

Common and Civil Law



Law and Economics-Charles W. Upton

Common Law

- The Common Law is the basis of law in
 - Great Britain (UK and Ireland)
 - US (except Louisiana)
 - Canada (except Quebec)
 - Australia and New Zealand
 - Many Former British Colonies



Common and Civil Law

Civil Law

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Civil Law

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 - The *Code Napoleon*, drafted in France in 1804, repealed common law and put the code into effect.
 - It is based on the old Roman Civil Law, which dates back to the time of the Roman Empire.



Common and Civil Law

Civil Law

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Civil Law

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- In Civil Law countries, the argument is on the statues themselves: that is, what is the meaning of the words themselves? **The Oxford English Dictionary (OED) and the French Academy.**



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The Adversarial Process

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- In this country, the judges find the law and the juries find the facts (subject to the right of both parties to waive the right to a trial by jury). **The UK has abolished the right to trial by jury in most civil trials.**
- Civil law countries generally do away with juries altogether.



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Is the Gap Narrowing?

- Yes
 - The Uniform Commercial Code and
 - Various restatement of Contract and Tort codes.
- But we still have an important tradition of judge-made law.



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End

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