The Sources of Law in Canada

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There are three sources of law in Canada

Constitutional Law

Statute Law

Common Law
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Constitutional Law

Derived from the Canadian Constitution
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Statute Law: from elected government representatives at all four levels of government
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Common Law based on previous legal decisions
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Common Law:
also known as Case Law comes from English Common Law
derived from the decisions of judges from previous cases
Stare Decisis or the “rule of precedent
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Common Law:

Rule of Precedent does not apply in all cases.

In all cases the presiding judge may disagree and reject previous decisions and set a new precedent.

This act is called “distinguishing a case”.
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**Statute Law:**

common law decisions that have been LEGISLATED into law
generally override previous common law
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Statute Law:
Where no statutes exist, common law applies
All levels of government can enact statute law, but only within their jurisdiction as set out in the constitution
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Statute Law:

Local or Municipal Government:

statute laws are called bylaws. Include garbage pick-up, fence height, parking etc
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Statute Law:

Examples of Statute Law are:
The Criminal Code, the Highway Traffic Act, and the Youth Criminal Justice Act
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Constitutional Law:

Based on the BNA act 1867 (Socials 10) and the Constitution Act 1982 and the Canadian Charter of Rights and Freedoms

Overrides all other laws

If a law violates the constitution it may be struck down and declare it unconstitutional
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Public Law vs Private Law

Public Law is where people are prosecuted in the interest of the public by government representatives.

Crown Lawyers vs the Individual and their representative

Regina vs Macri
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Public Law vs Private Law

Private Law is where an individual or group wants to sue another individual group for damages to person or property.

Also know as civil Law.

JT vs Beiber