Classifications of Law Lecture Notes

COMMON V. CIVIL LAW

- most of the former British Empire (Commonwealth & USA) use some form of common law
  - a body of law created by previous court decisions
- the guiding principle of common law is “stare decisis” (rule of precedent)
  - courts should follow the reasoning of previously decided cases with similar facts
  - creates predictability and uniformity
- the law must also be held in the open public and judges must give reasons for their decisions
  - “ratio decidendi” (reason for deciding)

- in Quebec they use a form of French Civil Law
  - derived from the Napoleonic Code
- relies more on a written code of law than precedent

PROCEDURAL V. SUBSTANTIVE LAW

- law may be further classified by its purpose

- procedural laws set out the rules of legal conduct
  - courts, licensing, police procedures
- we won’t be dealing too much with procedural law

- substantive laws define rights and obligations that people must follow
- consists of statute and case law
  - statute law is made of bills, laws and regulations passed by Parliament, or Orders-in-Council passed by the Cabinet
    - i.e. the Education Act of Ontario
  - case law are those laws upheld in court cases
    - i.e. assault, murder, extortion, etc…

- substantive law is further broken down into public and private/civil law

PUBLIC LAW

- public law defines the interaction between the state and the individual
  - administrative, constitutional, criminal, environmental, tax, aboriginal

- administrative law deals with government agencies and powers
  - i.e. eligibility for welfare benefits, WSIB
-constitutional law is the highest law in the land
  - sets out how the country is to be governed
  - distribution of power between the provinces and Ottawa
- made up of many laws and statutes
  - English Bill of Rights, 1689
  - BNA Act, 1867
  - Canadian Bill of Rights, 1960
  - Canada Act, 1982

-criminal law deals with people breaking the rules of society
  - prohibition, punishment, deterrence
  - i.e. murder

-environmental law deals with human interaction with the environment
  - i.e. pollution regulations

-tax law deals with levels of taxation
  - i.e. the HST

-aboriginal law deals with native treaties and rights
  - i.e. sentencing circles, reserves

PRIVATE LAW

-private/civil law defines the interactions between individuals
  - different than French Civil Law
  - commercial, contract, labour, family, tort, property, wills & estates

-commercial law deals with business regulations
  - i.e. hiring practices

-contract law applies to enforcing written or verbal contracts
  - i.e. a lease on an apartment

-labour law deals with employee-employer relationships
  - i.e. discrimination

-family law deals primarily with marriage, divorce and child custody

-tort law deals with wrongs and damages
  - i.e. suing someone for harm or financial damage

-property law deals with property ownership
  - i.e. copyright law
-wills and estates law deals with how a person’s property is distributed after death

DOMESTIC V. INTERNATIONAL LAW

-the final classification is domestic v. international law

-domestic laws apply only within one country
  -the laws of Canada or Russia, Italy, Algeria, etc…

-international laws are regulations that have been agreed to by various nations
  -cannot be forced upon them
  -extradition treaties, trade agreements, war crimes

-most international laws put forth by the UN have been signed by all countries
  -not the International Criminal Court (USA)

CASE CITATIONS


R - This is Latin for Rex or Regina (king or queen). R therefore refers to the Crown, Or more specifically the state.

v. - This is short for the Latin term “versus” meaning “against”. In Canada, when reading the case name, the “v” is read as “and”.

Smith - This is the last name of the defendant in this case.

(2007) - The year the court reached a decision on the case.

S.C.C. - the court in which the case is heard. In this case the court is the Supreme Court of Canada, and the case is not a trial of first instance, but an appeal of a previous decision.

141 - The volume number of the report in which the case is mentioned.

S.C.R. - The report series in which this case is found. In this case it is in “Supreme Court Reports.”

(2d) - The edition of the report in which this case is found.

99 - The page number of the report on which this case is found.

Hughes – This is the surname of the plaintiff in the case.

v. - Latin for “versus” or “against”
In Canada, when reading the case name, the “v” is read as “and”.

Rich – This is the surname of the defendant.

(2006) - The year the court reached a decision in the case.

B.C.S.C. – the court in which the case is heard. In this case the court is the Supreme Court of British Columbia. As this court is not an appeal court, the citation is referring to the first time the case is tried.

15 - The volume number of the report where the case is listed.

B.C.S.C.R. - The title of the report in which the case is listed. This case is listed in the “British Columbia Supreme Court Reports.”

(2d) - Volume number of the report in which the case is listed.

49 - Page number of the report where the case is found.