

Sources and Types of Laws



Characteristics of “Good Law”

Purpose: protect & keep order

1. Fair, applied equally, and just
(morally right) →

2. Reasonable: the reason
behind the law makes sense →

IF A LAW COMMANDS ME TO SIN
I WILL BREAK IT; IF IT CALLS
ME TO SUFFER, I WILL LET IT
TAKE ITS COURSE
UNRESISTINGLY.

- ANGELINA GRIMKÉ -



Characteristics of “Good Law”

Purpose: protect & keep order

3. Enforceable, stable, and consistent →

4. Known and understandable to everyone regardless of class (Vagueness Doctrine) →

“A law is operable to the extent that there is no risk of successful defiance to it”



Void-for-Vagueness Doctrine

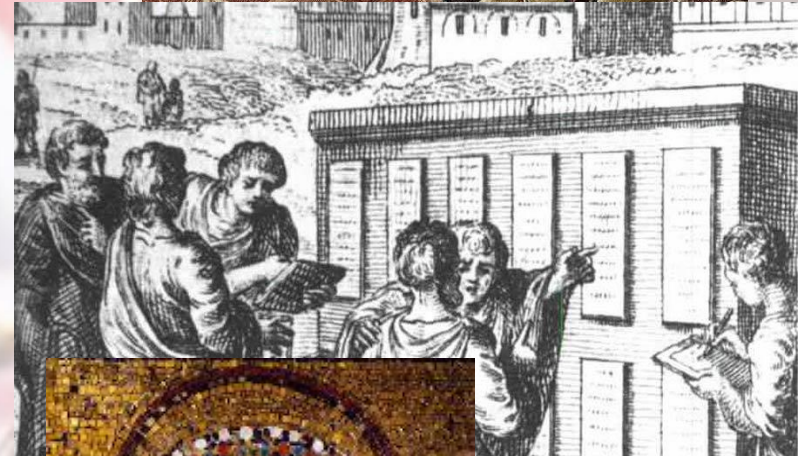
This doctrine requires that lawmakers use clear and precise language so that people of reasonable intelligence do not have to guess at the meaning of a law.

The courts have determined that vague laws are a violation of due process, and such laws must be struck down. Many ordinances dealing with vagrancy, loitering, loud music, and so forth have been struck down by the courts under this doctrine.

The History of American Law

Ancient Law

- Ten Commandments (date contested between 1450 and 1200 BC): ethical principles; many of our laws are based off moral codes today
- Twelve Tables (449 BC): allow the protection of the rights of all citizens and permit wrongs to be redressed through precisely-worded written laws known to everybody →
- Justinian Codes (527 BC): reformed Roman Law; included provisions to secure the status of Christianity as the state religion of the empire, uniting church and state, and making anyone who was not connected to the Christian church a non-citizen
- Code of Hammurabi (755 BC): one of the earliest and most complete written legal codes; laws of retribution (harsh punishments that acted as deterrents for behavior)



TEN THE COMMANDMENTS

I. I AM THE LORD YOUR GOD:
YOU SHALL NOT HAVE
STRANGE GODS BEFORE ME.

II. YOU SHALL NOT TAKE
THE NAME OF THE LORD
YOUR GOD IN VAIN.

III. REMEMBER TO KEEP HOLY
THE LORD'S DAY.

IV. HONOR YOUR FATHER
AND YOUR MOTHER.

V. YOU SHALL NOT KILL

VI. YOU SHALL NOT COMMIT ADULTERY.

VII. YOU SHALL NOT STEAL.

VIII. YOU SHALL NOT BEAR
FALSE WITNESS
AGAINST YOUR NEIGHBOR.

IX. YOU SHALL NOT COVET
YOUR NEIGHBOR'S WIFE.

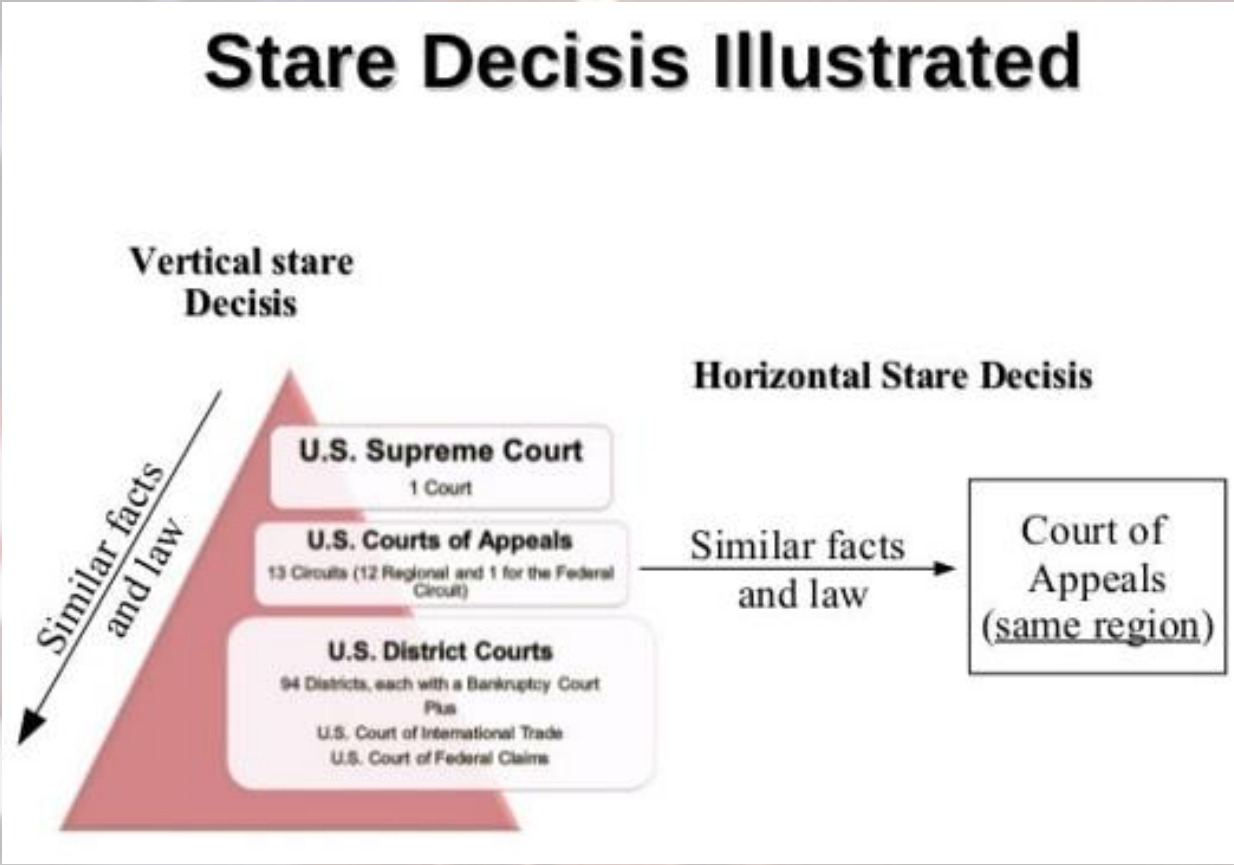
X. YOU SHALL NOT COVET
YOUR NEIGHBOR'S GOODS.

-English Law

Magna Carta (1215):
establishes
principle of
limited
government and
due process

English Bill of Rights
(1689)

Common Law
System: uses
previous court
cases to determine
laws (precedent)
→



LASTING FREEDOM, PEACE & PROSPERITY COME FROM ADHERING TO THE LAWS OF NATURE

FEDERAL

STATE

COUNTY

LOCAL

We the People

LAWS OF NATURE

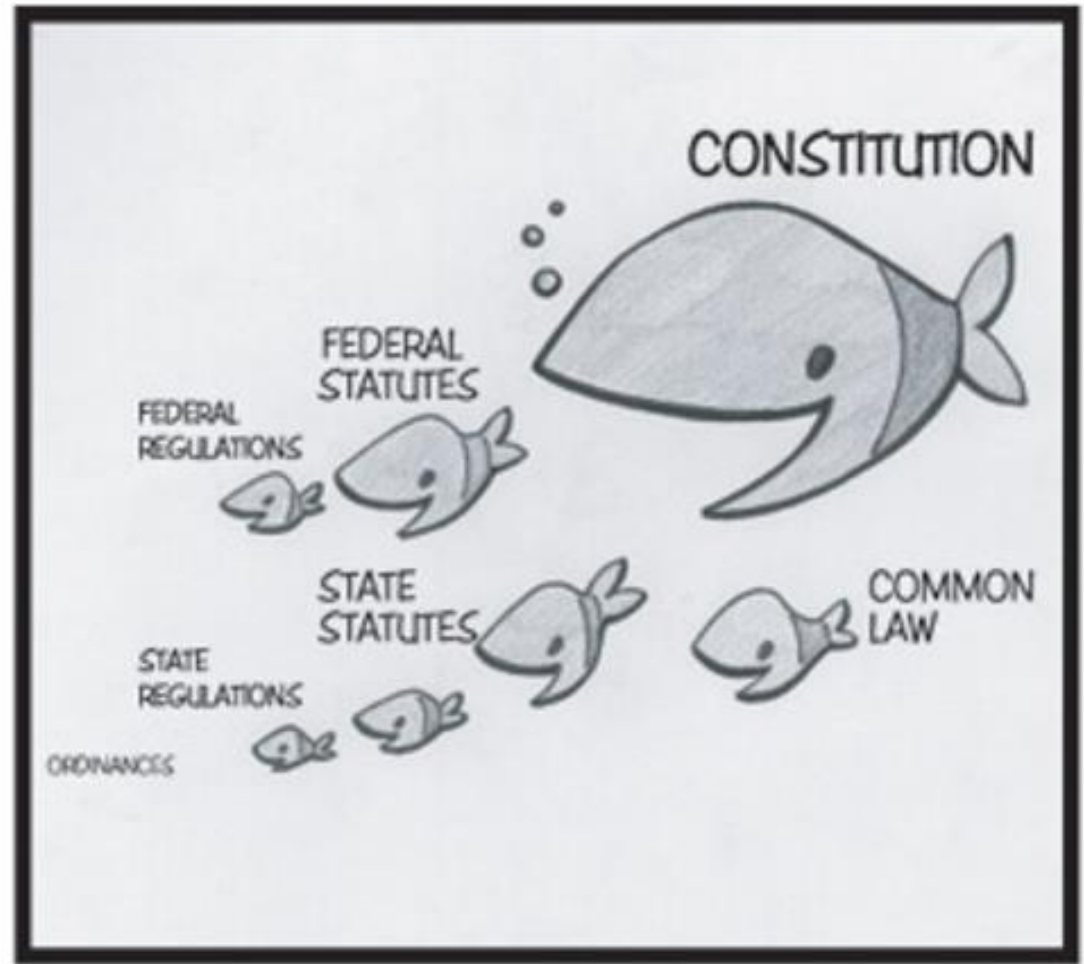
-Natural Law Principles (found throughout Enlightenment philosophy): an ethical belief system inherent in human nature and discoverable by reason rather than revelation (e.g., the law of cause and effect,

Natural Law	Man's law
Based Upon Principles & Truth (Inherent To Creation)	Based Upon Dogmatic Beliefs (Constructs Of Mind)
Harmonized with, due to Knowledge & Understanding	Complied with, due to Fear of Punishment
Universal; exists and applies anywhere in the Universe regardless of location	Differs with location based upon the whim of legislators (Moral Relativism)
Eternal and Immutable; exists and applies for as long as the Universe exists, and cannot be changed	Changes with time based upon the whim of legislators (Moral Relativism)

-Founding Documents

Declaration of Independence:
natural rights & social contract

U.S. Constitution: the
“Supreme Law” of the
U.S. (found in Article VI of the
Constitution)



law hierarchy

Types (Fields) of Law

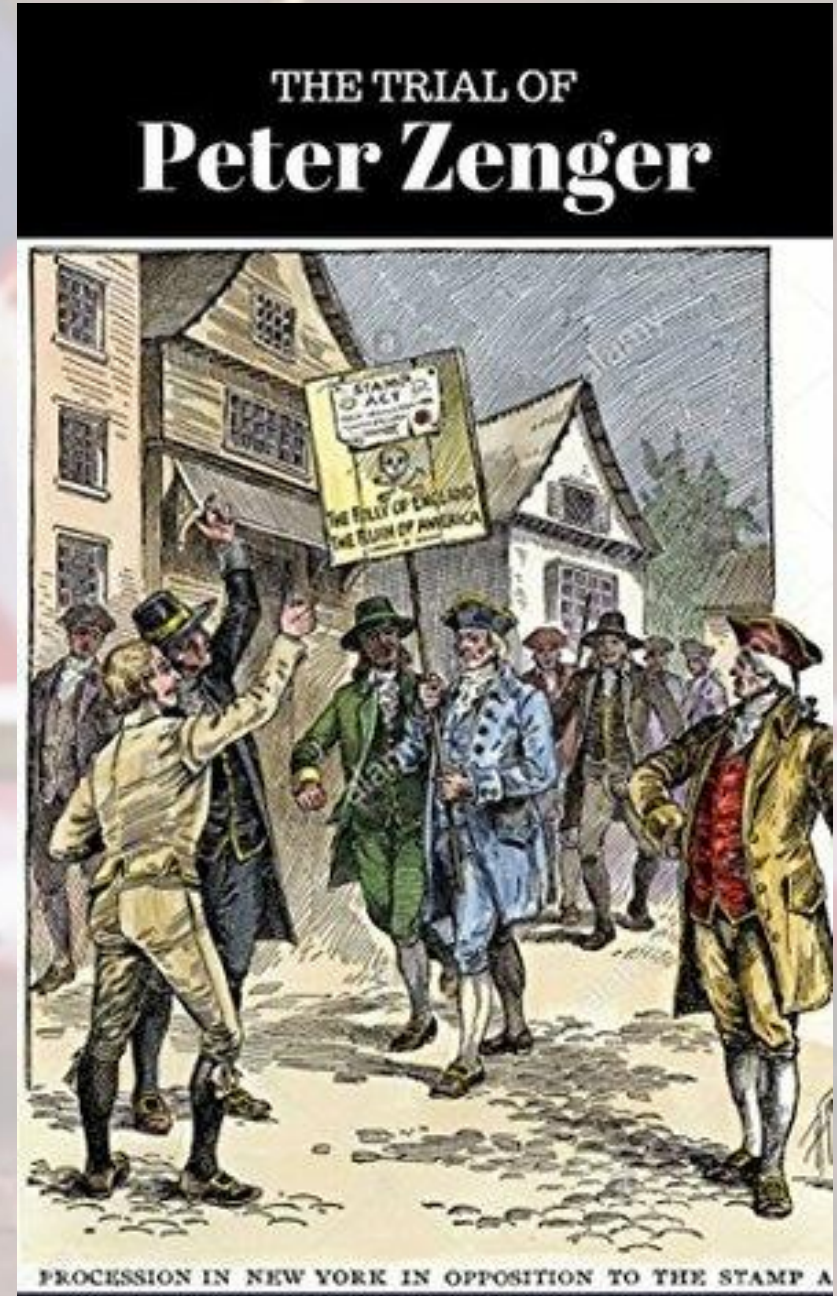


Common Law

Judges not only apply the law, they also make the law, to the extent that their decisions in the cases before them become precedent for decisions in future cases

-Much of contemporary American common law has diverged significantly from English common law

-Contemporary U.S. courts often cite pre-Revolution cases when discussing the evolution of an ancient judge-made common law principle into its modern form



Criminal Law

Statutory rules that define conduct that is not allowed because it is held to threaten, harm or endanger the safety and welfare of people

Two Types

1. Misdemeanor: MINOR crime

e.g., theft, disturbing the peace, vandalism

Typically punished with fines or jail time of less than a year

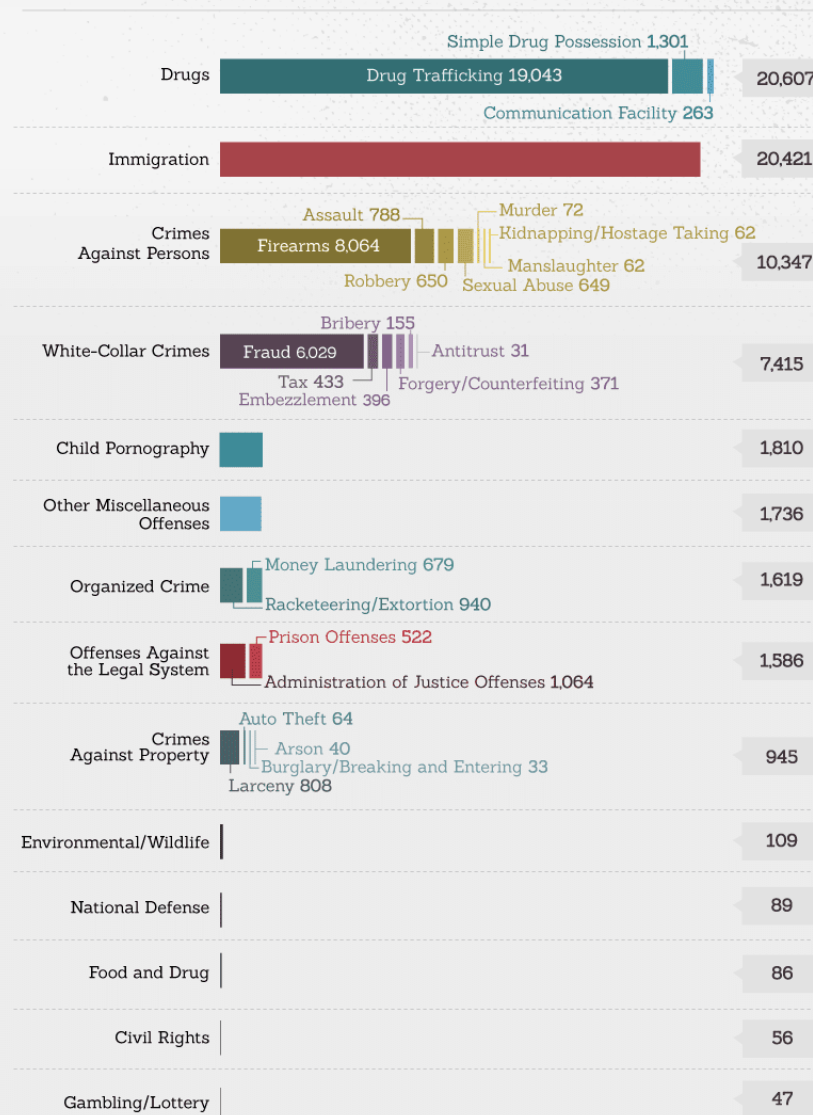
2. Felony: SERIOUS crime

e.g., grand theft auto, murder, drugs, robbery, fraud, embezzlement, arson, kidnapping, rape

*Driving while under the influence may be classified as a misdemeanor but if that person has already been arrested for it before it can turn into a felony

Number of Offenders Sentenced for Federal Crimes in the U.S.

By Primary Offense



Civil Law

The attempt to right a wrong, honor an agreement, or settle a dispute

Civil lawsuits: a civil action begins when a party to a dispute files a complaint and pays a filing fee required by statute

Breach of contract: lease, employment

Tort law/small claims: one party suffers injury and claim another party responsible; seeking to recover damages

Family law: divorce, child custody, domestic violence

Many civil lawsuits reach a settlement before trial in order to avoid the time and expense of a trial; the goal is resolution rather than punishment

	Civil	Criminal
Parties Involved	Private Plaintiff versus Private Defendant	Government versus Private Defendant
Standard of Proof	Preponderance of the Evidence	Beyond a Reasonable Doubt
Burden of Proof	Rests with the Plaintiff	Rests with the Government
Examples	Breach of Contract Personal Injury	Burglary, DUI, Murder
Penalties	Financial Compensation Restraining Orders/Injunctions	Fine, Incarceration, Restraining Orders/Injunctions

Constitutional Law

-The branch of law dealing with the formation, construction, and interpretation of constitutions

-Most of these cases decide between the limits of the power of the govt and the rights of people

e.g., if a defendant argues that he or she is the victim of an unreasonable search



Administrative Law

Laws and legal principles governing the creation, administration and regulation of government agencies the federal, state, and local levels

-When Congress passes a law on a complicated issue, Congress often needs help determining all of the details of how the law will be enforced and implemented

e.g., regulatory boards – Federal Aviation Administration issues an order requiring commercial airlines to install a new type of safety device

-Same effect as law passed by a legislature and is a branch of constitutional law



International Law

Rules and principles

governing the relations and dealings of nations with each other, as well as the relations between states and individuals, and relations between international organizations

The U.S. typically respects the laws of other nations, unless there is some statute or treaty to the contrary

e.g., military agreements, diplomatic treaties, international trade, human rights, questions of international rights and duties



Statutory Law

Statutes: law written by a legislative branch of govt

- Often codified, meaning that they are numbered, collected, and indexed in one place

- Congress, state legislatures, and local legislatures write statutes

- After statutory law is created, it is the judicial branch of the government's job to interpret and enforce it by applying it to court cases

- Based on the premise that every word included in law has a meaning and is chosen for a specific reason

