes. It owes its present vitality to the custom, begun in the 17th century, of recording judicial proceedings and decisions, as well as the principles and reasoning behind them. When a court decides a case and records its decision in a written opinion, that opinion, or case, becomes a precedent. That is, the principles on which the case was decided may be used to decide future cases with similar factual situations.

The following example illustrates how we deal with the concept of precedence on a daily basis: Let’s say your immediate work supervisor issues an order about how to stack boxes. This order remains the precedent unless your supervisor’s boss issues another order about stacking boxes, which replaces the first order and becomes the new precedent. Precedent might also change, for example, if a new system of packaging makes the old way of stacking boxes obsolete.

The impact of a case as precedent depends mainly on the court in which it is decided. A higher court is not bound to follow the precedents established by the lower courts in its jurisdiction. Lower courts, however, are bound to follow the precedents of all higher courts having jurisdiction over them. Courts of equal rank may use each other’s precedents, just as the courts of one state may borrow from the precedents of another state or federal court. Courts often use the precedents of equal or lower courts, the courts of other states, and the federal courts when such precedents are well reasoned or address new problems or create new or better solutions to old problems. (See Part II, “The Courts,” for more information on the ranking of courts.)

Scope of the Common Law in Ohio

Many major divisions of Ohio law are governed almost entirely, or in significant respects, by the common law. One important subject governed almost entirely by common law is torts. The common law of torts deals with civil remedies for injuries or damages caused by negligence, or other wrongful acts or omissions by others. It overlaps substantially with what is thought of as “personal
injury” law. For example, most of the law governing the question of liability for injuries suffered in automobile accidents is based on the common law of torts.

Contract law is covered partly by the common law and partly by statutes. Some areas of the law are based almost entirely on statute, such as conduct that is considered a crime, and benefits available under workers’ compensation. However, the common law retains its importance even in the parts or divisions of the law based on statute. For example, common law principles and concepts are used to decide if, or how, a statute, ordinance or regulation applies to a particular situation. Further, when a statute, ordinance or regulation is interpreted in a certain way, the interpretation itself becomes part of the common law and is thus entwined with the written law.

The Importance of Common Law

The common law can prevent a casual dismissal of society’s established principles. At the same time, it forces society to look at outdated principles and replace or reshape them to address contemporary issues.

The landmark U.S. Supreme Court case of Brown v. Board of Education is a good example of how the law can change with time. In its 1954 decision, the high court ruled that separate educational facilities for white and black students were unconstitutional. That decision (which reflected changes in our society’s views on race) overruled another decision rendered nearly 60 years earlier that found separate but equal facilities were constitutional. It can be argued that this particular decision illustrates the flexibility our founding fathers consciously built into the U.S. Constitution.

Different Legal Systems in the World

Different countries around the world have diverse legal systems and legal cultures. Legal systems differ in the development and use of substantive laws, procedures, remedies and enforcement mechanisms. Therefore, the same legal problem may be resolved using different remedies depending on the legal system applied to the particular problem.

People living in a globalized world must have a basic understanding of how culture and diverse legal systems affect the realization of justice. For example, even though courts exist in China, they are used as a last resort according to Chinese culture and legal tradition. In China, it is considered preferable to follow a step-by-step approach starting with negotiation, mediation, and, if necessary, going to litigation in court as the last step.

Different countries in the world use common law, civil law, religious law, traditional law, tribal customary law, or a combination of these legal systems. In the United States of America all states except Louisiana operate under the common law system. Louisiana’s system of law is considered a hybrid between civil law based on French and Spanish codes and the common law used by other states in the United States. While courts elsewhere in the United States tend to rule based on precedents developed from common (case) law, Louisiana judges generally rule based on their own interpretations of the law, although Louisiana’s civil law does acknowledge established precedents.

Comparison of Common Law and Civil Law Systems

Brief History

The civil code or civil law system is based on the foundation laid by Roman law. Civil law is the most common type of legal system in the world, either in its pure form or in combination with another legal system such as religious law or tribal customary law. Civil law is governed entirely by statutes, which aim to cover every area of the law.

Initially, colonial expansion spread the civil law system. Today, European civil law has been adopted in all of Central and South America, parts
of Asia including China, parts of Africa and even some areas of the common-law world (Louisiana in the United States, Quebec in Canada, and Puerto Rico). There are certain major differences between civil and common law systems of government. The major differences include the codification process in the civil law tradition, the role of the judge, the application of evidentiary rules, the inquisitorial vs. adversarial nature of the two systems, and the remedies allowed by the two systems.

The goal in the civil law system is to find and apply a relevant statute to solve the legal problem. This is done in an inquisitorial fashion, where the judge asks questions and takes an active role in the process.

In a common law system, the goal is, rather, to find a case that is similar in facts to the case at hand. The way in which the earlier case was decided creates a legal “precedent,” which can be used to solve the legal problem in the current case. The attorneys generally try to find legal precedents from older cases on behalf of their clients, while the judge functions as a “referee.” The attorneys are responsible for representing their own parties, whose interests generally oppose each other, so their role is adversarial in nature. That is why the common law system is considered adversarial rather than inquisitorial. In countries that rely heavily on the common law, courts may base decisions on precedent developed through case (common) law, but they are still bound to follow the statutory (written) law if there is a conflict between common and statutory law.

**Codification in Civil Law Systems**

The legislative branch (such as the parliament) is today the principal source of law in civil law countries. The concept of enacted law covers legal rules adopted by the legislative branch, executive decrees, administrative regulations and local ordinances issued by the executive branch (such as the president or government agencies). A distinguishing feature of a civil law system is its codification of laws enacted by the legislative branch and its heavy reliance on its codified laws to decide cases.

Civil law countries have authoritative, comprehensive and systematic collections of general clauses and legal principles called codes that define the law in a logical fashion.

The codes in a civil system cover many legal topics, sometimes treating separate areas of law in different codes, such as the criminal code or the commercial code. A specific code, e.g., the commercial code, aims to lay down the whole area of commercial law in one document to provide a coherent and consistent set of rules. The commercial code is then applied to solve all disputes in the area of commercial law.

The use of codes in a civil system is similar to the use of statutes in a common law system. However, statutes in a common law system cover only certain areas of the law, whereas in civil law systems, all areas of law are regulated by comprehensive statutes that even incorporate judicial decisions. In a common law system, judicial decisions established from earlier cases form precedents that are used to decide future cases, but these are not included in the statutes.

**The Judge’s Role in Civil and Common Law Systems**

The judge’s duties and career path are quite different in civil and common law systems. Civil law judges must follow written codes and take care to administer them in a technically correct manner when reaching judicial decisions. There is little room for creativity; rather, the judge must apply the written law in the specific code to reach a decision. The judge is expected to interpret the statute until a new statute is enacted to address a particular legal problem, which means that courts may struggle to apply an existing solution to a new problem. In a civil law system, consistency and predictability within the written law is valued more than innovation when attempting to solve legal problems.

In systems that draw largely on the common law, judges may use precedents established by
earlier cases to resolve a legal problem. Because the facts in one case are never exactly identical to those of another, the judge must confirm the similarity between the cases before applying the precedent. Although the judge must abide by the demands of written law, the process of resolving a question where the precedent does not exactly match the current issue allows the judge to exercise some creativity. This is why common law is sometimes called judge-made law.

In civil law countries, a new lawyer may become a judge immediately rather than first spending time as a practicing attorney or a prosecutor. There is a specific exam and training generally set by the ministry of justice for career-path judges. After having completed the exam and the training, the judge is assigned to a specific court and post by the ministry of justice. In countries that rely on the common law, a new lawyer must spend a significant amount of time in the private practice of law or, perhaps, as a government attorney or law professor before becoming a judge. Judges are appointed or elected to office in common-law countries, and there is no competitive examination.

**Trials in Civil and Common Law Systems**

In civil law systems, judges have broader authority and more control regarding evidentiary rules than in common law systems. A civil law judge is specifically trained to administer a trial and can enforce the rules of evidence and exercise a great deal of control in directing the timing and flow of a case.

The judge defines the issues as the proceedings continue and decides which witnesses will be examined at trial, what questions will be asked of them and how to evaluate their testimony. In a civil system, there is no real counterpart to the common law practice of pre-trial discovery and motions, and there is no genuine “trial” in the sense of a single major event. A civil law action is a continuous process of meetings, hearings, and written communication during which evidence is introduced, testimony is taken, and motions are made and decided. Settlements are encouraged throughout the course of the legal action.

During this process, the judge plays an active role by questioning witnesses and seeking to reframe or define the issues, although lawyers also may submit questions to witnesses. The judge also may introduce new legal theories and factual issues during the proceedings, and can even obtain expert opinions on his or her own motion. The admission of documents into evidence is not a formal process. Parties themselves may introduce evidence or the court may ask for evidence. One party must notify the other party that evidence will be introduced, and give the other party an opportunity to inspect the documents for authenticity. The judge determines what weight should be given to the evidence, and there are no rules governing “hearsay” evidence provided by those who are not first-hand witnesses. Because civil law systems do not use juries, there is no need for elaborate exclusionary rules of evidence.

In the common law system, the judge has some ability to direct the timing and flow of a case. However, the lawyers for each party are generally responsible for moving the case forward, producing evidence and questioning witnesses. In representing their parties, the lawyers are allowed to argue about what evidence should be allowed at trial, although the judge is responsible for applying and enforcing the appropriate rules of evidence. The lawyers are largely responsible for questioning witnesses, and the judge acts as more of a referee during this process, although the judge also may question witnesses. A system grounded in the common law is client-centered, and the primary duty of the lawyer is always to the client, although the lawyer is still bound to uphold the statutory law. The judge’s job is to make sure the lawyers follow the law governing the trial procedure.
Inquisitorial vs. Adversarial Nature of Civil and Common Law Systems

Both civil and common law systems seek to uncover the truth, but they do so from different perspectives.

Civil law systems tend to be inquisitorial, meaning that the emphasis is upon discovering the truth by asking questions and then finding the appropriate statute to apply to the case. In a civil law system, the court is not necessarily seen as a forum where the plaintiff and defendant battle to demonstrate to a judge or jury who is right and who is wrong. Rather, judges are actively involved in questioning witnesses, directing investigations and challenging evidence.

Common law systems tend to be adversarial, meaning that the truth is expected to be revealed through a vigorous debate between two opposing points of view as presented by the parties’ lawyers. In the common law system, the judge generally serves as an impartial observer of this debate, but must make sure the lawyers follow statutory rules at trial when (for example) presenting evidence or questioning witnesses. If the trial does not involve a jury, the judge will determine the “truth” based on the evidence presented and will apply the law in making a final judgment. In a jury trial, the judge must tell the jury how to apply the law to the evidence presented by the opposing parties. In a common law system, the judge also may recommend alternatives to trial. For example, in the United States, an adversarial trial is increasingly used as a last resort, and judges frequently recommend mediation and negotiation before allowing a case to come to trial.

Juries in Civil and Common Law Systems

The jury was developed to give accused people the option to be tried by their “peers” rather than by the country’s rulers or decision-makers. However, trial by jury is not the norm in civil law systems, where the judge is generally responsible for finding the truth and deciding cases by applying the appropriate statutes. Juries are sometimes used in some civil code countries such as France, Norway, Spain and Brazil, but they are generally used for a limited range of offenses that are mainly criminal. In the United States’ common law system, accused people have a right to a trial by jury in certain cases. Even so, many cases are not tried before a jury, especially when the case does not involve a crime. In some countries that make use of the common law, such as Papua New Guinea and India, trial by jury is not common, largely because, in these countries, tribal or clan loyalties make it difficult to find people who can reach an objective judgment when evaluating the parties at trial (such as the accused or the alleged victim). In such a society, it likely will not be in the parties’ best interest to be tried by a jury of “peers.”

Remedies in Civil and Common Law Systems

At the end of a case, in both civil and common law systems, the court typically determines a remedy to compensate for whatever harm it finds a party has suffered. However, remedies can be quite different in civil law and common law systems. For instance, courts in the United States sometimes award punitive damages (in addition to “damages” to compensate for losses) in order to “punish” a party for outrageous conduct. In most civil law countries, the notion of punitive damages is not common except in certain criminal cases. Punitive damages awarded by a court in the United States in a non-criminal case likely could not be enforced in a country that uses a civil law system.

Civil law systems favor providing the injured party with only compensatory damages to make up for the harm that was done. In a common law system, punitive damages are awarded most often in tort cases. In a civil law system, however, torts are included in the criminal codes, which address punishment of those causing harm in tort actions. Any matter that is included in the criminal codes must be decided only by courts that render judgments on criminal matters.
As globalization has increasingly required civil law systems and common law systems to work together, civil law countries are beginning to allow for punitive damages in an increasing number of cases that originate from the civil courts of common law countries.

**Different Understandings about Particular Areas of Law**

In certain areas of the law, rules and principles differ greatly from one legal system to another. Labor and employment law is a good example. In the United States, all states except Montana generally presume that employment is “at will,” meaning that either the employer or the employee may terminate the employment relationship without notice or cause.

In Germany, employees are entitled to receive a written statement of the main terms and conditions of employment within one month of the start date. Employees who have been employed for more than six months by employers with more than 10 regular employees enjoy protection against termination under the Unfair Dismissal Act. Under this act, the employer cannot end the employment contract without giving one of the three statutorily defined reasons for termination.

In China, Article 16 of the labor law requires an employment contract to be signed before an employment relationship can exist. It is generally accepted that an employment relationship exists if a person is on another’s payroll.

Such differences in whole areas of law lead to different applications and different remedies throughout the world.

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For Journalists: Covering the News in a Global World

United States journalists often assume—wrongly—that the First Amendment follows them abroad when they report news events. That is, they are not critically aware that our constitutional commitment to a free press is still uniquely American. The U.S.-centric presumption of press freedom is more likely than ever to place American journalists in trouble, especially when they engage in online news reporting that defies geographical boundaries.

In recent years freedom of speech and the press has become more widely accepted as a human right around the world, but when it comes to freedom of the press, the United States is more different from than similar to the rest of the world.

For example, “actual malice” epitomizes the preferred position of free expression in American law over reputation. Similarly, hate speech is not a crime in America, but it is a crime outside the United States with few exceptions. The absolute Internet Service Provider immunity from liability under Section 230 of the Communications Decency Act is another case in point that makes the United States stand out from other countries.

Also, while contempt of court is not the rule in news reporting on trial proceedings in the United States, it is frequently invoked by foreign courts when balancing free press with fair trial. Prior restraint (a government’s prohibition of speech in advance of publication) is no different. In American law, prior restraint generally is presumed to be an unconstitutional affront on free speech, but in foreign and international law this is not necessarily the case. That is, defamatory statements are rarely subject to pre-publication injunctions in the United States, while defamation and invasion of privacy can be a ground for prior restraints in foreign countries. Indeed, defamation of government officials or important public figures can entail serious consequences abroad, while it is less consequential in the United States, where seditious libel is a non-issue.

Freedom of information (FOI) is probably one of the valuable exports of the United States to foreign countries, especially in the past 20-plus years. Significantly, some countries are now more actively engaged in practicing open government than the United States is. But foreign FOI laws are not as accommodating as the United States’ Freedom of Information Act (FOIA) is to non-citizen requests for access to government records. The American FOIA makes no distinction between American citizens and foreigners.

American journalists should develop a working knowledge of foreign press law and regulations before they engage in international reporting, whether at home or abroad.

Resources for journalists engaging in international reporting:


Mark Warby et al., eds., The Law of Privacy and the Media (2d ed. 2011).


Chapter Summary

- The U.S. and Ohio constitutions outline the powers given to federal and state government, respectively. When there is a conflict between the two, the U.S. Constitution is the supreme authority and takes precedence over the state constitution.
- The law in the United States is divided into constitutional law, statutory law, administrative law and common law.
- State law in Ohio is made up of statutes created by the Ohio General Assembly. Local laws are ordinances adopted by incorporated villages and cities.
- Administrative law in the United States establishes governmental agencies with the authority to regulate activities and adopt rules.
- In the United States, common law has evolved over time and continues to do so. It unifies the gaps between constitutional, statutory and administrative law, while providing the flexibility to adapt to societal changes.
- Different countries in the world use common law, civil law, religious law, traditional law, tribal customary law, or a combination of these legal systems.
- The civil law system, the most common type of legal system in the world, is governed entirely by statutes, which aim to cover every area of the law.
- The legislative branch (such as the parliament) is the principal source of law in civil law countries today. Civil law countries have authoritative, comprehensive and systematic collections of general clauses and legal principles called codes that define the law in a logical fashion.
- Civil law systems tend to be inquisitorial, meaning that the emphasis is on discovering the truth by asking questions and then finding the appropriate statute to apply to the case. Common law systems tend to be adversarial, meaning that the truth is expected to be revealed through a vigorous debate between two opposing points of view as presented by the parties’ lawyers. The United States operates largely under a common law system.
- While accused people have a right to a trial by jury in certain cases in the United States, trial by jury is not the norm in civil law systems and is generally used for only a limited range of (mainly criminal) offenses.
Web Links:

International Resources:

www.juriglobe.ca/eng/index.php
From the University of Ottawa, World Legal Systems
Features a world map that uses color to indicate nations that operate under civil law, common law, customary law, Muslim law and mixed legal systems. Briefly describes each type of legal system.

www.loc.gov/law/help/guide/nations.php
Links to websites for constitutions and the executive, judicial and legislative branches of government for hundreds of countries. Some foreign country websites provide an English-language version but many do not.

Examples of specific civil codes:

   English translation of the German Civil Code:
   www.gesetze-im-internet.de/englisch_bgb/index.html

   English translation of specific portions of the Turkish Civil Code:

   Indonesian Civil Code:
   www.unhcr.org/refworld/category,LEGAL,,,IDN,3ffbd0804,0.html

Examples of civil law around the world prepared by Louisiana State University:
   www.law.lsu.edu/index.cfm?geaux=clo.view&cid=3B4BB9B5-1372-69E5-F769BEC6C6509622

Description of legal systems and laws in the countries where European Bank for Reconstruction and Development operates:

Canada as country of common and civil law:
   www1.canadiana.org/citm/specifique/lois_e.pdf