Topic Page: civil law

Summary Article: **civil law**
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as used in this article, a modern legal system based upon Roman law, as distinguished from common law. Civil law is based on written legal codes, a hallmark of the Roman legal system, in which disputes were settled by reference to a written legal code arrived at through legislation, edicts, and the like; common law is based on the precedents created by judicial decisions over time. The tendency in civil law is to create a unified legal system by working out with maximum precision the conclusions to be drawn from basic principles. The civil law judge is bound by the provisions of the written law. The traditional civil law decision states the applicable provision from the code or from a relevant statute, and the judgment is based upon that provision.

With a few exceptions, the countries on the continent of Europe, the countries that were former colonies of such continental powers (e.g., the Latin American countries), and other countries that have recently adopted Western legal systems (e.g., Japan) follow civil law. It is also the foundation for the law of Quebec prov. and of Louisiana. Modern countries that do not adhere to the civil law (this includes Great Britain and all the United States except Louisiana) for the most part were colonized by England and apply the system of common law prevailing there.

In general usage, civil law also means the rules that govern private legal affairs; in this sense it contrasts with criminal law and, to a lesser degree, public law.

History

The law that had been in force throughout the Roman Empire when it controlled most of Europe and the Middle East was to some extent supplanted by Germanic laws when Germanic tribes carried out their great conquests. The principle of personal (as opposed to territorial) law was observed by the invaders, however, and thus the former Roman subjects and their descendants were permitted to follow the Roman law (*leges romanorum*) in their affairs with one another. The great Corpus Juris Civilis of Justinian, compiled in the 6th cent. A.D. and in use in the Byzantine Empire, served also to keep the old law alive. The medieval church, too, was an important guardian of Roman law, for much of the law used by the church was based upon Roman principles and concepts. Germanic law, although at first adequate, did not have legal concepts that suited the commercial requirements of the late Middle Ages, and there was then heavy borrowing of Roman ideas.

As part of a concurrent revival of interest in classical culture, the late 11th and the 12th cent. saw the resumption of systematic study of Roman law, chiefly in N Italy (notably at Bologna, where Irnerius gave the first lectures in Roman law), in S France, and in Spain. Extensive glosses and commentaries on the *Corpus Juris Civilis* and on other classical texts were produced. Through the agency of scholars and of judges trained in Roman law principles, these principles (though strongly modified) came to be observed in national courts in all classes of legal disputes, although for a long time courts of local jurisdiction continued to enforce customary law. Scholars of Roman law enjoyed increasing prestige; by 1500 the *Corpus Juris Civilis* had become the basis of legal science throughout Western Europe. The next step, emulating the systematizing of Justinian, was to state these principles in exact, ordered form, i.e., as a code. The Code Napoléon (1804), the most famous of such works, had many successors.

In England there was some interest in Roman law during the Renaissance; there, however, the early centralization of the legal system and the existence of an independent class of lawyers with an interest in the law as administered in the courts ensured the triumph of the common law. Nevertheless, civil law influenced the common law in the fields of admiralty law, testamentary law, and domestic relations, and civil law became part of the basis for the system of equity.

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