

Module 1: History and Sources of American Law

1.1 Background on Formal Legal Systems

- Why do we need a formal legal system?
 - Fairness, consistency, order
- Civil Law v. Common Law
 - Code-based law v. case-based law
- Stare Decisis and Precedent
 - Need for consistency and predictability

1.2 Sources of U.S. Law

- The U.S. Constitution
 - The three branches of government
 - The idea of checks and balances
 - Judicial review
- The Bill of Rights and Other Constitutional Amendments
- Federal Statutes and the Idea of Limited Federal Power
- Federalism and the US Constitution's Supremacy Clause
- State Constitutions
- State Statutes and Local Ordinances
- Uniform Laws and the Uniform Commercial Code
- Judicial Opinions

1.3 U.S. Bill of Rights

- Negative v. Positive Liberties:
 - The Bill of Rights as a set of Limitations on Governmental Power
 - Applies to Federal Government, though the Fourteenth Amendment has been interpreted to apply most of the Bill of Rights to the States as well.

1.3 U.S. Bill of Rights

- First Amendment
 - Freedom of Religion
 - Establishment Clause
 - Free Exercise Clause
 - Freedom of Speech
 - Exceptions: incitement, defamation, intellectual property, misleading commercial speech
 - Content-based v. content-neutral regulation of speech
 - Freedom of the Press
 - Reflected in US libel law

1.3 U.S. Bill of Rights

- Fifth Amendment
 - Due Process Clause
 - Takings Clause
- Fourteenth Amendment
 - Equal Protection Clause
 - Heightened Scrutiny for Laws Limiting a Fundamental Right or Employing a Suspect Classification (e.g., race, religion, gender, national origin)
 - Rational Basis scrutiny for all other laws
 - Due Process Clause