

PART ONE

CONCEPT AND NATURE OF LAW

CHAPTER I

THE NATURE OF LAW

1) Definition of law:

The law is the body of rules which govern and regulate the social conduct of people and which are enforced by a sanction.

2) Characteristics of law:

Legal rules are social, general and enforced by sanction

A- Rules of law are social: means these rules are to control and order relations between people living in a society.

They are concerned only with the external conduct or behaviour of man, and have nothing to do with internal thoughts or beliefs. It is only when he comes to act up on such beliefs that law can interfere.

B- Rules of law are general :

Law is generally applicable .It is applied in all cases and to all persons. Thus a rule of law is general though it is applicable to one person only, for example the president of Algeria must be aged 40 years at least. This is a general rule although it concerns only one person "The president". This rule does not concern any president by name, it is applicable to all persons who would be candidates for the post of the president.

C- Rules of law are enforced by a sanction :

People are invited to obey law voluntarily, if not they are compelled to do so by means of sanction applied by the state ' the sovereign political authority.

CHAPTER II
**THE CLASSIFICATION OF LAW:
PUBLIC AND PRIVATE LAW**

Law is usually classified into two great classes; Public law and private law. this classification is based upon a distinction between the public or private character of the persons concerned.

- **Public law** is that which regulates the relations of public persons among themselves, or relations arising between public persons and private persons.
- **Private law** is concerned with the relations of private persons among themselves.

By a public person is meant either the state or an independent authority of the state, whether legislative: parliament, executive, ministry of foreign affair, university, wilaya.

By private person is meant either an individual, or a group of individuals, an association or a corporation.

A- Subdivision of Public Law

Public law includes several branches as constitutional law, administrative law, law of taxation, criminal law, public international law.

B- Subdivision of Private Law

Private law includes CIVIL LAW, commercial law, civil procedure and maritime law, private international law.

CHAPTER III
THE SOURCES OF LAW
LEGAL AND HISTORICAL SOURCES

A- General Outlines:

Sources of law can be classified as either legal or historical, the former are those sources which are recognised as such by the law it self, the later are these sources lacking formal recognition by the law.

The legal sources are the only gates through which new principles can find entrance into the law.

For every legal system contains certain rules of recognition determining the establishment of new law and the disappearance of old.

B- The Legal Sources of Algerian law

According to the civil code, article one, the legal sources of law are; legislation, shariâ (ISLAMIC law); custom, and natural law and rules of equity.

Legislative authority (parliament) in Algerian constitution consists from two chambers:

- House of people (Popular National Assembly) (P.N.A)
- House of nation (Council of Nation) (C.N)

CHAPTER IV

RIGHTS

A- Definition and Classification of Right

1- Definition of Right

The right is an interest recognised and protected by the law.

2- Classification of Rights

Legal rights can be classified into various kinds, primary we distinguish between political rights and civil rights.

Political rights are these, which concern the government and administration of the country, such rights, are not enjoyed by all members of the community, only citizens enjoy the right to vote in the election of representatives on public offices.

Civil rights are divided into two kinds:

Public Rights and **Private Rights** which include three kinds:

- 1- Incorporeal rights.
- 2- Family rights.
- 3- Pecuniary rights.

B- The Elements of The Right:

The existence of a right demands the existence of a holder. The holder of the right is the person, the person “in law” is any human being who is Capable to hold a right or be bound by a duty. All human beings are persons, because they are all subjects to rights and duties naturally. They are called natural persons.

But for certain purposes, law treats some entities as subjects of rights and duties.

These are persons in law but not in fact, therefore they are called moral persons.

CHAPTER V

CONSTITUTIONAL LAW

Constitutional law deals in general with distribution and exercise of functions of government authorities to each other and to the individual citizen. It includes the rules, which identify the law-making authorities themselves, e.g., the legislature, the executive and the courts (**Judicial Authority**).

More specifically constitutional law embrace that part of a country's laws which relates to the **following topics**: the method of choosing the head of State, whether king or president, his powers and prerogatives. The composition of the Legislative authority its powers and the privileges of its members, if there are two chambers, the relation between them. The status of ministers and the position of the civil servants who are under them, the armed forces and the power to control them.

Also constitutional law embodies and demonstrates the relations between government and local authorities, treaty - making power.

The raising and spending of public money, civil liberties. And the procedure for amending the constitution.

القسم الأول
مفهوم وطبيعة القانون

الفصل الأول طبيعة القانون

(1) تعريف القانون:

Body of rules = Group of rules	مجموعة متكاملة من القواعد
Govern: direct , control , make straight	تحكم
Regulate: make according to rule	تنظم
Social conduct: behaviour of people living in a society together	سلوك اجتماعي
Enforced: make obey law by force	مزودة بالقوة الجبرية
Sanction: penalties, punishments	جزاء - عقوبات

(2) خصائص القانون:

القواعد القانونية اجتماعية، عامة، مزودة بجزاء.

Order : regulate	تنظم وتدير
Relations	العلاقات
Internal thoughts or beliefs	الأفكار أو النوايا
Interfere: prevent a person from carrying out his plan	يتدخل، يمنع القيام بذلك المخطط
General: applied to all	تطبق على الجميع (حتى في حالة وجود شخص واحد فهو ليس مقصودا بذاته وإنما بصفة منصبه كرئيس الجمهورية مثلا).

Invited: asked politely

مدعوين مطالبين

Compelled: forced:

جبرا، بالقوة

Sovereign (sovereignty): has
full power to govern itself

السيادة: التمتع بالسلطة والإدارة العليا

الفصل الثاني

تقسيم القانون إلى قانون عام وقانون خاص

ينقسم القانون عادة إلى قسمين رئيسيين:

Public law : belong to state	القانون العام
Private law : belonging to persons as equally	القانون الخاص
Distinction : difference	التفرقة
Character : nature	طبيعة، خاصية
Arising : produce, bring up	تتكون، ينتج، يقدم
Legislative authority : parliament	السلطة التشريعية
Executive authority : (Government) any body or person appointed by government	السلطة التنفيذية (الحكومة) وأجهزتها الإدارية
Branch	فرع (فروع القانون)
Corporation: company	شركة، هيئة
Constitution(al)	دستور : (دستوري)
Administrative law	القانون الإداري
Taxation	القانون الضريبي
Criminal law	القانون الجنائي
Public international law	القانون الدولي العام
Procedure: (Law of Civil procedure)	إجراءات
Maritime law	قانون بحري
Private international law	القانون الدولي الخاص

الفصل الثالث

مصادر القانون

مصادر رسمية و مصادر تاريخية

Legal source	مصدر رسمي (تشريعي)
Historical source	مصدر تاريخي (عرف)
Lacking : (without)	عدم توفر، نقص
Formal	رسمية (أو رسمي)
Recognition	اعتراف (إضفاء) الرسمية
Gates	البوابة (طريقة لتكوين قواعد جديدة)
Legal system	النظام القانوني
Contains	يتضمن
Determining : decide	تحديد، تصميم
Establishment	تكوين، إنشاء (قواعد جديدة)
Disappearance : (be seen no more)	إلغاء، اختفاء قواعد قديمة
Legislation	التشريع
Custom (Customary Rules) unwritten law which lays down how things are usually done	العرف
Natural law	القانون الطبيعي
Rules of equity	قواعد الإنصاف
P.N.A : popular National Assembly	المجلس الشعبي الوطني
C.N : Council of Nation	مجلس الأمة

الفصل الرابع

الحق

- (1) تعريف الحق وبيان أقسامه : هو مصلحة يعترف بها القانون ويحميها.
- (2) تقسيمات الحقوق: يمكن التمييز بين الحقوق السياسية والحقوق المدنية، فالحقوق السياسية هي الحقوق التي تتعلق بحكومة وإدارة البلد، ولا يتمتع كل أفراد المجتمع بهذه الحقوق. فالمواطنون فقط هم الذين يتمتعون بحق التصويت في انتخاب ممثليهم في الهيئات العامة، والحق في تولي الوظائف العامة. أما الحقوق المدنية فتتنقسم إلى حقوق عامة وحقوق خاصة: فالحقوق العامة هي التي يتمتع بها كل شخص في المجتمع - ومثالها: الحرية الشخصية، الحق في الاعتقاد الشخصي. أما الحقوق الخاصة فلا يتمتع بها إلا أشخاص معينون، وتضم الحق في المعنوية: حقوق الأسرة والحقوق المالية.

Interest	مصلحة
Recognised by Law: Legal	مشروعة قانونية
Protected by Law : Law provides means which could be used against any damage or harm to such rights	مصلحة يحميها القانون بتوفير وسائل قانونية تستعمل ضد كل ضرر يلحق بهذه الحق أو المساس بها.
Political Rights	الحقوق السياسية
Civil Rights	حقوق مدنية
Right to Vote	حق الانتخاب (التصويت)
Community (Society) Citizens: people live together in a community	جماعة (مجتمع)
Public Rights	حقوق عامة
Private Rights	حقوق خاصة
Incorporeal Rights	حقوق شخصية معنوية
Family Rights	حقوق عائلية
Pecuniary (of money) Rights	حقوق مالية

الفصل الخامس

القانون الدستوري

يعالج القانون الدستوري بصفة عامة موضوع توزيع وممارسة اختصاصات الحكم، والعلاقات بين الأجهزة الحكومية بعضها البعض، وبين المواطنين العاديين. وهو يتضمن القواعد التي تحدد السلطات المشرفة في الدولة مثل الهيئة التشريعية والتنفيذية، والمحاكم. وبالجمل في إن القانون الدستوري يشمل ذلك الجزء من قوانين الدولة التي تتعلق بالموضوعات التالية:

أسلوب اختيار رئيس الدولة سواء كان ملكاً أو رئيس الجمهورية. سلطاته وحصانته. تكوين الهيئة التشريعية واختصاصاتها امتيازات أعضائها، فيما إذا تشكلت من غرفتين والعلاقة بينهما، مناصب الوزراء ووضعية الموظفين المدنيين التابعين لهؤلاء الوزراء. كما يبين دور القوات المسلحة وسلطة تنظيمها والعلاقات بين الحكومة والهيئات المحلية ويحدد اختصاصات إبرام المعاهدات وكيفية رفع وصرف الأموال العامة وتنظيم الحريات المدنية، وإجراءات تعديل الدستور.

بعض المصطلحات الدستورية: Some legal constitutional terms

Regulations	اللوائح
Interpret, Explain	يفسر
Interpretation	تفسير
Legislative texts	نصوص تشريعية
The constitutional council	المجلس الدستوري
The independent judicial body	جهاز قضائي مستقل
To promulgate	يصدر قانوناً
To submit	يقدم، يحيل
To come into force	نافذ، ساري المفعول
To review	يراجع أو يفحص