

# CHAPTER 1: SOCIAL ORDER RULES

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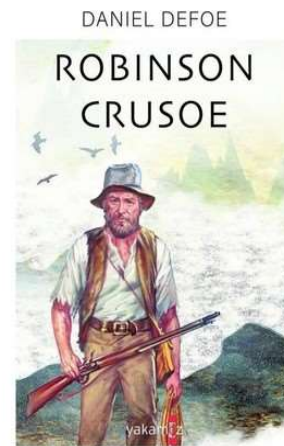
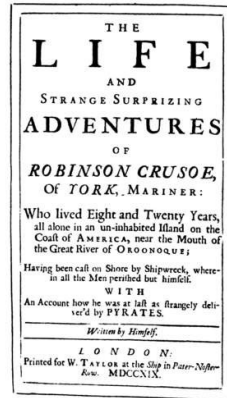


What kind of rules we have to follow in our daily life? Why do we need such rules?

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# INTRODUCTION

- Have you read the novel of Robinson Crusoe by Daniel Defoe?



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- What did the roman jurists long ago say about the human society and law relationship?



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# 1. SOCIAL ORDER RULES

- Let us imagine how your campus would be like without traffic rules.



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«Homo homini  
lupus»

- Man is a wolf to man.



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## 1.1. Religious Rules

When the history  
analysed, religious  
ancient kinds of  
relationship amo



The Hammurabi Code

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- The state and legal regulations impressed by the religious rules under the governmental system is called "theocratic state".

«Mecelle or Mejelle»

Article 2: A matter is determined according to  
intention.



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## 1.2. Customary Rules

As a rule, as a custom must exist for a long time and no living person should know the beginning of it.

- Antiquity

A custom must be continuously observed.

- Continuity

**opinio juris sive  
necessitatis**

- General belief

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## 1.3. Moral Rules



- Principles concerning the distinction between "right" and "wrong" or "good" and "bad" behaviour or "a particular system of values and principles of conduct, the extent to which an action is right or wrong«.



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## 1.4. Legal Rules

- In case of non-compliance, the state implements the rule by "force" if required, namely by sanction.



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## 1.5. Comparison of Social Order Rules

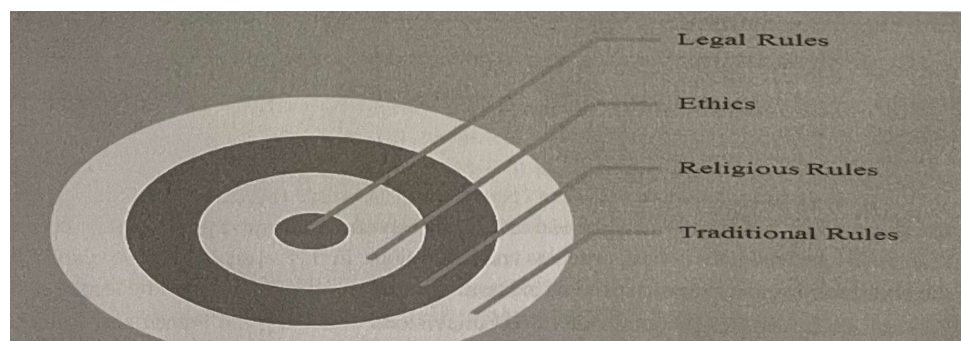
	Religious Rules	Customary Rules	Moral Rules	Legal Rules
Subject of the Rule	Human beings and human behaviours	Human beings and human behaviours	Human beings and human behaviours	Human beings and human behaviours
Nature of the Rule	Normative	Normative	Normative	Normative

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	Religious Rules	Customary Rules	Moral Rules	Legal Rules
Source	The will of God	Society	Conscience	State
Sanction	Divine	Condemnation, To be accused of shameful act, To be expelled from the society and lynch.	Pressure of conscience, regret.	Sanctions are compulsory measures taken by the state.

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## 1.6. The Relationship among Social Order Rules



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## 1.6.1 The Relationship between Law and Religious Rules

➤ Similar rules could be seen sometimes in legal and religious rules.

➤ There could be no relation between legal and religious rules.



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## 1.6.2. The Relationship between Law and Moral Rules

- Similar rules could be seen sometimes in legal and moral rules.

For instance, to rescue a person injured in an accident is a moral duty, besides a legal duty regulated under Article 98 of Turkish Penal Code.

- The law could make direct reference to moral rules in some cases.

For example, good faith which is essentially a moral principle has also been made a fundamental principle of law by Article 2 of Turkish civil code.

Some moral rules are not regulated as legal rules or on the contrary, some legal rules are irrelevant to moral order.

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### 1.6.3. The Relationship between Law and Customary Rules

- Judges may be allowed to apply customary rules when the statutes are silent.
- A custom contrary to statutory law can never be legally valid.

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## 2. DEFINITION OF LAW

- It is normative
- It is institutionalized
- It is coercive
- It is protective



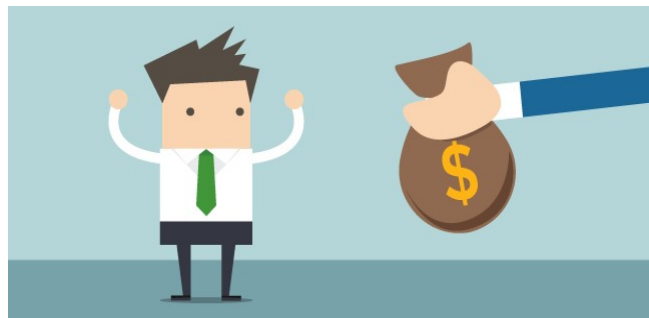
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## 2.1. Main Objectives of Law



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## 2.2. Main Types of Legal Sanctions



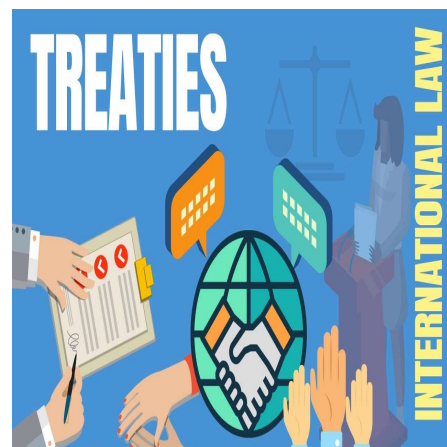
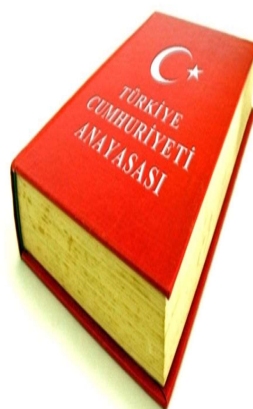
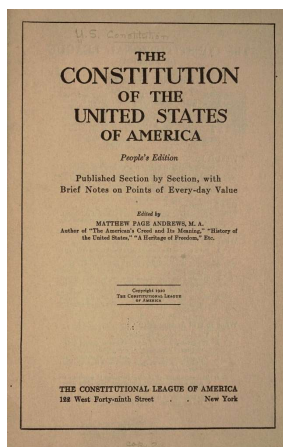
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## 2.3. Characteristics of Legal Rules

- Common and general
- Objective and non-personal
- Abstract and steady

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## 3. SOURCES OF LAW



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## 3.1. Constitution

- In the hierarchy of enacted law a constitution occupies the first place.



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## 3.2. Codes (Acts, Laws, Bills and Statutes)

- Codes must be written
- Codes must be general
- Codes must be prolonged

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### 3.3. International Treaties



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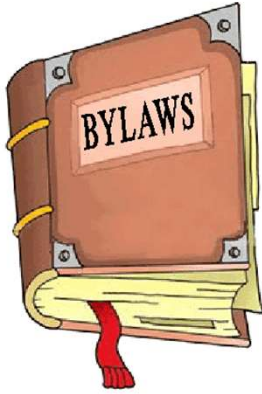
### 3.4. Presidential Decrees

- D. Duties and Powers

Article 104 - ... The President of the Republic may issue presidential decrees on the matters regarding executive power. The fundamental rights, individual rights and duties included in the first and second chapters and the political rights and duties listed in the fourth chapter of the second part of the Constitution shall not be regulated by a presidential decree. No presidential decree shall be issued on the matters which are stipulated in the Constitution to be regulated exclusively by law. No presidential decree shall be issued on the matters explicitly regulated by law. In the case of a discrepancy between provisions of the presidential decrees and the laws, the provisions of the laws shall prevail. A presidential decree shall become null and void if the Grand National Assembly of Turkey enacts a law on the same matter

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### 3.5. By-Laws



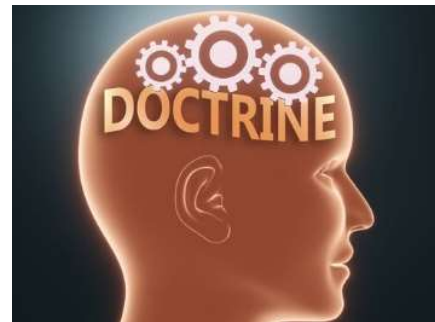
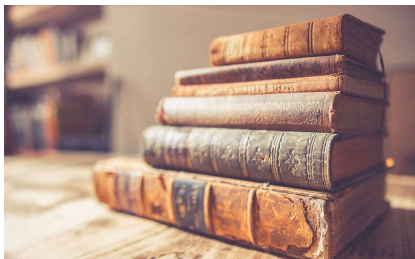
- By-laws  
ARTICLE 124-  
(As amended on April 16, 2017; Act No. 6771) The President of the Republic, the ministries, and public corporate bodies may issue by-laws in order to ensure the implementation of laws and presidential decrees relating to their jurisdiction, as long as they are not contrary to these laws and decrees. The law shall designate which by-laws are to be published in the Official Gazette.

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### 3.6. Other Delegated Legislation (Subordinate Legislation)

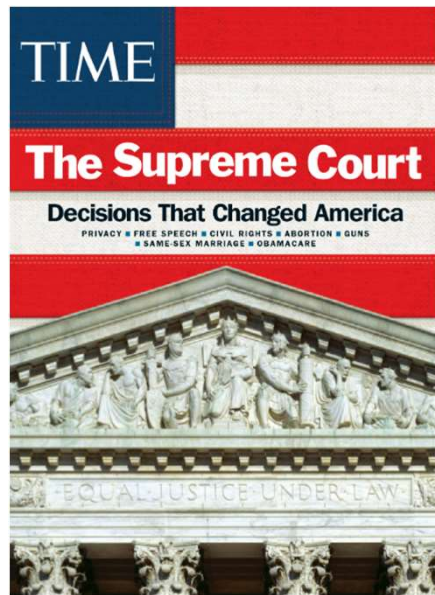


### 3.7. Doctrine



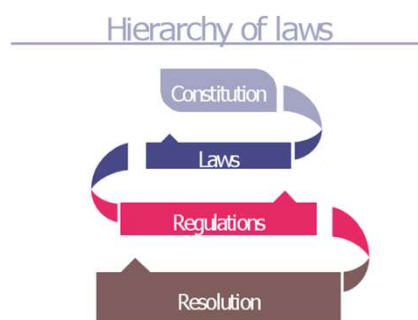
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## 3.8. Court Decisions



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## 3.9. Hierarchy of Law



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