

Unit 1

Classifications of Law

In order to understand many different aspects of law, it is helpful to look at various areas or classifications of law. Law is sometimes classified as substantive or procedural. The law that is used to actually decide disputes may be classified as substantive law. On the other hand, the legal procedures that provide how a lawsuit is begun, how the trial is conducted, how appeals are taken, and how a judgment is enforced are called procedural law. Substantive law is the part of the law that defines rights, and procedural law establishes the procedures whereby rights are enforced and protected. For example, A and B have entered into an agreement, and A claims that B has breached the agreement. The rules that provide for bringing B to court and for the conduct of the trial are rather mechanical and they constitute procedural law. Whether the agreement was enforceable and whether A is entitled to damages are matters of substance and would be determined on the basis of the substantive law of contracts.

Law is also frequently classified into areas of public and private law.

Public law includes those bodies of law that affect the public generally; private law includes the areas of the law that are concerned with the relationships between individuals.

Public law may be divided into 3 general categories:

(1) constitutional law which concerns itself with the rights, powers and duties of federal and state governments under the US Constitution and the constitutions of various states (2) administrative law, which is concerned with the multitude of administrative agencies, such as the Interstate Commerce Commission, the Federal Trade Commission, and the National Labor Relations Board; and (3) criminal law, which consists of statutes that forbid certain conduct as being detrimental to the welfare of the state or the people generally and provides punishment for their violation.

Private law is that body of law that pertains to the relationships between individuals in an organized society. Private law encompasses the subject of contracts, torts and property. Each of these subjects includes several bodies of law. For example, the law of contracts may

be subdivided into the subjects of sales, commercial paper, agency and business organizations.

The law of torts is the primary source of litigation in their country and is also a part of the total body of law in such areas, as agency and sales. A tort is a wrong committed by one person against another or his property. The law of torts is predicated upon the premise that in a civilized society people who injure other persons or their property should compensate them for their loss. The law of property may be thought of as a branch of the law of contracts, but in many ways our concept of private property contains much more than the contract characteristics. Property is the basic ingredient in our economic system, and the subject matter may be subdivided into several areas, such as wills, trusts, estates in land, personal property, bailments and many more.

Notes

1. substantive law — субстантивне право (стосується суті, а не форми)
2. procedural law — процесуальне право
3. to decide disputes — вирішувати спори
4. lawsuit — судова справа, процес, позов
5. to enforce a judgment — забезпечити виконання судового рішення
6. to enter into an agreement — укласти договір (угоду)
7. to breach an agreement — розірвати договір (угоду)
8. enforceable agreement — договір, забезпечений правовою санкцією
9. to be concerned with smth. — займатися, торкатися чогонебудь
10. tort — делікт, цивільне правопорушення
11. litigation — позов, судовий процес
12. Interstate Commerce Commission — комісія з торгівлі між штатами
13. Federal Trade Commission — федеральна комісія з торгівлі
14. Labor Relations Board — правління (комісія) з трудових відносин

Exercises

- 1) *Fill in the blanks by the words and expressions from the text above:*
1. Law is sometimes classified as...

2. Substantive law is the part of the law that...
3. Procedural law establishes...
4. Public law may be divided into 3 general categories, such as...
5. Private law pertains to...
6. The law of contracts may be subdivided into...
7. A tort is a wrong...
8. Property is the basic ingredient...

2) Match the following noun phrases with their Ukrainian equivalents:

- | | |
|--------------------------------------|--------------------------------------|
| 1. substantive law | 1. конституційне право |
| 2. procedural law | 2. кримінальне право |
| 3. Public law | 3. закон про цивільні правопорушення |
| 4. private law | 4. процесуальне право |
| 5. constitutional law | 5. сукупність правових норм |
| 6. administrative law | 6. публічне право |
| 7. criminal law | 7. приватне право |
| 8. welfare of the state | 8. закон про майно |
| 9. relationships between individuals | 9. субстантивне право |
| 10. Bodies of law | 10. відносини між особами |
| 11. the law of torts | 11. адміністративне право |
| 12. the law of property | 12. добробут країни |
| 13. Federal government | 13. уряд штату |
| 14. state government | 14. федеральний уряд |

3) Match the following verb phrases with their Ukrainian equivalents:

- | | |
|--------------------------|---|
| 1. to decide disputes | 1. завдавати шкоду особам |
| 2. to begin a lawsuit | 2. забезпечити виконання судового рішення |
| 3. to conduct a trial | 3. захищати права |
| 4. to enforce a judgment | 4. забороняти певну поведінку |
| 5. to define rights | 5. вчинити протиправну дію |
| 6. to protect rights | 6. компенсувати витрати |

- | | |
|--------------------------------|---------------------------------|
| 7. to enforce an agreement | 7. вирішувати спори |
| 8. to affect the public | 8. визначити права |
| 9. to forbid certain conduct | 9. починати судову справу |
| 10. to provide punishment | 10. впливати на суспільство |
| 11. to commit a wrong | 11. забезпечити виконання угоди |
| 12. to injure persons | 12. вести судовий процес |
| 13. to compensate for the loss | 13. передбачити покарання |

4) Translate the following words and word combinations: aspects of law; areas of law; enforceable agreement; bodies of law; general categories; rights, powers and duties of the government; federal law; state law; multitude of administrative agencies; detrimental to the welfare of the state or the people; punishment for violation; organized society; primary source of litigation; contract characteristics; basic ingredient.

5) Give English equivalents for the following words and word combinations:

право; субстантивне право; процесуальне право; публічне право; приватне право; конституційне право; адміністративне право; кримінальне право; сукупність правових норм; суб'єкти продажу; комерційні папери; закон про делікти; закон про договори (контракти); приватне майно; заповіт; доручення.

6) Find answers to the following questions in the text above:

1. What is substantive law?
2. What do we call procedural law?
3. What is the difference between public and private law?
4. What does constitutional law concern itself with?
5. What is administrative law concerned with?
6. What does criminal law consist of?
7. What does private law encompass?
8. What is a tort?

7) Read the following sentences and decide if they are true or false:

1. Law is always classified as substantive or procedural law.
2. Procedural law establishes the procedures whereby rights are enforced and protected.

3. The legal procedures that provide how a lawsuit is begun, how the trial is conducted and how appeals are taken, are called substantive law.
4. Public law includes those bodies of law that affect the public generally.
5. The areas of the law concerned with the relationships between individuals in an organized society are included into private law.
6. Private law encompasses the subjects of contracts, torts and property.
7. A wrong committed by one person against another or his property is called a tort.
8. In a civilized society people who injure other persons or their property should compensate them for their loss.

Unit 2

Sources of Law

The unique characteristic of American law is that a very substantial part of it is not to be found in statutes enacted by legislatures but rather in cases decided by the courts.

The concept of decided cases as a source of law comes to us from England. It is generally referred to as the common law. Common law system of heavy reliance on case precedent as a source of law must be contrasted with civil law systems, which developed in the countries on European continent. Those countries have codified their laws — reduced them to statutes — so that the main source of law in those countries is to be found in the statutes rather than in the cases.

Under the common law system there is a large number of statutes, but these are only a part of the law. The statutes must be in keeping with the constitutions — federal and state — and the courts can overrule a statute that is found to violate constitutional provisions.

Statutes and constitutions are classified as «written law». Also included under this heading are treaties that by the federal constitution are also a part of the supreme law of the land. Case law, as opposed to written law, is not set forth formally but is derived from an analysis of each case that uncovers what legal propositions the case stands for. It is not proper to call this «unwritten» law because it is in fact in writing. However, it must be distinguished from statutory law in that it is not the product of the legislature but is rather the product of the courts. When a court decides a case, particularly upon an appeal from a lower-court decision, the court writes an opinion setting forth among other things the reasons for its decision. From these written opinions rules of law can be deduced and these make up the body of what is called case law or common law. The basic characteristic of the common law is that a case once decided establishes a precedent that will be followed by the courts when similar controversies are later presented.

A third source of law is administrative law. Federal, state and local administrative agencies make law by promulgating rules and regulations as well as by making decisions concerning matters under their jurisdiction.

In summary, the law comes from written laws such as constitutions, statutes, ordinances and treaties; from case law, which is based on judicial decisions; and from the rules and decisions of administrative agencies.

Notes

1. statute — статут, закон, законодавчий акт
2. legislature — законодавчий орган, влада
3. common law — загальне право
4. to be contrasted with — протиставитися
5. to be in keeping with — бути відповідним
6. to overrule a statute — скасовувати закон (статут)
7. case law — прецедентне право
8. statutory law — статутне право (яке відображено у законодавчих актах)
9. to write an opinion — писати висновок
10. lower-court decision — рішення нижчого суду

Exercises

1) *Fill in the blanks from the text above:*

1. A very substantial part of American law is not be found in statutes enacted by legislatures but rather...
2. Common law system must be contrasted with...
3. The statutes must be in keeping with...
4. As opposed to written law case law is...
5. A case once decided...
6. A third source of law is...
7. In summary, the law comes from...

2) *Match the following noun phrases with their Ukrainian equivalents:*

- | | |
|-----------------------|----------------------------|
| 1. Case law | 1. цивільне право |
| 2. written law | 2. загальне право |
| 3. administrative law | 3. джерело права |
| 4. common law | 4. прецедентне право |
| 5. substantial part | 5. повна довіра |
| 6. a source of law | 6. суттєва частина |
| 7. Civil law | 7. конституційні положення |

- | | |
|--------------------------------|--------------------------------|
| 8. statutory law | 8. вищий закон держави |
| 9. heavy reliance | 9. подібні спори |
| 10. constitutional provisions | 10. писане право |
| 11. supreme law of the land | 11. судові рішення |
| 12. product of the legislature | 12. статутне право |
| 13. similar controversies | 13. адміністративні органи |
| 14. judicial decision | 14. продукт законодавчої влади |
| 15. administrative agencies | 15. адміністративне право |

3) *Match the following verb phrases with their Ukrainian equivalents:*

- | | |
|--------------------------------|-------------------------------------|
| 1. to enact a statute | 1. вирішувати справу |
| 2. to decide a case | 2. написати висновок |
| 3. to codify laws | 3. установити прецедент |
| 4. to be in keeping with smth. | 4. обнародувати норми |
| 5. to overrule a statute | 5. кодифікувати закони |
| 6. to violate provisions | 6. відхилити закон |
| 7. to set forth | 7. скласти основу |
| 8. to be derived from | 8. представляти спори |
| 9. to be distinguished from | 9. приймати закон (статут) |
| 10. to write an opinion | 10. відрізнитися від |
| 11. to make up the body | 11. приймати рішення |
| 12. to establish a precedent | 12. бути відповідним до чого-небудь |
| 13. to present controversies | 13. порушувати положення |
| 14. to promulgate rules | 14. формулювати |
| 15. to make decisions | 15. походити від |

4) *Find answers to the following questions in the text above:*

1. What is the unique characteristic of American law?
2. Where does the concept of decided cases as a source of law come from?
3. What have the countries on European continent codified?
4. What must the statutes be in keeping with under the common law system?

5. What is the difference between case law and statutory law?
6. What is the basic characteristic of the common law?
7. What is the third source of law?

5) *Translate the following words and word combinations:*

substantial part; source of law; common law; written law; case law; unwritten law; statutory law; administrative law; legal provisions; constitutional provisions; statutes and constitutions; state constitution; federal constitution; court opinion; judicial decision; rules and regulations.

6) *Give English equivalents for the following words and word combinations:*

джерело права; загальне право; прецедентне право; статутне право; писане право; вирішувати справу; судові рішення; рішення нижчого суду; встановлювати прецедент; федеральні та місцеві органи; обнародувати норми та положення; статuti, ордонанси та договори; писати висновок.

7) *Ask questions to get the following answers:*

1. Common law system as a source of law must be contrasted with civil law system.
2. The courts can overrule a statute that is found to violate constitutional provisions.
3. Statutes and constitutions are classified as written law.
4. Case law is derived from an analysis of each case that uncovers what legal provisions the case stands for.
5. When a court decides a case, it writes an opinion setting forth the reasons for its decision.

Unit 3

The Basis of American Statehood

The Constitution of the United States is the central instrument of American government and the supreme law of the land.

For 200 years, it has guided the evolution of governmental institutions and has provided the basis for political stability, individual freedom, economic growth and social progress.

The American Constitution is the world's oldest written constitution in force, one that has served as the model for a number of other constitutions around the world. The path to the Constitution was neither straight nor easy. A draft document emerged in 1787, but only after intense debate and six years of experience with an earlier federal union.

The 13 British colonies declared their independence from England in 1776. A year before, war had broken out between the colonies and Great Britain, a war for independence that lasted for six bitter years. While still at war, the colonies — now calling themselves the United States of America — drafted a compact which bound them together as a nation. The compact, designated the «Articles of Confederation and Perpetual Union», was adopted by the Congress of the states in 1777 and formally signed in July 1777. In February 1787 the Continental Congress, the legislative body of the republic, issued a call for the states to send delegates to Philadelphia to revise the Articles. The Constitutional or Federal Convention convened on May 25, 1787 in Independence Hall, where the Declaration of Independence had been adopted 11 years earlier on July 4, 1776. Although the delegates had been authorized only to amend the Articles of Confederation, they pushed the Articles aside and proceeded to construct a charter for a wholly new, more centralized form of government.

The new document, the Constitution, was completed on September 17, 1787, and was officially adopted on March 4, 1789. The 55 delegates who drafted the Constitution, included most of the outstanding leaders, or Founding Fathers, of the new nation. All agreed on the central objectives expressed in the preamble to the Constitution: «We the people of the United States in order to form a more perfect union, establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare, and secure the

blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America».

Notes

1. statehood — державність
2. government — уряд, держава, влада, управління
3. constitution in force — чинна конституція
4. draft — проект
5. to bind — зв'язати, об'єднати
6. to issue a call — звернутися з закликом
7. to amend — вносити поправки
8. to push aside — відкинути
9. blessings — благословіння
10. posterity — нащадки
11. neither...nor — ні...ні

Exercises

1) *Fill in the blanks with the words and expressions from the box:*
 model; statehood; debate; delegates; independence; constitution;
 Founding Fathers; experience; a draft document; the legislative
 body; the outstanding leaders

1. The basis of the American ... and the supreme law of the land is...
2. The American Constitution has served as the...for a number of other constitutions around the world.
3. After intense ... and six years of ...with an earlier federal union ... emerged in 1787.
4. In 1776 the 17 British colonies declared their... from England.
5. In February 1787 the Continental Congress... of the republic issued a call for the states to send ...to Philadelphia.
6. The 55 delegates who drafted the Constitution, included most of the ...or... of the new nation.

2) *Match the following noun phrases with their Ukrainian equivalents:*

- | | |
|------------------------|--------------------------|
| 1. supreme law | 1. форма управління |
| 2. political stability | 2. війна за незалежність |
| 3. economic growth | 3. головні цілі |
| 4. social progress | 4. законодавчий орган |
| 5. Central instrument | 5. загальний добробут |

- | | |
|----------------------------------|---------------------------------|
| 6. constitution in force | 6. політична стабільність |
| 7. war for independence | 7. економічне зростання |
| 8. perpetual union | 8. головний інструмент |
| 9. legislative body | 9. вищий закон |
| 10. declaration of independence | 10. преамбула конституції |
| 11. form of government | 11. соціальний прогрес |
| 12. Founding Fathers | 12. чинна конституція |
| 13. Central objectives | 13. декларація про незалежність |
| 14. preamble to the Constitution | 14. вічний союз |
| 15. general welfare | 15. батьки-засновники |

3) *Match the following verb phrases with their Ukrainian equivalents:*

- | | |
|----------------------------|----------------------------------|
| 1. to provide the basis | 1. підписати договір |
| 2. to serve as the model | 2. внести поправки до статей |
| 3. to declare independence | 3. звернутися з закликом |
| 4. to break out the war | 4. розпочати війну |
| 5. to draft a compact | 5. прийняти документ |
| 6. to issue a call | 6. забезпечити основу |
| 7. to sign a compact | 7. внести поправки до договору |
| 8. to adopt a document | 8. забезпечити спокій |
| 9. to amend the articles | 9. служити зразком |
| 10. to construct a charter | 10. проголосити незалежність |
| 11. to form a union | 11. формувати союз |
| 12. to establish a justice | 12. встановлювати справедливість |
| 13. to issue tranquility | 13. скласти статут |

4) *Find answers to the following questions in the text above:*

1. What is the central instrument of American government?
2. The American Constitution is the world's oldest written constitution in force, isn't it?
3. Was the path to the Constitution straight and easy?

4. When did the 13 British colonies declare their independence from England?
5. How long did the war for independence between the colonies and Great Britain last?
6. What kind of document did the colonies calling themselves the United States of America draft?
7. What central objectives are expressed in the preamble to the Constitution?

5) *Translate the following words and word combinations:*

the basis of statehood; supreme law; central instrument of government; evolution of governmental institutions; more centralized form of government; individual freedom; Articles of Confederation and Perpetual Union; the Continental Congress; Constitutional or Federal Convention; the Declaration of Independence; Independence Hall; most of the outstanding leaders; neither straight nor easy path.

6) *Give English equivalents for the following words and word combinations:*

чинна конституція; проект конституції; федеральний союз; політична стабільність; соціальний прогрес; гіркі роки; законодавчий орган; направити делегатів; створити більш централізовану форму управління; прийняти новий документ; внести поправки до статей Конфедерації; відкинути статті Конфедерації; погодитися з головними цілями; преамбула конституції.

7) *Read the following sentences and decide if they are true or false:*

1. The American Constitution provides the basis for political stability, individual freedom, economic growth and social progress.
2. The American Constitution is the world's oldest written constitution in force
3. The American Constitution has served as the model for a number of other constitutions around the world.
4. The path to the Constitution was straight and easy.
5. The Constitutional or Federal Convention convened on May 25, 1787 in Independence Hall, where the declaration of Independence had been adopted.
6. The American Constitution was officially adopted on May 4, 1789.
7. The 55 delegates including Founding Fathers of the new nation drafted the Constitution.

Unit 4

The Constitution as Supreme Law

The Constitution of the United States and the constitutions of the various states are the fundamental written law in those countries. The federal law must not violate the U.S. Constitution. All state laws must conform to or be in harmony with the federal Constitution as well as with the constitution of the state.

The U.S. Constitution is the basic document that gives authority to criminal justice agencies. It also sets the outer limits to their efforts, making sure that the system of crime control fits the form of government. All of the provisions of the Constitution apply to criminal control, though a number of amendments are system-specific. For instance, the Fourth Amendment prohibits illegal searches and seizures of evidence; the Fifth prevents self-incrimination during questioning; the Sixth guarantees the rights to jury trial; the Eighth provides for reasonable bail and prohibits cruel and unusual punishment; and the Fourteenth prevents from depriving anyone of liberty without due process of law.

Two very important principles of constitutional law are basic to the American judicial system. They are closely related to each other and known as the doctrine of separation of powers and the doctrine of judicial review.

The doctrine of separation of powers results from the fact that both state and federal constitutions provide for a scheme of government consisting of three branches — the legislative, the executive and the judicial. Separation of powers ascribes to each branch a separate function and a check and balance of the functions of the other branches. The doctrine of separation of powers infers that each separate branch will not perform the function of the other and that each branch is summarized as follows: the Senate retains the power to approve key executive and judicial appointments. The legislative branch exercises control through its powers to appropriate funds.

In addition, Congress can limit or expand the authority of the executive branch or the jurisdiction of the judicial branch in most cases. The executive has the powers to appoint judges (in some states the judiciary is elected). The judiciary has the powers to review ac-