

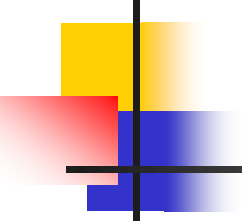
# Fundamentals Of Law(3)



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## Systems of Law Branches of Law

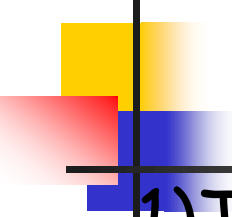
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# The Concept of "System of Law"

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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.*



# "The Branches of Law",

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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;

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- 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;

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*« 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.**





# Criteria used in separation of Public Law and Private Law

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- 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,"

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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.

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

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