

The Legal Environment



A domestic firm must follow the laws and customs of its home country. An international business faces a more complex task: It must obey the laws not only of its home country but also the laws of all the host countries in which it operates. Both home and host country laws can critically affect the way international firms conduct their business.

National legal systems vary dramatically for historical, cultural, political, and religious reasons. The rule of law, the role of lawyers, the burden of proof, the right to judicial review, and, of course, the laws themselves differ from country to country. What are the four most common types of law an international business is likely to encounter?

COMMON LAW



Common law is the foundation of the legal systems in the United Kingdom and its former colonies, including the United States, Canada, Australia, India, New Zealand, Hong Kong, Barbados, Saint Kitts and Nevis, and Malaysia. Common law is based on the cumulative wisdom of judges' decisions on individual cases through history. These cases create legal precedents, which other judges use to decide similar cases.

Do not forget that **statutory laws**—those enacted by legislative action—also vary among the common law countries.

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Common law has evolved differently in each common law country. For example, manufacturers of defective products are more vulnerable to lawsuits in the United States than in the United Kingdom as a result of evolutionary differences in the two countries' case law.

Many business transactions between firms and the British government are shielded from public scrutiny—and the prying eyes of competitors—by Britain's Official Secrets Act. In contrast, more information about transactions between firms and the U.S. federal government is publicly available because of the U.S. Freedom of Information Act.

CIVIL LAW



One important difference between common law and civil law systems is apparent in the roles of judges and lawyers. In a common law system, the judge serves as a neutral referee, ruling on various motions by the opposing parties' lawyers. These lawyers are responsible for developing their clients' cases and choosing which evidence to submit on their clients' behalf. In a civil law system, the judge takes on many of the tasks of the lawyers, determining, for example, the scope of evidence to be collected and presented to the court.

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Another common form of legal system, civil law, is based on a codification, or detailed listing, of what is and is not permissible.

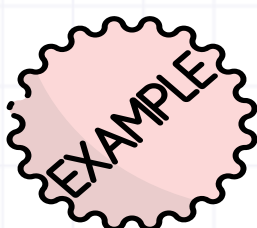
RELIGIOUS LAW



Religious law is based on the officially established rules governing the faith and practice of a particular religion. A country that applies religious law to civil and criminal conduct is called a theocracy

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Religious laws can create interesting problems for firms. Consider the teaching of the Koran, which denounces charging interest on loans as an unfair exploitation of the poor. Muslim firms and financial institutions have had to develop alternative financing arrangements to acquire and finance capital. Muslim businesses often rely on leasing arrangements, rather than borrowing money, to obtain long-term assets. In Iran, banks often charge up-front fees that act as a substitute for loan interest payments, and owners of bank deposits receive shares of the bank's profits rather than interest payments.



The collapse of Zairean dictator Mobutu Sese Seko's government in 1997, for example, threatened the viability of all existing contracts signed by foreign companies and triggered a mad scramble to revalidate old contracts and negotiate new ones with the government of his successor.⁵ Protections that may appear in the country's constitution—such as the right to an attorney and the right to hear witnesses against one—may be ignored if government officials find them inconvenient.

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BUREAUCRATIC LAW



The legal system in communist countries and in dictatorships is often described as bureaucratic law. Bureaucratic law is whatever the country's bureaucrats say it is, regardless of the formal law of the land. Contracts can be made or broken at the whim of those in power.