

US Legal Systems

Our legal system can be thought of as 3 concentric circles of institutions and participants.

1. Inner ring-institutions which make, implement, and interpret (legs., admins. agencies, and courts)
2. Mid ring-gatekeepers to institutions (police and bar)
3. Outer ring-consumers of law (disputants, litigants, victims, and offenders)

Legal process

Procedures used to adopt, change, or maintain the law-leg process courts typically involved in adversarial processes

Most law made in leg. ; most law interpreted in adm. agencies

The Law

Law legitimate authoritative rules from gov. officials

5 characteristics for law

1. Must be legitimate:
 - A. Produced by procedures that are legitimate
 - B. Reflect fairness and justice of society
2. Law-rules, prescriptive statements (modes of behavior)
3. Law-authoritative rules (backed by force or state)
(compliance-conscience/fear)
4. Law-rules promulgated by public officials (leg., exec., court)
(product of political process)
5. Law-allocative (values and resources; law isn't neutral)

Structure of American Law

- I. Basic structure-federal sys. : three levels
 - A. Federal-cong. exec. etc.
 - B. State-for own territory (most family and criminal)
 - C. Local ordinance (taxes, reg land use and construction)
- II. First Overlay (hierarchy of law)
 - A. Constitution-compact between citizens, form of gov., our rights and duties
 - B. Statutes-rules adopted by legs (cong., etc)
 - C. Administrative regulations (agencies rules)
- III. Second Overlay (statutory, common, equity) (origin and form of laws)
 - A. Statutes-legs.
 - B. Common and equity-courts (today most law-students)
(Courts operate principally by precedent (rule that past decisions govern present situations))

- IV. Third Overlay (functional division of law: civil and criminal- different procedures and sanctions)
 - A. Criminal conviction- no reasonable doubt; case is gov. against offender; outcome=punishment
 - B. Civil conviction-preponderance of evidence; case often private parties and gov.; outcome-compensation or restoration of situation (public law-institutions of gov.: const., adm. law, criminal) (private law-relations between citizens; commercial contracts and family)

Law as procedure

Law often specifies correct procedure for activities; the most essential procedures in US are “due process of law”

- A. Criminal cases-right to face accusers, right to jury trial, right to attorney right against self-incrimination (Bill Rights)
- B. Civil cases-separation of dm between juries and judges so judges do not rule on facts in jury trials; must be adversarial proceeding: rules of evidence observed
- C. Procedures expensive and lengthy