

# Law Day 2010: Law in the 21<sup>st</sup> Century

## Emerging Challenges and Enduring Traditions

This year's theme for Law Day, selected by the American Bar Association, is "Law in the 21<sup>st</sup> Century: Emerging Challenges and Enduring Traditions." To commemorate Law Day (May 1) we have created this seven-part educational series, that will focus on the following topics:

- ◆ Human Rights ◆
- ◆ Criminal Justice ◆
- ◆ Intellectual Property ◆
- ◆ Business Transactions ◆
- ◆ Dispute Resolution ◆
- ◆ Human Migration ◆
- ◆ Environmental Regulation ◆

We live in a world more interconnected than ever before. People have greater mobility, real and virtual. There is a need for greater understanding and acceptance of cultural differences. At the same time, together we face the challenges of balancing the protection of our natural resources and the environment with need to grow national economies.

We hope this series educates you on the legal community's role establishing our society and in meeting the challenges before us as we enter another decade of the 21<sup>st</sup> century. This series is intended to prompt discussion in the classroom and give a deeper understanding of the law and legal systems - local, national and international.



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ALBANY LAW SCHOOL

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## Emerging Challenges and Enduring Traditions

The concept of natural law, or the standards of justice given to every human even without the existence of man-made law, date back to ancient Greek philosophers. In the founding of our country, Thomas Jefferson incorporated some of these ideals when he drafted the Declaration of Independence and included the phrase - "We hold these Truths to be self-evident, that all Men are created equal,

### ◆ Human Rights ◆

*"The care of human life and happiness, and not their destruction, is the first and only object of good government."*

**Thomas Jefferson,**  
3rd President of the United States

that they are endowed by their Creator with certain unalienable Rights, among these are Life, Liberty and the Pursuit of Happiness."

Likewise, the first ten Amendments of the U.S. Constitution,

also known as the Bill of Rights, established as law some of these rights and freedoms.

Globally, the United Nations (UN) is one of the groups championing the cause of human rights worldwide. The UN defines human rights as, "...rights inherent to all human beings, whatever our nationality, place of residence, sex, national or ethnic origin, colour, religion, language, or any other status. We are all equally entitled to our human rights without discrimination. These rights are all interrelated, interdependent and indivisible." Several examples of these rights include life, liberty, equality before the law, economic, social and cultural rights.

The Universal Declaration of Human Rights was first adopted by the UN General Assembly on December 10, 1948. In total, there are eight ratified international human rights treaties established by the United Nations. All UN member nations have ratified at least one of these core treaties, and 80% have ratified four or more. Equal rights for all humanity is the ideal; the work to ensure it continues.

### Newspaper Activities:

- ◆ Locate articles, editorials or political cartoons that show citizens being treated fairly and equally under the law. As a class, discuss how this coverage might be different without the Civil Rights Act or other laws.
- ◆ Now look for articles, editorials or political cartoons showing people that are denied equal or fair treatment. Are these examples local, national or international? As a class, brainstorm potential legal solutions to these inequalities.

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Criminal law is concerned with those actions, harmful or dangerous to the public or a member of the public, in which prosecution is pursued by the state rather than by an individual person or party. Criminal justice is the system for enforcing criminal law. This system includes the police, the courts and corrections, and is used to maintain the standard of conduct established by society.

Crimes include both felonies and misdemeanors. Felonies are serious offenses like murder and generally punishable by imprisonment of a year or more. Misdemeanors are less serious offenses, like petty theft, and punishable by jail time of a year or less.

In the United States, anyone accused of a crime has the right to legal defense. If the accused cannot afford an attorney, the court will appoint one. To gain a conviction the prosecuting attorney must persuade the jury or judge that the accused, or defendant, is guilty "beyond a reasonable doubt" and later sentenced. Failing that the jury could rule not guilty or the jury may not agree on a verdict resulting in a "hung jury." In the case of a hung jury a repeat trial would be needed.

Another way a criminal case can be resolved is with a plea bargain. A plea bargain is an agreement in a criminal case where the prosecutor offers the defendant the opportunity to plead guilty, often to a lesser charge or to the original criminal charge with a recommendation for a lighter sentence.

### ◆ Criminal Justice ◆

*"At his best, man is the noblest of all animals; separated from law and justice he is the worst."*

**Aristotle,**

Ancient Greek philosopher

### **Newspaper Activities:**

- ◆ Look through the newspaper for articles that show examples of the American criminal justice system. Perhaps, follow the coverage of a particular case for a period of time. What does the coverage reveal about our criminal justice system?
- ◆ Did you find examples of criminal cases outside of the US? If so, share them with the class. If not, do a little research and explore how other countries treat accused criminals. Compare and contrast these with the US.

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## Emerging Challenges and Enduring Traditions

Generally speaking, property is the land, building or tangible objects belonging to an owner. But ideas can also be property. Original creative works such as music, art, literature or inventions are known collectively as intellectual property.

### ◆ Intellectual Property ◆

*“I believe in human dignity as the source of national purpose, human liberty as the source of national action, the human heart as the source of national compassion, and in the human mind as the source of our invention and our ideas.”*

**John F. Kennedy,**  
35th President of the United States

The creators of original works are legally protected by copyright, patent and trademark law.

Copyright protects both published and non-published works and gives the creator exclusive rights to reproduce and distribute copies of the work. A patent is a set of exclusive rights granted by a nation-

al government to prevent others from making, using, selling, or distributing the patented invention without permission. A trademark is given to a name, phrase, logo, symbol, design, or image that represents a given project or service. An example of a trademark known worldwide is the golden arches of McDonald's.

It's illegal to copy and distribute Taylor Swift's (or anyone else's) music without permission. It's illegal to create and sell iPhones or any other patented invention without permission. And it's a violation of intellectual property law to open a department store named Wal-Mart.

### Newspaper Activities:

- ◆ Look through the newspaper for articles or advertisements that are examples of copyright, patented products or services or trademark.
- ◆ Review the newspaper for several weeks for a story concerning intellectual property. Did someone violate the law? If so, did the story discuss what penalty the group or individual faces? If not, research what the penalty or consequences might be in this case for breaking the law.

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## Emerging Challenges and Enduring Traditions

The Federal Trade Commission Act of 1914 created the Federal Trade Commission (FTC), the nation's consumer protection agency. Since its founding, the FTC's function has been to make sure businesses compete fairly and don't mislead consumers about their products or services. Five bi-partisan commissioners head the FTC, and its work is divided among three bureaus: Competition, Consumer Protection, and Economics.

The Bureau of Competition works to promote and protect competition in the marketplace. It does this by ensuring that businesses compete in open and free markets and provide consumers with quality goods or services.

The Bureau of Consumer Protection's job is to guard consumers against unfair, deceptive, or false business practices in the marketplace.

The Bureau of Economics analyzes how the marketplace works. It also writes reports about different business practices and markets, develops rules that explain some of Congress' laws about business activities, and informs consumers about the ways they can gather information to make wise buying decisions and protect themselves in the marketplace.

As innovations and new technologies give rise to new businesses and change how consumers make purchases, it will be the Federal Trade Commission, among others institutions, that will be challenged to achieve its mission of encouraging competition and protecting consumers.

### ◆ Business Transactions ◆

*“Economic depression cannot be cured by legislative action or executive pronouncement. Economic wounds must be healed by the action of the cells of the economic body - the producers and consumers themselves.”*

**Herbert Hoover,**

31st President of the United States

### Newspaper Activity:

- ◆ Look through the newspaper in print or online for examples of businesses competing for customers. Comparing two businesses with similar products, which do you think has the better deal? Why? Among the examples, does any offer sound too good to be true? Why?

For more about the FTC go to <http://consumer.gov/ncpw/category/for-kids/>

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The definition of dispute is an argument or quarrel. Therefore, dispute resolution is the solution to a conflict between two people or groups. Every one of us has experienced a dispute. It could be as simple as a fight between two siblings about a game they were playing or as complex as a war between two or more nations.

### ◆ Dispute Resolution ◆

*“To give a satisfactory decision as to the truth it is necessary to be rather an arbitrator than a party to the dispute.”*

**Aristotle,**  
Ancient Greek philosopher

Ultimately every conflict or dispute needs to be resolved. Sometimes this happens when one side gets hurt, or killed, or just gives up. But more often dispute resolution is the result of compromise between the involved parties. With a compromise neither party “wins”. Both sides give up part of what they truly wanted to ensure their fighting will stop.

Some compromises can be reached when both parties listen to each other, speak respectfully about the issue and find a solution that both sides can live with. Finding a reasonable solution can be challenging because disputes usually involve strong emotions - fear, anger and pride, just to name a few. So to get two opposing parties to reach a compromise, it frequently requires the assistance of a neutral party, a mediator, to listen to both sides and help come up with a peaceful solution.

Whether the dispute is between two classmates, two large companies in the corporate world or two warring nations, the general process for dispute resolution is strikingly similar.

### **Newspaper Activity:**

◆ Look through the newspaper for examples of people involved in a conflict or dispute. Can you find the who, what, when, where and why of the dispute? As a class discuss both sides of the issue and see if you can brainstorm potential solutions that might resolve the issue. Do any of your solutions require a change in a law or rule to be sure it will be enforced?



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## Emerging Challenges and Enduring Traditions

From our earliest history, millions of people immigrated to the United States seeking a better way of life. Whether for political or religious freedom or economic opportunity, they flocked to the New World. However, thousands were brought here involuntarily through the transatlantic slave trade. Still others arrived as indentured servants having bought their passage with years of work at low or no wage. All contributed to make our nation what it is today.

Up until the late 19th century, new settlers were welcomed to come and share their talents and labor. With the outbreak of World War I in 1914,

American attitudes toward immigration began to shift. Nationalism and suspicion of foreigners were on the rise, and immigrants' loyalties were called into question. Soon laws were passed to try to limit the flow of immigrants - the Emergency Quota Act in 1921 and the Immigration Act of 1924. The Immigration and Nationality Act of 1965 (Hart-Celler Act) abolished the national-origin quotas changing the ethnic make up of immigration. Still more people came; some legally others not.

A big issue currently facing the US in the 21st century concerning human migration is the law enforcement and humanitarian problem of the estimated 12 million illegal immigrants living and working here. The debate over immigration reform continues to challenge lawmakers.

### ◆ Human Migration ◆

*"...Give me your tired, your poor,  
Your huddled masses yearning to  
breathe free, The wretched refuse of  
your teeming shore. Send these, the  
homeless, tempest-tossed to me, I lift  
my lamp beside the golden door!"*

Partial inscription on the base of  
**The Statue of Liberty**

### Newspaper Activity:

- ◆ Look through editions of the newspaper for stories about groups of people who have moved. Did they move away from your community or to it to seek job opportunities or a fresh start? What struggles do they face with the move? Are there groups or organizations in place to help these people?

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Our natural environment consists of all living and non-living things that occur naturally on Earth. The living things include all plants and animals (including humans). The non-living things include water, air, rocks and minerals. In a perfect world, every person, plant and animal on earth would live in a pollutant-free community, with clean

sources of renewable energy. But, we don't live in a perfect world.

The governing bodies of the world have had to establish rules and regulations regarding the use and misuse of our natural resources. In the US, passage of the Clean Air Act, Clean Water Act and establishment of the

### ◆ Environmental Regulation ◆

*“If we are going to carry on growing, and we will, because no country is going to forfeit its right to economic growth, we have to find a way of doing it sustainably.”*

**Tony Blair,**  
Prime Minister of the United Kingdom (1997-2007)

Environmental Protection Agency in 1970 reinforced our nation's commitment to a safe and healthy environment. The EPA's mission is to, "...protect human health and to safeguard the natural environment—air, water, and land—upon which life depends." In New York State, some of the priorities of the Department of Environmental Conservation include combatting climate change, fostering green and healthy communities, connecting New Yorkers to nature and safeguarding New York's unique natural assets.

### Newspaper Activities:

- ◆ Look through the newspaper for examples of people enjoying our natural environment or for stories about risks endangering nature.
- ◆ Use newspapers, magazines and other sources to research how the world's governments are trying to find solutions for re-usable or renewable resources, energy and the protection of our air, water and land.
- ◆ Research what your local regulations say about recycling. Do you think they are the best they can be? If not, as a class write a persuasive essay (similar to a newspaper editorial) describing how your recycling rules should change. Be sure to support your opinion with facts.

**For more about the EPA go to [www.epa.gov/kids/](http://www.epa.gov/kids/)**

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