Fundamentals Of Law (3)

Systems of Law
Branches of Law

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The Concept of “System of Law”

denotes the classification of different countries according to their development, judicial institutions and legal profession applied.
There are mainly two Systems of Law:

1) The **Civil Law System** (The Continental Law) (Roman Law-French Law-German Law) (European Countries and Turkey) "written legal rules put by legislation are divided into two main branches; private and public law"

2) The **Common Law System** (Anglo-american countries-England) "customary law-equity law put by judges, and not divided branches"
Turkey has followed the continental pattern with the reception of the codification of many European Law.

_Civil Code and Code of Obligations were adopted from Switzerland and Commercial Code from Germany._

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"The Branches of Law", denotes the classification of legal rules applied among individuals and relations or among the individuals and the state.
Branches of Law

(Traditional distinction of law according to the subject matter and the nature of the rules);

- Public Law
- Private Law
Other classifications of law:

- Domestic (national/municipal) law
- International law
  (based on the extent of the territory in which legal rules are in force)

OR as:

- Substantive law (Rights, obligations and duties)
- Procedural law (method for the enforcement of legal rules)
Public and Private Law was separated as:

<< Jus publicum as statum rei romanae spectat, jus privatum and singulorum utilitatem >>

“The public law is related to the benefits of the Roman state and the private law to those of the individuals”

in Corpus Juris Civilis.

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Criterions used in separation of Public Law and Private Law

- Benefit Criterion
  (Character of interests protected by legal rules)
  The rules for whom or protecting whose benefit?

- Sovereignty Criterion
  Is there any enforcement by public power at case?

- Freedom of Will Criterion
  The Quality of Rule; “peremptory” or “complementary”?

- Equality Criterion
  Sides of the case or relation are equal or not?
One of the fundamental concepts of Public law is “state,”

which could be defined with three main elements (essentials) of it;

- A defined *territory*,
- A permanent *population* and
- *Sovereignty*.
“Equality before law” is the main principle of law.

“Equality in acquiring private rights” as “general principle”
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