

LAW & DATA

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University of Padova

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Basic legal notions

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- Basic legal notions
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What is Law?





What is Law?



law 1 of 2 **noun**

'lɔː

plural **laws**

- 1 a (1)** : a binding custom or practice of a community : a rule of conduct or action prescribed (see [PRESCRIBE sense 1a](#)) or formally recognized as binding or enforced by a controlling authority
 - (2)** : the whole body of such customs, practices, or rules
 - | The courts exist to uphold, interpret, and apply the *law*.
 - (3)** : **COMMON LAW**

b (1) : the control brought about by the existence or enforcement of such law

The Indian government is believed to have detained thousands of other people last year The government said the move, decried by critics as draconian, was necessary to maintain *law* and public order in the region.

– *BBC.com*

→ see also **LAW AND ORDER**

(2) : the action of laws considered as a means of redressing wrongs

also : **LITIGATION**

developed the habit of going to *law* over the slightest provocation

– H. A. Overstreet

c : a rule or order that it is advisable or obligatory to observe

| a *law* of self-preservation

d : something compatible with or enforceable by established law

| The decrees were judged not to be *law* and were therefore rescinded.

e : **CONTROL, AUTHORITY**

| The child submits to no *law*.

3 : a rule of construction or procedure

| the *laws* of poetry

4 : the whole body of laws relating to one subject

| criminal *law*

| probate *law*



law

noun

law *noun* (RULE)

Add to word list 

B1 [C]

a rule, usually made by a government, that is used to order the way in which a society behaves:

- *There are laws **against** drinking in the street.*
- *The laws **governing** the possession of firearms are being reviewed.*
- *They led the fight to impose laws **on** smoking.*
- [+ -ing verb or + to infinitive] *Many doctors backed plans for a law **banning/to** ban all tobacco advertising.*

B2 [U]

(often **the law**)

the system of rules of a particular country, group, or area of activity:

- *What does the law say about having alcohol in the blood while driving?*
- *Of course robbery is **against** the law!*
- *The judge ruled that the directors had knowingly **broken** the law.*
- *You can't take that course of action and remain **within** the law.*
- *They have to provide a contract **by** law.*
- *It was a detailed study of international human rights law.*

B2 [U]

the area of knowledge or work that involves studying or working with the law :

- *She's going to study law at university.*
- *a law firm in New York*



C2 [C]

a general rule that states what always happens when the same conditions exist:

- *Newton's laws of motion*
- *the laws of nature/physics*
- humorous *The **first law of** (= the most important principle in) politics is - if you're going to lie, don't get found out!*

law

The law is a system of rules that a society or government develops in order to deal with crime, business agreements, and social relationships. You can also use the **law** to refer to the people who work in this system.

Law is used to refer to a particular branch of the law, such as **criminal law** or **company law**.

A **law** is one of the rules in a system of law which deals with a particular type of agreement, relationship, or crime.

The laws of an organization or activity are its rules, which are used to organize and control it.

Law

*«Set of conditions under which
the choices of each person
can be united with the choices of others
under a universal law of freedom»*

Immanuel Kant

The Metaphysical Elements of Justice



«**Set of conditions** under which
the **choices** of each **person**
can be united with the choices of **others**
under a universal law of **freedom**»

LAW



WHAT IS
A **LEGAL ORDER/SYSTEM**?

«A **LEGAL ORDER** is an aggregate or a **plurality** of **general and individual norms** that **govern** human behavior, that prescribe, in other words, how one ought to behave. That behavior is prescribed in a norm or, what amounts to the same thing, is the content of a norm means that one ought to behave in a certain way.

The concept of the norm and the concept of the "ought" coincide. To prescribe in a norm how one ought to behave is understood here not only as a **command but also as a positive permission or an authorization.**

A plurality of norms is an order if the norms constitute a unity, and they constitute a unity if they have the same basis of validity.

If the law is positive law, the norms of a legal order are "posited" or "created" through human acts. To say that a norm prescribing how one ought to behave is "posited" or "created" through an act is a metaphorical way of saying that the norm is the subjective meaning of the act. Acts through which the norms of a legal order are posited or created comprise legislative acts, acts constituting legally binding custom, judicial acts, administrative acts, and private law transactions, in particular contracts. These acts are characterized here as legal acts, and the individuals authorized by the legal order to perform such acts are characterized as legal officials».

H. Kelsen, *The concept of the legal order*, in *The American Journal of Jurisprudence* (translated by S.L. Paulson)

The **LEGAL SYSTEM**

includes

rules, procedures and **institutions**

*by which activities, both public and private,
can be carried out through legitimate means.*

A legal system is

*a system for **interpreting and enforcing the laws.***

PLURALITY OF LEGAL SYSTEMS

in light of several and different social groups

Examples of what legal systems can be / Where legal systems can be found

STATES

e.g. Italy, France, USA, India, China, etc.

EUROPEAN UNION

Legal system encompassing 27 Member States

COUNCIL of EUROPE

Legal system including 47 Member States

INTERNATIONAL LEGAL ORDER

Special legal system – independent from States

WORLD WIDE WEB?



Modern theory of the **SEPARATION OF POWERS**

Legislative

Executive

Judicial

MAKE

**IMPLEMENT
&
ENFORCE**

INTERPRET

LAW

separate and independent bodies
so to ensure
legal certainty, impartiality, equality before the Law

Montesquieu, The Spirit of the Laws (1748)

