

# 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**

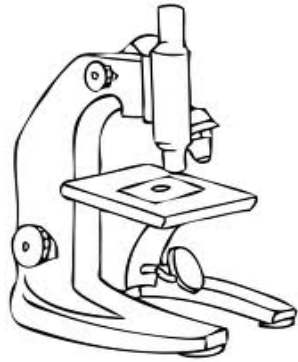


**Legislation: Focuses on Broad Social Interests**



# Deconstructing Litigation and Legislation

- Litigation: looking Back, Focusing on Specific Facts



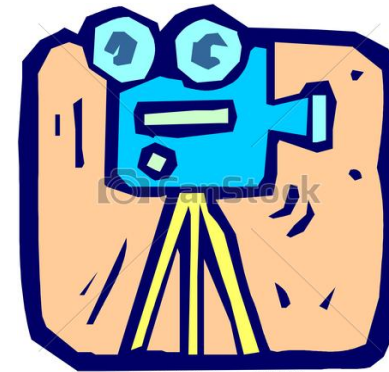
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- Common Law: Derives General Principles from Ad Hoc Decision Making

- Legislation: Looking Forward, “Big Picture” Perspective



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- 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.