

# Study Session Four

## Introduction to the Major Legal Systems of the World

### INTRODUCTION

Welcome to session four on the module ‘understanding law and justice systems’ This session in general introduces students to the concept of legal system and discusses the main legal systems of the world. In dealing with the major legal systems, it acquaints students with the common law and civil law legal systems.

#### Study Session Outline

- I. The meaning of legal system & major legal systems of the world
- II. The meaning and principles of civil law legal system
- III. The meaning and principles of common law legal system

### Learning Outcomes of Study Unit four

Upon completion of this study unit, you should be able to:

- *Discuss the meaning of legal system.*
- *Distinguish civil law legal system from common law legal system*

Study session duration-2 hrs of formal study time.

### ***Unit Objectives***

- ❖ **It Introduce students to the meaning of legal system.**
- ❖ **Familiarize students with the different legal systems of the world.**
- ❖ **Introduces students with the civil law legal system and its principles.**
- ❖ **Discusses the common law legal system and its principles.**

- ***Describe about the principles of the civil law & common law legal systems.***

## UNIT FOUR

### Introduction to the Major Legal Systems of the World

Legal system is the consortium of laws into relatives. It also includes an important rule for the documentation of the other rules of system. Most nations today follow one of two major legal traditions: common law or civil law or both. The most common legal traditions of the world today that are adhered by many nations in the world are civil law or common law legal systems. (*Muradu Abdo, September 2008, pp 108-110*)

#### 4.1 The Civil Law Legal System

Civil law legal systems are characterized by giving emphasis to codified laws and procedures. Civil law legal systems are inclined to be more detail especially with the codified laws compared to the common legal systems. In the first unit of the module, we have seen the flexibility as one normative feature of law and civil law legal system is more flexible than the common law legal system since the social transformation and changes of a community are really the impute of the laws supposed to be enacted by the legislator. (*Muradu Abdo, September 2008, p 108-110*)

Civil law legal systems are built on the legal academicians and people who take law discipline as their major make legal clarifications and those persons are called judges. In a civil law system, the judge's role is to create the facts of the case and to examine and smear the legislature's written laws. Because of this, more than the judges in court rooms and the jury of the cases legislators are more important section in civil law legal system, and to find the intention of the legislator is the only job of the judge (*Ibid. 2008, p 108-110*)

##### 4.1.1 General principles of the civil law legal system (*United States Department of Justice, p 3-5*)

- Majority of the laws are the sole creation of the legislator not a previous precedent.
- The role of judges in civil law legal system is active, in the inquiry process and final decision of the trial.
- The involvement of Juries is rarely used; the judge or judges are the to decide the facts and the law to be applied;
- The Public Prosecutors and defense attorneys are only responsible to state the facts of their party of interest.

- The victims are entitled with their rights to the extent of their involvement, this can include to have their own attorney, to stand against self-criminalization, to remain silent, to not stand against themselves.
- In many civil laws legal system following countries victims may ask for compensation of damage.
- Examples of civil law countries include many European countries, such as France, Germany, and a number of North, Central and South American countries, such as Mexico and Brazil.

## 4.2 Common Law Legal Systems

Common law legal system is founded more on the case-by case decisions of courts, which is called precedent than on codified laws. The laws are often made by the decision of judges, hence judge made laws are more dominant in the system. That means the reasonings of a previous decision is applied in resolving similar cases at hand. Judges' role is not limited to the decisions of previous cases but they also interpret laws and statutes enacted by legislators.

Adversarial proceedings are dominant rather than inquisitorial proceedings in the common legal system. This means that for the most part, the opposing parties (adversaries) appear and argue before a judge who have a facilitating role. Parties have the right to be represented by lawyers. The role of the attorneys on both sides can be expressed in terms of representing their clients throughout the case and in the production of evidence and arguments before court. A jury, panel of people without legal training, are given the opportunity to decide the facts of the case, and the judge finally decides the case considering the opinion of the case.

✓ **Activity**-put any mark in the space provided under the table below if the country mentioned adheres to either a civil law, common law or other

Country	Civil law	Common Law	Both	Any other
<i>Ethiopia</i>			✓	
<i>Sudan</i>				
<i>Ethiopia</i>				
<i>Somalia</i>				

<i>South Sudan</i>				
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### Self-Review Questions

1. What is legal system?
2. Describe about civil law legal system?
3. State the features of common law legal system?
4. Characterize the legal system of your own country?