

طبيعة القانون

(1) تعريف القانون:

| | |
|--|---------------------------|
| Body of rules = Group of rules | مجموعة متكاملة من القواعد |
| Govern: direct , control , make straight | تحكم |
| Regulate: make according to rule | تنظم |
| Social conduct: behaviour of people living in a society together | سلوك اجتماعي |
| Enforced: make obey law by force | مزودة بالقوة الجبرية |
| Sanction: penalties, punishments | جزاء - عقوبات |

(2) خصائص القانون:

القواعد القانونية اجتماعية، عامة، مزودة بجزاء.

| | |
|--|---|
| Order : regulate | تنظم وتدير |
| Relations | العلاقات |
| Internal thoughts or beliefs | الأفكار أو النوايا |
| Interfere: prevent a person from carrying out his plan | يتدخل، يمنع القيام بذلك المخطط |
| General: applied to all | تطبق على الجميع (حتى في حالة وجود شخص واحد فهو ليس مقصودا بذاته وإنما بصفة منصبه كرئيس الجمهورية مثلا). |

Invited: asked politely

Compelled: forced:

Sovereign (sovereignty): has full power to govern itself

مدعوين مطالبين

جبرا، بالقوة

السيادة: التمتع بالسلطة والإدارة العليا

THE NATURE OF LAW

1) Definition of law:

The law is the body of rules which govern and regulate the social conduct of people and which are enforced by a sanction.

2) Characteristics of law:

Legal rules are social, general and enforced by sanction

A- Rules of law are social: means these rules are to control and order relations between people living in a society.

They are concerned only with the external conduct or behaviour of man, and have nothing to do with internal thoughts or beliefs. It is only when he comes to act up on such beliefs that law can interfere.

B- Rules of law are general :

Law is generally applicable .It is applied in all cases and to all persons. Thus a rule of law is general though it is applicable to one person only, for example the president of Algeria must be aged 40 years at least. This is a general rule although it concerns only one person "The president". This rule does not concern any president by name, it is applicable to all persons who would be candidates for the post of the president.

C- Rules of law are enforced by a sanction :

People are invited to obey law voluntarily, if not they are compelled to do so by means of sanction applied by the state ' the sovereign political authority.

تقسيم القانون إلى قانون عام وقانون خاص

ينقسم القانون عادة إلى قسمين رئيسيين:

| | |
|---|--|
| Public law : belong to state | القانون العام |
| Private law : belonging to persons as equally | القانون الخاص |
| Distinction : difference | التفرقة |
| Character : nature | طبيعة، خاصية |
| Arising : produce, bring up | تتكون، ينتج، يقدم |
| Legislative authority : parliament | السلطة التشريعية |
| Executive authority : (Government) any body or person appointed by government | السلطة التنفيذية (الحكومة وأجهزتها الإدارية) |
| Branch | فرع (فروع القانون) |
| Corporation: company | شركة، هيئة |
| Constitution(al) | دستور : (دستوري) |
| Administrative law | القانون الإداري |
| Taxation | القانون الضريبي |
| Criminal law | القانون الجنائي |
| Public international law | القانون الدولي العام |
| Procedure: (Law of Civil procedure) | إجراءات |
| Maritime law | قانون بحري |
| Private international law | القانون الدولي الخاص |

THE CLASSIFICATION OF LAW: PUBLIC AND PRIVATE LAW

Law is usually classified into two great classes; Public law and private law. this classification is based upon a distinction between the public or private character of the persons concerned.

- **Public law** is that which regulates the relations of public persons among themselves, or relations arising between public persons and private persons.

- **Private law** is concerned with the relations of private persons among themselves.

By a public person is meant either the state or an independent authority of the state, whether legislative: parliament, executive, ministry of foreign affair, university, wilaya.

By private person is meant either an individual, or a group of individuals, an association or a corporation.

A- Subdivision of Public Law

Public law includes several branches as constitutional law, administrative law, law of taxation, criminal law, public international law.

B- Subdivision of Private Law

Private law includes CIVIL LAW, commercial law, civil procedure and maritime law, private international law.

مصادر القانون

مصادر رسمية و مصادر تاريخية

| | |
|---|------------------------------------|
| Legal source | مصدر رسمي (تشريعي) |
| Historical source | مصدر تاريخي (عرف) |
| Lacking : (without) | عدم توفر، نقص |
| Formal | رسمية (أو رسمي) |
| Recognition | اعتراف (إضفاء) الرسمية |
| Gates | البوابة (طريقة لتكوين قواعد جديدة) |
| Legal system | النظام القانوني |
| Contains | يتضمن |
| Determining : decide | تحديد، تصميم |
| Establishment | تكوين، إنشاء (قواعد جديدة) |
| Disappearance : (be seen no more) | إلغاء، اختفاء قواعد قديمة |
| Legislation | التشريع |
| Custom (Customary Rules) unwritten law which lays down how things are usually done | العرف |
| Natural law | القانون الطبيعي |
| Rules of equity | قواعد الإنصاف |
| P.N.A : popular National Assembly | المجلس الشعبي الوطني |
| C.N : Council of Nation | مجلس الأمة |

THE SOURCES OF LAW

LEGAL AND HISTORICAL SOURCES

A- General Outlines:

Sources of law can be classified as either legal or historical, the former are those sources which are recognised as such by the law itself, the later are these sources lacking formal recognition by the law.

The legal sources are the only gates through which new principles can find entrance into the law.

For every legal system contains certain rules of recognition determining the establishment of new law and the disappearance of old.

B- The Legal Sources of Algerian law

According to the civil code, article one, the legal sources of law are; legislation, shariâ (ISLAMIC law); custom, and natural law and rules of equity.

Legislative authority (parliament) in Algerian constitution consists from two chambers:

- House of people (Popular National Assembly) (P.N.A)
- House of nation (Council of Nation) (C.N)