
Postgraduate Certificate in Legal History

Legal Systems and Sources of Law

Legal Systems and Sources of Law are fundamental concepts in the field of Legal History. Understanding these terms is crucial for anyone studying the evolution of legal systems and the sources of law that have shaped societies throughout history. In this postgraduate certificate course, students will delve into the intricacies of legal systems and explore the various sources of law that have influenced legal frameworks over time.

Legal Systems:

A legal system is a set of rules and principles that govern a society and regulate behavior. Different legal systems exist around the world, each with its own unique characteristics and origins. Understanding the differences between these legal systems is essential for comprehending the development of law in different cultures and societies.

Common Law:

Common Law is a legal system that originated in England and has spread to many countries that were former British colonies, including the United States, Canada, Australia, and India. In Common Law systems, legal principles are derived from judicial decisions and precedent, rather than from statutes or codes. Judges play a significant role in interpreting the law and establishing legal principles through their decisions.

Civil Law:

Civil Law is a legal system based on codified laws and statutes, as opposed to precedent. Civil Law systems are predominant in continental Europe and many Latin American countries. In Civil Law systems, legal codes are the primary source of law, and judges have a more limited role in shaping legal principles compared to Common Law systems.

Islamic Law:

Islamic Law, also known as Sharia Law, is a legal system based on Islamic principles and teachings derived from the Quran and the Hadith. Islamic Law covers a wide range of legal matters, including family law, criminal law, and commercial law. Islamic Law has influenced legal systems in many countries with significant Muslim populations.

Sources of Law:

Sources of Law refer to the origins of legal rules and principles that govern a society. Understanding the sources of law is crucial for determining the legitimacy and authority of legal rules within a legal system.

Legislation:

Legislation refers to laws enacted by a legislative body, such as a parliament or congress. Legislation is a primary source of law in many legal systems, including Civil Law systems. Statutes and codes passed by legislatures establish legal rules that govern various aspects of society.

Precedent:

Precedent, also known as case law, refers to previous judicial decisions that serve as a guide for future cases. Precedent is a key source of law in Common Law systems, where judges are bound by decisions made in higher courts and are expected to follow established legal principles. Precedent helps ensure consistency and predictability in the application of the law.

Custom:

Custom is a source of law based on established practices and traditions within a society. Customary law is often unwritten and is derived from long-standing practices that are recognized and accepted by the community. Custom plays a significant role in many legal systems, particularly in areas where formal legal rules are lacking or insufficient.

Treaties and International Law:

Treaties are agreements between states or international organizations that establish legal obligations and rights. International Law governs relations between states and encompasses a wide range of legal issues, including human rights, trade, and environmental protection. Treaties and international law are essential sources of law in the globalized world, where cross-border interactions are common.

Challenges in Legal History:

Studying Legal Systems and Sources of Law in Legal History presents several challenges due to the complexity and diversity of legal frameworks across different societies and time periods. Some of the key challenges include:

1. Cultural Differences:

Legal systems are deeply rooted in the culture and history of a society, making it challenging to compare and contrast legal systems from different cultures. Understanding the cultural context of legal rules is essential for interpreting their significance and impact on society.

2. Evolution of Legal Systems:

Legal systems evolve over time in response to social, political, and economic changes. Tracking the evolution of legal systems requires a deep understanding of historical events and societal norms that shaped legal frameworks. Studying the evolution of legal systems helps identify trends and patterns that have influenced the development of law.

3. Interpretation of Sources:

Interpreting the sources of law, such as legislation, precedent, and custom, can be complex and requires a nuanced understanding of legal principles and concepts. Analyzing how legal rules are derived from different sources helps uncover the underlying principles that guide legal decision-making.

4. Globalization and Legal Pluralism:

Globalization has led to increased interactions between legal systems and cultures, resulting in legal pluralism where multiple legal frameworks coexist within a society. Understanding the implications of legal pluralism on legal history requires examining how different legal systems interact and influence each other.

In conclusion, Legal Systems and Sources of Law are essential components of Legal History that provide

insights into the evolution of legal frameworks and their impact on society. By studying different legal systems and sources of law, students gain a deeper understanding of how legal rules are established, interpreted, and enforced. Through analyzing the challenges and complexities of legal history, students can develop a comprehensive understanding of the role of law in shaping societies throughout history.