Law

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eBay vs. Bidder's Edge: A Landmark Case in Cyber Law and Information Security

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In the early days of the internet, when e-commerce was just finding its footing, a legal battle between two online marketplaces set a crucial precedent that continues to influence how we think about digital property rights today. The eBay Inc. v. Bidder's Edge Inc. case emerged as one of the first significant legal decisions to address the unauthorized use of website data, applying traditional property concepts to the digital world in a way that would reshape our understanding of online boundaries.

Trespass to chattels

Traditionally, trespass to chattels meant interfering with someone's personal property (like damaging or using their car or tools without consent). The court agreed, marking one of the first major cases to extend trespass laws to digital property.

False advertising under the Lanham Act, 15

"False advertising" here refers to misleading representation in commerce that confuses consumers about the source or quality of a product or service.

Trademark dilution

Occurs when another party uses a famous mark (like "eBay") in a way that weakens its distinctiveness or reputation, even if there's no direct confusion.

Violation of the Computer Fraud and Abuse Act, 18

The CFAA criminalizes unauthorized access to computer systems or networks. It's one of the most important U.S. cybercrime laws.

Unfair competition

Using deceptive or unethical means to gain a business advantage. It protects the integrity of market competition.

Misappropriation

Taking or using another's property, ideas, or data without authorization, especially for commercial benefit.

Interference with prospective economic advantage

Intentionally disrupting another company's potential or ongoing business relationships or opportunities.

Unjust enrichment

A legal principle where one party benefits unfairly at the expense of another.

What is Law?

- Law is a set of rules of human conduct that are imposed and enforced by the state through recognized institutions such as courts and police.

- It defines what individuals can or cannot do and provides mechanisms for resolving disputes.

What is Law?

- **Different laws / rules in different countries**.

  - Rules governing data protection, rights of access to information, and misuse of computers etc.

- Different countries have **different legal systems / systems of courts**, different rules for court procedures, different procedures for appeals etc.

- Even within a single country, the law and the legal system may be different in different areas.

  - Mostly in large countries with a federal system of Government e.g USA, UK, India etc.

- **Jurisdiction** mean the area covered by a single legal system and set of laws.
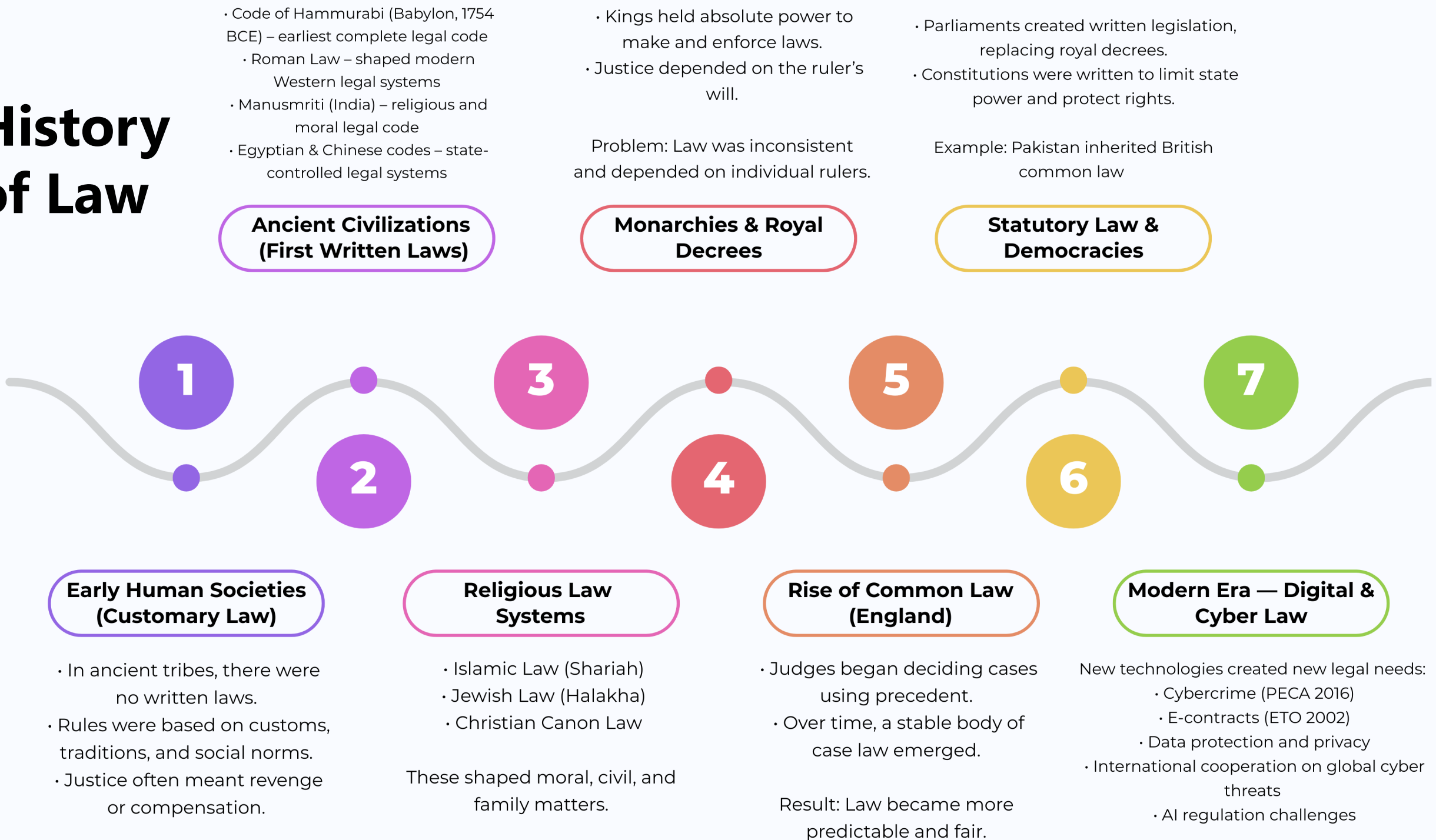
Why Do We Need Law?

Without it, there would be chaos, exploitation, and no protection for rights.

Key purposes:

- To ensure **justice and equality**

- To maintain **public order and safety**

- To protect **life, property, and rights**

- To provide **mechanisms for resolving disputes**.

- To regulate relationships between **individuals, businesses, and the state**

- To provide punishment for **wrongdoing** and deterrence for **crimes**

In short: "Laws were created to scare people into being good", ensuring that moral and ethical behavior has accountability.

History of Law

Ancient Civilizations (First Written Laws)

- Code of Hammurabi (Babylon, 1754 BCE) – earliest complete legal code
- Roman Law – shaped modern Western legal systems
- Manusmriti (India) – religious and moral legal code
- Egyptian & Chinese codes – state-controlled legal systems

Monarchies & Royal Decrees

- Kings held absolute power to make and enforce laws.
- Justice depended on the ruler's will.

Problem: Law was inconsistent and depended on individual rulers.

Statutory Law & Democracies

- Parliaments created written legislation, replacing royal decrees.
- Constitutions were written to limit state power and protect rights.

Example: Pakistan inherited British common law

Early Human Societies (Customary Law)

- In ancient tribes, there were no written laws.
- Rules were based on customs, traditions, and social norms.
- Justice often meant revenge or compensation.

Religious Law Systems

- Islamic Law (Shariah)
- Jewish Law (Halakha)
- Christian Canon Law

These shaped moral, civil, and family matters.

Rise of Common Law (England)

- Judges began deciding cases using precedent.
- Over time, a stable body of case law emerged.

Result: Law became more predictable and fair.

Modern Era — Digital & Cyber Law

New technologies created new legal needs:
- Cybercrime (PECA 2016)
- E-contracts (ETO 2002)
- Data protection and privacy
- International cooperation on global cyber threats
- AI regulation challenges

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Where Does Law Come From?

1. Common Law

Definition:
Law developed through **court judgments** over many years. Judges rely on *precedents* (past decisions) to decide new cases.

Key Features:
- Not originally written by Parliament
- Built case by case
- Flexible and evolves with society
- Judges play a major role

Examples:
- eBay v. Bidder's Edge (digital trespass through precedent)
- Many cybersecurity and privacy interpretations in courts
- Pakistan indirectly inherits some English Common Law roots

2. Statute Law

Definition:
Law created by **Parliaments or legislatures** in written form. These are Acts, Ordinances, or Codes.

Key Features:
- Written, formal, enforceable
- Clear rules and penalties
- Overrides common law if there's a conflict

Examples (Pakistan):
- PECA 2016 (cybercrime law)
- Electronic Transactions Ordinance 2002
- Intellectual Property laws (IPO Pakistan)
- Constitution of Pakistan 1973
- Contract Act 1872

3. Islamic Law (for Pakistan)

Definition:
Certain laws must align with Islamic principles. The Federal Shariat Court ensures no law contradicts Islamic injunctions.

Key Features (Islamic Law):
- Based on Qur'an and Sunnah
- Focus on justice and fairness
- Protects life, property, dignity, and rights

Examples:
- Family law
- Inheritance/succession law
- Some criminal and social matters

Jurisdiction

Jurisdiction is the legal authority of a court or government body to hear a case, make decisions, and enforce laws.

1. Original Jurisdiction

The court has the power to **hear a case for the first time**.

Example:
A cybercrime complaint filed directly in a Special Court under PECA.

2. Appellate Jurisdiction

The court has the authority to **review decisions** made by lower courts.

Example:
Appealing a conviction or fine from the trial court.

3. Territorial Jurisdiction

The geographic area where a court has power.

Example:
A case occurring in Islamabad cannot be tried in Karachi unless special rules apply.

4. Pecuniary Jurisdiction

Jurisdiction based on the **monetary value** of the claim.

Example:
Small-value civil disputes vs. high-value corporate or IP cases.

Types of Law

Criminal Law
Defines offenses against the state and prescribes punishments.

Civil Law
Resolves disputes between individuals or organizations.

Public Law
Regulates interactions between the state and individuals.

Substantive Law
Defines rights, duties, and what is lawful or unlawful.

Procedural Law
Defines the process of enforcing rights or prosecuting crimes.

International Law
Governs relationships between states (treaties, diplomacy).

Criminal Law

Criminal law deals with actions considered harmful to society and punishable by the State.

Key Idea: A crime may harm a person, but legally it is an offense against the State because it threatens public order.

Examples: Hacking or unauthorized access, Cyber harassment, Fraud and identity theft, Theft, Assault, Murder, Terrorism

Crime: It is defined as an act disobedience of the law forbidden under pain of punishment.

Punishment: It ranges from death to a money penalty or absolute discharge.

Police are the public servants whose duty is the prevention and detection of crime and the prosecution of offenders before the courts of law.

Criminal Law

Purpose
- Protect society
- Maintain public order
- Punish wrongdoing
- Deter future crime

Punishments
- Imprisonment
- Fines
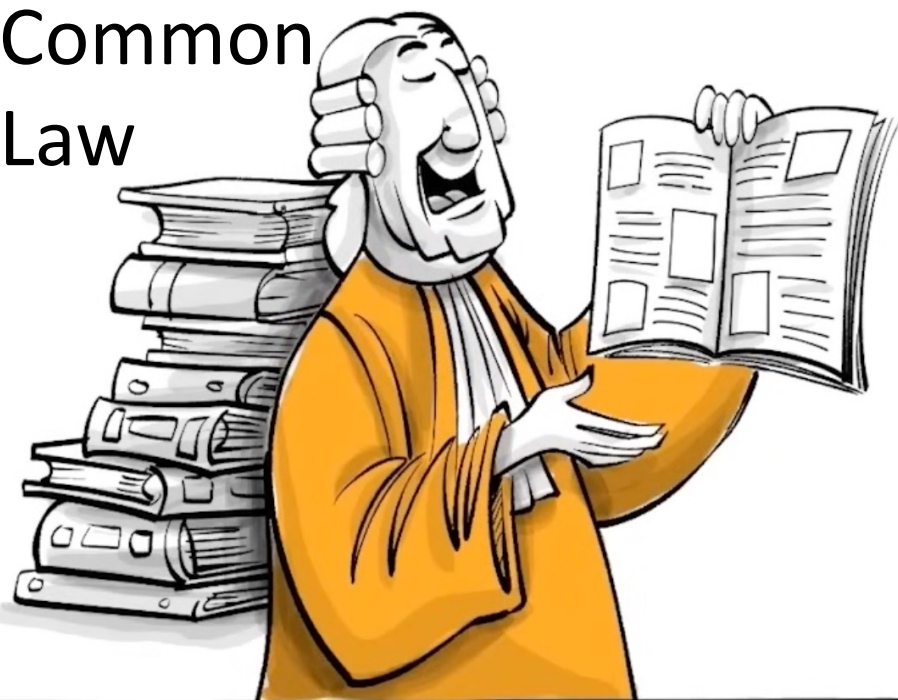- Seizure of devices (in IT crimes)
- Criminal record
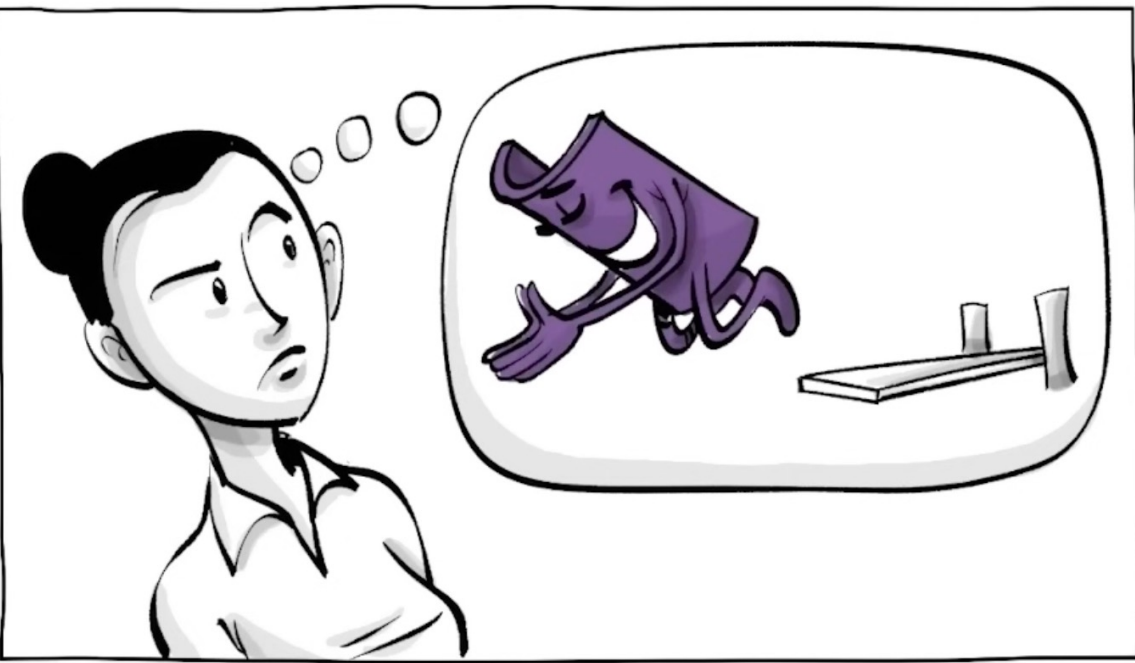
Civil Law

Common Law
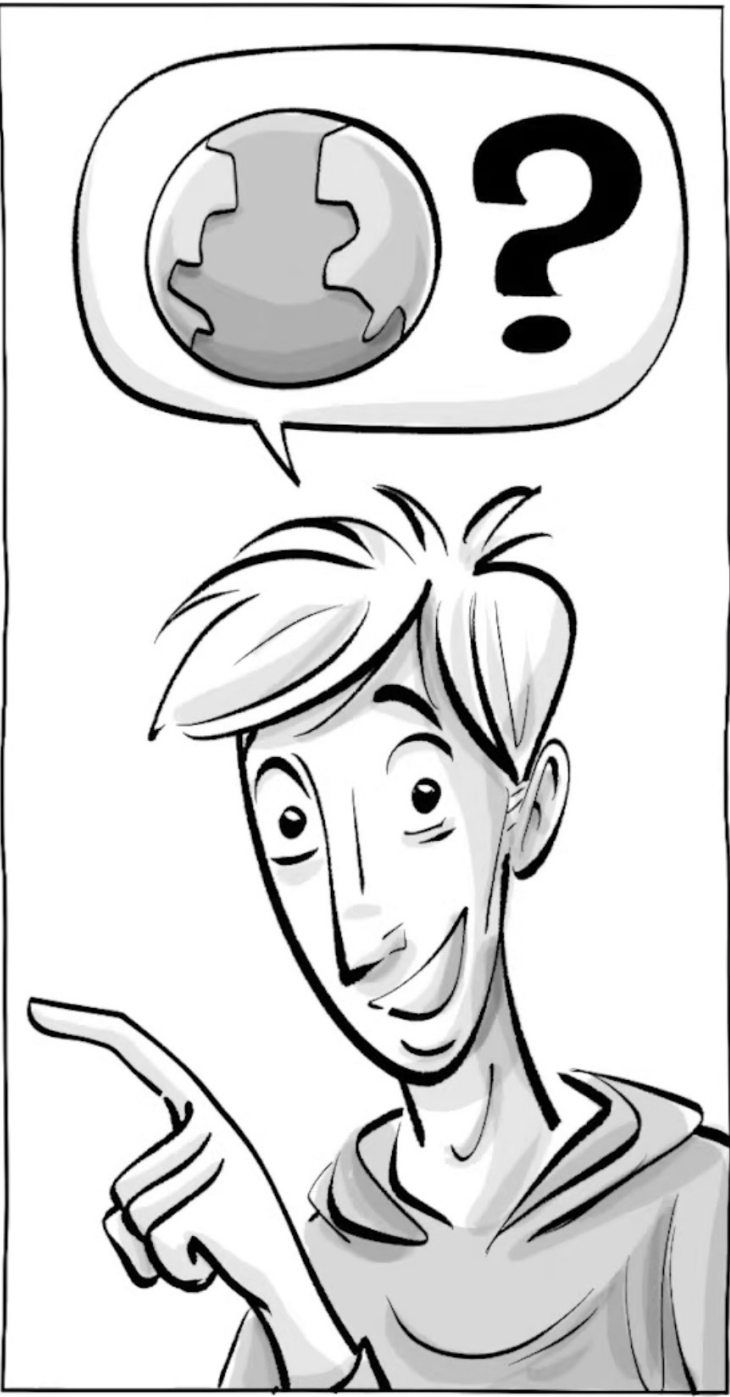
Civil Law (Private Law)

Civil law resolves disputes between individuals, groups, or organizations. The goal is **compensation**, not punishment.

Key Features:

- Deals with rights and duties between people
- Case is filed by the ***affected party***, not the State
- Outcome is usually **damages**, **injunction**, or **specific performance**
- **Court action under the civil law is known as litigation**

Examples: Breach of contract, Intellectual property disputes, Negligence causing financial loss, Defamation on social media, Property or ownership disputes etc.

The Law of Torts: deals with civil wrongs where one person's wrongful act causes harm or loss to another, and the remedy is compensation, not punishment.

A tort = a civil wrong that leads to damages.

Common types of Torts: Negligence, Defamation, Trespass to Property, Invasion of Privacy

Civil Law – Major Categories

Law of Contract

This branch governs **agreements between two or more parties** and determines when a promise becomes **legally enforceable**.

If you agree to do something (deliver software, provide a service, etc.), and you don't, the other party can take you to court.

Examples: Software development agreements

Law of Property

Determines legal rights over **physical property** (land, houses) and **intellectual property (IP)** like software.

It decides who **owns** something and what rights come with that ownership.

Examples: Who owns the source code? Developer or client? Trademark ownership, Patent rights (invented technology) etc.

Law of Succession

Determines **how a person's property is passed on** after their death.

This branch deals with inheritance and wills.

Examples: Distribution of assets of a deceased person, Legal heirs' rights, Validity of a will

Family Law

Regulates the rights, duties, and legal status between **husband & wife**, **parents & children**, and family members.

Marriage, divorce, maintenance, child custody, guardianship.

Examples: Child custody disputes, Divorce and marital rights, Domestic issues resolved in Family Courts

Civil Law (Private Law)

Purpose

- Ensure fairness
- Protect private rights
- Provide remedies for harm
- Support business and professional relationships

Outcomes

- Compensation (damages)
- Injunctions
- Restitution
- Declaratory relief
- Settlement agreements

Public Law

Public law governs the **relationship between individuals and the State**.

It regulates how government power is exercised and how citizens' rights are protected.

Purpose
- Ensure government acts **fairly and legally**
- Protect citizens from misuse of State power
- Maintain the balance between authority and individual rights

Examples
- Challenging a government body's misuse of personal data
- Appealing a decision made by a regulatory authority (PTA, SECP, FBR)
- Constitutional petitions related to digital rights, surveillance, or censorship

Public Law – Major Categories

Constitutional Law

Constitutional law defines how the government is structured, how its main institutions (Parliament, Executive, Judiciary) relate to each other, and what powers and responsibilities each one has. It also protects the fundamental rights of citizens.

Example: Relations between the Federal Govt. and the Provincial Govt., High Courts and Supreme Court, Armed Forces, Police, Rights and Liabilities of people etc.

Administrative Law

Administrative law governs how government departments and public authorities make decisions, and protects individuals from unfair or unlawful actions by these bodies.

Example: administrative law determines the legal rights of a private citizen whose house, a local authority intends to acquire compulsorily.

Substantive Law

Defines **rights, duties**, and what actions are considered **legal or illegal**.

It is the body of rules of law in the above branches which regulate the rights, duties and liabilities among citizens and government.

Examples:
- Unauthorized access to a computer system is a crime.
- A valid contract requires offer, acceptance, and consideration.
- Defamation harms reputation and creates civil liability.

Procedural Law

Defines the **steps and processes** for enforcing substantive law through the justice system.

It lays down the rules governing the manner in which a right is enforced under civil law or a crime prosecuted under criminal law.

Examples
- Challenging a government body's misuse of personal data
- Appealing a decision made by a regulatory authority (PTA, SECP, FBR)
- Constitutional petitions related to digital rights, surveillance, or censorship

International Law

Public International Law governs the **relationships between states** and international organizations. It sets rules for how countries interact, cooperate, and resolve disputes.

What It Covers:
- **Treaties and Agreements:** trade agreements, climate treaties, security pacts
- **Diplomatic Relations:** embassies, diplomats, international cooperation
- **Human Rights Obligations:** UN conventions, international rights frameworks
- **International Conflict Rules:** laws of war, humanitarian law
- **Global Issues:** cybercrime cooperation, data transfers, extradition

IT-Relevant Examples:
- Countries cooperating on **cross-border cybercrime** investigations
- International rules for **data transfer** (GDPR, adequacy agreements)
- Extradition cases involving hackers operating from abroad
- Pakistan's commitments under international treaties (e.g., Budapest Convention discussions)

General Law

Laws that apply to **everyone** and cover **broad areas** of legal matters.

Key Features:
Applies to the entire population
Covers general rights and duties
Forms the basic legal framework of a country

Examples:
- Pakistan Penal Code (PPC)
- Contract Act 1872
- Qanun-e-Shahadat Order (evidence law)

Special Law

Laws created for **specific subjects**, **specific groups**, or **specific situations**.

Key Features:
Overrides general law when there is a conflict
Applies only to particular areas or issues
More detailed and targeted

Examples:
- PECA 2016 (cybercrime)
- Intellectual Property Laws
- Anti-Money Laundering Act
- Companies Act 2017

Law and Ethics

- When Law tells us to do or not to do something, it implies that a recognized authority has decided that the action that allows or prohibits is of benefit to the society in someway.

- It often happens that an ethical principle was used prior to a laws construction.
  Example: a generally accepted ethical principle that we should help others in need leads to a Good Samaritan Laws that protect the right of individuals who help an injured person.

- The fact that Law is grounded in ethical principles makes law a good starting point for ethical decision making.

Law and Ethics

I. Firing an employee who does not perform according to expectation or fails to follow contractual obligations.

II. Copying copyrighted software to use only as a backup, even when the copyright agreement specifically prohibits copying for that purpose.

III. Not citing sources in research paper/ revealing data that was expected to remain confidential

IV. Making unauthorized copies of copyrighted software planting viruses in someone else's computer

	Legal	Not Legal
Ethical	I	II
Not Ethical	III	IV

Thank You