



**RAMA
UNIVERSITY**

www.ramauniversity.ac.in

FACULTY OF JURIDICAL SCIENCES

COURSE: B.A.LL.B. 1st Semester

SUBJECT: ADVANCE LEGAL WRITING SKILL-I

SUBJECT CODE: BAL 108

LECTURE: 3

NAME OF FACULTY: Ms. Anjali Dixit

Lecture-3



CODIFICATION

An important common characteristic of civil law, aside from its origins in Roman law, is the comprehensive codification of received Roman law, i.e., its inclusion in civil codes. The earliest codification known is the Code of Hammurabi, written in ancient Babylon during the 18th century BC. However, this, and many of the codes that followed, were mainly lists of civil and criminal wrongs and their punishments. The codification typical of modern civilian systems did not first appear until the Justinian Code.

Codification helps to deter the municipal legislative body from enacting redundant or inconsistent new ordinances, and lets the council or board view the body of **law** as a whole and note any gaps in coverage which may need legislation.

Germanic codes appeared over the 6th and 7th centuries to clearly delineate the law in force for

Germanic privileged classes versus their Roman subjects and regulate those laws according

to folk-right. Under feudal law, a number of private customals were compiled, first under

the Norman empire (Très ancien coutumier, 1200–1245), then elsewhere, to record

the manorial – and later regional – customs, court decisions, and the legal principles

underpinning them. Customals were commissioned by lords who presided as lay judges over

manorial courts in order to inform themselves about the court process. The use of customals from

influential towns soon became commonplace over large areas. In keeping with this, certain monarchs consolidated their kingdoms by attempting to compile customs that would serve as the law of the land for their realms, as when Charles VII of France in 1454 commissioned an official custom of Crown law. Two prominent examples include the *Coutume de Paris* (written 1510; revised 1580), which served as the basis for the Napoleonic Code, and the *Sachsenspiegel* (c. 1220) of the bishoprics of Magdeburg and Halberstadt which was used in northern Germany, Poland, and the Low Countries.

The concept of codification was further developed during the 17th and 18th centuries AD, as an expression of both natural law and the ideas of the Enlightenment. The political ideals of that era were expressed by the concepts of democracy, protection of property and the rule of law. Those ideals required certainty of law, recorded, uniform law. So, the mix of Roman law and customary and local law gave way to law codification. Also, the notion of a nation-state implied

recorded law that would be applicable to that state. There was also a reaction to law codification. The proponents of codification regarded it as conducive to certainty, unity and systematic recording of the law; whereas its opponents claimed that codification would result in the ossification of the law.

In the end, despite whatever resistance to codification, the codification of Continental European private laws moved forward. Codifications were completed by Denmark (1687), Sweden (1734), Prussia (1794), France (1804), and Austria (1811). The French codes were imported into areas conquered by Napoleon and later adopted with modifications in Poland (Duchy of Warsaw/Congress Poland; Kodeks cywilny 1806/1825), Louisiana (1807), Canton of Vaud (Switzerland; 1819), the Netherlands (1838), Serbia (1844), Italy and Romania (1865), Portugal (1867) and Spain (1888). Germany (1900), and Switzerland (1912) adopted their own codifications. These codifications were in turn imported into colonies at one time or another by most of these countries. The Swiss version was adopted in Brazil (1916) and Turkey (1926).

In theory, codes conceptualized in the civil law system should go beyond the compilation of discrete statutes, and instead state the law in a coherent, and comprehensive piece of legislation, sometimes introducing major reforms or starting anew.

Codified Constitution

DEFINITION

A codified constitution is a constitution in which key constitutional provisions are collected within a single document, it is commonly known as a written constitution.

EXAMPLES

Afghanistan, Australia, France, Germany, India, Ireland, North Korea, Russia, South Africa, USA, Vietnam

Uncodified Constitution

DEFINITION

An uncodified constitution is a constitution that is made up of rules that are found in a variety of sources, in the absence of a single legal document or written constitution.

EXAMPLES

Israel, New Zealand, Saudi Arabia, UK, Canada, San Marino

MCQ

1. The husband may impugn the legitimacy of his child but not on the ground that:

- a) the wife is suspected of infidelity.
- b) the husband had a serious illness that prevented him from engaging in sexual intercourse.
- c) they were living apart.
- d) he is physically incapable of sexual intercourse.

2. A marriage is void if:

- a) solemnized with a marriage license issued without complying with the required 10-day posting.

b) solemnized by a minister whom the parties believe to have the authority.

c) between parties both 23 years of age but without parental advice.

d) none of the above

3.. In legal separation, which is not correct?

a) The aggrieved spouse may file the action within five (5) years from the time of the occurrence of the cause.

b) No trial shall be held without the 6-month cooling off period being observed.

c) The spouses will be entitled to live separately upon the start of the trial.

d) The prosecuting attorney has to conduct his own investigation.

4.. A husband by chance discovered hidden treasure on the paraphernal property of his wife.
Who owns the discovered treasure?

a) The half pertaining to the husband (finder) belongs to the conjugal partnership.

b) The half pertaining to the wife (as owner) belongs to the conjugal partnership.

c) One half shall belong to the husband as finder and the other half shall belong to the wife as owner of the property.

d) a and b

5.. Which of the following marriages is void for reasons of public policy?

- a) Between brothers and sisters, whether of the full or half blood.
- b) Between step-parents and step children.
- c) Between parents-in-law and children-in-law.