1. History and Sources of American Law
1.1 Background on Formal Legal Systems

1.2 Sources of U.S. Law

1.3 U.S. Bill of Rights
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
Substantive v. Procedural Law

Stare Decisis and Precedent

• Need for consistency and predictability
1.2 Sources of U.S. Law
We the People of the United States, in Order to form a more perfect Union, establish justice, insure domestic Tranquility, provide for the common Defense, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America.
The U.S. Constitution

- The three branches of government
- The idea of checks and balances
- Judicial review; *Marbury v. Madison*
Congress of the United States

began and hold at the City of New York, on

Wednesday the fourth of March, one thousand seven hundred and ninety

THE

(Resolution passed by the House of Representatives, adopted by the Senate, and signed by the President.)

RESOLVED, That the President be, and he is hereby, authorized to issue a proclamation, in the name of the President of the United States of America, to the several States of the Union, requesting them to observe the fourth day of March, as a day of prayer and fasting, for the restoration of religious liberty, for the preservation of the Union, and for the promotion of morals and virtue.

ARTICLES in addition to, and amendment of, the Constitution of the United States, proposed by Congress, and ratified by the States, pursuant to the fifth article of the original Constitution.

The fifth article of the original Constitution provides that amendments may be proposed by two-thirds of both houses of Congress, and ratified by three-fourths of the States. This article was adopted in 1791, after the Constitution had been in effect for several years. The original Constitution was written in 1787 and adopted in 1788.

The text of the resolution is as follows:

"The President be, and he is hereby, authorized to issue a proclamation, in the name of the President of the United States of America, to the several States of the Union, requesting them to observe the fourth day of March, as a day of prayer and fasting, for the restoration of religious liberty, for the preservation of the Union, and for the promotion of morals and virtue."

John Adams, Vice President of the United States, and President of the Senate.

[Signature]

[Signature]
The Bill of Rights and Other Constitutional Amendments

Federal Statutes and the Idea of Limited Federal Power

• Article I, Section 8; the Commerce Clause
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.
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
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