

People have the right to act as a balance of power against **a corrupt government** that tries to usurp their Constitutionally limited powers.

Common Law is the customary law of the land, although many in the judiciary are usurping your right to a common law court and would sit in judgment (equity court) and met out punishment without benefit of a trial by jury.



Notes and Further Reading

Please further your study with these sources:

<http://svpviril.com/comcivlaw.html>

<https://andyflorida.wordpress.com/2013/05/28/supreme-court-validates-peoples-rights-to-establish-common-law-grand-jury/>

<http://commonlawgrandjury.com/common-law.htm>

<http://www.statemaster.com/encyclopedia/Common-law>

Common Law v. **Civil Law**



Natural law (or natures law) reigns supreme. **Common Law**, the peoples law, English in origin, based on customs. **Civil Law**, administrative law, Roman in origin, administrative, codified law.

What is legal is not always lawful.

Justice Antonin Scalia, writing for the majority, confirmed that the American grand jury is neither part of the judicial, executive nor legislative branches of government, but instead belongs to the people. (*Judge Scalia's decision is a step in the right direction and when you learn more about the origins of Common Law v. Civil Law you will see the necessity to restore the common law grand juries.*)



Common Law

The term common law has three main connotations and several historical meanings worth mentioning:

1. Common law as opposed to statutory law and regulatory law (civil law)

This connotation distinguishes the authority that promulgated a law. For example, most areas of law in most Anglo-American jurisdictions include "statutory law" enacted by a legislature, "regulatory law" promulgated by executive branch agencies pursuant to delegation of rule-making authority from the legislature, and common law or "case law", i.e., decisions issued by courts (or quasi-judicial tribunals within agencies).[7][8] This first connotation can be further differentiated into (a) pure common law arising from the traditional and inherent authority of courts to define what the law is, even in absence of an underlying statute, e.g., most criminal law and procedural law before the 20th century, and even today, most of contract law and the law of torts, and (b) court decisions that decide the fine boundaries and distinctions in law promulgated by other bodies, such as judicial interpretations of the Constitution, of statutes, and of regulations.[9]

2. Common law legal systems as opposed to civil law legal systems

This connotation differentiates "common law" jurisdictions and legal systems from "civil law" or "code" jurisdictions. Common law systems place great weight on court decisions, which are considered "law" with the same force of law as statutes. By contrast, in civil law jurisdictions (the legal tradition that prevails in, or is combined with common law in, Europe and most non-Islamic, non-common law countries), judicial precedent is given less weight (which means that a judge deciding a given case has more freedom to interpret the text of a statute independently, and less predictably), and scholarly literature is given more. For example, the Napoleonic code expressly forbade French judges from pronouncing general principles of law.

3. Law as opposed to equity

This connotation differentiates "common law" (or just "law") from "equity". Before 1873, England had two parallel court systems: courts of "law" that could only award money damages and recognized only the legal owner of property, and courts of "equity" (courts of chancery) that could issue injunctive relief (that is, a court order to a party to do something, give something to someone, or stop doing something) and recognized trusts of property. This split propagated to many of the colonies, including the United States (see "Reception Statutes," below). For most purposes, most jurisdictions, including the U.S. federal system and most states, have merged the two courts. Additionally, even before the separate courts were merged together, most courts were permitted to apply both law and equity, though under potentially different procedural law. Nonetheless, the historical distinction between "law" and "equity" remains important today when the case involves issues such as the following: categorizing and prioritizing rights to property—for example, the same article of property often has a "legal title" and an "equitable title," and these two groups of ownership rights may be held by different people.

In the United States, determining whether the Seventh Amendment's right to a jury trial applies (a determination of a fact necessary to resolution of a "common law" claim)[13] or whether the issue will be decided by a judge (issues of what the law is, and all issues relating to equity).the standard of review and degree of deference given by an appellate tribunal to the decision of the lower tribunal under review (issues of law are reviewed de novo, that is, "as if new" from scratch by the appellate tribunal, while most issues of equity are reviewed for "abuse of discretion," that is, with great deference to the tribunal below). the remedies available and rules of procedure to be applied.

Contrasts between common law and civil law systems

Adversarial system vs. Inquisitorial System

Common law courts tend to use an adversarial system, in which two sides present their cases to a neutral judge. In contrast, in civil law systems, inquisitorial system proceedings, where an examining magistrate serves two roles by developing the evidence and arguments for one and the other side during the investigation phase.

The examining magistrate then presents the dossier detailing his or her findings to the president of the bench that will adjudicate on the case where it has been decided that a trial shall be conducted. Therefore the president of the bench's view of the case is not neutral and may be biased while conducting the trial after the reading of the dossier. Unlike the common law proceedings, the president of the bench in the inquisitorial system is not merely an umpire and is entitled to directly interview the witnesses or express comments during the trial, as long as he or she does not express his or her view on the guilt of the accused.

The proceeding in the inquisitorial system is essentially by writing. Most of the witnesses would have given evidence in the investigation phase and such evidence will be contained in the dossier under the form of police reports. In the same way, the accused would have already put his or her case at the investigation phase but he or she will be free to change his evidence at trial. Whether the accused pleads guilty or not, a trial will be conducted. Unlike the adversarial system, the conviction and sentence to served (if any) will be released by the trial jury together with the president of the trial bench, following their common deliberation.

Common law legal systems; present day in the United States

In 1938, the U.S. Supreme Court in *Erie Railroad Co. v. Tompkins* 304 U.S. 64, 78 (1938), overruled earlier precedent, and held "There is no federal general common law," thus confining the federal courts to act only as interpreters of law originating elsewhere. e.g., *Texas Industries v. Radcliff*, 451 U.S. 630 (1981) (without an express grant of statutory authority, federal courts cannot create rules of intuitive justice, for example, a right to contribution from co-conspirators). Post-1938, federal courts deciding issues that arise under state law are required to defer to state court interpretations of state statutes, or reason what a state's highest court would rule if presented with the issue. Civil law to certify the question to the state's highest court for resolution.

Common Law is the People's Law

Legal System

Legal system originating in Europe whose most prevalent feature is that its core principles are codified into a referable system which serves as the primary source of law.