Second Lecture: Branches of Law (Classification of Law)

Introduction

Opening & Review:

Good morning everyone!! Welcome back!

We'll discuss some of them briefly in a moment.

But first, let me ask you: **what did we study last time**?

We studied ***Sources of Law***:

- The hierarchy: Constitution → Treaties → Laws → Regulations
- Primary sources (Constitution, legislation, Sharia)
- Secondary sources (custom, precedent, doctrine)

Quick question to test your memory:

"If a presidential decree contradicts a law passed by Parliament, which one applies?"

Good! The **law** applies, because it's higher in the hierarchy.

Connection to Today's Topic:

Now, last time we learned **WHERE law comes from** - the sources.

Today, we will learn **HOW law is organized** - the classification.

Think of it like a library:

- Last time: We learned where books come from (publishers, authors)
- Today: We learn how books are organized (sections, categories, shelves)

This organization helps us:

-Find the right law for each situation

-Understand relationships between different legal areas

-Know which court has jurisdiction

-Become better lawyers

By the end of today's lecture, you should be able to:

1. **Distinguish** between Public Law and Private Law
2. **Explain** the difference between Substantive and Procedural Law
3. **Identify** specialized branches: Labour Law, Environmental Law, Contract Law
4. **Classify** real-life legal situations into correct branches
5. **Understand** why classification matters in practice

The Big Picture:

Imagine you're a lawyer. A client comes with a problem.

Your **first questions** should be:

1. What **source** of law applies? (Last week's topic)

2. What **branch** of law is this? (Today's topic)

3. What **court** has jurisdiction? (Depends on the branch)

4. What **procedure** should we follow? (Depends on the branch)

So classification is **practical**, not just theoretical.

Part One: *Public Law vs Private Law* /القانون العام والقانون الخاص

This is the most **fundamental classification** in law.

Let me start with a simple question:

"What's the difference between you signing a contract to buy a phone, and the police arresting someone for theft?"

Think before you read the answer, please…

The difference is:

- Buying phone = **Private Law** (two individuals, equal relationship)
- Police arrest = **Public Law** (state using its power/authority)

Let me explain properly:

1. Public Law /القانون العام

Definition:

"*Public Law governs relationships where the state acts as a sovereign authority, and relationships between different organs of the state.*"

Key words: State, authority, power, public interest

Characteristics of Public Law:

Let me give you 4 main characteristics:

A) State is a Party:

*The state (or state organ) is always involved

*Government, ministry, municipality, public institution

B) Inequality of Parties:

*State has **superior position** (puissance publique)

*Citizen/individual has inferior position

*Not a relationship between equals

*State can impose its will

Example:

-Tax authority can take money from your salary

-You cannot refuse to pay taxes

-This is not negotiable

C) Protection of Public Interest:

*Goal is collective good, not individual profit

*Protects society as a whole

Example: public health, security, education

D) Mandatory Rules:

*Rules are imperative (آمرة)

*Parties cannot change or negotiate them

*No freedom of contract

Example: You cannot negotiate criminal penalties

Main Branches of Public Law:

Let me explain the main areas:

A) Constitutional Law   القانون الدستوري/

What is it?

-Organization of state power

-Structure of government (President, Parliament, Government)

-Fundamental rights and freedoms

-Relations between state organs

Source: Primarily the **Constitution 2020**

Examples:

-How is the President elected?

-What powers does Parliament have?

-What are citizens' fundamental rights?

-Can Parliament dissolve itself?

Why it matters:

*Supreme law

*All other laws must conform to it

*Protects against abuse of power

B) Administrative Law /القانون الاداري

What is it?

-Organization and functioning of public administration

-Relations between administration and citizens

-Public services

-Administrative contracts

Key concepts:

*Public authorities (ministries, municipalities, public institutions)

*Administrative acts (decisions, orders)

*Administrative contracts (different from private contracts)

*Judicial review of administrative actions

Examples:

-Getting a building permit

-Challenging university decision to expel student

-Civil servant employment

-Expropriation for public utility

-Public procurement contracts

Special feature:

- ✓ Special courts: **Administrative Courts** (المحاكم الإدارية)
- ✓ Different rules than private law

Example: Administration can terminate contract unilaterally for public interest

Real Example from Algeria:

You apply for business license. Municipality refuses without good reason.

→ You can challenge in **Administrative Court**

→ This is administrative law matter

C) Criminal Law / القانون الجنائي

What is it?

-Defines crimes / جرائم

-Sets punishments /عقوبات

-Protects public order and security

-Prosecutes and punishes offenders

Key concepts:

- Crime = violation of society's rules (not just victim's rights)
- State prosecutes (not victim)

- Punishment = prison, fine, death penalty (in some countries)

Source: Criminal Code قانون العقوبات+ special criminal laws

Examples:

-Murder, theft, fraud, assault

-Drug trafficking

-Corruption

-Driving offenses

Why it's public law:

- ✓ State prosecutes (Public Prosecutor - النيابةالعامة)
- ✓ Victim cannot "forgive" and stop prosecution (generally)
- ✓ Protects entire society, not just individual
- ✓ Cannot negotiate penalties

Structure:

*General Part: Principles (attempt, participation, responsibility, penalties)

*Special Part: Specific crimes (theft Article 350, murder Article 254, etc.)

Real Example:

Ahmed steals Fatima's car.

→ **Criminal case**: State prosecutes Ahmed (public law)

→ **Civil case:** Fatima sues Ahmed for damages (private law)

→ Two separate cases, same facts!

D) Financial Law / القانون المالي

What is it?

-Public budget (state revenues and expenditures)

-Taxation

-Public accounting

-Financial control

Key concepts:

- Finance Law (loi de finances) - annual budget
- Taxes: income tax, VAT, customs
- Public expenditure
- Court of Accounts (مجلس المحاسبة)

Examples:

-Annual state budget

-Income tax obligations

-VAT collection

-Government spending on projects

Why it's public law:

- ✓ State collects taxes by authority (not by agreement)
- ✓ Mandatory - cannot refuse to pay
- ✓ Protects public treasury

Summary - Public Law Branches:

PUBLIC LAW(

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│
├── Constitutional Law (structure of state)
├── Administrative Law (administration vs citizens)
├── Criminal Law (crimes and punishments)
└── Financial Law (budget and taxes)
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2. Private Law (القانون الخاص /

Now let's look at the other side:

Definition:

"*Private Law governs relationships between individuals (natural or legal persons) who are on equal footing.*"

Key words: Individuals, equality, private interests, freedom

Characteristics of Private Law:

A) Private Parties:

*Between individuals, companies, associations

*No state as authority (though state can be party as ordinary person)

B) Equality of Parties:

*Parties are on **equal footing**

*No superior/inferior relationship

*Horizontal relationship (not vertical like public law)

C) Protection of Private Interests:

*Goal is individual rights and interests

*Not public interest (though some private law has public policy elements)

D) Freedom of Contract:

*Parties can negotiate

*Can agree on terms

Principle: **autonomy of will**   (سلطان الارادة)

Example: You can negotiate price, payment terms, delivery date

> ***But note:*** Not absolute freedom - must respect:
>   ✓ Public order النظام العام
>   ✓ Good morals الآداب العامة
>   ✓ Mandatory legal provisions

Main Branches of Private Law:

A) Civil Law(/ القانون المدني)

What is it?

-The "common law" of private relationships

-General rules for persons, property, obligations, contracts

-Applies when no special law exists

Source: **Civil Code** - Ordinance 75-58 (modified)

Content - Four Books:

Book 1: Persons الأشخاص /

- Natural persons: birth, capacity, death
- Legal persons: companies, associations
- Domicile

Book 2: Property الأموال/

- Classification of property
- Ownership rights
- Possession
- Real rights (حقوق عينية)

Book 3: Obligations (الالتزامات)

- Sources: contracts, torts, unjust enrichment, law
- Formation of contracts (offer, acceptance)
- Effects of contracts
- Breach and remedies
- Liability for damages

Book 4: Evidence (الاثبات)

- Methods of proof
- Written evidence, witnesses, presumptions
- Burden of proof

Examples:

*Sales contract (Articles 351-382)

*Lease contract (Articles 467-507)

*Loan contract

*Tort liability (Articles 124-140)

*Property ownership disputes

B) Commercial Law القانونالتجاري/

What is it?

-Special law for merchants and commercial activities

-Faster, more flexible than civil law

-Adapts to business needs

Source: Commercial Code + special laws (companies, bankruptcy, etc.)

Key concepts:

-Merchant (تاجر) –Article 1: professional commercial activities

-Commercial acts (أعمال تجارية)Article 2

-Commercial contracts (faster formation, commercial customs)

-Commercial courts (tribunaux de commerce)

Examples:

*Sale between merchants

*Company formation (SARL, SPA)

*Commercial lease (bail commercial)

*Bills of exchange, checks

*Bankruptcy

Difference from Civil Law:

> ➢ More flexible
> ➢ Faster procedures
> ➢ Commercial customs important
> ➢ Special courts
> ➢ Different evidence rules (invoice accepted as proof)

C) Family Law / قانون الاسرة

What is it?

-Regulates family relationships

-Personal status matters

-Based on Islamic Sharia (Article 222 Constitution)

Source: Family Code - Law 84-11 (modified 2005)

Content:

> ➢ **Marriage**: conditions, contract, rights/duties of spouses
> ➢ **Divorce:** types (talaq, khul', judicial divorce)

Filiation: parent-child relationships

- ➢ **Custody**: who raises children after divorce
- ➢ **Maintenance**: financial support obligations
- ➢ **Inheritance**: Islamic rules for distribution
- ➢ **Wills**: limits (max 1/3 of estate)
- ➢ **Gifts:** rules and conditions

Examples:

*Marriage contract

*Divorce proceedings

*Child custody dispute

*Inheritance shares calculation

*Maintenance payments

Special courts: Family Courts (sections in civil courts)

D) Labour Law / قانون العمل   ''HYBRID''

Important note: Labour law is special - it has characteristics of BOTH public and private law!

What is it?

-Regulates employment relationships

-Employer-employee relations

-Working conditions, rights, social security

Source:

Labour Law 90-11 (relations de travail)

*Social security laws

*Collective agreements

Why it's considered Private Law:

-Employment contract is between private parties (usually)

-Individual negotiations possible

-Employer-employee equality (formally)

But has Public Law elements:

*Strong state intervention

*Mandatory rules protecting workers

*Labour inspectors (state agents)

*Cannot negotiate below legal minimum

*Social objectives (not just private interests)

Content:

-Employment contract: formation, types (CDI/CDD), termination

-Working hours: 40 hours/week (Article 19)

-Paid leave: 30 days/year minimum

-Minimum wage (SNMG)

-Occupational safety

-Trade unions

-Strikes (regulated)

-Labour disputes

Examples:

- Hiring employee
- Dismissal (must have legitimate cause)
- Workplace accident
- Unpaid wages claim
- Collective bargaining

Special bodies:

- ✓ Labour Inspectorate (مفتشية العمل)
- ✓ Social security funds (CNAS)
- ✓ Labour courts (sections in civil courts)

Summary - Private Law Branches:

PRIVATE LAW

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|
├── Civil Law (general private law)
├── Commercial Law (merchants & business)
├── Family Law (personal status)
└── Labour Law (hybrid - employment)
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3. Quick Comparison Table:

Let me draw this on the board:

Feature	Public Law	Private Law
Parties	State vs Individuals	Individuals vs Individuals
Relationship	Inequality (Vertical)	Equality (horizontal)
Interest	Public /Collective	Private/ Individuals
Rules	Mandatory (Imperative)	Often Negotiable
Freedom	Limited	Freedom of contract
Example	Criminal prosecution	Sales Contract
Courts	Administrative, Criminal	Civil, Commercial

Part Two: Substantive VS Procedural Law القانون ا لموضوعي والقانون الاجرائي

Now, there's another important classification. This one cuts across public and private law.

Ever area of law has TWO sides

1. **Substantive Law**
2. **Procedural Law**

*1*Substantive Law :*

__Definition:__

" Substantive Law defines WHAT the rights, duties, and obligations are. It's the CONTENT of law"

Simple way to remember: Substantive = WHAT

Examples:

Civil Law (Substantive):

- Article 351 Civil Code: "Sale is contract by which seller transfers property ownership to buyer for price"

→ This **defines** what a sale is

- Article 367: "Buyer must pay price"

→ This **defines** buyer's obligation

Criminal Law (Substantive):

- Article 350 Criminal Code: "Theft is taking property of another without consent"

→ This **defines** what theft is

- Article 350: "Punishable by 1-5 years imprisonment"

→ This **defines** the penalty

Labour Law (Substantive):

- Article 19 Labour Law: "Legal working time is 40 hours per week"

→ This **defines** working hours

So you see:

Substantive law tells you:

    ✓ What is a contract?
    ✓ What is a crime?
    ✓ What are your rights?
    ✓ What are your obligations?

2* Procedural Law:

Definition:

"Procedural law defines HOW to enforce rights, HOW to prove claims, HOW courts function. It's the PROCESS."

Simple way to remember: Procedural = HOW

Examples:

Civil Procedure:

- **Code of Civil Procedure (قانون الاجراءات المدنية والادارية**
- How to file lawsuit (complaint format, court fees)
- Time limits: Article 336 - Appeal must be filed within 30 days
- Evidence rules How judgments are enforced

Criminal Procedure:

- **Code of Criminal Procedure** (قانون الاجراءات الجزائية)
- How to investigate crimes
- Rights of accused (presumption of innocence, right to lawyer)
- Trial procedures
- Appeal procedures

Administrative Procedure:

- How to challenge administrative decision
- Time limit: usually 60 days.
- Evidence in administrative cases
- Powers of administrative judge

3. Why Distinguish?

Very practical reasons:

- ➤ **A) Different Codes:**
- ✓ Substantive → Civil Code, Criminal Code
- ✓ Procedural → Code of Civil Procedure, Code of Criminal Procedure
- ➤ **B) Different Application:**
  - ✓ Substantive law: defines your rights (relatively stable)
  - ✓ Procedural law: how to get those rights (can change more easily)
- ➤ **C) Retroactivity:**
  - ✓ Substantive law: Generally NOT retroactive (especially criminal)

*You cannot be punished for act that wasn't crime when you did it

✓ Procedural law: Can be retroactive (applies to pending cases)

*New procedure rules apply immediately

5. Summary:

Substantive Law	Procedural Law
WHAT	**HOW**
Content	Process
Rights and Obligations	Enforcement methods
Relatively stable	Can change more often
Not retroactive (generally)	Retroactive (often)
Civil Code, Criminal code	Procedure Codes
"You owe me money"	"How to sue you"