

COMPARISON:
COMMON LAW versus **CIVIL LAW** SYSTEMS

System Features:	Common Law Systems	Civil Law Systems
Continuity of Legal system	Evolutionary	Arbitrary
Major Source of Law	Custom & Practice	Legislative Statutes
Reliance on precedent	Yes (Strong)	No (Weak)
Judicial role in law-making	Active & Creative	Passive and Technical
Role of Legal Scholarship	Secondary and Peripheral	Extensive and Influential
Judicial Review of Statutes & Executive Actions	Yes	No
Major Decision Stage	Trial	Investigation & Examination
Trial Format	Accusatorial/confrontational	Inquisitorial/collaborative
Use of Argument & Debate	Extensive & fundamental	modest & restricted
Style of Legal Reasoning	Inductive	Deductive
Trial Emphasis on:	Procedural Correctness	Factual Certainty
Evidentiary Rules	Formal and restrictive (exclusionary rule)	None (all evidence considered)
Role of lawyers during trial	Primary	Secondary
Functions of lawyers	Debate and oppose	advise and inform
Judge's role during trial	Referee/umpire	Director/examiner
Selection of judges	Political appointment from practicing lawyers	Merit advancement from judicial specialists
Status of Judges	Political VIPs	Mid-level civil servants
Citizen trial participation	Juries (Grand & Petit)	Members of Judicial Panels
Appellate review focus	Procedural	Procedural & substantive
Unity of Court Structure	Unified Court Structure	Diffused Court Structures (multiple specialized courts)

Comparison Common Law Versus Civil Law Systems

Marco Cascella



Comparison Common Law Versus Civil Law Systems System:

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Comparison Common Law Versus Civil Law Systems System Introduction

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