University Of Salhi Ahmed of Naama

Faculty of Law

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The matter: English language

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The first lecture online

The Historical Origins of Law

1- Intruduction:

Law has always been a cornerstone of social organization, reflecting humanity's need for justice, order, and stability. Its origins can be traced back to ancient civilizations, where legal rules first appeared as societies moved from **unwritten customs** to **codified systems.**

In Mesopotamia, **Hammurabi's** Code marked the first unified written law; in **Pharaonic** Egypt, law was tied to ***Maʿat***, the principle of cosmic justice; in Greece, rational legal thought emerged; and in Rome, law was transformed into a comprehensive science that laid the foundation for modern civil law.

Studying these origins highlights how ancient legal rules not only regulated social life but also played a crucial role in shaping later legal systems and continue to influence contemporary legislation.

2- Overview

2-1- Mesopotamia – The First Written Codes

The earliest attempts at codification appeared in Mesopotamia. The Code of Ur-Nammu (c. 2100 BCE) already contained rules on theft,

marriage, and bodily injury, but the Code of Hammurabi (c. 1754 BCE) remains the most influential. Engraved on a basalt stele, its 282 provisions regulated contracts, property, family law, and criminal penalties, with the principle of Lex Talionis **("eye for an eye").** This marks the first step toward state-enforced legal uniformity**.**[1]

2-2- Ancient Egypt – Law as an Ethical and Religious Order

In Pharaonic Egypt, law was closely linked with the concept of **Ma'at** (truth, order, cosmic balance). Unlike Mesopotamia, Egypt did not produce a single codified text like Hammurabi, but legal rules were embedded in royal decrees, court records, and contracts.

-Justice was administered by officials on behalf of the Pharaoh, who was the ultimate source of law.

-Papyrus records (e.g., the *Papyrus Lansing*) indicate that Egyptian judges emphasized **equity, fairness, and divine order**, showing law as part of the moral and cosmic system rather than strict retribution.[2]

2-3- Ancient Greece – From Harsh Laws to Rational Justice

[1] Roth, M. T. (1997). *Law Collections from Mesopotamia and Asia Minor*. Scholars Press, pp. 71-142.
Hilal, A. (2016). *History of Legal and Social Systems*. Dar al-Nahda al-Arabiya, pp. 45–53

[2] Allam, S. (1997). "Egyptian Law in the Pharaonic Period." In *The Cambridge History of Law in Europe*, Vol. 1, pp. 123–135.
Kemp, B. J. (2006). *Ancient Egypt: Anatomy of a Civilization*. Routledge, pp. 292–300.

In **Athens**, early laws like **Draco's code (7th century BCE)** were infamous for their severity, but their written form ensured **transparency and predictability**. Later, **Solon's reforms (594 BCE)** introduced debt relief, restructured property rights, and expanded civic participation. Greek philosophers, especially **Aristotle**, developed the idea of **natural justice**, distinguishing between laws of convention (*nomos*) and universal principles (*physis*). This rational dimension strongly influenced later European jurisprudence.[1]

2-4 Ancient Rome – The Foundation of Legal Science

Rome established the **most systematic legal order** of antiquity. The **Twelve Tables (451 BCE)** provided citizens with a public, written reference for civil disputes. Roman jurists (like Gaius and Ulpian) created doctrines of **property, contracts, obligations, and torts**, separating law from religion and politics. The **Corpus Juris Civilis (534 CE)**, compiled under Justinian, preserved and organized Roman law into a coherent system that shaped medieval Europe and modern **civil law traditions**.[2]

[1] Gagarin, M. (1986). *Early Greek Law*. University of California Press, pp. 45–68.
Kelly, J. M. (1992). *A Short History of Western Legal Theory*. Oxford University Press, pp. 30-47.

[2] Stein, P. (1999). *Roman Law in European History*. Cambridge University Press, pp. 65–88.
Mommsen, T. (1986). *The History of Roman Law*. Cambridge University Press, pp. 112–140.
Kelly, J. M. (1992). *A Short History of Western Legal Theory*. Oxford University Press, pp. 49–70.

2-5- Islamic Law

The development of the concept of law in Islamic civilization passed through several successive stages. It began with the foundational phase **(610–661 CE)**, where legal rules were directly linked to revelation, represented in the Qur'an, the Sunnah, and the rulings of the Rightly Guided Caliphs, which relied on ijtihad in newly arising issues[1].

One of the major legal systems developed during the Middle Ages was Islamic law and jurisprudence. A number of important legal institutions were developed by Islamic jurists during the classical period of Islamic law and jurisprudence, One such institution was the Hawala, an early informal value transfer system, which is mentioned in texts of Islamic jurisprudence as early as the 8th century. Hawala itself later influenced the development of the Aval in French civil law and the Avallo in Italian law. 14 Many social changes took place under Islam between 610 and 661.

2-6- England – The Common Law Tradition

The roots of legal rules in England go back to the customs and traditions that prevailed among tribes and local communities in the Middle Ages. With the Norman Conquest of 1066, the need arose to unify the judicial system. Kings began sending itinerant judges across the

[1]Abu Zahra, M. (1958). *History of Islamic* Schools of Thought in Politics, Doctrines, and Jurisprudence (pp. 41–55). Cairo: Dar al-Fikr al-'Arabi. p. 45

kingdom to settle disputes. These judges played a decisive role in shaping legal principles based on the cases before them, thereby laying the foundations of what came to be known as **the Common Law**.

The central feature of this system is that legal rules were not primarily derived from written texts but from **judicial precedents**. A judgment delivered in one case became binding in subsequent similar cases. This reliance on precedent gave English law a practical and evolutionary character, rooted in judicial experience rather than abstract codification.

The issuance of the **Magna Carta in 1215** marked a turning point by limiting royal authority and affirming that even the king was subject to the law. From this point onward, the idea of the **rule of law** began to take shape in England, eventually influencing modern Anglo-Saxon legal systems.[1]

2-7- France – The Civil Law Tradition

Unlike England, France was profoundly influenced by **Roman law**. During the Middle Ages, northern France was governed largely by local customs (Droit coutumier), whereas the south was more influenced by **written Roman law (**Droit écrit**)**. This duality created significant

[1] · Baker, J. H. (2019). *An Introduction to English Legal History*. Oxford University Press, pp. 12–45.
Hudson, J. (1996). *The Formation of the English Common Law*. Longman, pp. 25–60

regional differences, which later led the French monarchy to attempt unification through royal ordinances, particularly under Louis XIV.

Following the French Revolution of 1789, the demand for a unified legal system that reflected the new principles of liberty, equality, and the abolition of feudal privileges became pressing. This culminated in the promulgation of the **French Civil Code (Code Civil or Napoleonic Code) in 1804**, a milestone in the history of legal rules. The Code unified French law, making it written, clear, and binding, while establishing the supremacy of positive law over all authorities.Thanks to its clarity and systematic structure, the French Civil Code became a global model, influencing much of continental Europe, Latin America, and even parts of the Arab world. Thus, the emergence of legal rules in France reflected the transition from legal pluralism and fragmentation to unity and comprehensive codification.[1]

Throughout history, law evolved from unwritten customs to codified systems, from religious and moral foundations to rational and institutional frameworks, culminating in the comprehensive codification and legal unification that underpin modern legal systems.

[1] · Merryman, J. H., & Pérez-Perdomo, R. (2007). *The Civil Law Tradition: An Introduction to the Legal Systems of Europe and Latin America*. Stanford University Press, pp. 10–40. Bell, J. (1992). *French Legal Cultures*. Butterworths, pp. 50–85

Keywords of the Lesson

Law →القانون

Justice → العدالة

Order → النظام

Stability → الاستقرار

Customs → الأعراف

Codification → التدوين القانوني /التقنين

Mesopotamia → بلاد الرافدين

Code of Hammurabi → شريعة حمورابي

Contracts → العقود

Property → الملكية

Family law → قانون الأسرة

Criminal penalties → العقوبات الجنائية

Lex Talionis (eye for an eye) → مبدأ القصاص(العين بالعين)

Ancient Egypt → مصر الفرعونية

Maʿat (truth, order, cosmic balance) → مفهوم ماعت (الحق، النظام، التوازن الكوني)

Equity → العدالة الإنصافية

Fairness → الإنصاف

Natural justice → العدالة الطبيعية

Nomos (convention law) → ناموس (العرفي/القانون الوضعي)

Physis (universal principles) → فيزيس (المبادئ الكونية)

Roman law → القانون الروماني

Twelve Tables → الألواح الاثنا عشر

Corpus Juris Civilis → مجموعة القوانين المدنية (جستنيان)

Islamic law → الشريعة الإسلامية

[1]**Hawala** → الحوالة

Rightly Guided Caliphs → الخلفاء الراشدون

Common Law → القانون العام (الأنجلوسكسوني)

Judicial precedents → السوابق القضائية

Magna Carta → الميثاق الأعظم(1215)

Rule of law → سيادة القانون

French Civil Code (Napoleonic Code) → القانون المدني الفرنسي(قانون نابليون)

Royal ordinances → الأوامر الملكية

Liberty, equality → الحرية، المساواة

Feudal privileges → الامتيازات الإقطاعية

Positive law → القانون الوضعي

The second lecture online

Concept of Law

1- Introduction

This lecture introduces the fundamental concept of law as a core element of social organization. It explains the importance of law in regulating human behavior, maintaining social order, and achieving justice. The lecture also highlights the nature and characteristics of legal rules, emphasizing their binding force and the role of sanctions in ensuring compliance.

2- Overview

2-1- The Importance of Law in Society

Law is one of the fundamental pillars upon which human societies are built. It regulates relationships among individuals, governs their behavior, and defines their rights and obligations within a framework of justice and legality. Law is not merely a set of written rules imposed on people; rather, it is a comprehensive social system that reflects a society's values and contributes to its stability and development, law serves a dual function: on one hand, it regulates conduct through binding commands

issued by authority; on the other, it embodies principles of reason and justice, reflecting the ethical and human aspirations of the community [1] .

The importance of law also lies in its role in resolving disputes peacefully, ensuring legal security, and preventing chaos or the use of violence. Moreover, it serves as an effective tool for balancing individual freedoms with the public interest, by regulating the use of power and confining it within legal boundaries. This perspective is also emphasized in Arab legal thought, where law is defined as "a set of general and abstract rules that regulate individual behavior in society and are approved by public authority to ensure [2].

2-2- The Concept and Nature of Law

Law is a system that regulates human conduct and social relations through the organized application of force or socially sanctioned pressure. It encompasses not only legal rules but also the institutional structures responsible for interpreting and enforcing them.

Law is generally understood as the totality of legislation, judicial precedents, and established legal principles that form the binding foundation for judicial and administrative decisions. Jurists often distinguish between **positive law**, which is the law in force within a

[1] Pound, R. . Social Control Through Law. Harvard Law Review 1942 pp. 3–7.
[2] Al-Daoudi, Ghaleb Ali.Introduction to the Science of Law. Dar Wael for Publishing ;Amman:., 2015, p. 72.

particular state, and **ideal or natural law**, which expresses what law ought to be to achieve justice [1].

rules in law,″ the term denotes the body of norms that govern individual behavior within society. These rules are not only respected by the public authority but are also enforceable by it when necessary. This understanding captures the essential meaning of the term law as a system of regulation upheld by authority and aimed at maintaining social order [2].

2-3- Definition of Law

"Law is a set of rules governing individuals' conduct in society, imposed by the public authority to ensure compliance[3].

On the other hand the law is a legal rule is a norm of conduct enacted and sanctioned by public authority, binding upon all members of a given society[4] .

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[1] Black HC, Black's Law Dictionary 11th edn, Thomson Reuters 2019, pp. 1015–1017; Pound R, An Introduction to the Philosophy of Law (Yale University Press 1922, pp. 5–12

[2] Al-Daoudi introduction to the Science of Law(n2).p28.

[3] Al-Sanhouri, A.R. . The Medium in the Explanation of the Civil Law, Vol. 1, Dar Al-Nahda Al-Arabiya. cairo.1952 pp. 3–10.

[4] Cornu, Gérard. Vocabulaire juridique ,Legal Vocabulary, (11th ed.). Paris: Presses Universitaires de France (PUF)2020, **p. 947**

2-4- Characteristics of the Legal Rule

The legal rule is characterized by three main features, which are as follows:

2-4-1- Generality and Abstraction

The legal rule is **general** because it does not address a specific person by name; rather, it applies to all individuals who meet the conditions prescribed by law.

It is also **abstract**, as it does not deal with a particular or unique situation but rather sets a general pattern of behavior applicable to everyone who falls under its scope.

> **Example**: The rule "Whoever commits intentional murder shall be punished by death" applies to any individual who commits such a crime, without distinction[1] .

2-4-2 The Legal Rule as a Means of Regulating Social Relations

The legal rule is one of the most important means by which society regulates relationships among its members. It functions to control individual behavior in a way that balances private interests with collective welfare. Its binding force derives from the community's inherent need for

[1] Sultan, A.. Introduction to Law. Dar Al-Nahda Al-Arabiya, cairo;2015 p. 42.

order and justice, which makes it an organized social norm rather than a mere moral guideline. The legal rule thus expresses the will of society to achieve stability and reflects its core values of cooperation, equity, and justice[1].

2-4-3- The Mandatory Nature of Legal Rules

A legal rule is characterized by its **binding nature**, which obliges individuals to comply with its provisions. Unlike moral or religious norms that rely on personal conscience, the legal rule derives its authority from the **power of the state**, which enforces compliance to ensure social order and justice [2].

The legal rule is always **accompanied by a sanction**, which serves as the mechanism guaranteeing its enforcement. Sanctions may take several forms:

-Criminal sanctions, such as imprisonment or fines, in the case of criminal law.

-Civil sanctions, such as compensation or annulment, in private law.

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[1] Al-Badrawi, A. M.The Civil Law: The General Theory of Obligation: Manshat al-Maʿarif, Alexandria , 1971 **pp. 12–14.**

[2] Al-Sanhouri, A.R, The Civil Law: General Theory of Obligation (Dar al-Nahda al-ʿArabiyya, Cairo 1952 ;**pp. 11–13**.

-Administrative sanctions, such as disciplinary action or revocation of a decision, in public law.

These sanctions represent the state's practical means of compelling obedience and maintaining the rule of law [1].

-The Relationship Between Obligation and Sanction

Obligation and sanction are **inseparable elements** of the legal rule. Obligation establishes the duty to comply, while the sanction ensures the effectiveness of that duty. Without a sanction, a legal rule would lose its coercive force and become merely a moral guideline. Thus, the sanction functions as a **guarantee of legal compliance** and distinguishes legal rules from other social norms[2] .

3- Conclusion

In conclusion, law represents an essential framework for organizing society and regulating relationships among individuals. Through its general, abstract, and mandatory rules, law ensures stability, justice, and legal security. Understanding the concept, characteristics, and function of legal rules is crucial for comprehending how societies

[1] Morsi, M. K.Introduction to the Science of Law. 1964 : Dar al-Nahda al-ʿArabiyya,cairo, **pp. 19–20.**

[2] Al-Badrawi, A. M.The Civil Law: The General Theory of Obligation. : Manshat al-Maʿarif, Alexandria 1971 ;**pp. 16–18.**

maintain order and balance individual freedoms with the public interest.

Key Legal Terms

English Term	Arabic Equivalent	Short Definition (English)
Law	القانون	A system of binding rules created by public authority to regulate behavior in society.
Legal Rule	القاعدة القانونية	A general and abstract rule of conduct enforced by the state.
Legal System	النظام القانوني	The complete set of legal rules, institutions, and procedures in a state.
Justice	العدالة	The principle of fairness and equality in the application of law.
Public Authority	السلطة العامة	The official power of the state to enact and enforce laws.

Social Order	النظام الاجتماعي	A condition of stability ensured by legal and social rules.
Generality	العمومية	The application of legal rules to all persons without distinction.
Abstraction	التجريد	The quality of legal rules addressing general situations, not specific cases.
Binding Force	القوة الإلزامية	The compulsory nature of legal rules imposed by the state.
Sanction	الجزاء القانوني	A legal consequence applied to ensure compliance with the law.
Obligation	الالتزام	A legal duty imposed on individuals by law.

Positive Law	القانون الوضعي	The law actually in force within a specific state.
Natural Law	القانون الطبيعي	Principles of justice believed to be inherent in human nature.
Legislation	التشريع	Written laws enacted by a legislative authority.
Judiciary	السلطة القضائية	The branch of government responsible for interpreting and applying law.
Public Interest	المصلحة العامة	The welfare or benefit of society as a whole.

The third lecture online

The distinction between legal principles and other social rule

1- Introduction

In this section, we will explain and distinguish legal rules from other types of social rules, such as religious rules, moral rules, and customary or traditional rules, as follows:

2- Overview

2-1- Law and Religious Rules

Religion refers to the set of commands, prohibitions, and teachings established by Allah Almighty in the Holy Qur'an and by His Prophet Muhammad ﷺ in his Sunnah. All religious rules are binding upon believers who follow them out of a desire to earn Allah's pleasure, gain reward, and avoid punishment [1].

Religious rules and legal rules differ in terms of scope, source, and sanction.

2-1-1- In terms of scope:

Religious rules are broader in scope, as they govern the relationship between humans and their Creator, as well as relationships among individuals. Legal rules, on the other hand, regulate relations only among individuals within society [2].

2-1-2- In terms of source:

Religious rules are derived from divine revelation—the Qur'an and the Sunnah—whereas legal rules are man-made.

2-1-3-In terms of sanction:

Sanctions exist in both religious and legal rules, but their application differs. Legal sanctions are earthly and imposed by the state's authority, while religious sanctions may be earthly or otherworldly, and can take the

form of reward or punishment [3].

2-1-4-Points of convergence between law and religion:

Despite their differences, there are certain areas of overlap. In some countries, the legislator has drawn heavily from Islamic Sharia when formulating provisions related to inheritance, wills, guardianship, marriage, and divorce. Moreover, Sharia has been established as a supplementary legal source to which judges may refer in the absence of legislative text.

2-2-Law and Moral Rules

Morality refers to the set of principles that define the ideal standards of human conduct [4].

Moral rules encourage individuals to do good—such as being honest, helping others, and showing altruism—and to avoid wrongdoing. Both law and morality regulate human behavior, but the law focuses on outward actions, while morality concerns itself with inner intentions.

The purpose of morality is idealistic, seeking to elevate human behavior toward perfection, whereas the goal of law is practical, aiming to establish order in society.

Violating the law results in a material sanction imposed by public authority, while violating moral principles results in a moral sanction, such as remorse of conscience or social disapproval [5].

2-3- Law, Customs, Traditions, and Etiquette Rules

Customary and traditional rules existed long before the emergence of legal rules, and they continue to play an important role in regulating social behavior.

They include rules of courtesy—such as greeting others, offering condolences, expressing congratulations, and maintaining proper appearance and behavior—which people habitually observe in their daily interactions [6].

The main difference between customary or etiquette rules and legal rules lies in the nature of the sanction. The sanction for violating customs or etiquette is moral—manifested through social disapproval—whereas the legal sanction is material and enforced by public authority.
However, some customs and traditions may evolve into binding legal rules when society begins to view them as serving the public interest and when they are formally recognized by the state.

3- Conclusion

In conclusion, distinguishing legal rules from other social rules such as religious, moral, and customary rules is essential for understanding the unique role of law in society. While all these rules aim to regulate human behavior, legal rules are distinguished by their material sanctions enforced by public authority. This distinction highlights the practical function of law in maintaining social order, ensuring stability, and balancing individual interests with the public interest

References

1. 1. Mohammed Said Jaafour, Introduction to Legal Sciences: A Brief Study on the Theory of Law, 17th ed., Dar Houma Publishing, Algiers, 2009, p. 44.
2. 2. Mohammed Shoukri Sorour, The General Theory of Law, Dar Al-Nahda Al-Arabiya, Cairo, 2007, p. 51.
3. 3. Mohammed Said Jaafour, op. cit., p. 46.
4. 4. Mohammed Shoukri Sorour, op. cit., p. 43.
5. 5. Mohammed Shoukri Sorour, op. cit., p. 45.
6. 6. Hassan Kira, Principles of Law, 2nd ed., Dar Al-Maaref, Egypt, 1958, p. 36.

Legal Keywords

Keyword (English)	الترجمة إلى العربية	Definition (English)
Legal Rules	القواعد القانونية	A set of rules established by public authority to regulate behavior within society, enforced by material sanctions.
Religious Rules	القواعد الدينية	Commands and prohibitions derived from divine revelation that guide human behavior toward spiritual and moral fulfillment.
Moral Rules	القواعد الأخلاقية	Principles that define the ideal standards of human conduct, encouraging virtue and discouraging vice.
Customary Rules	القواعد العرفية	Rules that arise from long-standing social practices that people come to regard as obligatory.
Traditions	التقاليد	Inherited social practices and customs that reflect a community's culture and values.
Etiquette Rules	قواعد المجاملات / الآداب الاجتماعية	Social conventions governing polite behavior, such as greetings, condolences, and congratulations.
Source	المصدر	The origin or authority from which a rule derives its binding power, such as divine revelation or legislation.
Sanction	الجزاء	The consequence or penalty imposed for

		violating a rule, either material or moral.
Scope	النطاق	The field or relationships to which a rule applies, such as individual or social relations.
Sharia	الشريعة الإسلامية	The divine legal system regulating a Muslim's life, serving as a primary source of law in Islamic countries.
Conscience	الضمير	The internal moral sense that distinguishes right from wrong and motivates ethical behavior.
Public Authority	السلطة العامة	The official body empowered by the state to enact and enforce laws and sanctions.
Reward	الثواب	A positive outcome or benefit granted for compliance with moral or religious rules.
Punishment	العقاب	A negative consequence or penalty for disobeying legal, moral, or religious rules.
Social Disapproval	استهجان المجتمع / السخط الاجتماعي	A form of moral sanction expressed through social rejection or criticism of deviant behavior.

The fourth lecture online

The Relationship Between Law and Other Social Sciences

1- Introduction:

Law is a branch of the social sciences because it fundamentally aims to regulate relationships within society. Thus, it interacts with and is influenced by various social sciences such as sociology, history, economics, and political science.

2- Overview

2-1- Law and Sociology

Sociology provides law with an understanding of social structures and behaviors. By studying social phenomena, sociology helps explain human behavior, which the law then seeks to regulate to ensure societal balance. Social transformations often lead to changes in legal rules, as law adapts to new social realities.

2-2- Law and History

History contributes to understanding the legal system by examining its historical foundations and origins. It allows lawmakers to benefit from past experiences and avoid previous mistakes. Historical analysis also helps determine the effectiveness of certain legal reforms. For example, the development of human rights requires referring to historical milestones such as the French Declaration of 1789.

2-3- Law and Economics

Law and economics share a strong interdependence. Law regulates economic activity and provides the framework within which markets and institutions operate. Economic conditions often influence the evolution of legal rules. Furthermore, economic law itself is a legal branch that governs markets, financial institutions, monetary and fiscal policies, investment, and international trade.

2-4- Law and Political Science

Law and politics are closely intertwined. Law organizes political authority through constitutional rules, while political power influences the creation of laws. Law serves as the primary tool through which political authority performs its functions. The constitution regulates the work of political institutions, ensures the separation of powers, and defines rights and freedoms.

2-5- Law and Psychology

The relationship between law and psychology lies in their common focus on human behavior. Psychology helps law understand the motives, intentions, and mental states of individuals. It plays an important role in criminal law, especially in assessing criminal responsibility, intent, and the credibility of witnesses. Legal psychology also contributes to improving judicial decision-making by analyzing behavior of judges, lawyers, victims, and offenders.

3- Conclusion

In conclusion, law is deeply connected to the social sciences, as it seeks to regulate human behavior within society. Its interaction with disciplines such as sociology, history, economics, political science, and psychology enables a deeper understanding of social realities and human conduct. This interdisciplinary relationship strengthens the effectiveness of legal rules and helps ensure social stability, justice, and balance.

Legal Term (English)	Arabic Translation	Short Definition (English)
Law	القانون	A system of binding rules created by public authority to regulate social behavior.
Legal System	النظام القانوني	The body of laws, institutions, and procedures governing a state.
Social Sciences	العلوم الاجتماعية	Disciplines that study human society and social relationships.
Sociology	علم الاجتماع	The study of social behavior, institutions, and structures.
Economics	الاقتصاد	The study of production, distribution, and consumption of resources.
Political Science	العلوم السياسية	The study of political systems, authority, and governance.
Psychology	علم النفس	The science that studies human behavior and mental processes.
Legislation	التشريع	The process of enacting laws by a competent authority.

The fifth lecture online

Criteria for Distinguishing Between Public Law and Private Law

1- Introduction

This document provides an academic and literal translation of the text discussing the main criteria for distinguishing between public law and private law. It includes a structured analysis, an expanded glossary of key legal terms, exercises for application, and footnotes for enhanced academic value.

The division of law into public and private branches dates back to Roman law, where jurists distinguished between rules applicable to rulers and those applicable to the governed. The state was regarded as the holder of authority and sovereignty, always prioritizing the public interest over individual private interests. Following the fall of the Roman Empire, this distinction faded but later resurfaced in modern Latin jurisprudence, which continues to apply it today.

2- Overview

2-1- The Criterion of the Parties to the Legal Relationship

Supporters of this criterion assert that a legal rule belongs to public law when the state or one of its branches is a party to the legal relationship. However, if the parties are ordinary individuals, the rule falls under private law.

This criterion has been criticized because the state may sometimes enter relationships as a private person, such as in sales or leases, thereby lacking sovereign prerogatives. [1]

2-2- The Criterion of the Nature of Legal Rules

This approach differentiates public from private law based on the nature of

[1] Lutfi, M. H. M. (2003). *Introduction to the Study of Law in Light of Jurisprudential Opinions and Judicial Rulings: Theory of Law* (5th ed.). Cairo: Al-Nisr Al-Dhahabi Publishing House. p. 50.

legal rules. Rules of public law are mandatory and cannot be altered by agreement, while rules of private law are supplementary and may be contractually modified. Critics argue that private law also contains mandatory rules relating to public order and morality, such as those governing personal status and property rights. [2]

2-3- The Criterion of the Nature of Interest

This criterion classifies law based on the interest pursued. Public law aims to serve the public interest, while private law is directed toward safeguarding private interests. However, this distinction is challenged because all legal rules ultimately serve the public interest. Marriage, for instance, although governed by private law, fulfills societal interests by preserving and organizing the family unit. [3]

2-4- The Criterion of the Status of Persons Involved

Here, public law applies when the state acts in its sovereign capacity. Private law governs relations among individuals or between individuals and the state when it acts as a private person. This is considered one of the most logical criteria since it frames public law as a system of authority and subordination, while private law embodies equality. [4]

3- Conclusion:

In conclusion, distinguishing between public law and private law is essential for understanding the structure of legal systems and the nature of legal relationships. The various criteria developed by jurists—such as the parties involved, the nature of rules, the interest protected, and the status of persons—highlight the different roles played by the state and individuals. Despite the criticisms directed at each criterion, their combined application provides a clearer and more balanced understanding of the distinction between public and private law.

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[2] Jaafour, Mohamed Saïd. *Introduction to Legal Sciences: A Concise Study in the Theory of Law*, 17th Edition, Dar Houma Publishing, Algiers, 2009, p. 72

[3] Jaafour, Mohamed Saïd, *previous reference*, p. 72

[4] Mohamed Hossam Mahmoud Lotfi, *previous reference*, p. 53.

Key Legal Terms

English Term	Arabic Translation	Definition (EN)
Public Law	القانون العام	Law governing the structure of the state and its sovereign functions.
Private Law	القانون الخاص	Law regulating relations among individuals.
Legal Rule	القاعدة القانونية	A binding and enforceable norm.
Sovereignty	السيادة	The state's supreme and independent authority.
Public Interest	المصلحة العامة	Collective welfare pursued by the state.
Private Interest	المصلحة الخاصة	Individual benefits protected by law.
Mandatory Rules	القواعد الآمرة	Rules that cannot be overridden by agreement.
Supplementary Rules	القواعد المكملة	Rules modifiable by agreement.
Legal Relationship	العلاقة القانونية	A legally regulated interaction between parties.

Public Order	النظام العام	Fundamental societal principles protecting stability.
Moral Standards	الآداب العامة	Ethical norms imposed by society.
Authority	السلطة	Power to create and enforce legal obligations.
Jurisdiction	الاختصاص	The legal authority to adjudicate disputes.
Civil Obligations	الالتزامات المدنية	Duties arising under private law.
Public Officials	الموظفون العموميون	Individuals exercising public authority.

The sixth lecture online

Branches of Public Law

1- Introduction

Law is considered one of the most important instruments used by the State to regulate relations within society, whether those in which the State participates as a party exercising authority and sovereignty, or those that arise between individuals themselves. From this perspective emerged the traditional division of law into public law and private law, based on the nature of the legal relationship and the status of its parties.

It has become clear that public law encompasses the rules governing the activities of the State both internally and externally, Given the importance of this distinction, numerous legal branches have developed within each category to regulate and structure legal relationships in a way that preserves rights and ensures the stability of transactions.

2- Overview

2-1 Definition of Public Law

Public law is defined as the body of legal rules that regulates relations in which the State or one of its organs appears as a party exercising authority and sovereignty. However, the State may also enter legal relations with other States, in which case the rules governing these relations constitute external public law, also known as Public International Law. When the State remains within its territory and interacts with its citizens, the governing rules form internal public law. (Suleiman Markus & Habib Ibrahim Al-Khalili, p.71)

2-2- Branches of public law

There are two principal Branches of law and each branches has several branches as flow:

2-2-1 Public International Law

Public international law is the set of legal rules regulating the relations of the State with other subjects of the international community in times of peace or war. It consists of two main parts: the law of peace, which defines international persons, conditions of statehood, sovereign rights, diplomatic

and consular representation, treaties, and peaceful dispute settlement; and the law of war, which governs the initiation, conduct, and termination of war. (Suleiman Markus & Habib Ibrahim Al-Khalili, p.71)

2-2-2 Internal Public Law

Internal public law comprises the legal rules connected with the internal sovereignty of the State, excluding its external sovereignty. It includes constitutional law, administrative law, financial law, and criminal law. (Hassan Kira, p.84)

2-2-2 -1Constitutional Law

Constitutional law represents the top of the hierarchy of internal public law. It determines the system of government, distribution of powers, competences of each authority, mutual control, and fundamental rights such as equality, personal liberty, property, opinion, religion, and social freedoms. (Hassan Kira, p.84)

2-2-2 -2Administrative Law

Administrative law consists of legal rules regulating the activity of the executive authority to ensure respect for individual rights and proper functioning of public administration. Courts exercise oversight to annul, suspend, or compensate for unlawful administrative acts. (Hassan Kira, p.84)

2-2-2 -3Financial Law

Financial law comprises the rules governing the State’s financial system, including resources, taxation, expenditures, and the budget. (Mohamed Hossam Mahmoud Lotfi, p.59)

2-2-2 -4Criminal Law

Criminal law defines crimes and their corresponding penalties, as well as procedures for arrest, investigation, trial, and execution of penalties. Substantive criminal law regulates the elements of crimes and penalties, while criminal procedure regulates the steps from the occurrence of crime to the enforcement of punishment. (Tawfiq Hussein Faraj, p.75)

3- Conclusion

In conclusion, public law constitutes a fundamental branch of the legal system, as it governs the organization and functioning of the State and regulates its relations with individuals and other States. Through its various branches—constitutional law, administrative law, financial law, criminal law, and public international law—public law ensures the exercise of authority within a legal framework that protects rights, preserves public order, and maintains social stability. Understanding public law is therefore essential for comprehending how State sovereignty is exercised and how legal systems balance authority with the protection of individual freedoms

Key Legal Terms

Term (EN)	Arabic Translation	Definition (EN)
Public Law	القانون العام	Rules governing relations where the State exercises authority and sovereignty.
Private Law	القانون الخاص	Rules regulating relations among individuals without sovereign power.
Constitutional Law	القانون الدستوري	Defines the system of government, distribution of powers, and fundamental rights.
Administrative Law	القانون الإداري	Regulates executive authority activities and public administration functions.
Financial Law	القانون المالي	Governs State revenues, expenditures, taxation, and the national budget.
Criminal Law	القانون الجنائي	Defines crimes, penalties, and procedures for criminal prosecution.
Substantive Criminal Law	القانون الجنائي الموضوعي	Regulates elements of crimes and corresponding penalties.
Criminal Procedure	قانون الإجراءات الجزائية	Regulates procedures from crime occurrence to execution of penalties.

Public International Law	القانون الدولي العام	Regulates relations between states in peace and war.
Law of Peace	قانون السلم	Part of international law regulating peaceful relations among states.
Law of War	قانون الحرب	Rules governing initiation and conduct of armed conflict.
Internal Sovereignty	السيادة الداخلية	Authority of the State over its territory and population.
External Sovereignty	السيادة الخارجية	Independence of the State in its relations with other states.

The seventh lecture online
Branches of Private Law

1- Introduction

private law regulates legal relations among individuals, or between individuals and the State when the latter appears merely as an ordinary legal person without exercising the privileges of public authority.

Private law regulates relations in which the State is not a sovereign party but acts as an ordinary person. It includes civil law, commercial law, maritime law, air law, labour law, and private international law. (Suleiman Markus & Habib Ibrahim Al-Khalili, p.100)

2- Overview

2-1- Branches of Private Law

There are many branches of private law such as:

2-1-1 Civil Law

Civil law is the general law applicable to relations among individuals. It covers personal status (family relations) and financial relations (property and obligations). (Suleiman Markus & Habib Ibrahim Al-Khalili, p.100)

2-1-2Commercial Law

Commercial law governs commercial activities, merchant status and obligations, commercial companies, commercial contracts, brokerage, transport, commercial papers, and bankruptcy. (Tawfiq Hussein Faraj, p.80)

2-1-3Maritime Law

Maritime law regulates navigation, ships, maritime contracts, marine insurance, the relationship between shipowner and captain, maritime transport, and maritime loans. (General Doctrine)

2-1-4Air Law

Air law governs all matters related to aircraft, including registration, nationality, liability for passengers and goods, and damages caused by falling aircraft. (Mohamed Hossam Mahmoud Lotfi, p.70)

2-1-5Labour Law

Labour law regulates relations between workers and employers, ensuring worker protection as the weaker party. It covers employment contracts, trade unions, dispute settlement, working hours, and rules for women and children. (Tawfiq Hussein Faraj, p.83)

2-1-6Private International Law

Private international law determines the applicable law and jurisdiction in foreign-related legal relations and regulates nationality and the status of foreigners. (Mohamed Hossam Mahmoud Lotfi, p.75)

Conclusion

In conclusion, private law plays a vital role in regulating legal relations among individuals and between individuals and the State when it acts without sovereign authority. Through its various branches, private law ensures legal certainty, protects individual rights, and promotes fairness in personal, economic, and professional relations. Understanding private law is essential for maintaining balance and justice within society.

References

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3. Mohamed Hossam Mahmoud Lotfi, Al-Madkhal li Dirasat al-Qanun, 5th Ed., Cairo, 2003, pp. 55, 59, 70, 75.
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Legal keys

Legal Term (English)	Arabic Translation	Definition (English)
Private Law	القانون الخاص	A branch of law regulating legal relations among individuals or between individuals and the State acting as a private person.
Civil Law	القانون المدني	The general branch of private law governing personal status, property, and obligations.
Commercial Law	القانون التجاري	A branch of private law regulating commercial activities, merchants, and commercial transactions.
Maritime Law	القانون البحري	Legal rules governing navigation, ships, maritime contracts, and marine insurance.
Air Law	القانون الجوي	Rules regulating aircraft operations, registration, liability, and air transport.
Labour Law	قانون العمل	A branch of law regulating relations between workers and employers and protecting workers as the weaker party.
Private International Law	القانون الدولي الخاص	Rules determining applicable law and jurisdiction in legal relations involving a foreign element.
Personal Status	الأحوال الشخصية	Legal rules governing family relations such as

		marriage, divorce, and inheritance.
Real Rights	الحقوق العينية	Rights that give a person direct authority over a thing, such as ownership.
Obligations	الالتزامات	Legal duties requiring a person to give, do, or refrain from doing something.
Bankruptcy	الإفلاس	A legal procedure applied when a merchant is unable to pay debts.
Commercial Companies	الشركات التجارية	Legal entities formed to conduct commercial activities for profit.
Commercial Papers	الأوراق التجارية	Negotiable instruments used in commercial transactions, such as bills of exchange.
Legal Personality	الشخصية القانونية	The capacity to acquire rights and assume obligations.
Arbitration	التحكيم	A method of dispute resolution outside courts based on agreement of parties.
Nationality	الجنسية	The legal bond between an individual and a State.
Foreigners' Status	مركز الأجانب	Legal rules governing rights and obligations of non-nationals within a State.

The eighth lecture
Imperative Rules and Supplementary Rules

1- Intoduction

Legal rules are divided into two main categories: imperative rules and supplementary (or interpretative) rules. The will of individuals has authority in one category but not in the other.

2- Overview

2-1- Imperative Rules

Imperative rules are legal provisions that individuals may not violate, whether the rule commands an act or prohibits it. Example: Article 40 of the Algerian Civil Code states that every person who reaches the age of majority (19 years), is of sound mind, and is not under guardianship is fully competent to exercise civil rights. Such rules cannot be overridden by agreement. A rule prohibiting murder or theft is also imperative. Even the rule that a male inherits the share of two females is imperative, but heirs may agree to divide equally. (Hassan Kira, Usul al-Qanun, 2nd Ed., p.48)

2-2- Supplementary or Interpretative Rules

Supplementary rules are legal rules that individuals may agree to override. They apply only when the parties do not specify alternative terms. Example: the rule that the price is paid upon delivery is supplementary. If parties agree otherwise, their agreement prevails. (Tawfiq Hussein Faraj, Al-Madkhal ila al-Ulum al-Qanuniyya, p.180)

Are Supplementary Rules Binding?

All legal rules are binding, whether imperative or supplementary. The difference lies in whether deviation is permitted.

2-3- Criteria for Distinguishing Between Imperative and Supplementary Rules

Two criteria exist: a formal/linguistic criterion and a substantive/material criterion.

2-3-1- The Formal Criterion

This criterion examines the wording of the rule. If it includes strict commands, prohibitions, or sanctions, it is imperative. Example: Article 418(1) of the Algerian Civil Code requires partnership contracts to be in writing; otherwise they are void. Phrases like 'unless otherwise agreed' indicate supplementary rules.

2-3-2-The Substantive Criterion

This examines the purpose of the rule. If it concerns essential societal interests, it is imperative. If it concerns private matters, it is supplementary. Understanding this requires reference to public order and public morals.

2-3-2-1- Public Order

Public order concerns essential societal interests—political, social, and economic—that may not be violated. Rules of personal status often relate to public order. (Mohamed Lotfi, Al-Madkhal li Dirasat al-Qanun, p.82)

2-3-2-2- Public Morals

Public morals refer to essential ethical foundations necessary for societal preservation. They vary with time and place. Rules related to public order and public morals are always imperative. (Hassan Kira, Usul al-Qanun, p.70)

3- Conclusion

In conclusion, the distinction between imperative rules and supplementary rules reflects the balance between public interest and individual autonomy in legal regulation. Imperative rules protect public order and public morals and therefore cannot be derogated from, while supplementary rules allow individuals to organize their private relations according to their will. Understanding this distinction is essential for correctly applying legal rules and ensuring legal certainty.

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2. Tawfiq Hussein Faraj, Al-Madkhal ila al-Ulum al-Qanuniyya, Dar al-Fikr al-Arabi, Alexandria, 1970, p.180.

3. Mohamed Hossam Mahmoud Lotfi, Al-Madkhal li Dirasat al-Qanun, 5th Edition, Cairo, 2003, p.82.

4. Algerian Civil Code, Articles 40 and 418.

Key Legal Terms

Legal Term (English)	Arabic Translation	Definition (English)
Imperative Rules	القواعد الآمرة	Legal rules that must be respected and cannot be modified by agreement.
Supplementary Rules	القواعد المكملة	Rules that apply only in the absence of an agreement between parties.
Public Order	النظام العام	Fundamental political, social, and economic principles essential to society.
Public Morals	الآداب العامة	Moral values necessary for preserving social ethics and cohesion.
Legal Capacity	الأهلية القانونية	The ability of a person to acquire rights and assume obligations.
Mandatory Provisions	النصوص الملزمة	Legal provisions that impose compulsory obligations.
Default Provisions	النصوص المكمّلة	Provisions applied when parties do not agree otherwise.
Civil Code	القانون المدني	A codified body of rules governing private legal relations.
Public Interest	المصلحة العامة	The collective welfare

		protected by imperative legal rules.
Private Interest	المصلحة الخاصة	Individual benefits protected mainly by supplementary rules.