



UiO • **Faculty of Law**
University of Oslo

Norwegian Life and Society

THE NORWEGIAN LEGAL SYSTEM

Eléonore Maitre-Ekern

Research fellow, Dept. of Public and International Law, UiO



15 April 2013

1. Some questions for reflection:

Legal systems:

- What is a legal system?
- Why do we need a legal system?
- Which institutions do the legal system consist of?
- What do we need “checks and balances” for?

The Norwegian legal system:

- Similar or different from other legal systems?
- Different institutions?
- Different way of thinking?
- Different material (substantive rights) rights?

2. Foundation: The Constitution of 1814

- 17th of May 1814
- Constitution: inspired by USA, France and right to self determination
- Radical and democratic
- Constitutional Monarchy - Sovereignty of the People
- Division of powers
- Legally binding? Limiting legislative and executive powers
- Judicial review?

Norway today

- Constitutional monarchy: King Harald V, since 1991
- Prime Minister: Jens Stoltenberg (Labour), since 2005
- State Church: Protestantism



3. The Parliament (Stortinget) – the legislative branch

- Unicameral
- Power to issue new legislation
- The Principle of legality
 - Rule of Law
 - Sovereignty of the people
 - Citizens able to foresee their legal position (legal certainty)
- Constitutional limitations on the legislator



4. The Government – the executive branch

The Council of State:

- Chaired by the King
- Adoption of decisions
- Matters of main significance

The governmental conference:

- Chaired by the Prime Minister
- Preliminary discussions



The executive branch (2)

Legislative process:

- Substantial influence on the legislative process (“lov”)
- Power to issue *directives* (“forskrifter”) – delegated powers

Executive power – enforcing legal order:

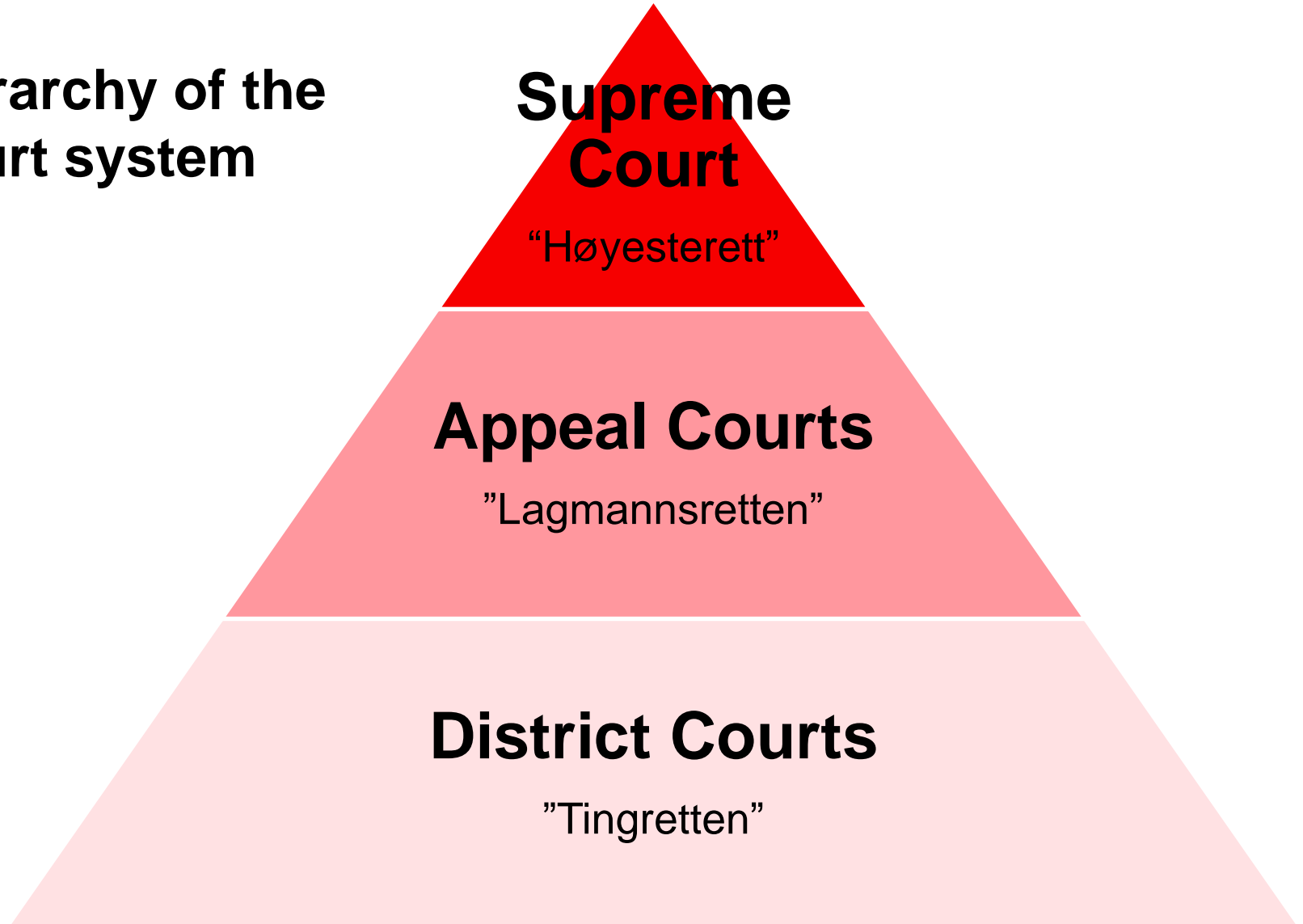
- Criminal cases
- Civil cases
- Other fields of law

5. The Court System - the judicial branch

- The independence of Courts
- Tasks of the Courts
 - Criminal cases
 - No investigative courts
 - Civil cases
 - Not all disputes settled in courts of law
 - Conciliation proceedings
 - Administrative cases
- Courts only rule in *legal matters*



Hierarchy of the Court system



District Courts

- 70 District Courts
- Jurisdiction in all matters
 - No division of ordinary courts and administrative courts
 - No division of criminal courts and civil courts
 - No separate constitutional court

Appeal Courts

- Only 6 Appeal Courts
- Right to appeal
 - Civil cases
 - Criminal cases

Supreme Court

- Right to appeal heavily restricted
- Purpose
 - Not to ensure right outcome in each and every case
 - Ensure uniformity of legal process
 - Resolve matters where the law is unclear
 - Develop the law
 - Decide in matters of principle



Composition of the Courts

Professional judges

District Courts: 1

Appeals Courts: 3

Supreme Court: 5

Supreme Court

- plenary session: 19

Lay judges

Civil cases:

None, but parties may demand

Criminal cases:

Lay judges in majority in first and second instance. None in the Supreme Court.

Court proceedings and hearings

Civil cases

Strong oral tradition

- Witnesses, documentary evidence and legal arguments presented directly before the court during “main hearing”

Criminal cases

Oral tradition even stronger

- Judges as “tabula rasa”
- Presumption of innocence
- Evaluation of evidence
- Principle of contradiction

Principle of transparency

6. A continental or common law system?

Continental law

- Extensive and detailed legislation
- Principles of law

Common law

- Case-law developed by Courts of law
- Tradition

Norwegian law

- Parliamentary legislation key figure
 - Legislation less detailed
- Trusts the courts to find “the spirit of the law”
- But courts emphasise the “preparatory works” of legislators
 - Supreme Court case-law highly important
 - Courts recognised to “develop law”
 - Fields of law that are not legislated
- Scandinavian “legal pragmatism” – less principles

7. Some major trends in the Norwegian legal system

- *Wide administrative powers in the aftermath of WWII*
- *Increased protection of citizen's position*
- *Consumer protection*
- *Deregulation – more free market*
- *EU/EEA-legislation*
- *Human Rights*
- *Soft on crime – or tougher on crime?*
- *The aftermath of 22 July 2011?*