Louisiana: A Civil Code “Island” in a “Sea” of Common Law Jurisdictions

- Louisiana’s Spanish and French Civil Code Heritage
- 49 Other States → Common Law Jurisdictions
- U.S. Government: Common Law in Federal Courts and Laws
- Louisiana is a “mixed jurisdiction.” Our law schools are necessarily “comparative,” providing both civil code and common law instruction to in-state and out-of-state students.
Common Law vs. Civil Code
Deconstructing Litigation and Legislation

Litigation: Conflict Between Two or More Parties

Legislation: Focuses on Broad Social Interests
Deconstructing Litigation and Legislation

- Litigation: looking Back, Focusing on Specific Facts
- Legislation: Looking Forward, “Big Picture” Perspective
- Common Law: Derives General Principles from Ad Hoc Decision Making
- Civil Code: Articulates General Principles Applied Later in Resolving Specific Disputes
Common Law versus Civil Code: Which Methodology Works Better for Drafters?

- Common Law
  - “Look back” and “deconstruct” cases
  - Extract general principles of law from ad-hoc decisions
- Civil Code
  - “Look forward” for “law creation” purposes
  - Devise general principles of law and embody them in a civil code; then apply the legal principles to resolve specific disputes as they arise

- These two distinct methodologies are both addressed in Louisiana legal education. But civil code methodology serves drafters better.