

UNIT 1

Introduction to Law and the Legal System



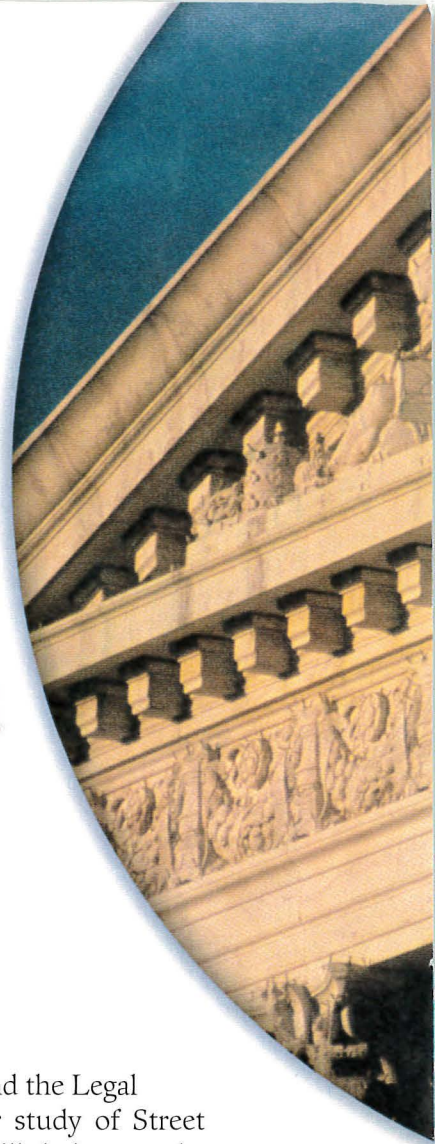
Street Law *online*

Visit the *Street Law* Web site at streetlaw.glencoe.com for unit-based activities.

Unit 1, Introduction to Law and the Legal System, sets the stage for your study of Street Law. Chapters in this unit will help you learn important basic information including:

- What is law?
- How are laws made in the various branches of government?
- What roles can you play in influencing lawmakers?
- How is our legal system organized, including the difference between trials and appeals and between the state and federal court systems?
- How do you find and get help from a lawyer?

This unit also contains two chapters that help you develop skills you will need for the rest of your life. Chapter 3 discusses advocacy and will help you identify problems in your community, state, and country. As an effective advocate, you will be able to develop and implement plans (including voting and lobbying) for





■ The phrase “equal justice under law” refers to the goal of the U.S. court system to treat all persons fairly.

solving these problems. Your energy and insight can—and should—make you a part of the solutions to the most pressing problems we face.

Chapter 4 focuses on settling disputes outside of court, and will help you make smart decisions when you encounter conflict. While the law establishes who is right and who is wrong in many (but certainly not all) situations involving conflict, most conflicts are resolved without lawyers and without the court system.

If you are confronting a serious conflict, there are powerful steps you can take before considering a lawsuit—steps that are more helpful and more satisfying than fighting or running away.

Equipped with advocacy and conflict resolution skills from *Street Law*—along with all the practical legal information and other problem-solving skills you will get from this book—you will be able to improve your life and the life of your community.

What Is Law?

*"The law
must be stable,
but it must not
stand still."*

— Roscoe Pound



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The question “What is law?” has troubled people for many years. An entire field of study known as **jurisprudence**, or the study of law and legal philosophy, is devoted to answering this question. Many definitions of law exist. For our purposes, however, law can be defined as the rules and regulations made and enforced by government that regulate the conduct of people within a society.

As a child, you learned about rules first at home and later at school. At home, your parents or guardians made and enforced rules concerning issues like chores and bedtimes. Teachers and principals established rules about classroom behavior. Rules made and enforced by the government are called laws. The government makes laws that affect almost every aspect of daily life.

One thing is certain: Every society that has ever existed has recognized the need for laws. These laws may have been unwritten, but even preindustrial societies had rules to regulate people’s conduct. Without laws, there would be confusion and disorder. This does not mean that all laws are fair or even good, but imagine how people might take advantage of one another without a set of rules.

Congress passes laws
for everyone in the
United States to live by.



A democratic system of government cannot function effectively unless its laws are respected by the people the laws are intended to govern. In other words, society must be based on the “rule of law.” The rule of law requires that the rules by which we are governed be known in advance and created through democratic processes. Rules should not be made up after the fact by arbitrary actions or decrees. All members of society—average citizens and government officials such as senators, judges, and even the president—are required to support the legal system and obey its laws. No one is above the law.

Problem 1.1

List 10 of your daily activities (for example, waking up, eating, and going to school). Next to each item, list any laws that affect that activity. What is the purpose of each law that you identified? Would you change any of these laws? Why or why not?

Law and Values

Laws generally reflect and promote a society’s values. Our legal system is influenced by our society’s traditional ideas of right and wrong. For example, laws against murder reflect the moral belief that killing another person is wrong. Most people would condemn murder regardless of what the law said. However, not everything that is immoral is also illegal. For example, lying to a friend may be immoral but is usually not illegal.

We expect our legal system to achieve many goals. These include (1) protecting basic human rights, (2) promoting fairness, (3) helping resolve conflicts, (4) promoting order and stability, (5) promoting desirable social and economic behavior, (6) representing the will of the majority, and (7) protecting the rights of minorities.

Many of society’s most difficult problems involve conflicts among these goals. For example, some laws give preference to minorities over whites. Critics of these laws argue that they discriminate against whites and create racial conflict. Proponents of such laws, however, argue that they protect the rights of minorities, promote fairness by leveling an uneven playing field, and help reduce racial tension.



This sign reflects society’s values about right and wrong. *What values are placed in conflict by laws protecting the environment?*

Achieving the goals just listed while trying to avoid conflict is a difficult task for the U.S. legal system. Laws must balance rights with responsibilities, the will of the majority with the rights of the minority, and the need for order with the need for basic human rights. Reasonable people sometimes disagree over how the law can protect the rights of some without violating the rights of others. However, everyone must remember that laws are intended to protect people and resolve conflicts in everyday life.

The Case of . . .

The Shipwrecked Sailors

Three sailors on an ocean going freighter were cast adrift in a life raft after their ship sank during a storm in the Atlantic Ocean. The ship went down so suddenly that there was no time to send out an SOS. As far as the three sailors knew, they were the only survivors. They had no food or water in the raft. And they had no fishing gear or other equipment that might be used to get food from the ocean.

After recovering from the shock of the shipwreck, the three sailors began to discuss their situation. Dudley, the ship's navigator, figured that they were at least one thousand miles from land and that the storm had blown them far from where any ships would normally pass. Stephens, the ship's doctor, indicated that without food they could not live longer than 30 days. The only nourishment they could expect was from any rain that might fall from time to time. He noted, however, that if one of the three died before the others, the other two could live a while longer by eating the body of the third.

On the twenty-fifth day, the third sailor, Brooks, who by this time was extremely weak, suggested that they all draw lots and that the loser be killed and eaten by the other two. Both Dudley and Stephens agreed. The next day, lots were drawn and Brooks lost. At this point, Brooks objected and refused to consent.

However, Dudley and Stephens decided that Brooks would die soon anyway, so they might as well get it over with. After thus agreeing, they killed and ate Brooks.

Five days later, Dudley and Stephens were rescued by a passing ship and brought to port. They explained to authorities what had happened to Brooks. After recovering from their ordeal, they were placed on trial for murder.

The country in which they were tried had the following law: Any person who deliberately takes the life of another is guilty of murder.

Problem 1.2

- a.** Should Dudley and Stephens be tried for murder?
 - b.** As an attorney for Dudley and Stephens, what arguments would you make on their behalf? As an attorney for the government, what arguments would you make on the government's behalf?
 - c.** If they are convicted, what should their punishment be?
 - d.** What purpose would be served by convicting Dudley and Stephens?
 - e.** What is the relationship between law and morality in this case? Was it morally wrong for Dudley and Stephens to kill Brooks? Explain your answer.
 - f.** Can an act be legal but immoral? Can an act be morally right but unlawful? Explain.
-

Laws can be based on moral, economic, political, or social values. As values change, so can laws. Moral values deal with fundamental questions of right and wrong. For example, laws against killing promote society's primary moral value—the protection of life. However, even this shared moral value—protection of life—is not absolute or universal because in limited circumstances such as self-defense or war, the law allows intentional killing.

Economic values deal with the accumulation, preservation, use, and distribution of wealth. Many laws promote economic values by encouraging certain economic decisions and discouraging others. For example, the law encourages home ownership by giving tax benefits to people who borrow money to pay for a home. Laws against shoplifting protect property and discourage stealing by providing a criminal penalty.

Political values reflect the relationship between government and individuals. Laws making it easier to vote promote citizen participation in the political process, a basic American political value.

Social values concern issues that are important to society. For example, it is an American social value that all students are provided with free public education at least through high school. Consequently, all states have laws providing for such education. Like other values, social values can change. In the past, for example, society believed that school sports were not as important for girls as for boys. This value has changed. Today, laws require schools to provide females with sports opportunities similar to those offered to males.

Many laws combine moral, economic, political, and social values. For example, laws against theft deal with the moral issue of stealing, the economic issue of protection of property, the political issue of how government punishes those who violate criminal statutes, and the social issue of respecting the property of others.



Female participation in traditionally male activities is on the rise. How does this photo reflect society's changing laws and values?

“Liberty means responsibility. That is why most men dread it.”

— George
Bernard Shaw

Americans tend to think that laws can be passed to solve all of their problems. In 1919, the U.S. Constitution was amended to prohibit the manufacture and sale of alcoholic beverages in this country. The Eighteenth Amendment was passed in response to a significant national problem. However, prohibition of alcohol was extremely difficult to enforce, and 14 years later it was repealed by another constitutional amendment. (The text of the entire Constitution is provided on pages 570–599.) Today, legislators try to deal with the nation’s devastating drug problem by passing a wide variety of laws. People disagree on what role the law can play in solving this problem. We know from experience, however, that there is a limit to what laws can reasonably be expected to do.

Problem 1.3

For each of the following laws, indicate whether moral, economic, political, or social values are involved. Explain your responses.

- a.** All drivers must stop at stop signs.
 - b.** It is a crime to cheat on your tax return.
 - c.** All citizens may vote at age 18.
 - d.** Special government programs lend money to minority-owned businesses at low interest rates.
 - e.** Government officials may not accept gifts from people who want them to pass certain laws.
 - f.** Possession of marijuana is a crime.
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Human Rights

Human rights are the rights all people have just because they are human beings. To advocate human rights is to demand that the dignity of all people be respected. Both government and private individuals can violate human rights. Human rights apply in people’s homes, schools, and workplaces. In fact they apply everywhere. We have our human rights from the moment we are born until the moment we die.

The Universal Declaration of Human Rights (UDHR) is a statement of basic human rights and standards for government that has been agreed to by almost every country in the world. (The text of the entire UDHR is provided on pages 600–607.) First written and adopted by the United Nations (UN) in 1948 under the leadership of Eleanor Roosevelt, it proclaims that all people have the right to liberty, education, political and religious freedom, and economic well-being. The Declaration also bans torture and says that all people have the right to participate in their government process. Today these rights are promoted, recognized, and observed by every country that belongs to the UN.



Eleanor Roosevelt believed that her work on the Universal Declaration of Human Rights was her greatest accomplishment. *How can human rights affect the writing of laws?*

The Universal Declaration of Human Rights is not a binding treaty, but the United Nations has established a system of international treaties and other legal mechanisms to enforce human rights. These include two major treaties:

- The International Covenant on Civil and Political Rights protects rights such as freedoms of speech, religion, and press and the right to participate in government.
- The International Covenant on Economic, Social and Cultural Rights provides for rights such as the right to adequate education, food, housing, and health care.

The Covenant on Economic, Social and Cultural Rights also provides for the right to a job, safe working conditions, an adequate salary, and the right to own property. Some believe the right to a clean environment should be added to the Covenants, while others are calling for a right to economic development for poor countries. The United States has signed and ratified the Covenant on Civil and Political Rights, and has signed but not ratified the Covenant on Economic, Social and Cultural Rights.

There are other important human rights treaties covering specific areas of human rights, including genocide, discrimination against women, and the rights of children. Even when the United States signs these human rights treaties, it often restricts their enforcement within the country. This is done by announcing that the United States is

“The people’s good is the highest law.”

— Cicero

taking *reservations*, which is a legal means for making a provision less enforceable than it might otherwise be. The government gives a number of reasons for these reservations, including that under our system of federalism, the treaty would be taking away power of individual states to make law and that other countries should not be imposing their views on the states. For example, the United States has taken a reservation to treaties that prohibit the death penalty against juveniles. The basis for this idea is that such a decision should be made by individual states.

Problem 1.4

You have been selected to join a group of space pioneers who will establish a colony on a distant planet. In order to create the best possible society, you and your group decide to make a list of the human rights that all space colonists should have.

- a.** List the three most important human rights that you believe should be guaranteed.
 - b.** Compare your list with those of others. Explain reasons for your selections.
 - c.** Why do you think some of the rights you listed are more important than others?
 - d.** Do any of the rights you listed conflict with one another? If so, which ones? Why?
 - e.** Compare your list of rights with the rights listed on pages 600–607, the Universal Declaration of Human Rights. Which ones did you include? Which ones did you not include?
 - f.** Are all the human rights you listed also legal rights? When does a human right become a legal right?
-

Human rights are standards countries can use when writing laws. Sometimes human rights become law in a country when the government signs an international treaty guaranteeing such rights. Human rights also can become law if they are included in a constitution or if the legislature of a country passes laws protecting or guaranteeing these rights. Even though they may not refer to them as human rights, there are many provisions that protect human rights in our Constitution and Bill of Rights and in federal, state, and local laws.

Many of the human rights documents—including the Universal Declaration of Human Rights—mention cultural rights, and it is universally accepted that all people have a right to their own culture. But what does this mean when culture comes into conflict with universally accepted human rights? The practice of female infanticide, or killing female babies, might be accepted in one culture, but the world community condemns it as a violation of human rights, the right to life. So cultural rights, like many other rights, are not absolute.

Human Rights USA

Many countries have more serious human rights violations than the United States. This may be one reason why some people in the United States tend to use the term *human rights* only when referring to violations happening in other countries. However, human rights do apply to all people in all countries, including the United States.

Each unit of *Street Law* contains a feature called “Human Rights USA.” This feature provides opportunities to look at an aspect of human rights in the United States, and will usually include some reference to the Universal Declaration of Human Rights (UDHR) found on pages 600–607.

Problem 1.5

- a.** Assume the following take place in the United States. Decide if each is a human rights violation. If it is, identify the article of the UDHR that is at issue.
1. Before class starts, the teacher says, “You can’t pray in school.”
 2. A child goes to sleep hungry because the parents have no money for food.
 3. A student receives a poor education in her high school and is rejected for every job for which she applies.
 4. A man is stopped before boarding an airplane and strip-searched because he has an Arab-sounding name and a stamp on his passport indicating that he has been to Iraq in the past year.
 5. A Spanish-speaking student speaks Spanish to another student. The principal tells the students that only English may be spoken in the school.
- b.** Did you find any human rights in conflict within any of the above examples? What should be done when this occurs?
6. A woman is ill and is turned away from a hospital because she does not have health insurance or the money to pay her medical bill.
 7. A homeless man asks for money from people passing by, but people do not give him any money.
 8. A Muslim high school girl wears a hijab (head scarf) to school. The teacher tells her to remove it during class, as there is a rule against hats or other head coverings in the building.
 9. A family moves to the United States from an African country where it is part of their culture for the wife to stay at home and take care of the household. The husband comes home from work and finds that his wife has not done the laundry or cooked dinner. He disciplines her by striking her three times, the usual method of discipline in their culture.



Muslim girls in hijabs

Balancing Rights with Responsibilities

The emphasis on rights in the United States has led some people to criticize the country for being too concerned with rights, while neglecting responsibilities. Some say that “with every right there comes a responsibility” and urge people to act more responsibly toward one another, their families, and their communities.

Critics cite the United States’s emphasis on individual rights as evidence of “radical individualism,” which has resulted in a self-centered focus and the loss of a sense of community. Americans justifiably have great respect for laws extending rights to women, minorities, and persons with disabilities—all of whom were previously excluded from full participation in society.

While individual rights are important, they must be matched by social responsibilities, these critics say. For example, if people wish to be tried by juries of their peers, they must be willing to serve on such juries. If they want to be governed by elected officials who respond to their values and needs, they must not only vote but also get involved in other ways: attend election forums, work for candidates, and run for positions on school boards, city councils, and community associations. Many laws also require people to act responsibly. For example, parents must provide their children with adequate food, shelter, and clothing; drivers must obey traffic laws; and all workers must pay taxes.

Other critics of the emphasis on rights in the United States point out that just “because you have a legal right to do (or not to do) something does not mean it is the right thing to do.” For example, the First Amendment sometimes gives people the right to say hateful and abusive things to others, as its function is to protect freedom of speech. However, it does not make such speech right.

Leaders such as César Chávez helped minority groups fight for civil rights. How have laws changed to include women, minorities, and persons with disabilities?



The Case of . . .

The Apathetic Bystanders

Catherine “Kitty” Genovese was attacked and stabbed to death in 1964 in a highly populated area of Queens, New York. During the half-hour ordeal, 38 people heard Kitty’s screams for help and watched from their windows. Twice the killer was scared off by the sound of voices and the realization that he was being watched. However, both times, when it became obvious that nobody was going to call the police, the killer returned to finish off his victim. Rather than give any aid

to Kitty, such as calling the police or an ambulance, all 38 bystanders chose to pull their shades, draw their blinds, and ignore Kitty’s urgent pleas for help as her life was taken by the deranged attacker.

Problem 1.6

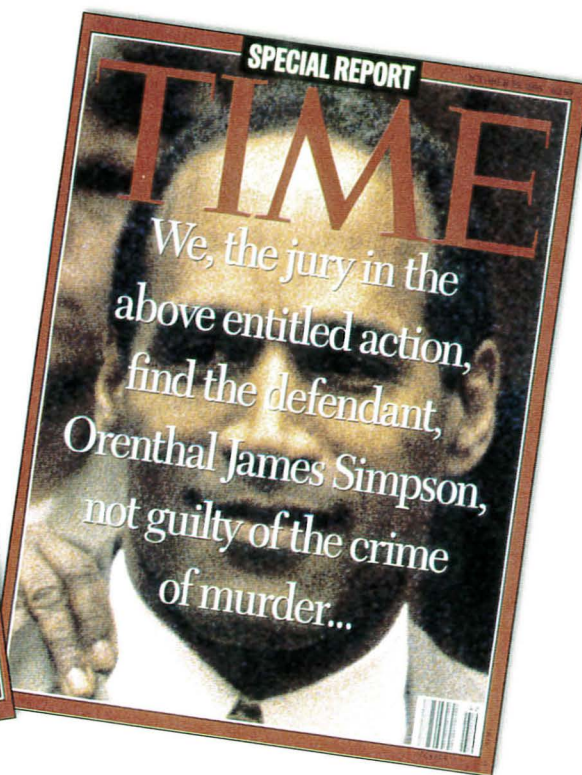
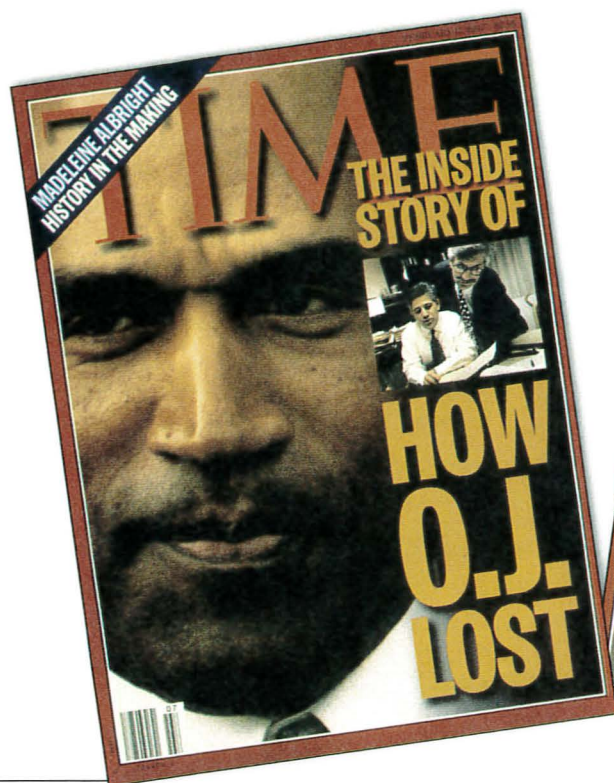
- a. Why do you think the bystanders took no action?
- b. Did the bystanders commit a crime by not acting? Give your reasons.
- c. Did the bystanders do the right thing?
- d. Should the law hold citizens responsible for not helping out in cases such as this one?

Kinds of Laws

Laws fall into two major groups: criminal and civil. **Criminal laws** regulate public conduct and set out duties owed to society. A criminal case is a legal action that can only be brought by the government against a person charged with committing a crime. Criminal laws have penalties, and offenders are imprisoned, fined, placed under supervision, or punished in some other way. In the U.S. legal system, criminal offenses are divided into **felonies** and **misdemeanors**. The penalty for a felony is a term of more than one year in prison. For a misdemeanor, the penalty is a prison term of one year or less. Felonies, such as murder or robbery, are more serious crimes. Less serious crimes, such as simple assault or minor theft, are called misdemeanors.

Civil laws regulate relations between individuals or groups of individuals. A **civil action** is a lawsuit that can be brought by a person who feels wronged or injured by another person. Courts may award the injured person money for the loss, or they may order the person who committed the wrong to make amends in some other way. An example of a civil action is a lawsuit for recovery of damages suffered in an automobile accident. Civil laws regulate many everyday situations, such as marriage, divorce, contracts, real estate, insurance, consumer protection, and negligence.

Sometimes behavior can violate both civil and criminal laws and can result in two court cases. A criminal case is brought by the government against a **defendant**, the person accused of committing the crime. A civil case is brought by the **plaintiff**—the person or company harmed—against the defendant.



The O.J. Simpson trials attracted national and international media attention. *Did the public understand the difference between the civil and criminal law in these cases?*

“Reason is the life of law.”

— Sir Edward Coke

In a famous series of cases, former star football player O.J. Simpson was prosecuted in connection with the deaths of his former wife, Nicole Brown Simpson, and her friend, Ron Goldman. The Los Angeles district attorney was the **prosecutor** in this criminal case. In order to win a conviction, the district attorney had to prove that O.J. Simpson was guilty **beyond a reasonable doubt**. This means that if the jury (or the judge in a case tried without a jury) has any reasonable doubts about the defendant’s guilt, then it must vote not to convict. The jury verdict in Simpson’s criminal case was *not guilty*.

Several months later, the parents of Ron Goldman brought a civil suit against O.J. Simpson to recover damages resulting from the wrongful death of their son. In a civil case, the plaintiff wins by convincing the jury (or the judge in a case tried without a jury) by a **preponderance of the evidence**. The jury (or judge) needs only to decide if it is more likely than not that the plaintiff’s complaint is true. This is a lower requirement for proof than the beyond-a-reasonable-doubt standard used in criminal cases. The reason for the different standards of proof is that a defendant loses money in a civil case, but can suffer lengthy imprisonment or even the death penalty as a result of a criminal conviction. The Goldmans won their civil case against O.J. Simpson. Because the public tends not to understand the difference between civil and criminal cases, there was much confusion about how a person could be found not guilty in a criminal case and then responsible in a civil suit for damages for the same act.

You will learn much more about criminal law in Unit 2 of *Street Law* and much more about civil law in Units 3 through 6.

Problem 1.7

Matt and Kenji decide to skip school. They take Kenji's brother's car without telling him and drive to a local shopping center. Ignoring the sign "Parking for Handicapped Persons Only," they leave the car and enter an electronics shop.

After looking around, they buy a portable CD player. Then they buy some sandwiches from a street vendor and walk to a nearby park. While eating, they discover that the CD player does not work. In their hurry to return it, they leave their trash on the park bench.

When Matt and Kenji get back to the shopping center, they notice a large dent in one side of their car. The dent appears to be the result of a driver's carelessness in backing out of the next space. They also notice that the car has been broken into and that the car stereo has been removed.

They call the police to report the accident and theft. When the police arrive, they seize a small, clear bag containing illegal drugs from behind the car's back seat. Matt and Kenji are arrested.

- a. List all the things you think Matt and Kenji did wrong.
 - b. What laws are involved in this story?
 - c. Which of these are criminal laws? Which are civil laws?
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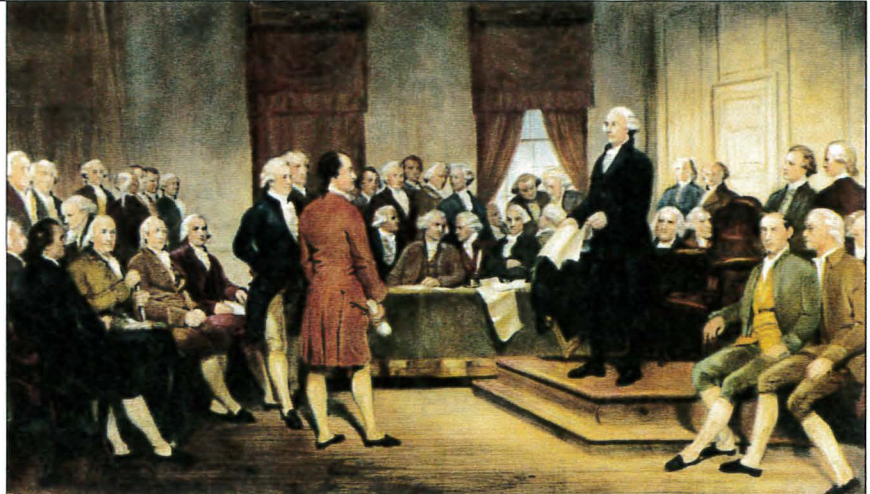
Our Constitutional Framework

The U.S. Constitution is the highest law of the land. Drafted more than two hundred years ago, this remarkable document is the longest-lasting written constitution in the world. It sets forth the basic framework of our government. It also lists the government's powers, the limits on those powers, and the people's freedoms that cannot be taken away by the government. (The text of the entire Constitution is provided on pages 570–599.)

Integral to the Constitution is the principle of **limited government**. Before the U.S. Constitution was written and ratified, the individual states were reluctant to give up power to the national government. After all, a revolution had just been fought against the government of the king of England to preserve individual liberty and the freedom to govern without interference. As a result, the Constitution created a national government of limited powers, with authority to pass laws only in the areas specifically listed in Article I of the Constitution. Those who criticize the power and reach of the federal government today often cite these historic reasons for limiting its power.

Perhaps nothing is more important in the Constitution than the division of lawmaking power among the three branches of government: the executive, the legislative, and the judicial. This division is known as the **separation of powers**. The executive branch, which includes the president and federal agencies, is primarily responsible for enforcing the law. However, the executive branch often issues

■ *The Adoption of the Constitution* by J.B. Stearns depicts the members of the Constitutional Convention formally endorsing their new plan of government. *What is the purpose of the U.S. Constitution?*



rules and executive orders that have the force of law. The legislative branch, or Congress, uses lawmaking power when it passes laws, or **statutes**. The judicial branch, or judiciary—the courts—clarifies, and in some instances establishes laws through its rulings. These rulings may interpret a provision of the Constitution, a statute, or a rule issued by an executive agency.

The three branches of government are independent, but each has the power to restrain the other branches in a system of **checks and balances**. The system was designed to prevent one branch from becoming too powerful and abusing its power. Examples of checks and balances include congressional investigations of actions by the president or other executive officials, the prosecution in court of members of Congress or the executive branch for violating the law, and impeachment. Another check is the president's power to **veto** (refuse to approve) laws passed by Congress.

One of the most visible and important checks of one branch on another is the courts' power of **judicial review**. Judicial review enables a court to declare unenforceable any law passed by Congress or a state legislature that conflicts with the nation's highest law, the Constitution. For example, Congress might pass a law prohibiting media criticism of elected officials. If challenged in court, this law would be declared invalid and unconstitutional because it violates the freedom of press guaranteed in the First Amendment. In general, the courts can declare a law **unconstitutional** either because (1) the government has passed a law which the Constitution does not give it the power to pass or (2) the government has passed a law that violates somebody's rights. Judicial review also gives the courts the power to declare an action of the executive or legislative branch to be unconstitutional. For example, the courts can strike down a regulation improperly issued by an executive branch agency. The courts may also prevent Congress from taking away the president's power to grant pardons.

Just as the Constitution restricts the power of the branches, it also reflects the view that the federal government as a whole should be limited by the power of the states. This division of power between the states and the federal government is known as **federalism**. The federal government's powers to make laws are listed in the Constitution, and the remaining powers are reserved for the states. This is why most civil and criminal laws are passed by state legislatures or local governments. Consequently, many legal differences exist among the states. For example, a 16-year-old boy can obtain a license to drive a car in some states but not in others.

The principle of limited government is also reflected in the **Bill of Rights**, the first 10 amendments to the Constitution. The Bill of Rights defines and guarantees the fundamental rights and liberties of all Americans, including the freedoms of religion, speech, and press; the freedom from unreasonable search and seizure; and other individual rights. Courts have decided that most provisions of the Bill of Rights limit the power of state and local governments as well as the federal government.

Every state has a constitution, and most state constitutions reflect the major principles of the U.S. Constitution. All provide for different branches of government, separation of powers, checks and balances, and judicial review. Some state constitutions provide greater protection of rights than the U.S. Constitution. Our federal system allows states to do this if they wish. For example, some state constitutions have equal rights amendments guaranteeing women greater rights than they have under the U.S. Constitution.



Federal troops enforce the Constitution and forcibly integrate Little Rock High School in September 1957 after members of the Arkansas National Guard prevented Elizabeth Ann Eckford from entering the school. *What is the role of the federal government in protecting individual rights?*

“All religions, laws, morals and political systems are but necessary means to preserve social order.”

— Chien
Tu-Hsiu

The U.S. Constitution and most state constitutions are difficult to change. This is because they were drafted with the belief that they should not be changed without careful thought, discussion, and debate. The idea was to make these documents as permanent as possible. However, allowances were made to accommodate necessary changes. The U.S. Constitution may be changed in two ways. A proposed amendment must be approved either by a two-thirds vote of both houses of Congress or at a convention called by two-thirds of the states. In either case, it must then be ratified, or approved, by three-fourths of the states.

People try to change the Constitution for many reasons. One of the most common reasons for change has been to extend rights that were not originally written into the Constitution. Although ratification is difficult, 27 amendments have been added to the Constitution. These extensions of rights often reflect the changing viewpoints of citizens and their elected representatives. For example, when the original Constitution was ratified in 1789, most states restricted voting to white males who owned property. Since then, various amendments have extended voting rights to minorities, women, persons without property, and persons aged 18 to 20.

Amendments for a range of issues have been discussed and proposed over the years. Some think there should be a constitutional amendment to extend statehood to the District of Columbia. Another proposed amendment would require the federal government to adopt a balanced budget. Other amendments have been proposed in recent years to punish flag burning, protect victims of crime, and ban abortions. The Equal Rights Amendment passed Congress in 1972. It prohibited discrimination on the basis of sex. However, it failed to be ratified by the required 38 states, so it did not become a part of the U.S. Constitution. In 1992, the Twenty-Seventh Amendment became part of the Constitution. This amendment, first proposed by James Madison in 1789, bans midterm congressional pay raises.

Problem 1.8

Examine each of the following situations and determine for each whether it involves the principle of separation of powers, checks and balances, judicial review, federalism, or some combination of these principles. Specify the principle or principles involved and explain your answer.

- a. A state law requires that a prayer be said each day in public schools. The courts rule that the law violates a First Amendment clause that prohibits the government from establishing a religion.
- b. The U.S. Congress passes a law that restricts the import of handguns from other countries. The legislature in one state allows the sale of handguns to anyone over age 18.
- c. Because a prison is very old and overcrowded, a state court orders the state legislature to spend \$10 million on a new prison.