

Week 1- Module 1

Overview of the Canadian Legal System

Law, Ethics and Professional Practice -
ENGI3500

WINTER 2025



**WE ARE
HUMBER**

Introduction

- The legal system of the nine common-law provinces and the territories of Canada is based upon the English common-law system.
- English "courts of equity" were developed as a separate court system, providing more reasonable remedies as circumstances required.
- Eventually, the two systems—the old common-law system and the courts of equity—were combined, and an improved system was developed to provide remedies premised on both common-law precedents and on equitable principles. This improved system continued to be called the common law, and is the system from which the present Canadian common-law system evolved.

Theory of Precedent

- Courts apply legal principles established in previous court decisions that involved similar or analogous fact situations; this is called "the theory of precedent."
- Factual distinctions between cases may also provide the basis for flexibility. A court may see fit to dismiss the application of a precedent on the basis of relatively minor factual distinctions between the precedent and the facts of the case before the court, provided the end result is justified.
- Departures from established precedents are often very slow to evolve.

Common Law

- A major source of law is "judge-made law"—court decisions establishing legal principles.
- In Canada, common law refers to a legal system that is based on judge-made decisions and precedents rather than statutes or written laws. Common law is a significant component of the Canadian legal system, and it coexists with statutory law, which is law that is enacted by legislatures.

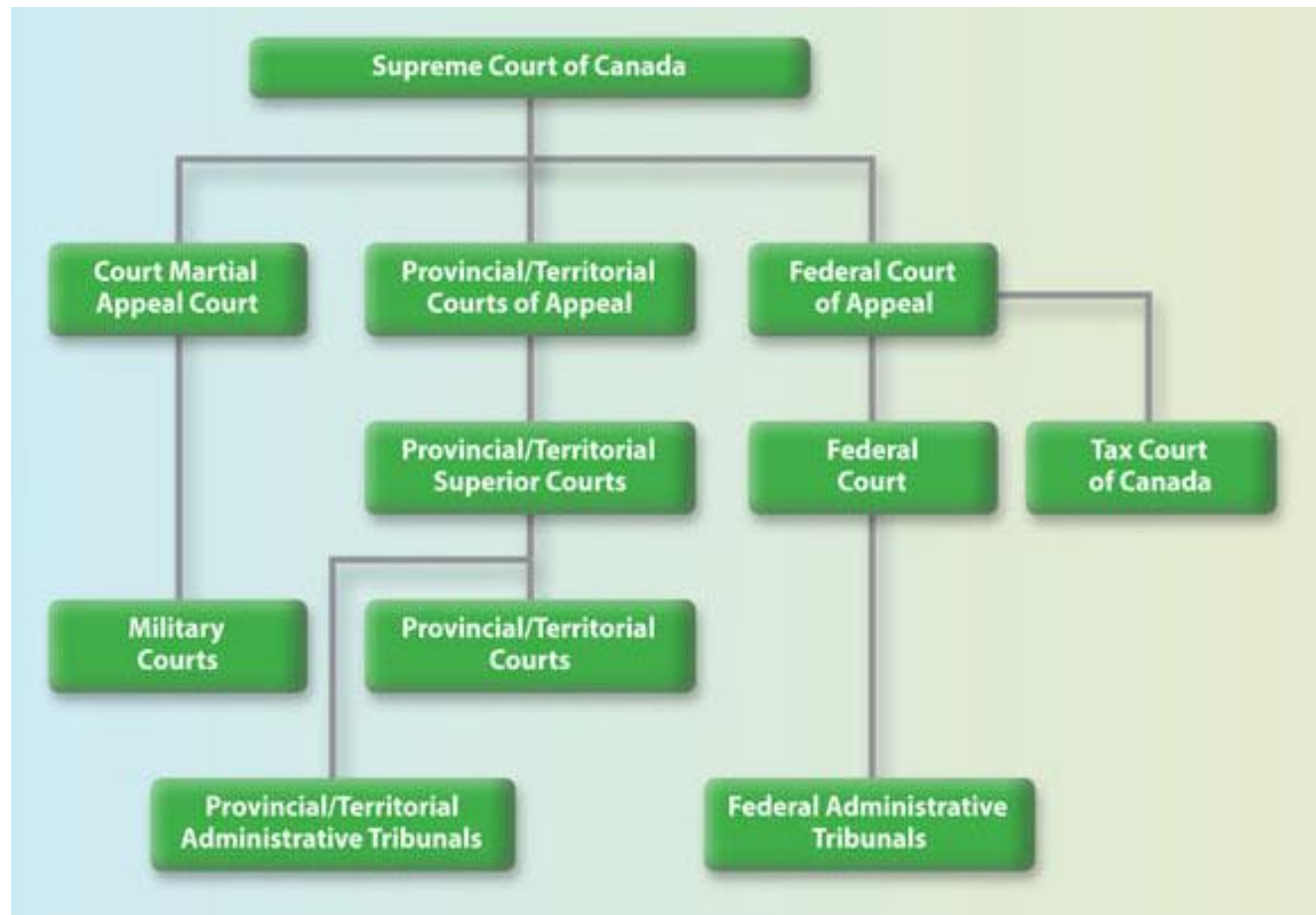
Legislation

- Legislation, in the form of statutes passed by elected legislatures, is a crucial legal source alongside common law.
- Courts play a pivotal role in determining the relevance of statutes in legal proceedings, deciding whether they apply to specific cases.
- Some statutes, like the Professional Engineers Act of Ontario, include regulations that, when aligned with empowering statutes, serve as additional legal authority for governing professional practices. Engineers must stay informed about relevant statutes to ensure compliance and awareness of any changes.

Federal and Provincial Powers & Court Systems

- The Canadian Constitution, specifically the Constitution Act, 1982 (formerly the British North America Act, 1867), grants legislative authority to both the federal government and provincial legislatures, delineated in Sections 91 and 92.
- Provincial legislatures hold jurisdiction over statutes related to provincial affairs, including property rights, with examples such as mechanics', construction, or builders' lien legislation potentially impacting engineers.
- The enactment of the Canadian Charter of Rights and Freedoms in 1982, part of the Constitution Act, marked a pivotal shift from the "doctrine of Parliamentary Supremacy" to a framework where courts can invalidate statutes violating Charter rights, altering the landscape of civil liberties protection in Canada. Section 52(1) establishes the Constitution as the supreme law, diminishing the absolute authority of Parliament and provincial legislatures.

Federal and Provincial Powers & Court Systems



Source:

<https://www.justice.gc.ca/eng/csjsjc/just/07.html>

(Canada Department of Justice, 2021)

The Law of Quebec

- Quebec's legal framework stands apart from the English common-law system, as it is rooted in the civil law tradition derived from the Napoleonic Code. Diverging from the common-law system, the Civil Code of Quebec shapes the legal landscape in the province. For engineers conducting business in Quebec, seeking guidance from a Quebec lawyer is essential. It's worth noting that the term "civil" in the context of Quebec law may cause confusion, as, in the common-law system, it typically denotes matters of private law rather than criminal disputes.
- Refer to Chapter 34 of the Textbook for further information.

International Law

- Canada is a signatory to various international treaties and agreements (i.e. United States-Mexico-Canada Agreement) related to professional engineering, influencing the legal framework for engineering practices on a global scale.
- International law and treaties may impact the recognition of engineering qualifications, standards, and certifications across borders, affecting the mobility and professional standing of Canadian engineers abroad.
- Compliance with international standards and agreements is essential for Canadian engineers involved in cross-border projects, as adherence to recognized norms ensures compatibility with global engineering practices and fosters cooperation with other nations.

Rule of the Law

- **Primary Sources of Law in Canada:**
 - Canada's legal landscape is predominantly shaped by court decisions and statutes enacted by democratically elected legislatures.
- **Separation of Powers:**
 - The Canadian legal system maintains a clear separation and independence between the judiciary and elected legislatures, ensuring a fundamental premise of the "Rule of Law" that applies to everyone.
- **Role in Business and Civil Interaction:**
 - The Canadian legal system plays a crucial role in facilitating business dealings and interactions. It provides a framework for enforcing agreements, and the precedent theory enhances predictability in resolving disputes, offering important protections under the Rule of Law.

Claims & Disputes

- Claims and disputes in the Canadian legal system are typically resolved through adjudication in courts, where judges interpret and apply laws to settle legal conflicts.
- Alongside court proceedings, Canada encourages alternative dispute resolution methods such as mediation and arbitration, offering parties more flexible and collaborative avenues for resolution.
- The Canadian legal system ensures the enforcement of legal rights and obligations, providing a structured framework for individuals and entities to seek remedies and find resolutions to disputes.

Claims & Disputes

- Claims and disputes in the Canadian legal system are typically resolved through adjudication in courts, where judges interpret and apply laws to settle legal conflicts.
- Alongside court proceedings, Canada encourages alternative dispute resolution methods such as mediation and arbitration, offering parties more flexible and collaborative avenues for resolution.
- The Canadian legal system ensures the enforcement of legal rights and obligations, providing a structured framework for individuals and entities to seek remedies and find resolutions to disputes.

Homework Before Next Class

- Review list of definitions provided.
- Complete assigned chapter readings in the Critical Path:
 - Chapter 1 & 34 from the textbook

References

- Canada Department of Justice. (2021). The judicial structure. Justice Canada. <https://www.justice.gc.ca/eng/csj-sjc/just/07.html>
- Marston, Donald L. 2019. *Law for Professional Engineers: Canadian and Global Insights*. 5th ed. New York: McGraw-Hill Education

THANK YOU.



**WE ARE
HUMBER**