# Slide One

**Irish Business Law**

“The law is a body of rules imposed by a state upon its members which is designed to regulate human conduct within that state. The courts interpret these rules of conduct, decide whether they have been broken and pass sentence or make an award of compensation. A certain standard of behaviour is thereby maintained amongst the members of the State in the interest of the common good”

**Information Technology Law**

A system of principles, rules and procedures which aim to regulate the behaviour of individuals in society

**Legal principle**

the idea behind the law

**Legal rule**

the law which puts the principle into practice

**Legal procedure**

the rules relating to court procedure and evidence

**Jurisdiction**

the geographical area where a law applies

Jurisdiction poses particular challenges for IT Law

Definition of Law

1. Set of Rules
2. Made by the State
3. Implemented through Institutions of the State
4. Compulsory
5. Guides behaviour of individuals and artificial entities
6. New technology – New Problems – New Law
7. IT Law is constantly evolving although the pace of change is arguably too slow

**Function of the Law (Stages)**

What is or should be the basis of Law?

To uphold public morality? Lord Devlin

To prevent harm to others? Professor Hart

Summary of the [Hart-Devlin debate](http://sixthformlaw.info/01_modules/other_material/law_and_morality/08_hart_devlin.htm)

Some proposed Laws currently before the Oireachtas – [here](http://www.oireachtas.ie/ViewDoc.asp?DocId=-1&CatID=59&m=b)

Is the Oireachtas concerned with upholding morality or prevention of harm – what does the current set of proposals indicate?

What is the basis of [this](http://www.bbc.co.uk/news/uk-17951067) proposal? Did it become law in the UK? Would you support the introduction of such a law in Ireland?

## Professionalism and IT

1. Characteristics of a profession
2. Substantial education and training in order to practice
3. Members control entry to profession
4. Existence of one or more professional bodies
5. Code of conduct set out and enforced by professional body
6. Monopoly in relation to title or tasks

## Categories of Law

### Criminal Law

1. A public wrong
2. Prosecution of offender by the State (DPP v Ryan)
3. Standard of proof – ‘beyond all reasonable doubt’
4. Finding – Guilty/Not Guilty
5. Commencement of Proceedings
6. Criminal Courts
7. Accused is innocent until proven guilty
8. Objective is punishment (imprisonment, fines etc)

### Civil Law

1. A private wrong
2. One individual sues another (Plaintiff v Defendant)
3. Objective is to provide a remedy
4. Standard of proof is a ‘balance of probabilities
5. Finding – Liable/Not Liable
6. Remedies – damages or court order e.g. injunction
7. Civil Courts

**Primary legislation**

Primary legislation is law made by the legislative branch of government. That contrasts with secondary legislation, which is usually made by the executive branch. Secondary (or delegated) legislation must be authorised by primary legislation and must conform to boundaries laid down.

**Secondary Legislation**

In the United Kingdom, delegated legislation (also referred to as secondary legislation or subordinate legislation or subsidiary legislation) is [law](https://en.wikipedia.org/wiki/Law) made by an executive authority under powers delegated from a legislature by enactment of [primary legislation](https://en.wikipedia.org/wiki/Primary_legislation), which grants the executive agency power to implement and administer the requirements of that primary legislation.

**Judicial precedent**

means the process whereby judges follow previously decided cases where the facts are of sufficient similarity. The doctrine of **judicial precedent** involves an application of the principle of stare decisis ie, to stand by the decided.

**Professional ethics**

encompass the personal, organizational and corporate standards of behaviour expected of [professionals](https://en.wikipedia.org/wiki/Professional)

## Criminal Court

* **District Court** summary offences, some indictable offences, preliminary hearings
* **Circuit Court** indictable offences except murder, rape
* **High Court** offences which cannot be heard by the Circuit Court e.g. murder
* **Special Criminal Court** a non jury court used for terrorism/organised crime
* **Court of Appeal** hears appeals from Circuit/Central/Special Criminal Courts
* **Supreme Court** important points of Law only

## Civil Courts

* **District Court** claims up to €15,000, licensing, family law, small claims
* **Circuit Court**  claims up to €75,000, landlord and tenant, family law
* **High Court** unlimited jurisdiction, Constitutional cases, company law, family law
* **Court of Appeal** hears appeals based on points of law and points of fact
* **Supreme Court** points of law of exceptional public importance, Constitutional cases

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