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محاضرات في مقياس

المصطلحات القانونية *إنجليزية*

السنة الأولى ليسانس
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Introduction to Law

1. What is Law: (Definition)

Law is a system of rules created and enforced through social or governmental institutions to regulate behavior. It serves as a framework for maintaining order, resolving disputes, protecting liberties and rights, and promoting social justice.

There are different types of law, including:

- **Public Law:** Governs the relationship between the state and individuals (e.g., constitutional law, criminal law, administrative law).
- **Private Law:** Governs the relationships between private individuals (e.g., contract law, family law, tort law).
- **International Law:** Governs the relationships between countries.

2. Sources of Law

The main sources of law include:

- **Constitutions:** Fundamental legal frameworks for states, setting out the structure of government and individual rights.
- **Legislation (Statute Law):** Laws passed by legislative bodies (e.g., Parliament or Congress).
- **Case Law (Common Law):** The body of law developed through judicial decisions and precedents.
- **Customary Law:** Traditional laws developed by cultural practices and societal norms.

- **International Treaties and Conventions:** Agreements between states that are legally binding.

3. The Role of Courts

Courts play an essential role in interpreting and enforcing the law. In many legal systems, judicial review allows courts to assess the constitutionality of laws, while courts also adjudicate disputes between individuals, corporations, and governments.

4. Key Legal Concepts

- **Justice:** The concept of fairness in law, ensuring that legal decisions are made impartially and based on established rules.
- **Rights and Freedoms:** Legal protections provided to individuals, such as the right to a fair trial, the right to freedom of speech, and the right to property.
- **Liability:** The legal responsibility for one's actions or omissions, often resulting in a legal duty to compensate for harm caused.

5. Criminal Law vs. Civil Law

- **Criminal Law:** Deals with actions considered offenses against society (e.g., theft, assault). It involves the state prosecuting an individual or organization accused of committing a crime.
- **Civil Law:** Deals with disputes between individuals or organizations, such as contracts, property disputes, and family law matters. The focus is on compensating the injured party.

6. Legal Systems Around the World

Different countries have different legal systems, with the two most common being:

- **Common Law:** Found in countries like the United States and the United Kingdom, it is based on precedents (decisions in previous court cases).
- **Civil Law:** Found in countries like France and Germany, it is based on comprehensive written codes and statutes.

7. Law and Society

Law is a reflection of societal values, and as society evolves, so does the law. For example, laws concerning marriage, divorce, and civil rights have changed dramatically in many countries over the past century, reflecting shifts in social norms.

Public Law

Definition:

Public law refers to the area of law that governs the relationship between individuals and the state, as well as the relationships between state institutions. It involves laws that regulate public matters and ensure the maintenance of order, governance, and justice at a societal level.

Examples of Public Law:

- **Constitutional Law:** Governs the structure and functioning of the government, the powers of state institutions, and the fundamental rights of individuals.
- **Criminal Law:** Involves the prosecution of individuals or organizations accused of committing crimes, which are considered offenses against the state or society.
- **Administrative Law:** Regulates the actions and decisions of governmental agencies and ensures that they act within the law.
- **Tax Law:** Governs the rules concerning the taxation system and the state's power to collect taxes from individuals and businesses.
- **International Law:** Governs the relationships between states and international organizations, including treaties, agreements, and disputes between countries.

Key Characteristic:

Public law focuses on matters that affect society as a whole and involves the exercise of power by public institutions (government, courts, etc.).

Private Law

Definition:

Private law, also known as **civil law**, governs the relationships between private individuals, organizations, or entities. It deals with issues like property rights, contracts, and family matters, where the state is not a direct party but may intervene to ensure legal rights are upheld.

Examples of Private Law:

- **Contract Law:** Governs agreements made between two or more parties, ensuring they are legally enforceable.
- **Tort Law:** Deals with civil wrongs and provides remedies for individuals harmed by others' actions (e.g., negligence, defamation).
- **Property Law:** Regulates ownership and use of property (land, buildings, personal property).
- **Family Law:** Deals with issues such as marriage, divorce, child custody, and adoption.
- **Succession Law:** Governs the distribution of a deceased person's estate (wills, inheritance, probate).

Key Characteristic:

Private law regulates disputes between private parties and does not typically involve the government unless it is needed to enforce the law or settle a dispute.

Differences Between Public Law and Private Law:

Aspect	Public Law	Private Law
Scope	Governs the relationship between individuals and the state.	Governs relationships between private individuals or entities.
Parties Involved	One party is typically the government or a public authority.	Parties are private individuals, organizations, or businesses.
Purpose	Ensures order in society, protects public interests, and regulates governmental powers.	Resolves disputes and protects private interests and rights.

Aspect	Public Law	Private Law
Examples	Criminal law, constitutional law, administrative law, tax law.	Contract law, tort law, family law, property law.
Enforcement	The government enforces the law (e.g., police, courts).	Enforcement typically involves civil courts (e.g., lawsuits).
Outcome	Involves penalties or sanctions against the individual (e.g., fines, imprisonment).	Typically results in compensation or restitution (e.g., damages).
Examples of Case Types	Prosecution of a crime, review of government regulations.	Dispute over a contract, personal injury claim.

Summary of the Differences:

- **Public law** deals with issues that affect the state or society, such as criminal offenses, government regulations, and constitutional matters. It involves the government as a party in legal disputes.
- **Private law** focuses on relationships and disputes between private individuals or entities, such as businesses or family members, and does not involve the government as a party (except as an enforcer of the law).

The President

The president is the Head of the State. He is the guarantor of national independence, of the integrity of the territory, and of respect for the Constitution and the laws as well as the execution of treaties.

He is elected for five years by universal, free, direct, and secret suffrage, within the last thirty days of the term of office.

Candidates for the Presidency must be Algerian and not carry another nationality, of Moslem religion, and whose spouse has Algerian nationality without interruption.

Also, the candidate must, furthermore be at least forty years old and enjoy all his civil and political rights. Candidates can be nominated in one of two ways: either by 600 elected officials (local and national), or by popular petition of at least 75,000 registered voters.

Functions

He watches over the regular functioning of the constitutional public powers and assures the continuity of the State.

He appoints and dismisses the prime minister, who is the head of the Government, after the chancellor has been elected or deposed by parliament. The President promulgates the laws. The president also represents Algeria in international affairs, and he formally appoints and dismisses the civil servants, soldiers, and judges of the federation. The president has the right to pardon criminal offenders in the name of the republic. He names the

President of the Council of State, the Governor of the Bank of Algeria, Magistrates, and Walis (Prefets).

Also, the President ratifies the treaties, declares war and concludes peace with the approval of the Parliament, exercises the right of pardon and directs the general policy of the Nation, defines its fundamental options, and informs the National Parliament accordingly.

He communicates with the Parliament either directly or by message.

He promulgates constitutional, organic, or ordinary laws and ensures their publication in the Official Journal of the Algerian Republic within a maximum period of fifteen days counting from the transmission by the President of the National Parliament. During this period, the President of the Republic may return the bill to the National Parliament for a second reading. If the bill is adopted by the National Parliament with a majority of two-thirds of its members, the law is promulgated and published within a second period of fifteen days.

He watches over the execution of the laws. He exercises the general regulatory power and may delegate all or part of it to the Prime Minister.

The President nominates the highest civil and military officers on the recommendation of the Government.