



**HAMLIN**  
UNIVERSITY

# Legal Classifications: Learning the Languages of the Law

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# Four Learning Outcomes

- Beginning to think, act and talk like a “lawyer”
- Systemic Integration; not compartmentalization
- The importance of crystal and mud
- Embracing difference & recognizing commonalities



# Why do we care about law in the first place?

- Locke (1632-1704): “The end of law is not to abolish or restrain, but to preserve and enlarge freedom.”
- Douglas: “Common sense often makes good law.” (1957)
- King: “It may be true that the law cannot make a man love me, but it can keep him from lynching me, and I think that’s pretty important.” (1962)
- Dworkin: “Moral principle is the foundation of law.” (1986)

# Here's why we care

## Seeing the “forest through the trees”

- Helps us think about the ends that “law” seeks to accomplish.
- Can't talk about end of journey unless you know where to start.
- Sources of law
  - Answers to all law school (and hence all legal) questions start by identifying the source(s) of legal authority.
  - Each body of law can have its own vocabulary, logic, and methodology that identifies **rights, duties, wrongs, and remedies.**

# International and Municipal Law

- International Law
  - Deals with the external (foreign) affairs of nations
  - Primarily regulates the relations between nations
  - Nations consider themselves “sovereign” (subject to no higher authority)
- Municipal Law
  - Domestic law of a nation-state
  - Regulates the nation’s internal affairs; primarily, the relationships among individuals

# Civil Law & Common Law

- Civil Law
  - Grew out of ancient Roman Empire
  - Continental Europe, Latin America, Japan
  - Legal reasoning starting point: code provision
    - Judicial precedents play secondary role
  - Inquisitorial system; judges take lead role
- Common Law
  - Roots in medieval England
  - U.S., Great Britain, Canada, Australia, New Zealand
  - Legal reasoning starting point: case precedent
  - Adversarial system; attorney takes lead role

# Public Law and Private Law

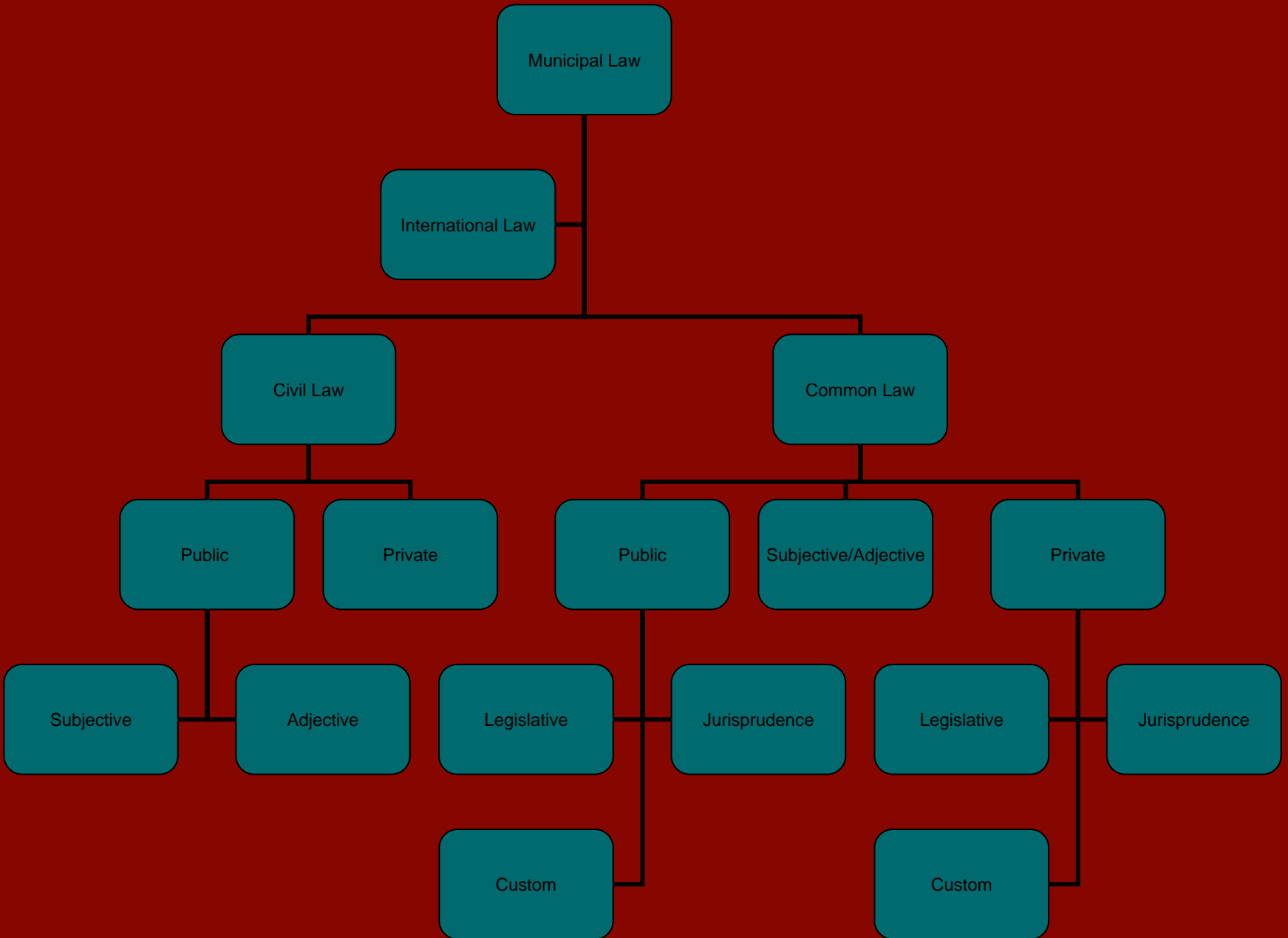
- Public law
  - Involves relations between private citizens or private organizations and the government
  - criminal, constitutional, tax, procedure, etc.
- Private law
  - Concerned with disputes among private citizens or private organizations
  - contract, wrongful act (tort), family relations, property ownership, etc.

# Substantive v. Adjective

- Substantive
  - Creates, defines, and delimits rights
  - Tells you the scope of the rights you have in the event of a legal breach
- Adjective
  - Forms of procedure to enforce substantive rights
  - Rules you must follow in order to enforce your rights
    - What must be in the complaint
    - When & how complaint is filed, etc. . .

## Legislation, Jurisprudence & Custom

- Legislation
  - Government's deliberate creation of legal precepts in official format (usually statute or code)
- Jurisprudence (or Case Law)
  - Decisions of tribunals having power to decide particular controversies
  - Provide law where no statute or ambiguous statute/Constitution
- Custom
  - Source of case law (if no statutory standard of behavior)



International Law

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graph TD; A[International Law] --> B[Subjective]; A --> C[Adjective];
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Subjective

Adjective



# Talking the Talk

- Thinking, acting and talking like a “lawyer”
  - Full-time immersion and acculturation
- Systemic Integration; not compartmentalization
  - Human affairs are messy and disputes do not easily fall into categories (e.g.: property law or criminal law).
- The importance of crystal and mud
  - When it is important to have a bright line rule and when there needs to be shades of gray.
  - Context matters
- Embracing difference & recognizing commonalities
  - Facts, values, *legal* remedies and jurisprudence can be didactic
    - e.g.: Modern Landlord-Tenant Warranty of Habitability informed by Consumer Protection Laws
    - Role of International law in Constitutional Jurisprudence?