

# PART I

## Principles and Theory

- Chapter 1** Introduction to the Legal System
- Chapter 2** Administrative Agencies and Tribunals
- Chapter 3** The Foundations of Administrative Law
- Chapter 4** Fairness: The Right to Be Heard
- Chapter 5** Fairness: Bias
- Chapter 6** The Charter and Quasi-Constitutional Laws and Their Relationship to Administrative Law



# Introduction to the Legal System



<b>What Is a Law?</b> .....	4
<b>Why Do We Need Laws?</b> .....	4
<b>How Do Laws Differ from Other Rules?</b> .....	4
<b>The Canadian Constitution and Its Limits on Law-Making</b> .....	5
Division of Powers .....	6
The Charter .....	6
Indigenous Rights .....	7
<b>Who Makes the Laws?</b> .....	7
The Three Branches of Government .....	8
The Three Levels of Government .....	10
<b>Types of Law</b> .....	12
Common Law and Statute Law .....	12
Public Law and Private Law .....	16
Statutes and Subordinate Legislation .....	17
Substantive Law and Procedural Law .....	19
<b>How Various Types of Law Are Administered and Enforced</b> .....	19
Enforcement by Police .....	19
Enforcement by Government Departments and Government Agencies .....	20
Enforcement by the Person Affected .....	20
<b>Chapter Summary</b> .....	22
<b>Key Terms</b> .....	22
<b>Review Questions</b> .....	22
Short Answer .....	22
Exercises .....	22
<b>Additional Resources</b> .....	23

## Learning Outcomes

After reading this chapter, you will understand

- what is meant by the term “law”;
- why we need laws, as well as other less formal rules, to govern our conduct;
- what kinds of behaviour are regulated by laws;
- how laws are made;
- who has the authority to make laws;
- what distinguishes various categories of laws; and
- how different kinds of laws are administered and enforced.

*The law is the last result of human wisdom acting upon human experience for the benefit of the public.*

Samuel Johnson

## What Is a Law?

There are various ways of defining the concept of a law. For the purposes of this book, a **law** is described as a rule made by a body of elected representatives or their **delegates** or by a court, using procedures that are also prescribed by law. All of the steps set out in the procedural rules must be followed. For example, in the case of laws made by Canada's federal Parliament, a provincial legislature, or the council of one of the territories, the proposed law must be

- read three times in the open assembly,
- debated,
- passed at the second and third reading by a majority of the elected representatives present, and
- assented to by the King's representative (the governor general for federal laws and the lieutenant governor for provincial laws).

If any of these steps are missed, the law will not be valid.

## Why Do We Need Laws?

People often think of laws as rules that prohibit individuals from doing certain things and that punish those who break them. Although that is the nature and effect of many laws, laws do not just impose duties and punishments; they also create rights. In addition, laws create a framework to ensure that the many complex activities of contemporary society are carried out in an honest, fair, efficient, and effective manner. Laws are, in effect, a blueprint or a set of "rules of the road" for carrying on business, protecting consumers, regulating the use and development of land, conferring government benefits, protecting human dignity and preventing discrimination, and distributing and redistributing wealth. Imagine driving a car in a crowded city if there were no rules governing motor vehicle safety, driver training, when to stop and go, when to make turns, how fast to go, and which side of the road to drive on. Imagine the chaos if half of the drivers chose to drive on the right-hand side of the road and the other half decided to drive on the left!

## How Do Laws Differ from Other Rules?

In a democratic society, people have considerable freedom to do what they want in any way they want. However, certain behaviour is restricted, either by formal laws imposed by governments and the courts or by other kinds of rules that are followed by most people but are less strictly enforced. The latter may be imposed through social pressure or by mutual agreement (social norms) or may be accepted as a condition of belonging to some group or organization, such as a school, business, church, or club.

**law**  
a rule made by a body of elected representatives or their delegates or by a court, using procedures that are also prescribed by law

**delegate**  
a person or body entrusted to act in another's place

Although breaking such rules may lead to penalties—for example, loss of membership in a group—compliance with them is, in a sense, a matter of choice. In contrast, compliance with laws is required.

While governments and the courts can restrain the activities of ordinary people, they can do so only by passing, enforcing, or applying a law. As discussed, in order to be valid as a law, any rule made by a government in the form of a law must be passed by a majority of the elected representatives using prescribed procedures. Similarly, any restraints imposed by tribunals or courts must be authorized by laws passed by governments or made by judges.

Governments and courts must also follow laws that set out the procedures for applying or enforcing laws, and they must limit their activities to those that are delegated to them by a valid law. In other words, governments, tribunals, and courts are not entitled to do whatever they want, but only what validly made laws authorize them to do. This limit on the right of governments, tribunals, and courts to control the conduct of citizens is known as the **rule of law**.

According to the rule of law, all law-making is governed by a supreme law called the **Constitution**. The Constitution establishes the basic institutions of government, reflects some of the fundamental values of society, and determines the values or goals that all other laws must reflect. In this way, the Constitution governs the validity of all other laws. The relationship between the Constitution and the creation of other laws is discussed in the next section.

The purpose of the rule of law is to prevent arbitrariness and, at worst, tyranny. By restricting the powers of government and by setting out strict rules for the passing, application, and enforcement of laws, the democratic system deters those who are granted these powers from acting impulsively or capriciously, making up rules as they go along. It also deters individuals or groups from assuming or exercising powers that they do not legitimately possess.

Using the rule of law as a method of curbing the powers of government prevents many abuses. To avoid arbitrariness, the rule of law requires that like situations be treated alike, and different situations be appropriately distinguished from each other. In addition, new rules are subjected to a predetermined process of scrutiny by elected representatives. They are not imposed in a dictatorial fashion with no accountability.

*A Hollywood take on the meaning and importance of law:*

*Let me tell you what justice is. Justice is the law. And the law is man's feeble attempt to lay down the principles of decency. And decency isn't a deal, it's not a contract or a hustle or an angle! Decency—decency is what your grandmother taught you. It's in your bones.*

Morgan Freeman as Judge Leonard White  
in *The Bonfire of the Vanities*

## The Canadian Constitution and Its Limits on Law-Making

The Constitution of Canada is the supreme law of the land. All other laws must conform to it. The Constitution consists of a combination of principles of democracy

### rule of law

the principle that governments, as well as individuals and corporations, must follow the law; in particular, governments may take actions that limit the activities of citizens or their access to rights or benefits only in accordance with substantive and procedural requirements prescribed by law

### Constitution

the body of binding fundamental rules that govern the exercise of power by government; to be valid, all other laws must conform to this set of fundamental rules

inherited from Britain as traditions and two statutes passed by the Parliament of Canada—the *Constitution Act, 1867* (formerly called the *British North America Act, 1867*)<sup>1</sup> and the *Constitution Act, 1982*.<sup>2</sup> A court can declare any law that conflicts with the Constitution to be invalid, or the effect of such a law may be restricted by a court or, in some circumstances, by a tribunal. An invalid law is called “unconstitutional.” No one is required to follow an unconstitutional law.

Two parts of the Constitution determine the validity of laws passed by the federal and provincial governments and of municipal by-laws. The first is the division of powers.<sup>3</sup> The second is the *Canadian Charter of Rights and Freedoms*.<sup>4</sup>

## Division of Powers

The Constitution allocates law-making powers to the federal and provincial governments on the basis of subject matter. The powers of Parliament, enumerated in sections 91 and 92(10) of the Constitution, concern matters of national interest. For example, the federal government is responsible for trade and commerce, taxation, postal service, navigation and shipping, and currency and banking. The exclusive powers of provincial legislatures, enumerated in sections 92, 92A, and 93 of the Constitution, concern matters of a local nature. For example, provincial governments retain jurisdiction over the management/sale of public lands belonging to provinces, prisons, hospitals, municipalities, and education.

If one level of government passes a law that regulates an area granted to the other level by the Constitution, the law is considered invalid. For example, if a provincial government passes a criminal law—an area of jurisdiction that the Constitution grants exclusively to the federal government—that law cannot be enforced.

There are also concurrent powers that are specified in sections 94A and 95 of the Constitution where federal and provincial governments share power over certain matters such as immigration and agriculture. Other areas of government that are not specifically identified and assigned in the *Constitution Act, 1867* have been interpreted by the courts under various legislative powers, some federal, others provincial. Two such areas are the environment and health.<sup>5</sup>

## The Charter

The second part of the Constitution to which laws must conform is the Charter.<sup>6</sup> The Charter sets out a list of fundamental freedoms, democratic or political rights, legal

1 (UK), 30 & 31 Vict, c 3, reprinted in RSC 1985 Appendix II, No 5.

2 being Schedule B to the *Canada Act 1982* (UK), 1982, c 11.

3 The division of powers is found primarily in the *Constitution Act, 1867*. Some clarification is found in the *Constitution Act, 1982*.

4 Part I of the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982* (UK), 1982, c 11 [Charter].

5 See “The Constitutional Distribution of Legislative Powers” (last modified 5 October 2021), online: *Government of Canada* <<https://www.canada.ca/en/intergovernmental-affairs/services/federation/distribution-legislative-powers.html>>.

6 The Charter is contained in Part I of the *Constitution Act, 1982*. Before 1982, the civil liberties of Canadians were not part of the Constitution. There were some federal and provincial statutes (such as the federal *Canadian Bill of Rights*, SC 1960, c 44, Quebec’s *Charter of Human Rights and Freedoms*, CQLR c C-12, and the human rights codes of other provinces) that guaranteed civil liberties, but they did not have constitutional status—that is, they did not override conflicting statutes.

rights, mobility rights, and equality rights belonging to all persons. Any law or government action that infringes these rights *to a greater extent than can be justified in a free and democratic society* is either invalid or has no effect to the extent that it infringes these rights. That is, the rights set out in the Charter are not absolute.

The Charter allows courts (and, in some cases, tribunals) to balance the civil liberties of individuals and corporations against the collective rights of the public as a whole. If a law or the way a law is implemented infringes a person's constitutional rights, the government is required to demonstrate that the infringement is important for the benefit of the community and that the intrusion is no greater than is necessary to achieve this social benefit.

If the government can justify the extent to which the law infringes a right or freedom guaranteed by the Charter, the courts will consider the law to be valid. If the government cannot justify the infringement, the law will not be binding on the person whose right or freedom it infringes.

For more information on the Charter, see Chapter 6, *The Charter and Quasi-Constitutional Laws and Their Relationship to Administrative Law*.

## Indigenous Rights

The third part of the Constitution to which laws must conform are Indigenous rights. Section 35 of the *Constitution Act, 1982* provides constitutional protection to the Indigenous and treaty rights of Indigenous peoples in Canada. Section 35 has been found to protect fishing, logging, hunting, the right to land, and the right to enforcement of treaties. Administrative law is important in the processes of recognizing and implementing the right of Indigenous peoples. It plays a role in both the obligation and jurisdiction of administrative decision-makers.

## Who Makes the Laws?

Our system of government has three basic branches—legislative, executive, and judicial. In general, the legislative branch (such as the federal Parliament or provincial legislatures) makes laws; the executive branch (such as government departments or police forces) enforces laws; and the judicial branch (the courts) interprets laws.

Our system also has three levels of government—federal, provincial (or territorial), and municipal. As discussed, the division of powers between the federal and provincial governments is set out in the Constitution. For example, criminal law is under federal jurisdiction, while employment law is under the jurisdiction of each of the provinces. Some subject areas, such as family law, are shared. The provinces also have the power to delegate authority over local issues to municipal governments. For example, municipalities generally have the authority to pass and enforce by-laws governing land development and public transit within municipal boundaries.

As shown in Table 1.1 below, the federal and provincial governments have all three branches of government, while the municipal governments have only legislative and executive branches. All Nunavut judges are appointed by the federal government; judges in Yukon and the Northwest Territories are appointed by the territorial and federal governments.

**TABLE 1.1 Levels and Branches of Government**

Level of government	Branch of government		
	<i>Legislative</i>	<i>Executive</i>	<i>Judicial</i>
<u>Federal</u>	✓	✓	✓
Provincial	✓	✓	✓
Territorial (Nunavut, Yukon, and the Northwest Territories)	✓	✓	✓
Municipal	✓	✓	

**legislate**

pass statutes and by-laws, and make regulations

**statute**

law passed by Parliament or a provincial legislature; also called an “act”; often specifically provides for the authority to make regulations or to delegate this power; distinguished from subordinate legislation; see also statute law

**act**

see statute

**by-law**

law enacted by a subordinate legislative body, such as a municipality, under the authority of a statute

**Cabinet**

a committee of members of Parliament or the provincial legislature appointed by the prime minister, in the case of the federal government, or the premier of a province to preside over government departments (also known as the “governor in council” federally and the “lieutenant governor in council” provincially)

**regulations**

detailed rules that flesh out the meaning and requirements of a statute; made under the authority of a statute, either by Cabinet or by a body to which this power is delegated; also called “subordinate legislation” or “delegated legislation”

Each level and branch of government must stay within the authority granted to it by the Constitution or by another statute. This concept of “separation of powers” follows from the principle of the rule of law. It is intended to be a safeguard against any of the three levels or branches becoming too powerful and abusing their authority. One of the challenges of administrative law is to ensure that this safeguard continues to operate while still allowing society to benefit from the flexibility and efficiencies that can result from the delegation of powers.

## The Three Branches of Government

### The Legislative Branch and Its Law-Making Powers

The legislative branch consists of individuals elected by citizens (the general public) to represent them in the federal Parliament, the provincial legislatures, the councils of the territories, and municipal councils. It is called the legislative branch because under Canada’s Constitution its members have a monopoly on the power to **legislate** (pass laws). In fact, passing laws is the main function of this branch of government. These elected representatives as a group pass **statutes** (or **acts**) or, at the municipal level, **by-laws**.

The federal and provincial legislatures can also make other kinds of laws called regulations, discussed below, but normally they pass a statute in which the authority to make a regulation is delegated to an official or a body that is part of the executive branch, such as the **Cabinet** or a Cabinet minister. Occasionally, the legislature will pass a statute that delegates the power to make regulations to an unelected body such as an agency, board, or commission. **Regulations** are detailed rules that flesh out the meaning and requirements of a statute. They are discussed in more detail below, under the heading “Common Law and Statute Law.”

### DELEGATION OF LAW-MAKING POWERS TO AGENCIES, BOARDS, AND COMMISSIONS

As stated above, a body of elected representatives, such as a provincial legislative assembly, will occasionally pass a law that delegates the power to make binding rules or regulations to an agency created by that assembly. Only in these circumstances does an unelected agency have the authority to make binding rules. Sometimes the

rules are procedural; in other cases, they are more substantive. (See the box feature “Delegation of Legislative Functions.”)

## DELEGATION OF LAW-MAKING POWERS TO TERRITORIES

The three territories are like a hybrid between a province and a municipality. Like municipalities, they have no powers of their own granted by the Constitution, only those delegated to them by federal statutes. In practice, however, each territory has almost the same law-making powers as a province. The federal government has passed statutes giving each of the three territories powers to pass laws, sometimes called **ordinances**, which are similar in content to provincial and federal statutes.

### ordinances

laws enacted by the northern territories, similar in content to provincial and federal statutes

## DELEGATION OF LEGISLATIVE FUNCTIONS

- *Substantive rules* Ontario’s *Conservation Authorities Act*<sup>7</sup> establishes conservation authorities to protect watersheds from flooding and erosion and permits them to make binding regulations that govern the development of land along riverbanks. Other commissions established by the Ontario government have the right to amalgamate municipalities or close hospitals.
- *Procedural rules* Ontario’s *Statutory Powers Procedure Act*,<sup>8</sup> which sets out various procedural requirements for administrative tribunals, also permits tribunals to make their own rules for the conduct of certain aspects of their proceedings, such as postponement of a hearing, preliminary motions, and pre-hearing conferences.

## The Executive Branch and Its Law-Making Powers

The second branch of government is the executive, which consists of the federal or provincial Cabinet or, in the case of municipal government, the executive committees of municipal councils, and their staff—the many civil servants who report to the ministers of Cabinet and to municipal councils and their committees. This branch administers and enforces the laws that the legislative branch passes. However, in the case of the federal and provincial governments, the Cabinet (and sometimes individual Cabinet ministers) also makes the regulations that implement the statutes. This is actually a legislative function, but it has been delegated by the legislators to the executive. For this reason, regulations are sometimes called “delegated legislation.”

The federal and provincial cabinets consist of elected representatives chosen by the prime minister or the premier. Committees of municipal councils consist of a group of elected representatives chosen by the mayor or by the council. In theory, this system preserves the accountability of the people who carry out the laws as well as that of the people who make them. However, these elected groups are just the tip of the iceberg. They preside over an extensive network of hired civil servants, as well as members of agencies, boards, and commissions (ABCs, collectively known as agencies) appointed

7 RSO 1990, c C.27.

8 RSO 1990, c S.22 [SPPA].

### **department**

a unit of the executive branch of government over which a minister presides; usually established to administer a specific set of laws and programs relating to a particular subject area, such as health, protection of the environment, government finance, or stimulation of business activity

### **ministry**

see department

### **Parliament**

the body of elected representatives constituting the legislative branch of Canada's federal government; also called the "legislature"

by the executive, who are not directly accountable to the electorate. In the federal and provincial governments, each Cabinet minister is responsible for the work of a **department** (called a **ministry** in some provinces). A department consists of hundreds or thousands of civil servants who carry out the laws and administer government programs. In many cases, the minister will also be responsible for several agencies established by the government.

## The Judicial Branch and Its Law-Making Powers

The third branch of government is the judiciary. The judiciary consists of the courts and judges, who settle disputes between citizens (individuals or organizations) and between the government and citizens regarding the interpretation or application of the law. They decide whether someone has broken the law, and, if so, what punishment will be imposed, what compensation must be paid, or what other action the violator must take.

Judges are appointed by the executive branch of the federal or provincial government. Once appointed, they are independent and have the right to settle disputes—including disputes between the government and citizens—without fear of losing their job, having their salary reduced, or being subjected to any other form of government interference or pressure. The judiciary therefore provides an important protection for citizens against violations of the law either by the government or by other citizens. The duties of the judiciary include interpreting laws and striking down laws that are passed without proper authority. Moreover, since the passage of the Charter, the courts can strike down any law that violates the fundamental rights and freedoms set out in the Charter.

Judges also have a legislative function within certain areas of law. The body of law that is made by judges is called "common law." It is discussed later in this chapter under the heading "Types of Law."

## The Three Levels of Government

As discussed, in Canada we have three levels of government—the federal government, provincial governments and territorial councils, and municipal governments. Each is presided over by an assembly of elected representatives, which exercises the government's law-making powers.

The federal and provincial governments are permanently established under our Constitution. Municipal and territorial governments have no constitutional status or permanence. The existence of municipalities depends on the will of the provincial government, and their powers are limited to those specifically granted by provincial statute. For this reason, municipalities are often referred to as "creatures of the province." Similarly, territorial councils owe their existence and their law-making powers entirely to the federal government.

Federal laws are laws that apply throughout the whole country. They are passed by the federal **Parliament**, which consists of the House of Commons (whose members are elected) and the Senate (whose members are appointed by the government of the day).

Provincial laws apply throughout a province. They are passed by the provincial **legislature** or **legislative assembly**<sup>9</sup> (known in Quebec as the National Assembly).

Municipal by-laws apply only within the boundaries of a municipality. They are passed by the municipal council, which consists of elected councillors (sometimes called “aldermen”). Similarly, territorial ordinances are passed by the elected councils of the territories and apply only within the territory.

Each level of government has the constitutional or statutory authority to pass laws in certain subject areas. In some areas, the law-making powers of the different levels may overlap. In such cases, if a higher level of government has the authority to pass a law and has done so, any conflicting laws or by-laws passed by a lower level of government cannot be enforced.

## Federal Law-Making Powers

Under section 91 of the *Constitution Act, 1867*, the federal government has the authority to make laws in a variety of areas that were considered at the time of Confederation (1867) to require uniform standards across the country. Generally, federal laws deal with matters of national concern, such as criminal activity, monetary policy, foreign relations, national defence, interprovincial and international trade and commerce, and interprovincial and international transportation.

## Provincial Law-Making Powers

Under section 92 of the *Constitution Act, 1867*, provincial governments have the authority to make laws governing matters that were considered in 1867 to be primarily regional or local in nature. These include the regulation of business activities that take place within the province; the regulation of professions; the creation of local infrastructure such as roads, water treatment plants, and sewer systems; the creation of the structure of municipal government; the establishment of municipal boundaries; and land-use planning.

## Municipal Law-Making Powers

Municipal councils may make by-laws governing conduct within the municipal boundaries, such as licensing local businesses, zoning, policing, and operating schools and libraries. However, the powers of municipal governments are limited to those specifically granted by laws passed by the provincial legislature.

## Overlapping or Unclear Law-Making Authority

For many areas of conduct, the Constitution is silent or ambiguous about which level of government has the authority to pass laws. In some cases, the subject area did not exist in 1867—for example, atomic energy, aeronautics, telecommunications, and the Internet. In other cases, matters that were primarily of local or regional interest in 1867 have since taken on national dimensions. For example, the regulation of salary levels is normally within provincial jurisdiction, but in the 1970s inflation became so widespread that the federal government stepped in to pass a law implementing Canada-wide wage controls.

<sup>9</sup> Provincial legislatures are also known as “provincial parliaments.” To avoid confusion, this book will use the term “Parliament” to refer only to the federal legislature.

### **legislature**

in Canada, the body of elected representatives constituting the legislative branch of the federal or a provincial government; *see also* legislative assembly, Parliament

### **legislative assembly**

the body of elected representatives constituting the legislative branch of a provincial government; known in Quebec as the National Assembly; also called the “legislature” or “provincial parliament”

Confusion often arises because a law has aspects that fall within both federal and provincial powers. For example, the provinces have authority to regulate labour relations, but the federal government regulates telecommunications. In the case of a law regulating union activities at a telephone company, it would be unclear which level of government had the authority to pass the law, and a court would have to decide whether the primary purpose of the law was the regulation of labour relations or the regulation of telecommunications.

## Types of Law

Laws can be divided into categories in several ways. These categories overlap, so an individual law may fall into more than one category. A body of law, such as administrative law, may be a combination of laws in two or more categories.

It is important to understand how categories of laws are distinguished from each other. Some of the categories to be distinguished are

- common law and statute law,
- public law and private law,
- statutes and subordinate legislation, and
- substantive law and procedural law.

The distinctions between these categories are explained in the following sections.

### Common Law and Statute Law

In Canada, we have laws developed by the courts as well as laws passed by governments. The laws made by courts are called **common law**. The body of law (**legislation**) made by elected representatives consisting of statutes, regulations, territorial ordinances, and municipal by-laws is called **statute law**.

A harmful activity may become the subject of both common law and statute law. Under common law, a person who is harmed by a particular activity (a **tort**, or wrong) has the right to sue the wrongdoer for compensation (**damages**) or for an order to stop carrying on the activity (an injunction). Under a statute, the government may designate the same activity as an “offence” and impose a punishment for it. (See the box feature “Interaction of Common Law and Statute Law.”)

#### INTERACTION OF COMMON LAW AND STATUTE LAW

A driver carelessly injures a pedestrian, who sues for compensation under the common law tort of negligence. If the court upholds the claim, the driver will be required to compensate the victim for the harm they have suffered. However, careless driving is also an offence under the provincial highway traffic statutes, and the police may lay a charge against the driver. If the driver is found guilty, they may be required to pay a fine, be sentenced to prison, and/or have their driver’s licence or vehicle permit suspended.

#### common law

a body of law set out in court decisions; derives its authority from the recognition given by the courts to principles, standards, customs, and rules of conduct (generally reflecting those accepted in society) in deciding disputes; distinguished from statute law

#### legislation

the creation of law; the statutes, regulations, and by-laws passed by bodies of elected representatives or their delegates

#### statute law

in Canada, the body of laws passed by Parliament or a provincial legislature; generally, the body of laws passed by an assembly of elected representatives of the public; distinguished from common law

#### tort

a wrongful act or omission causing an injury other than a breach of contract, for which recovery of damages is permitted by law

#### damages

a sum of money awarded by a court as compensation for harm or loss caused by a violation of the law

## Common Law

Common law is the body of rules established by judges over centuries in the course of making decisions in disputes between citizens and between citizens and their government. The common law embodies certain rights and principles on which the courts base their decisions. Among the most important of these are principles of fairness or reasonableness.

There is a hierarchy of courts, and cases that are heard by a lower court may sometimes be appealed to one or more higher courts. (For a diagram of Canada's court structure, see Figure 1.1.) Once a court has established the principles that should apply to a particular type of situation, all courts that are lower than that court in the judicial hierarchy must apply those principles when deciding cases similar to the one in which the principles were established. This is called the requirement to follow **precedent**; in Latin, it is known as the doctrine of **stare decisis**. It is this requirement to follow precedent that gives the principles the force of law.

Although courts will usually apply the principles established for a particular type of situation by other courts at the same level in the judicial hierarchy, two courts at the same level may reach conflicting decisions about what is the proper principle to apply to a particular situation. Where such conflict arises, a higher court—ultimately, the Supreme Court of Canada—will settle the matter.

*The judges developing the common law proceed from case to case, like the ancient Mediterranean mariners, hugging the coast from point to point and avoiding the danger of the open sea of system or science.*

Lord Wright, "The Study of Law" (1938) 54 Law Q Rev 185 at 186

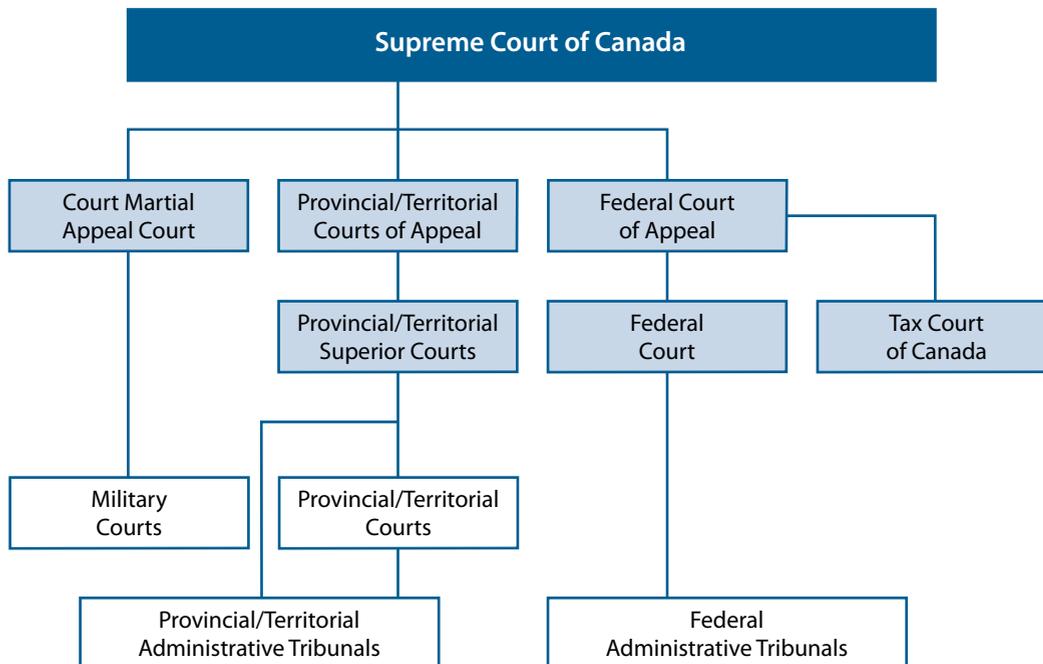
### precedent

a decision or judgment of a court of law that is cited as the authority for deciding a similar situation in the same manner, on the same principle, or by analogy; *see also stare decisis*

### stare decisis

Latin term referring to the principle that courts should decide similar cases in the same way unless there is good reason for them to do otherwise; the rule that courts must follow previous decisions made by higher courts; *see also precedent*

**FIGURE 1.1** Outline of Canada's Court System



An example of a common law principle and how it developed following the doctrine of *stare decisis* is the doctrine of negligence. During the first half of the 19th century, the courts developed the principle that if a person failed to exercise the standard of care in carrying out an activity that a reasonably prudent person would have exercised in similar circumstances, and if this resulted in harm that was foreseeable, this was negligence, and the victim of the harm was entitled to sue for damages. The courts can expand or contract the scope of common law principles such as negligence. For example, until 1932 the courts had ruled that a person injured by the use of a product could not sue the manufacturer unless they had purchased the product directly from the manufacturer. In other words, the manufacturer could be sued under the common law principles governing contracts if there was a breach of the contractual obligation to provide a safe product, but not otherwise.

In 1932, however, in the case of *Donoghue v Stevenson*,<sup>10</sup> Britain's highest court established a new principle of product liability. Because it is foreseeable that a person who purchases a defective product might suffer harm from using it, the manufacturer has a duty to take reasonable steps to prevent the harm regardless of whether there is a contract between the manufacturer and the consumer. One implication of this is that the manufacturer of a defective product can be held responsible for any injuries suffered by a person as a result of using the product, whether the person purchased the product from the manufacturer, bought it from a store that purchased it from the manufacturer, found it on the street, or received it as a gift.

Because of the requirement that all lower courts follow precedent, this principle of legal liability has been adopted by the courts in jurisdictions—such as Canada and the United States—that inherited the common law system from Britain, and it forms the basis for an expanded scope of the common law doctrine of negligence.

If Canada's highest court, the Supreme Court of Canada, rules that a right exists or a principle applies, all courts must follow this rule unless and until the Supreme Court modifies or changes its ruling—something that occurs infrequently. These principles are gathered together and published in legal texts, and important decisions of the courts are published and also made available on computer databases. By referring to these sources, lawyers and others undertaking legal research or legal action can keep abreast of how the courts are applying these principles in their interpretation of the law.

## Statute Law

From time to time, the government enacts statutes that incorporate or supersede many of these common law rights and obligations.

Common law principles may be incorporated into statutes either in the form in which they were developed by the courts or with changes that reflect current needs. When the common law rules are included in statutes with little or no change, the process is referred to as **codification**. Examples are Ontario's SPPA, Alberta's *Administrative Procedures and Jurisdiction Act*,<sup>11</sup> and Quebec's *Act respecting administrative justice*,<sup>12</sup> which set out basic rules of procedural fairness for tribunals that formerly were part of the common law.

### codification

the collection of the principles of a system or subject of law into a single statute or set of statutes

<sup>10</sup> 1932 CanLII 536, [1932] AC 562.

<sup>11</sup> RSA 2000, c A-3 [APJA].

<sup>12</sup> CQLR, c J-3 [ARAJ].

On other occasions, a statute is passed to replace a common law doctrine that the legislature considers to have outlived its usefulness. For example, at common law, jilted lovers could sue their fiancé(e)s for breaking the promise to marry them—a tort that has now been abolished by statute in some provinces.

A statute may be passed to make it an offence to do something that is considered wrong and that requires compensation at common law, so that a person who commits the offence will also be subject to punishment such as a fine or jail time. A statute may also be passed to establish a new procedure or to set up a bureaucracy to enforce certain common law rights so that people are not required to use the more cumbersome procedures of the courts to address infringement of those rights. Sometimes the purpose of affirming common law rights in a statute is to clarify ambiguities or remove contradictions created when courts are inconsistent in interpreting or applying a principle.

As discussed, statute law consists of statutes, regulations, and by-laws. Both the federal and the provincial governments have the authority to pass statutes. These laws usually do not set out all the rules that the public must obey. Instead, they set out a framework for creating the more detailed rules contained in accompanying regulations. Usually, the statute permits the Cabinet of the governing party (referred to in statutes by its formal name—provincially, the lieutenant governor in council, and federally, the governor in council) to make regulations, but occasionally a statute delegates the power to make regulations to an individual Cabinet minister or to a regulatory agency or board. There is no constitutional requirement that regulations be scrutinized by the federal or provincial legislature, although in practice, there are often parliamentary committees that review some aspects of these rules before they take effect.

To be valid, the contents of regulations must be explicitly or implicitly authorized by the wording of the statute under which they are made. If regulations set out requirements that go beyond the matters that the statute permits them to address, the regulations are not valid.

As noted, statute law also includes by-laws, which are passed by elected municipal councils. By-laws are often voluminous and very detailed because municipal councils do not have the power either to make regulations or to delegate such power to committees or boards. As a result, compliance requirements must be included in the by-law itself. A by-law is valid only if the provincial statutes granting municipalities the power to pass laws state that the municipality may pass by-laws of that nature.

## The Relationship Between Common Law and Statute Law in Quebec

The relationship between common law and statute law is somewhat different in Quebec from the rest of Canada. Canada's *Criminal Code*<sup>13</sup> applies to Quebec, but private law in Quebec is governed by a lengthy statute, the *Quebec Civil Code*,<sup>14</sup> which has more than 3,000 provisions. The fundamental principles of Quebec private law are codified in this compendious statute. In this sense, the *Quebec Civil Code* is like a constitution: it is the foundation of all other Quebec laws governing private relations. Other statutes are passed from time to time to supplement or create exceptions to the *Quebec Civil Code*, but judicial decisions are not conceived as setting out the law governing private relations as they are in common law provinces.

13 RSC 1985, c C-46.

14 CQLR c CCQ-1991.

# Public Law and Private Law

## Public Law

**public law** law that deals with the structure and operation of government; governs the relationship between individuals or private organizations and the government, between governments, and between departments and agencies within a government; includes administrative law; distinguished from private law

Different authors have suggested different definitions of public law. In general, **public law** deals with the structure and operation of government. It regulates how the three branches at each level of government carry out their responsibilities.

Public law governs the relationship between an individual or private organization and the government, the relationship between one government and another (for example, between the Government of Canada and the Government of Ontario or of India), and the relationships between departments and agencies within a government. Criminal law, constitutional law, administrative law, and treaties made under international law are all considered part of public law.

Public law dictates how government bodies may raise money (for example, by imposing taxes or by levying fees or fines), how they may spend money (for example, on building roads or airports, operating schools, providing Medicare, giving subsidies to businesses, or hiring police), and what procedures they must follow to account for money spent (financial administration). (See the box feature “How Public Law Regulates Elections.”)

### HOW PUBLIC LAW REGULATES ELECTIONS

In Ontario, the provincial *Representation Act, 2015*<sup>15</sup> determines the size and boundaries of electoral districts, which in turn dictates how many seats there will be in the Legislative Assembly. The *Election Act*<sup>16</sup> authorizes the lieutenant governor to decide the length of the election campaign. The *Election Finances Act*<sup>17</sup> describes how much money candidates may spend on their campaigns and on what activities; it also requires them to disclose to the public how much money they raised and the identities of the donors. The *Public Service of Ontario Act*<sup>18</sup> sets out rules that govern which public servants are permitted to engage in partisan campaigning and what limits are imposed on their activities. Under the *Broadcasting Act*,<sup>19</sup> radio and television stations and networks must make advertising time available to all political parties on an equitable basis during elections. If the political parties cannot agree on how to divide the time among them, a broadcasting arbitrator appointed under the *Canada Elections Act*<sup>20</sup> may allocate the amount of airtime for each party.

15 SO 2015, c 31.

16 RSO 1990, c E.6.

17 RSO 1990, c E.7.

18 SO 2006, c 35, Schedule A.

19 SC 1991, c 11.

20 SC 2000, c 9.

## ADMINISTRATIVE LAW

As discussed, public law regulates the structure and activities of all three branches of government—legislative, executive, and judiciary. **Administrative law** is a branch of public law that regulates the executive branch.

Until the 20th century, the executive branch at the federal and provincial levels consisted largely of a set of departments headed by ministers and staffed by civil servants. However, as governments became involved in a broader range of activities requiring more expertise, flexibility, and independent advice, a variety of **agencies** or **administrative agencies** were created to supplement—or, in some cases, replace—the role of the departments in meeting these needs. The development of administrative agencies including tribunals is discussed in greater detail in Chapter 2, Administrative Agencies and Tribunals.

Administrative law developed as a way of ensuring that these departments and agencies did not exceed their authority, abuse their power, or follow unfair procedures when making decisions.

The fundamental principles of administrative law—procedural fairness or natural justice, and principles related to jurisdiction, discretion, subdelegation, subordinate legislation, and judicial review—are discussed in Chapter 3, The Foundations of Administrative Law.

### Private Law

**Private law** is the body of laws that regulate how individuals or corporations are required to treat each other. Private law includes torts, contract law, property law, and family law.

Both private and public law can be statutory or can consist of common law rights and remedies. Moreover, a single law may have both public and private aspects or components. For example, Ontario’s *Trespass to Property Act*<sup>21</sup> prohibits trespassing on both public and private property. Although financial compensation for harm is usually a matter of private law and fines are normally imposed only under public law, the TPA permits a court that convicts someone of trespassing both to impose a fine and to award compensation.

## Statutes and Subordinate Legislation

As discussed, although only elected legislatures can pass statutes, these statutes may grant the Cabinet, individual Cabinet ministers, an agency, and special interest bodies the authority to make more detailed regulations that flesh out the meaning and requirements of the statutes. These regulations are sometimes called **subordinate legislation** or **delegated legislation**. They are valid only if they conform to the statute under which they are passed. Regulations typically provide details about how a part of the statute is applied or interpreted. When a statute says that something is “prescribed,” it means that more details will be found in a regulation. Table 1.1 shows some examples of statutes and subordinate legislation related to agencies and tribunals.

### **administrative law**

law that governs the organization, duties, and quasi-judicial and judicial powers of the executive branch of government, including both central departments and agencies; a branch of public law

### **agency**

any body, such as a board, commission, or tribunal, established by government and subject to government control to carry out a specialized function that is not an integral part of a government ministry or department

### **administrative agency**

see agency

### **private law**

law that governs the conduct of persons other than government; distinguished from public law

### **subordinate legislation**

legislation made by a body other than Parliament or a provincial legislature (such as Cabinet, a Cabinet minister, an agency, or a municipal council), as authorized by statute; generally includes regulations, proclamations, rules, orders, by-laws, or other instruments; also called “delegated legislation”; distinguished from statutes

### **delegated legislation**

see subordinate legislation

<sup>21</sup> RSO 1990, c T.21 [TPA].

**TABLE 1.2 Statutes and Subordinate Legislation Related to Agencies/Tribunals**

Agency/Tribunal	Statute(s)	Regulations	Rules of Practice and Procedures
Canada Industrial Relations Board (CIRB)	<ul style="list-style-type: none"> <li>• <i>Canada Labour Code</i>, RSC 1985, c L-2 (parts I and II)</li> <li>• <i>Status of the Artist Act</i>, SC 1992, c 33 (part II)</li> </ul>	<ul style="list-style-type: none"> <li>• <i>Canada Industrial Relations Board Regulations, 2012</i> (SOR/2001-520) or the <i>Status of the Artist Act Procedural Regulations</i> (SOR/2014-176)</li> </ul>	<ul style="list-style-type: none"> <li>• CIRB Information Circulars</li> <li>• Rules of Procedure:               <ul style="list-style-type: none"> <li>– No 1—Applications for Certification</li> <li>– No 2—Applications for Revocation</li> </ul> </li> </ul>
Assessment Review Board (ARB)	<ul style="list-style-type: none"> <li>• <i>Assessment Act</i>, RSO 1990, c A.31</li> <li>• <i>Assessment Review Board Act</i>, RSO 1990, c A.32</li> </ul>	<ul style="list-style-type: none"> <li>• Under the <i>Assessment Act</i>:               <ul style="list-style-type: none"> <li>– O Reg 574/06: Generation Facilities</li> <li>– O Reg 282/98: General</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• ARB Rules of Practice and Procedure—effective April 1, 2021</li> <li>• Practice directions and forms</li> <li>• The <i>Statutory Powers Procedure Act</i>, RSO 1990, c S.22 (SPPA) provides a general framework for the conduct of hearings before Ontario’s administrative tribunals, including the ARB</li> </ul>
Immigration and Refugee Board of Canada (IRB)	<ul style="list-style-type: none"> <li>• <i>Immigration and Refugee Protection Act</i>, SC 2001, c 27 (IRPA) and amendments on December 15, 2012 to the IRPA from the <i>Balanced Refugee Reform Act</i>, SC 2010, c 8 and the <i>Protecting Canada’s Immigration System Act</i>, SC 2012, c 17</li> </ul>	<ul style="list-style-type: none"> <li>• <i>Immigration and Refugee Protection Regulations</i> (SOR/2002-227) and related provisions at <a href="https://laws-lois.justice.gc.ca/eng/regulations/SOR-2002-227/rpdc.html">https://laws-lois.justice.gc.ca/eng/regulations/SOR-2002-227/rpdc.html</a></li> </ul>	<ul style="list-style-type: none"> <li>• <i>Immigration Division Rules</i> (SOR/2002-229) (Commentaries to the Immigration Division Rules)</li> <li>• <i>Immigration Appeal Division Rules</i> (SOR/2022-277) (Commentaries to the Immigration Appeal Division Rules)</li> <li>• <i>Refugee Protection Division Rules</i> (SOR/2012-256)</li> <li>• <i>Refugee Appeal Division Rules</i> (SOR/2012-257)</li> <li>• Regulatory Impact Analysis Statement (RIAS)</li> </ul>
Landlord and Tenant Board (LTB)	<ul style="list-style-type: none"> <li>• <i>Residential Tenancies Act, 2006</i>, SO 2006, c 17 (RTA)</li> </ul>	<ul style="list-style-type: none"> <li>• <i>General</i>, O Reg 516/06 contains rules about the application of the RTA</li> <li>• <i>Maintenance Standards</i>, O Reg 517/06 describes maintenance standards for a rental unit that are referenced in s 224 of the RTA</li> </ul>	<ul style="list-style-type: none"> <li>• LTB Rules of Procedure – effective September 1, 2012</li> <li>• Practice directions and interpretation guidelines</li> <li>• Note: The SPPA provides a general framework for the conduct of hearings before Ontario’s administrative tribunals, including the LTB</li> </ul>
Human Rights Tribunal of Ontario (HRTO)	<ul style="list-style-type: none"> <li>• <i>Human Rights Code</i>, RSO 1990, c H.19</li> </ul>		<ul style="list-style-type: none"> <li>• HRTO Rules of Procedure and SJTO common rules</li> <li>• HRTO practice directions</li> <li>• The SPPA provides a general framework for the conduct of hearings before Ontario’s administrative tribunals, including the HRTO</li> </ul>
BC Human Rights Tribunal (BCHRT)	<ul style="list-style-type: none"> <li>• <i>Human Rights Code</i>, RSBC 1996, c 210</li> <li>• <i>The Human Rights Code Amendment Act, 2018</i> (<a href="#">Bill 50</a>)</li> </ul>		<ul style="list-style-type: none"> <li>• BC Human Rights Tribunal Rules of Practice and Procedure, effective January 15, 2016 (amended March 22, 2021)</li> <li>• Practice directions and forms</li> <li>• Note: The <i>Administrative Tribunals Act</i>, SBC 2004, c 45 provides a general framework for procedures and other issues before BC’s administrative tribunals, including the BCHRT</li> </ul>

## Substantive Law and Procedural Law

Laws may also be characterized as substantive or procedural. **Substantive law** is concerned with the substance of a problem or the legal issue that the law is designed to solve or address. **Procedural law** sets out procedures for implementing substantive law.

A simple example is the combination of substantive and procedural provisions of the *Criminal Code* dealing with theft. The *substantive* provisions of the *Criminal Code* make it an offence to take someone else's property without the owner's consent. Its *procedural* provisions specify how the police and courts will treat someone who is believed to have committed theft. These procedures deal with the steps taken by police in arresting someone and laying charges (such as fingerprinting); the procedures that the courts will follow before trial, such as granting bail and holding preliminary inquiries; the procedures during the trial, such as reading the charge, entering a plea, and calling evidence; and the procedure for deciding what sentence to impose if the person is convicted of the crime.

The difference between substantive law and procedural law is important because the characterization of a law as substantive or procedural affects whether it can apply to conduct that took place before the law was passed (that is, "retroactively") and how far authorities can stray from following the strict letter of the law and still have their actions upheld by the court. Generally, officials have more flexibility and leeway in applying procedural laws than in applying substantive laws. Also, procedural laws may apply retroactively, but substantive laws may not.

### **substantive law**

law that is concerned with the substance of a problem or the legal issue that the law is designed to address; for example, the provisions of the *Criminal Code* setting out the elements of the offence of theft; distinguished from procedural law

### **procedural law**

law that prescribes methods of administration, application, or enforcement of a law—for example, the provisions of the *Criminal Code* that specify the procedures to be followed when a person is believed to have committed an offence; distinguished from substantive law

## How Various Types of Law Are Administered and Enforced

Different laws are administered and enforced in different ways. Some laws are enforced by police, others by inspectors who are employees of government departments or by the staff of specialized agencies, and still others by the person who is affected.

### Enforcement by Police

Violations of criminal laws, for example, are usually investigated by federal, provincial, or municipal police forces. Charges for such violations are laid by police and prosecuted by federal and provincial Crown prosecutors in the criminal courts. Provincial highway traffic laws and some other regulatory laws are enforced by municipal and provincial police departments. In Ontario, for example, the Toronto Police Service enforces the *Highway Traffic Act*<sup>22</sup> in the city, while the Ontario Provincial Police patrol the highways.

<sup>22</sup> RSO 1990, c H.8.

## Enforcement by Government Departments and Government Agencies

Breaches of federal and provincial regulatory statutes are sometimes investigated by inspectors in government departments and sometimes by police. Charges for violating municipal by-laws may be laid by police or by by-law enforcement officers employed by the municipality. The prosecutors are usually lawyers or prosecution officers hired by the government department or agency responsible for administering the law in question. For example, Ontario's *Environmental Protection Act*<sup>23</sup> is enforced by inspectors employed by the Ministry of the Environment, Conservation and Parks. However, the breach of securities laws is investigated and prosecuted by an independent agency, the Ontario Securities Commission, and child welfare laws are typically enforced by children's aid societies.

## Enforcement by the Person Affected

As discussed, common law rights and remedies are considered part of private law rather than public law. That is, although the government or the courts have established the rights and obligations governing certain private relationships and the government provides the court system in which they may be enforced, the government does not consider public interest in the outcome of such disputes sufficient to justify also providing a staff of investigators, inspectors, and prosecutors. The aggrieved person must pursue a remedy at their own expense, which usually involves hiring a lawyer to provide advice and representation in court.

Some statutory rights also must be pursued privately by the person entitled to redress. For example, certain remedies available to consumers under consumer protection statutes must be pursued by the consumer against the seller. The government does not enforce these rights.

Many laws do not create duties whose breach leads to punishment or payment of compensation. Some laws create a set of procedures that must be followed or standards that must be met in undertaking certain activities. For example, where a developer requires the approval of government authorities before proceeding with a project, the developer generally must submit an application, plans, and other specified information to the government agency, which then assesses the proposal against legislated standards and decides whether or not to grant approval.

Other laws confer privileges or benefits (such as social assistance, compensation for injuries suffered in the workplace, or for losses to the victim of a crime) on classes of people who qualify for these benefits. In some cases, the government hires staff or provides resources or funding to assist the person in making a case for receiving the benefits. In other cases, the person must apply for the benefits on their own, or with the assistance of an adviser hired at the person's own expense.

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<sup>23</sup> RSO 1990, c E.19.

In most provinces, for example, the government has staff who represent employees who are challenging decisions to deny them workers' compensation benefits. A few provinces also provide this assistance to small employers.<sup>24</sup> Individuals challenging immigration decisions are often represented by lawyers or legal workers employed by independent community legal clinics that may receive funding from the government. In contrast, most governments provide no legal assistance to individuals challenging government decisions to refuse access to records under freedom of information laws.

In some cases, government officials within a department make the initial decision whether to issue a licence, approve an activity, enforce a right, or confer a benefit under a statute. In other cases, the government creates an arm's-length agency (that is, an agency with some independence or separation from the government) to make the initial decision regarding how to apply or implement the law. In either case, the person or persons affected may be entitled to appeal the decision to an arm's-length agency or a court.

Often, the arm's-length agencies that are established for these purposes are administrative tribunals. Administrative tribunals are an important part of our system of government, and they play a significant role in administering our statute laws. Tribunals, as well as other government decision-makers, are regulated by the branch of public law known as administrative law. Administrative law evolved out of the legal system described above, and the fundamental principles on which it is based are rooted in that broader system. For the purposes of learning administrative law, what is most important to understand is that the principles of administrative law, especially the duty to act fairly, apply to government decisions regardless of whether making those decisions has been assigned to an official within a government department, to an official of an arm's-length agency, or a tribunal.

The next chapter provides a discussion of these principles.

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<sup>24</sup> Ontario provides advisory services for workers and employers by establishing independent agencies under the Ministry of Labour, such as the Office of the Worker Adviser, which advises and represents non-unionized injured workers and their survivors in their workplace insurance cases (Office of the Worker Adviser website: <<http://www.owa.gov.on.ca>>), and the Office of the Employer Adviser, which provides employers with expert, free, and confidential advice, representation, and education on all workers' compensation issues under the *Workplace Safety and Insurance Act, 1997*, SO 1997, c 16, Schedule A, and on unjust reprisal issues under the *Occupational Health and Safety Act*, RSO 1990, c O.1 (Office of the Employer Adviser website: <<http://www.employeradviser.ca>>).

## CHAPTER SUMMARY

Laws are binding rules made by governments. They regulate almost every aspect of human life from birth to death, a vast range of social and economic activities, and formal relationships among citizens (both individuals and organizations) and between citizens and government.

There are three levels of government that make laws—the federal, provincial or territorial, and municipal governments. There are also three branches of government that

pass, apply, and interpret laws—the legislature, the executive, and the judiciary, respectively.

Laws take a variety of forms and regulate particular spheres of conduct. They can be categorized in a number of ways—as common law or statute law, as public law or private law, as statutes or subordinate legislation, and as substantive law or procedural law. How a law is administered and enforced, and by whom, depends on the nature of the law and the category into which it falls.

## KEY TERMS

act, <b>8</b>	delegated legislation, <b>17</b>	private law, <b>17</b>
administrative agency, <b>17</b>	department, <b>10</b>	procedural law, <b>19</b>
administrative law, <b>17</b>	law, <b>4</b>	public law, <b>16</b>
agency, <b>17</b>	legislate, <b>8</b>	regulations, <b>8</b>
by-law, <b>8</b>	legislation, <b>12</b>	rule of law, <b>5</b>
Cabinet, <b>8</b>	legislative assembly, <b>11</b>	<i>stare decisis</i> , <b>13</b>
codification, <b>14</b>	legislature, <b>11</b>	statute, <b>8</b>
common law, <b>12</b>	ministry, <b>10</b>	statute law, <b>12</b>
Constitution, <b>5</b>	ordinances, <b>9</b>	subordinate legislation, <b>17</b>
damages, <b>12</b>	Parliament, <b>10</b>	substantive law, <b>19</b>
delegate, <b>4</b>	precedent, <b>13</b>	tort, <b>12</b>

## REVIEW QUESTIONS

### Short Answer

1. Laws are created by whom and for what reason? How do laws differ from other rules or customs that people follow?
2. The “rule of law” sets out how society organizes and regulates itself. Explain what function the rule of law plays in society. What major Canadian document encapsulates the rule of law? Using this document, describe the way the rule of law works.
3. What are the three branches of government in Canada, and what are the functions of each? Explain how the branches are related to each other.
4. What are the three levels of government in Canada, and what is the law-making power of each? In what document is the description of each level of government and its powers found?
5. What is the purpose of the Constitution of Canada? What part of the Constitution regulates the rights of citizens? How does it regulate the power of governments to pass or implement laws?

6. Name four ways in which laws can be categorized and distinguished. Explain each way, and explain how the distinction works.
7. What are the consequences of breaking a law? Are the consequences the same for all categories of law? Explain.
8. Who administers and enforces laws? Is the answer the same for all laws? Explain.

### Exercises

1. In groups with multiples of three people in them (3, 6, 9, 12, etc.), assign each person or group to be a different branch of government—legislative, executive, or judiciary.
  - a. Each person or group should prepare a summary of the key responsibilities of their assigned branch of government.
  - b. Each group should find three to five statutes that are frequently used in administrative law.

- Research online to find tools to assist you in looking for legislation.
- c. Each group should explain the intent and purpose of each of the statutes in the answer to question 1.b.
  - d. Each group should describe the responsibility of their branch in relation to the operation of the statute.
2. a. Find one to two examples of statutes that
- regulate government elections;
  - protect consumers;
  - establish government agencies;
  - prohibit certain conduct and impose penalties for violating the prohibitions;
  - regulate a trade, profession, or business;
- provide rights of compensation for harm done by individuals or corporations; and
  - provide rights of compensation for a loss resulting from government action.
- b. Categorize each of the above laws as public or private, or substantive or procedural. If the law fits into both of these categories, list them both. (For example, a statute may be public and substantive, or private and procedural.) Explain why you chose the category or categories in each case.
  - c. Explain briefly some of the rights and obligations imposed by the above laws.
  - d. Explain who administers or enforces these laws.
  - e. Discuss briefly some of the procedures that are followed in enforcing or administering these laws.

## ADDITIONAL RESOURCES

Lisa Braverman, *Administrative Tribunals: A Legal Handbook* (Aurora, Ont: Canada Law Book, 2002) ch 1.

“Canada’s System of Justice” (last updated 22 March 2023), online: *Government of Canada* <<https://www.justice.gc.ca/eng/csjs-sjc>>.

“Canadian Parliamentary System” (last visited 1 May 2023), online: *Parliament of Canada* <[https://www.ourcommons.ca/procedure/our-procedure/parliamentary-framework/c\\_g\\_parliamentaryframework-e.html](https://www.ourcommons.ca/procedure/our-procedure/parliamentary-framework/c_g_parliamentaryframework-e.html)>.

John Fairlie, *A Brief Introduction to Law in Canada*, 2nd ed (Toronto: Emond, 2021).

Gargi Mukherji & Alison Kossowski, *Foundations of Criminal and Civil Law in Canada*, 5th ed (Toronto: Emond, 2021).

