

Introduction to the American Legal System

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Sources of American Law

	Federal	State
Legislative	<ul style="list-style-type: none">• Federal Statutes	<ul style="list-style-type: none">• State Statutes
Executive	<ul style="list-style-type: none">• Federal Administrative Rules & Regulations	<ul style="list-style-type: none">• State Administrative Rules & Regulations
Judicial	<ul style="list-style-type: none">• Interpretive law	<ul style="list-style-type: none">• Interpretive law• Common law

Federalism

- **50 state governments** united into **1 federal government**
- **Basic Principle:** federal law is
 - Domain-limited, but
 - Supreme within its domains
- State law is
 - Not domain-limited, but
 - Inferior to federal law (if there is a conflict)

Federalism: Domain-Limited

- Federal government **may only** create law within **domains established by the constitution**
- Power to:
 - Regulate and use the armed forces
 - Enter into treaties
 - Tax and spend
 - **Big one:** Regulate interstate commerce
- No general power to:
 - Regulate or promote health

Federalism: Supreme

- *“[T]he laws of the United States . . . shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or the Laws of any State to the Contrary notwithstanding.”* U.S. Const. art. VI, cl. 2

Separation of Powers

- **Three Branches:**
 - Legislature
 - Executive
 - Judiciary

Separation of Powers: Legislatures

- Groups of **elected representatives** that write **statutes**
- Called **Congress** (federal), **General Assembly**, or **Legislature**
 - Two houses:
 - “Upper,” smaller house (Senate)
 - “Lower,” larger house (House of Representatives)
- **Statutes:**
 - Affordable Care Act (“Obamacare”)
 - HIPAA
 - Massachusetts Medical Licensure Law

Separation of Powers: Executive

- **One** elected individual who **approves** and **enforces** statutes and supervises **administrators**
- Called the **President** (federal) or **Governor** (state)
- Many statutes authorize **administrative agencies** to adopt **regulations** with the force of law and decide cases
- Administrative agencies:
 - FDA
 - CDC
 - Health and Human Services (HHS)
 - NY Department of Financial Services

Separation of Powers: Judiciary

- **Judges** (unelected in the federal system) who decide cases and issue **opinions**
- **Adversarial System: A v. B**
 - Civil law: [plaintiff] v. [defendant] for a **remedy**
 - Criminal law: [prosecutor] v. [defendant] for **punishment**
- Federal courts are **limited**, state courts **general**
- Juries decide **facts**
- Judges decide **law**, and explain **why** in an **opinion**
- Judicial opinions are (generally) **binding** in future cases **within the jurisdiction**

Judiciary: Hierarchy

- **Three Levels of Courts**
 - Trial (district courts)
 - Appeal (Court of Appeals, Circuit Courts)
 - Highest (Supreme Court, MA Supreme Judicial Ct)
- Opinions **bind** lower courts in the same **system** (federal or state)
- Opinions of the **Supreme Court of the United States** on issues of **federal law** bind **every court**
- Opinions of the highest court bind itself under “**principles of *stare decisis***” (can be overruled or departed from for good reason)

Judiciary: Sources of Law (Interpretive)

- Most of what courts do is **interpret** and apply statutes, regulations, treaties, or Constitutions
- Theory: judges' job is to find and apply the **intent** of the democratic branches
 - Prevailing means of finding intent: **textualism**

Judicial Review



- **Federal Constitution** is the supreme law
- To enforce that, **courts** hold “**unconstitutional**” *other laws* that violate the Constitution
- Perhaps most importantly, its ***Amendments***
 - 1A: freedom of speech, religion, assembly
 - 2A: right to bear arms
 - 4A: law enforcement searches and seizures
 - 14A: due process & equal protection of the law
- **Supreme Court of the United States** is the final interpreter of the Constitution
- Precedents develop **doctrines** that clarify and interpret the Constitution

Judiciary: Sources of Law (Common Law)

- After the American Revolution, American courts adopted English Common Law
- **Judge-made private law**
- Basic mechanism: in new cases, judges apply principles and rules from previous cases, and in so doing the law evolves over time
- Basic fields:
 - Contracts
 - Property
 - Torts (civil wrongs; basically careless behavior that causes harms)
- **Inferior** to statutory law
- There is no (general) **federal** common law

Sources of American Law

Domain-limited but supreme 

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Executive	<ul style="list-style-type: none">• Federal Administrative Rules & Regulations	<ul style="list-style-type: none">• State Administrative Rules & Regulations
Judicial Judges apply statutes & rules 	<ul style="list-style-type: none">• Interpretive law	<ul style="list-style-type: none">• Interpretive law• Common law