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Objective of Law: Promoting Justice, Order and Fairness

Bhavana Chandran
Assistant Professor,
Department of Law, Presidency University, Bangalore, India,
Email Id-bhavana.chandran@presidencyuniversity.in

The idea that America is a country dedicated to the rule of law is one of the pillars of our civilization. Nobody is exempt from the law. We are united as Americans by our common legal history. We utilise the law to control how individuals behave both in their interactions with the government and with one another. Law reflects our political and economic convictions, as well as our cultural and social ambitions. It offers procedures for handling conflicts and reining in government employees. Property, family, tort, probate, and corporate law are all examples of private law. Constitutional, criminal, and administrative law are all examples of public law. Certain legal goals, however, are shared by both[1]–[3].

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Continuity and Stability

It's crucial that long-standing rules evolve gradually. When prior laws are used to decide the results of judicial proceedings, litigants are more certain that justice has been served. Laws function best when people are aware of them, understand how they operate, and understand why they are required. Stable laws are also more likely to be administered consistently and universally throughout a territory, and they will be better understood by those responsible for upholding them.

Because they are predictable and act as a code of behaviour, stable laws are crucial to establishing and maintaining a thriving economy.For instance, businesspeople are unlikely to take risks under an unstable legal and political climate. Where it seems probable that the future will mirror the present and recent past, they are likely to feel more at ease making investments and taking financial risks. The need for norms to be created by society poses a danger to this stability. The number of rules being issued by various state and federal legislative and administrative rule-making organisations makes it difficult, if not impossible, for impacted persons to keep up[7], [8].

Adaptability

In a certain sense, it would be ideal if society could produce a massive legal cookbook with predetermined laws or rules for every imaginable circumstance. Then, all we'd have to do is look in the Legislators create legislation that are wide in scope and intended to advance the welfare, morality, and

health of the people. Along with resolving issues that have been duly presented before the court, judges also establish legislation. As shown by past experience, judicial decisions and legislation.

Justice, Speed, and Economy

Although the preamble of the United States Constitution states that it is the duty of the government to establish justice, there is no agreement on what that really means. Some people believe that justice is a natural law-style resolution in which each disputing party obtains what they are entitled to. Others define justice as the application of a certain procedure by governmental authorities. In certain cases, eliminating discretion is necessary for justice to be served and to ensure that the law is administered evenly. In other circumstances, justice necessitates the addition of judgement equity to prevent the law from being enforced in a too mechanical manner. Examining recent history is useful in this regard. In terms of race, gender, and class, our modern ideas of justice diverge from those of many of our ancestors. Justice will likely be understood differently by future generations than it is now.According to Rule 1 of the Federal Rules of Civil Procedure, procedures must be used to secure the just, speedy and inexpensive determination of every action. Even while it would be ideal if our legal systems could accomplish all three of these goals, they often clash.We constantly have to decide as a society how much justice we want and can afford.

Imagine a society that is committed to ensuring that its court system upholds the greatest standards of justice. To make sure that all relevant evidence has been found and all potential witnesses have been recognized and given the opportunity to testify, extensive precautions would be needed. All litigants would have the right to the assistance of investigators, rigorous pretrial discovery processes, and knowledgeable and skilled trial counsel in such a society. To guarantee that jurors could provide a fair judgement, it would be very important to verify that they were really impartial and qualified. Only very convincing evidence would be accepted as proof, and many layers of appellate review would be necessary to carefully evaluate whether substantial substantive or procedural mistakes occurred during the trial. Such a procedure would undoubtedly be time- and money-consuming. Delaying a recovery for qualified plaintiffs until the legal procedure was complete might be unjust in and of itself since it would delay the recovery for several years.

Instead, some court systems use cost-saving strategies like six-person juries instead of 12-person juries. They also facilitate juries' decision-making by allowing for less-than-unanimous rulings. There are boundaries to how much justice society is prepared to deliver, despite the fact that each cost-cutting measure increases the likelihood of mistake in the system. People have a variety of requirements, such as those for shelter, food, education, and defense, in addition to having just a passing interest in paying taxes. Priorities must be set for these conflicting demands. Government support for low-income legal representation has significantly decreased recently. This has happened at a time when the typical case's legal expenses have increased significantly. Less people will be able to afford to utilise the legal system as a means of conflict resolution as the expenses of doing so rise. If the expected recovery in the case will not result in a sufficient profit, private solicitors may reject to represent a prospective client.The Goss v. Lopez case which may be read on the textbook website serves as an illustration of how the legal system strikes a compromise between the need for justice and considerations of expense. In that decision, the U.S. Supreme Court ruled that public school officials were only had to provide children who were facing brief suspensions the most basic procedural due process.

Determining Desirable Public Policy

Law has always been used to establish desired public policies. Racial, gender, age, and sexual preference discrimination has been utilised to develop and then eradicate it. Resource extraction and environmental conservation have both been supported by law. Society makes decisions on things like whether individuals of the same sex may get married, what sorts of video games minors can buy, and whether physicians can help people commit suicide via the law.

The Origins of English Common Law

Prior to 1066, Anglo-Saxon rulers reigned over England. Wealthy landowners and noblemen, known as earls, came to control local affairs during the reign of Edward the Confessor 1042–1066. Neither a national court of justice nor a central legislature existed.Instead, the nation was divided up into populated communal units. Each group, known as a hundred, was governed by a representative known as the reeve. The hundred's main duty was to administer justice; once a month, it convened court and heard common civil and criminal cases. These disputes were settled by local freemen in line with tradition.The hundreds were divided into shires, or counties, which were once often Anglo-Saxon kingdoms. The shire was much more significant than the hundred. It served the king's administrative, judicial, and military needs. The shire reeve sheriff, a representative of the monarch, oversaw the shires. There were royal sheriffs in every county throughout the nation. The sheriff served as the king's chief local executive and judicial official. Sheriffs exercised limited judicial duties in addition to tax collection and advocating for the king's administrative and military objectives.The bishop and the sheriff served as the judges of the shire court, which met twice a year and was made up of all the county's freemen.It dealt with legal conflicts over property as well as criminal, civil, and religious cases that were too important or complex for the hundred court.

Even in areas of religion, the present freemen made judgements based on local custom, leading to a range of regional customs throughout the nation. An individual could not appeal these community tribunals' rulings to the monarch under Anglo-Saxon law.The Anglo-Saxon monarch performed a variety of duties. He built up an army and a fleet to protect the realm. He published writs, which were official documents with the royal seal.The writs were used to provide grants of land and privileges, instruct the sheriffs to administer justice, and assemble courts.The royal household, an early incarnation of the king's council, assisted the monarch in ruling the nation.In addition, he made laws known as dooms, often in consultation with the Witan, a national assembly of powerful nobles.The contenders to replace Edward the Confessor after he passed away without having children in 1066 were his cousin William, Duke of Normandy a French duchy, and his brother-in-law Harold, Earl of Wessex. As the most powerful lord in the nation, Harold was English. William was from France. They all claimed that Edward had chosen them to succeed as king. Harold, according to William, also consented to back his claim to the throne. But the Witan chose Harold as their new king, and he was crowned. In retaliation, William gathered an army, invaded England across the English Channel.

The Norman Invasion

At the Battle of Hastings in 1066, Duke William of Normandy murdered King Harold while defeating the Anglo-Saxons with 5,000 troops and 2,500 horses. The Normans came to rule England when William was crowned as its new king.Prior to the Norman invasion, the Anglo-Saxons had already begun to practise a kind of feudalism, but the Normans advanced and perfected it. Feudalism was a social, political, and military organisation that regulated interpersonal interactions. A lord's vassals were subject to a number of responsibilities and duties during feudalism. The Normans combined feudalism with the Anglo-Saxon institution of the national ruler in England. For instance, William maintained that the monarch eventually owned all of the property in England, and in 1086 he had all landowners take an oath of loyalty to him.38 Feudal law therefore made all of his barons, lords, and their vassals personally liable to him. King William declared at his coronation that Englishmen might continue to follow the traditional rules that had been in place throughout the time of the Anglo-Saxon King Edward the Confessor. This indicated that problems amongst English people could still be settled via the community, hundred, and shire courts as in the past.The Anglo-Saxon custom of enabling church authorities to utilise community courts to settle religious disputes was rejected by William, who did make one notable adjustment to the communal courts' scope of authority.

He demanded that the church create its own courts and that religious disputes be resolved in accordance with canon church law rather than common law. In accordance with feudal rule, William also announced that the Normans would resolve their conflicts in the courts of the lords and barons.There were two societies in England at the time: one was French and the other was English. The monarch, the elite, the church, and academics all spoke French, as did the Normans who had won the battle. English

was only spoken by the lower classes after the invasion, and it wasn't until 1362 that it gained popularity and turned into the common law and the language of the courts.There are several terminologies used by attorneys today that have French roots. Some English terms that were translated from French include acquit, en banc, voir dire, demurrer, embezzle, and detainer. Despite speaking French, official papers were written in Latin among the Normans. This may assist to explain why Latin phrases like certiorari, subpoena, mens rea, actus reus, in camera, mandamus, capias, and pro se are encountered by students reading court judgements in the twenty-first century.

The Development of the Common Law

The original class structure became muddled throughout time as a result of marriages between Norman and English households. For instance, Henry, the son of William who would later become King Henry I, wed a member of the Anglo-Saxon royal family.However, the Normans and the English were not united as one country until after 1453, when the French drove the English out of France. In 1100, William perished. In terms of the common law's evolution, his two most significant successors were Henry I and Henry's grandson, Henry II. The nobility chose Henry I to succeed the very unpopular William II as king.If elected, Henry I would issue a charter pledging to uphold the rights of the nobility, as he had promised the nobles.45 Additionally, he pledged to reign justly in the tradition of William I. This charter is notable because it served as a template for the Magna Carta, the most well-known of all charters.

While making peace with the church and feudal nobles, Henry I enhanced the king's authority throughout his reign. He also improved the judiciary by mandating that members of his council, the Curia Regis, go on occasion around the nation to hear arguments and monitor the local courts. There was much uncertainty over jurisdiction at this time since the community courts, ecclesiastical courts, and feudal courts of the barons were all still in operation. urged citizens to seek justice from the monarch rather than the local courts if they had mistrust for them.The common law and the establishment of the central court were largely influenced by Henry II. He established a professional royal court to hear civil disputes between common parties common pleas and populated this court with barons who had gained judicial experience by serving as Curia Regis members.49 Some of the king's judges accompanied him to Westminster in London, while others travelled the nation overseeing regional courts and hearing arguments.In every country where they conducted court, these royal judges upheld the same laws.They didn't use the local customary law or consider each case as though it were a matter of first impression. Decisions were not made in accordance with a priori ideas and principles. Based on gradually developing legal standards accepted by the court's members, the royal judges arbitrated cases uniformly throughout the nation.

There were significant procedural benefits to filing a lawsuit in the royal courts as opposed to the municipal courts. One was the ability of the losing side in a communal or feudal court to request common pleas review of the judgement. Another was that the monarch upheld rulings of royal courts. Finally, juries were utilised in royal courts rather than battles and ordeals for punishment.53Land conflicts between nearby nobility were one sort of issue that was often brought before the monarch. Without bringing the issue to the notice of any court, one noble would claim a portion of his neighbor's territory and grab it. In response, Henry II granted victims the ability to petition him for the issuing of a writ of right. This edict, which was obtained by the king, ordered the community courts to provide swift and complete justice or to come before a royal court and defend themselves. Due to the creation of the writ of right, it is now against the law to evict someone from their property without first having a trial that is conducted in accordance with a royal writ.

The Normans developed a particularly inventive use of writing. During the reign of the Norman monarchs, anybody wishing to file a lawsuit had to get a writ. As the need for writs expanded, the king's authority to issue them was replaced by the chancellor and, eventually, by the courts themselves. Each writ granted a certain court the authority to hear a specific case. Since there was no standard code of civil process to guide the conduct of litigation, it also detailed many of the procedures that needed to be followed. For instance, a writ would often be issued to the sheriff and instruct him to summon the

defendant and call a jury. There weren't many writs throughout Henry I's reign. By the time Henry III was in power, a wide variety of writs were recognised, including the innovative disseisin wrongful expulsion, entrance, debt, detinue, account, replevin, and covenant.A simple law library was created using a few master registers of writs.

The main elements of the common law system were established by 1200 or thereabouts. Local and regional customs of the shire and hundred had been supplanted by national law. The writ system was in operation, a body of royal judges enforced common law to the whole country, and there was a culture of following precedent.The common law was improved and developed in large part due to the growth of legal literature.59 During the reign of Henry III Henry II's grandson, an English lawyer named Henry Bracton published commentary on the writs of the day and compiled cases from the previous 20 years. A series of Year Books, a compilation of the cases that had been tried in the most significant courts for each year, was started by attorneys and law students in the fourteenth and fifteenth centuries. In 1535, the Year Books were abandoned in favour of case reports, which were loose compilations of writings by different writers.

The Chief Justice Edward Coke pronounce cook was one of these writers who was well-known and held in high regard. Between 1572 and 1616, Coke authored thirteen volumes of cases. The reports created a procedure that led to the release of formal law reports in 1865. The Oxford professor Sir William Blackstone produced a compilation of his lectures in the 1765 book Commentaries on the Laws of England, which was very well-liked throughout the American colonies.The colonisation practises of Britain led to the common law's introduction to what is now the United States. Early in the 1600s, British kings started giving merchants and landowners charters so they could found colonies along North America's Atlantic coast. Over the course of the following 150 years, a constant stream of immigrants—the majority of whom were Britons—crossed the Atlantic, bringing with them the English language, culture, legal literature, and legal tradition.One important element of the history was the common law, and the court of equity was another.

The Origin of the English Equitable Court

The common law courts were prepared to take both legal and conscientious reasons into consideration up to the fourteenth century. Along with legality, the judges also considered equity fairness and compassion. But by the fourteenth century, the common law courts were sometimes more focused on formalities than on justice. Complex common law pleading and jury manipulation were frequent.There were no formal processes for finding an opponent's evidence, and the courts often refused to allow parties to testify. The common law courts were able to take action against real property and could impose monetary judgements, but they were unable to provide injunctive remedies, which are court orders ordering people to do or abstain from participating in certain conduct.64 There were unusual circumstances that either had no common law remedy or had a remedy that was insufficient. In addition, litigation was exceedingly expensive and the legal system was sometimes delayed.

More and more aggrieved people started requesting the monarch and his council to take action in the interest of justice. The monarch and council sent the petitions to the chancellor as the number of petitions increased.The chancellor was a member of the royal household and had previously held a prominent position in the church. He was a skilled administrator and served as the king's principal political counsellor. The writs that allowed litigants to proceed in the common law courts were issued by members of the chancellor's staff who had previous judicial expertise. The early chancellors were ecclesiastics; hence they lacked a common law legal education. However, they had a good education and were knowledgeable about Roman Catholic Church canon law.

As a consequence, arguments grounded in morality were often received favorably by chancellors as opposed to those grounded only in law.The court of chancery, sometimes known as the equity court, was established when chancellors started to hear petitions. In situations when the limitations of the common law prohibited it, it provided redress based on broad concepts of right and justice. The writ of subpoena was used by chancellors to expedite proceedings, while the writ of summons was used to

order witnesses to appear in the chancery.Chancery trials were heard by a single judge sitting alone and without a jury. Because no writ related to the harm against which the petitioner sought relief, the chancellor, who exercised discretion and would not depend on precedent in providing relief, would only intervene if exceptional remedy was necessary.

Specific contract performance was one of such areas. Although a common law court might hear a case for what we would term contract violation, that court could not order the contractual party to uphold his end of the arrangement. However, the chancellor has the authority to make such an order aimed at the non-performer and to execute it by the use of the contempt power.By the middle of the 1500s, the equity court had gained a lot of notoriety and was quite busy. These two distinct courts handled common law and equity in England for centuries. Each court followed its own set of judicial norms and procedures while using its own jurisprudential framework. Traditional equity is largely predicated on ideas like sufficiency, pragmatism, clean hands, and hardship topics we cover in Chapter VII. Both the workload for the equity court and the chancellor's staff kept increasing. The most significant members of the chancellor's staff were known as masters in chancery by the seventeenth century. The Master of the Rolls was the title given to the main master. Masters in chancery assisted the chancellor in running the equity court, especially when he was serving the king in non-judicial capacities.Despite having different objectives, the common law courts and the equity court initially worked together. Common law solicitors rather than ecclesiastics were appointed chancellor beginning with Henry VIII's reign, which strengthened ties between courts of law and equity.As chancellor, Sir Thomas More encouraged the common law judges to include the concept of conscience in the common law, but the justices rejected, preferring to support the jury verdicts.However, when business began to compete as a result of this dual-court system throughout time, the common law courts grew more adaptable by borrowing from equity. Chancellors started to define jurisdictional distinctions between the equitable and common law courts when the equitable courts underwent similar changes. For instance, equity only consented to provide a remedy where the common law process or the remedy under common law were insufficient.

The chancellors' judgements were sporadic collected and published beginning in 1649, which resulted in the development of fair precedent. The equity courts eventually became as formal and strict as the common law courts had been in the early days of equity due to equitable precedent.The Judicature Acts of 1873 and 1875, which united the equitable and common law courts into a single court, were passed by Parliament and ended the dual-court system in England.Some Atlantic coast colonies in North America deviated from British practise when it came to establishing equity courts.Massachusetts never created an equity court, and until 1870, its trial courts were not allowed to employ the chancellor's equitable powers.At first, separate common law and equity courts were formed in Maryland, New York, New Jersey, Delaware, North Carolina, and South Carolina.However, by 1900, most governments had combined common law and equity into a unified judicial system.You'll note as you study the cases in this textbook that plaintiffs often ask for both legal and equitable remedy in the same lawsuit. In the lawsuit, a plaintiff may ask for monetary compensation common law remedy, a declaratory ruling equitable relief, and an injunction equitable relief. The courts are not hampered by this. If neither party requests a bench trial, the legal issues will be tested by a jury, and the judge acting in the capacity of chancellor will make the equitable decisions in accordance with the principles of equity.

A Procedural Primer

The following, greatly condensed summary of litigation is meant to give you a feel of the general picture before we go into further depth on each step of the procedure. It is meant to assist you in understanding how the many procedural steps fit together, much like the trial lawyer's opening statement in a jury trial. This condensed treatment leaves out a lot of information and is purposefully somewhat narrow in scope.Every lawsuit is founded on an incident that makes a person believe that they have been wronged legally in some way by another person. Frequently, the wounded party will speak with a lawyer to examine the situation. The lawyer will hear the details, determine if the client has a case, and then provide them a variety of choices for pursuing a claim. These choices will often

include formal legal action, informal efforts to resolve the matter, and alternative conflict resolution techniques like those covered in Chapter XIV.

The client will decide how to proceed after assessing the costs and advantages of each option and taking the lawyer's counsel. If it is decided to bring a lawsuit, the attorney will prepare a complaint and a writ of summons, which will be legally served on the defendant. The plaintiff's allegations and desired redress are detailed in the complaint.The summons will instruct the defendant to provide a response, which is a document in which the defendant disputes the allegations in the complaint, to the plaintiff's lawyer within a statutorily specified deadline. The defence counsel for the defendant may file motions to modify or dismiss the case if he or she discovers any legal issues with jurisdiction, venue, form, or content in either the summons or the complaint. The defendant will subsequently draught and serve the response, assuming that the motions are rejected and any errors are fixed. The court may declare the plaintiff the victor by default if the defendant doesn't provide a response in a timely manner.

The discovery process starts when the complaint has been duly served and submitted to the court. Here, each side gains the most information regarding the case. Almost all pertinent information may be discovered through positive, neutral, or negative sources, such as the adversary. Evidently, certain information is not discoverable, including protected documents, research notes work product, and an attorney's trial plan. One or both parties will commonly ask the court to dismiss the case and issue a judgement the court's ultimate ruling in a matter when the facts have been thoroughly explored. This is done to avoid having to go to trial. A move for summary judgement is rightly granted when the plaintiff and defendant are in considerable agreement over the crucial details of the case. There is no need for a trial if there is no disagreement over the material facts. The court may then decide whether or not a legal rule should be applied in this specific case based on the circumstances and grant judgement to the rightful party.

It is important to note that informal conversations between the lawyers often occur throughout the process, even up to and during the trial, in an attempt to settle the matter. Once requests for summary judgement have been rejected and it looks that the matter will go to trial, these arguments often become more heated. The pretrial meeting normally occurs after summary judgement is rejected and no negotiated settlement is reached.The court and the solicitors will meet to clarify the problems, plan the trial, and go through the prospect of a settlement at the pretrial meeting. The parties may estimate the number of trial days at this conference, work to address evidence and discovery issues, and set up any required pretrial hearings. A pretrial order that reflects the choices taken during the conference will be signed by the court after the meeting.

Many governments would demand or encourage the disputing parties to take part in alternative dispute resolution ADR before going to trial. Every state uses ADR in some capacity, although certain jurisdictions employ it more often than others. Similar circumstances exist in the federal district courts. Despite the fact that a federal legislation requires every district to provide at least one ADR method, each district uses it differently.ADR is a general term for a number of processes intended to assist parties in resolving their conflicts without going to court. Different jurisdictions take engage in ADR to varying degrees. Some need collaboration, while others let you choose whether to take part. We discuss ADR procedures including mediation, arbitration, summary jury trials, and minitrials in Chapter XIV, but we also stress that any party not happy with the ADR procedure may insist on going to trial. The question of whether ADR delivers justice more quickly, more cheaply, and of greater quality than litigation is still being debated.

Only 2% of all federal cases filed are ever resolved at trial. Nonjury trials, usually referred to as bench trials, are handled differently from jury trials in that the judge determines the relevant facts. For instance, there are no jurors to choose, no opening comments from the counsel are often made, the rules of evidence are frequently eased, and there are no jury instructions to prepare and give in bench trials.If the plaintiff has met his or her burden of proof, the court will evaluate the evidence put up by each party. The judge will make findings of fact, explain legal conclusions, and render a verdict after a bench trial.Jury trials need extra steps to be taken. The jurors must be carefully chosen, and in significant

cases, the attorneys may enlist the aid of trial consultants. The attorneys do not present their arguments as they would in a bench trial because jurors often have little knowledge of the underlying law and the standards of evidence. Judges must maintain control over the solicitors and make sure that only competent legally sufficient evidence is presented to the jury. The solicitors will end by presenting their arguments to the jury after each party has had a chance to present evidence and cross-examine opposing witnesses. The judge teaches the jury on the law and sends it out to deliberate after the closing statements. The jury deliberates for some time before reaching a decision, which it then presents to the court. The court will make a judgement in favor of one of the parties and provide relief in accordance with that judgement after the resolution of any post-verdict motions. Assuming timely objections were raised during the trial, any party not pleased with the judgement typically has a certain number of days following the entry of judgement to file an appeal.

Reading Cases

When there is a dispute between two or more individuals or when parties seek advice about the repercussions of their behaviour or projected behaviour, the application of law to real circumstances is important. The court cases discussed in this book contain disagreements that the parties couldn't settle on their own and took to the trial and appellate courts for resolution. However, most conflicts are resolved outside of court by the parties based on expert forecasts of what a court would decide.By examining actual court cases, students get an understanding of the legal system and the connection between judicial theories and real-world legal issues.

The instances in this work serve to clarify certain legal concepts. Additionally, they transmit contemporary legal philosophy. Discussions regarding the legal solution to current societal issues need to start with these examples. It is crucial to comprehend the benefits and drawbacks of using legislation as a tool for social change[9]–[11].Official justifications of a court's decision-making procedure are provided in case reports. They clarify which legal rules apply and why they take precedence in light of the specifics of each case. Students should thus concentrate on the underlying factual circumstances, the law that the court employed, whether the result was fair, and the effect the decision will have when it is cited as precedent while analysing each case decision.

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