

Law and Society Abstract

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Introduction

Law has proved enormously difficult to define, and legal scholars have described many different approaches to and components of the law. In general, law comprises principles and rules that guide human behavior. Law is inherently interdisciplinary, reflecting and giving substance to societal norms, and in turn shaping individual and group behavior and the distribution of social costs and benefits. The legal process employs inputs from all aspects of society to define rights, responsibilities, authority, and relationships; establish rules; and resolve disputes. Law also communicates stories and educates the public about social issues.

(1) Historical Development

Law, as a set of social rules, developed early in the history of human societies. These rules governed human behavior and were used to protect rights, to resolve disputes, to maintain public order, and to give predictability to social interactions. In its earliest forms, law probably was just a set of customs followed within a particular community. Over time, law became more formalized, with specific consequences linked to failure to comply.

In many cases, law incorporated a new field long before it was defined as a separate discipline. The content of the social sciences in particular, with their study of power, economics, and social structures, were part of law from the very beginning. Both criminal and civil cases have long considered how to handle evidence, and have had to determine what types of expertise should be recognized and how it should be used. Emerging disciplines, particularly in the biological sciences, create novel situations that require novel responses from all aspects of law, from civil liability to criminal responsibility, to questions of ownership.

(2) Education

Law responds to shifts in societal values but also educates the public, stimulates debate, and shapes public opinions about major social issues. Cases in litigation provide a forum within which opposing views on science, ethics, economics, politics, and other issues may be argued, and the arguments must be made at a level accessible to non-scientist judges and jurors. Court decisions define rights, establish liability, compensate victims, and indicate where in our society such decisions should be made.

The media report case filings and decisions and educate the public about the relevant issues. One commenter has suggested that most of what the American public knows about science comes indirectly from cases in litigation. This civic education enables and stimulates public debate on important and complex policy issues such as climate change, tobacco regulation, employment discrimination, the right to die, and a host of other issues. The resulting debate also may stimulate political action and/or activism.

In turn, law influences many of the disciplines on which it draws. Law's civic education function may affect the public's perceptions not just about the case at issue, but about the salience, credibility, and legitimacy of the experts who testify and the information they present. Decisions may affect perceptions about what is fair, and of how society should protect and reward individuals and groups in a variety of contexts.

(3) Research

Law provides sideboards to human activities, including the scientific enterprise. Laws reflect societal views of what is fair, and specify procedures that must be followed in areas as diverse as human subjects guidelines, accounting requirements for research grants, and who may benefit from the results of research and development. Laws creating programs, allocating funds, and restricting research topics affect what research is funded and how it should be conducted.

Law also sets standards for the evaluation of expertise, both directly and indirectly. Rules of procedure and evidence determine what types of information may be heard and considered by a judge or jury. Reports of court cases affect public perceptions about the adequacy of knowledge and the nature of expertise relating to particular issues. Government agencies adopt regulations that guide the conduct and use of research in agency decisions.

Of course, law itself is the subject of extensive research. The various social sciences, in addition to the legal profession itself, seek to understand issues such as how the law develops, what social processes are embodied in law, how science is used, how courts deal with uncertainty, how individuals and groups use law to achieve political objectives, the role that law plays in a particular culture, the relationship between judges' values and their decisions, and how and why law privileges particular interests. Each discipline sees the law through the lens of its disciplinary substantive and methodological conventions. Cross-disciplinary studies of law are becoming more common.

(4) Specific Areas

Modern law may be divided in many ways. One of the most common scholarly approaches concerns the origins of law. Natural law is grounded in universal principles of right and wrong. Positive law generally includes laws that are explicitly enacted by a community, including its constitutional documents and statutory law enacted by a governmental body, such as a legislature, sovereign, or agency. As such, it reflects the political consensus of those in power in a particular community. Common law, in the British, U.S. and other systems, includes judicial decisions based on precedents laid down in earlier decisions. The two human-made strands of law balance and correct each other, with courts interpreting the meanings and applications of positive law, and legislatures creating new laws to fill gaps, clarify meaning, or to overturn an unpopular judicial doctrine. All three components embrace concepts from many disciplines.

Perhaps better understood by the public are the specific content areas of law, such as contracts, property, criminal, torts, administrative, international, and other legal specialties. Law at all levels affects and is affected by nearly every area of human endeavor and interaction.

While more specialized areas of law focus on narrower problems, virtually none is so restricted as to exclude concepts of justice, order, power, relationships, economics, and general societal values.

Specific areas of law develop in response to societal needs. (Consider taking one area, such as property law, and indicate what needs it originally fulfilled, and how the laws became more specialized over the years.)

(5) Effectiveness and Evolution

Law constantly evolves. As the needs and values of society shift over time, old rules are discarded and new ones adopted. But there is a hierarchy to most legal systems that make it harder to alter defining rules, such as those laid down in a constitution.

The political process determines how, when, and why enacted laws should be changed. The processes of change within the common law are less clear, but over the years courts have managed to stretch and modify decisions to accommodate factual situations that could not have been contemplated when precedents were adopted. New disciplines, emerging societal problems, innovative technologies and other novelties constantly challenge legal theory and practice.

Every community's legal system is different, and each presents strengths and weaknesses, depending on the particular context. A deep understanding of what does or does not work would itself require interdisciplinary study of the social, cultural, political, economic, and other influences and impacts within a particular context.

(6) Needs and Prospects

(7) List of approximately 5 essential readings and links

Harris, P. (2007). *An Introduction to Law*. Cambridge: Cambridge University Press.

Hart, H.L.A. (1967). *The Concept of Law*. (7th Ed.) Oxford: Oxford University Press.

Horwitz, M. (1994). *The Transformation of American Law, 1870-1960*. Oxford: Oxford University Press.

Jasanoff, S. (1995). *Science at the Bar: Law, Science and Technology in America*. Cambridge, MA: Harvard University Press.