

What is the difference between common law and civil law? - AvvoStories

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CRIME, RIGHTS
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Most people hear the term “common law” and automatically think of [common-law marriage](#). That’s part of it, but common law is actually one of two fundamental approaches to a legal system, the other being [civil law](#). Worldwide, [civil law](#) systems are more common, but common law dominates in the United States. The differences between the [two systems](#) are not always clear and many countries (including the United States) do not fall neatly into either category.

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Common Law

Common law is defined as: *The ancient law of England based upon societal customs and recognized and enforced by the judgments and decrees of the courts.*

Common law developed in England during the Middle Ages and continues to be used today in England and countries it colonized. In common law countries, courts interpret the law and build up a body of precedents, known as case law, which judges use as guidelines in evaluating new cases. Common law judicial systems are adversarial: plaintiffs and defendants oppose each other in court under the guidance of legal counsel, with the judge acting as moderator. Decisions are made by juries of regular citizens.

Civil Law

Civil law is defined as: *The law of ancient Rome embodied in the Justinian code, especially that which applied to private citizens, and any system of law having its origin in Roman law, as opposed to common law or canon law.*

Civil law developed on the European mainland. It is still used there, as well as in most countries colonized by continental European powers. Rooted in the collection of laws assembled for Emperor Justinian in the sixth century, it generated numerous attempts to unify and systematize local legal practices throughout the Middle Ages and into the modern era. The Napoleonic Code of 1804 still forms the basis of civil law in France today. It may seem like the United States has a lot of laws, but countries with civil law systems have comprehensive, continuously updated legal codes that cover all aspects of the legal process. Judges are responsible for applying the laws rather than interpreting them, and juries may not exist at all.

American Hybrid

America's court system unquestionably falls in the category of common law, but has been influenced by civil law traditions, especially at the state level. Louisiana, which was colonized by France and Spain, rather than England, adopted a version of the Napoleonic Code before it became a state.

Even American case law sometimes relies on principles from civil law. The judge deciding the landmark case *Pierson v. Post* in 1805 cited a Justinian principle to settle a dispute between hunters. The 1926 Supreme Court case *United States v. Robbins* established California's community property laws using the medieval Spanish civil law concept of property.

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