LEGAL STRUCTURES

Structures of Law and Legal Institutions

Law attempts to describe and control the social world, just as physics and chemistry describe and manipulate physical reality. The sciences work with concepts such as atoms and molecules, and like them law has concepts that can be used as building blocks to describe and create complex relationships, rights, and obligations. Seeing society through a legal lens—being able to choose the right legal terms to describe people, objects, and events—is a key step in legal analysis, an important tool for justice, and a major component of legal literacy. If you become involved in a situation that is described by someone else in terms of a legal problem, then they have done some legal analysis (correctly or not), and you can build on (or challenge) their analysis. However, if you wish to take the initiative in law, it will be up to you to choose the appropriate legal concepts and ideas to start building your case. The task of legal analysis first requires some understanding of the way law describes the world—its conceptual structure. Law also provides structures for legal action—legal institutions—and we will look at those as well.

CONCEPTUAL STRUCTURE OF LAW

At the foundation of modern Western law is the concept of an actor, recognized as having legal rights and responsibilities. Such an actor is given the status
of being a legal person; this includes the right to commence legal proceedings, and the obligation to defend him or herself if sued. Things such as trees and animals are not legally recognized persons, although some suggest they should be given legal rights so that proceedings can be taken for their benefit or protection. Children have legal rights and responsibilities, but in most places they are not permitted to take legal proceedings on their own—they must have an adult act for them (sometimes called a guardian ad litem). Some important legal persons are the sovereign (in the United Kingdom, Australia, Canada, and other constitutional monarchies called the Crown or the Queen), the state, individual human beings, and some organizations such as incorporated companies.

The Queen, as sovereign, is the symbolic source of all legal authority within a geographical area such as Canada. The word “state” can be used to describe this physical territory, but it is also used to mean all of government including its three main structural components, called the branches of government—the legislative branch (Parliament, Legislatures), the executive branch (Prime Minister, Premiers, Cabinets and public authorities) and the judicial branch (judges, courts). The Queen’s authority is represented and acted upon by state officials according to law. The state may act in three ways in relation to law. It may make law by passing legislation; invoke the law (for example, when a prosecutor lays a charge against someone accused of a crime); and administer the law (for example, through a judge who presides over a trial).

The most familiar legal person is an adult human being. Although individuals cannot make or administer law acting only on their own authority, they are entitled to call upon the legal system to protect or advance their interests under what is called the rule of law. According to this principle, people should be able to make use of law, even if it means challenging actions of the state or its officials. Being recognized as a legal person is therefore an important status—the United Nations has declared it to be a universal right: “Everyone has the right to recognition everywhere as a person before the law.”

Because being a person recognized by law is such an important matter, it has resulted in legal disputes and laws being made to govern specific situations. The most notable of such laws are those that include corporations within the meaning of a legal person. In Canada, as a result of legal challenges, it has been determined that the word “everyone” in Section 7 of the Charter of Rights and Freedoms does not include corporations because they are incapable of enjoying rights such as “life, liberty and security of the person.” However,
it has also been decided by the courts that “everyone” in this section includes all individuals who are physically present in Canada, whether citizens of this country or not. Because the individual is the primary legal actor and bearer of rights in Western law, it is difficult for groups of people (other than corporations) to assert collective rights. For commercial purposes, corporations are given the rights of legal persons so they may enter into contracts and obligations in the same way as individuals.

In addition to legal actors, the concept of legal rights is an important part of the foundational structure of the law. Rights may be acquired in two ways: they can be given directly by law—for example, the rights recognized in the Charter mentioned above—or created through voluntary action, such as by entering into a contract that bestows rights to each party. Associated with the concept of rights are the concepts of legal obligation or legal duty, which require a person to respect others’ rights and refrain from interfering with them. Under the rule of law, every legal person should have access to the law to protect or enforce their legally recognized rights.

It is perhaps surprising that the concept of justice is not a foundational one in the conceptual structure of law in the legal systems of the United Kingdom and Canada, although they are both based on the rule of law. Justice is not comprehensively defined in law, but rather is considered to be the outcome of following correct legal processes and procedures. Thus we speak of “justice according to law” without specifying in advance the just result. In Canadian law, we find justice mentioned in the Charter of Rights and Freedoms as “fundamental justice,” where it provides the basic standards for lawful action, and in the phrase natural justice, which describes the minimum procedural safeguards for a fair hearing. Therefore, it is not a good legal argument to simply state that justice dictates a particular result. A judge’s response to such a statement would likely be that justice according to law requires evidence and arguments to be presented. Justice in Western law is the end result of following legal procedures, but not part of the structure of law itself.

As a conceptual structure, modern Western law can be described as totalizing and finalizing. It is totalizing in the sense that it can be applied to any situation, even those that have never occurred before. A recognized legal concept will be found to describe (legally characterize or categorize) any facts that arise. This is not to say that the law will always intervene in every situation. The result of legal characterization may be a decision that the situation is not
something which should be governed by law—in legal terms, it is not *justiciable*. For example, when judges consider an act to be a purely political decision or a matter of foreign policy they will not intervene, and instead declare the matter to be not justiciable.

The law can be described as finalizing because a dispute will never be left undecided, or disposed of simply by the flip of a coin. A decision will be reached, based on law, for every dispute that is brought to trial, although disputes can also be ended without a trial by *settlement* based on the two parties reaching an agreement.

Western law has been structured according to two different conceptual frameworks. Continental European states (and the province of Québec in Canada) have adopted the *civil law* approach, which consists of a complete code of law put in place by legislation. Such bodies of law are called *civil codes*, and all accepted legal concepts can be found within them.

The other way many Western nations structure legal concepts is the *common law* approach, and consists of a mix of statements of law contained in *legislation* (written law passed by elected lawmakers), plus rules and principles of law mentioned by judges when deciding cases. Case decisions—or *judgments* in the common law system—therefore also contain important statements of legal concepts. Legal concepts are stated and collected together in civil law codes while common law concepts are found both in legislation (such as *statutes*) and judgments making them more difficult to survey. In Canada, the common law system prevails, except in Québec, where certain matters are governed by a civil code.

Because it is totalizing in nature, modern Western law contains a large number of legal concepts so as to be applicable to every conceivable situation. Under the common law system, the organization of such concepts is largely arbitrary and based primarily on their relevance to common situations or events. A typical Canadian legal encyclopedia found in a law library is therefore arranged alphabetically by general topic of practical concern. Accordingly, headings mostly use ordinary words and phrases, from “Animals” to “Income Tax” and “Wills.” However, under each major heading, unique legal concepts are listed that may not be familiar to the average person. For instance, in an entry for “Contracts,” there will be subsections dealing with important concepts in this area of law such as *offer*, *acceptance*, *consideration*, and *assignment*. 
Under the heading “Evidence,” there will be information about the concepts of credibility, hearsay, and privilege.

The table of contents of a legal encyclopedia also illustrates how concepts in law are linked, from the most basic to more complex and specific ones. Take, for example, the heading “Judicial Notice,” a concept concerning matters that do not have to be proved in court by way of evidence. Below that heading will be subsections dealing with more complex variations of that concept, such as judicial notice of fact, and judicial notice of law. Below that level there will be even more specific concepts, such as judicial notice of law stated in legislation. Consider also the basic concept of legal person that I discussed above. Under the heading “Contract,” distinctions will be made among the categories of minor persons, intoxicated persons, and mentally incompetent persons.

A legal digest is a reference publication that contains information about legal concepts drawn from both legislation and judgments. It is therefore a good source of knowledge about most of the legal concepts used in the common law system of Canada. Such a publication also gives the reader some appreciation of the range of situations in which the law intervenes in life.

How are legal concepts chosen to describe particular situations? What principles guide characterization or categorization as part of legal analysis? This is the question raised by framing, the subject of the next section.

**Framing Using Legal Concepts**

Legal analysis requires the use of accepted legal concepts, and the distinct words employed (legal terminology) when describing situations encountered in life—this is defined as framing an event in legal terms. Taking care to use recognized legal concepts and appropriate terminology should enable an individual to be properly understood and taken seriously by officials in the legal system. Sometimes legal concepts will first be used by others, such as government officials in an official document, or by the opposing side in a dispute, but at other times they must be found and chosen without much assistance. Legal proceedings do provide opportunities to challenge which legal concepts an individual chose previously and to allow changes in some situations.

Legal analysis starts with choosing appropriate concepts to describe a situation (legal characterization), and proceeds by stating a question (or questions) to be decided by applying the law. Such questions are known as legal issues. For
example: “Did the other party receive a loan (a debt) that they agreed to repay (by contract), but have not done as they promised (a breach of contract)?” Stating the issue in this way allows the claimant to present evidence and arguments about these events in support of a request for a legal decision that money is owed, and a court order that it should be repaid. This process of characterizing an event or situation using legal concepts (such as debt, contract, and breach), and stating the legal issues arising from it is known as framing a case in law.

Framing provides the conceptual framework for decision-making. The choice of concepts for framing an issue can have both psychological and legal consequences. The way a case is framed can affect the persuasiveness of an argument, and there are often several plausible ways of framing a legal issue. In the end, it is the framing accepted by the judge or other decision-maker that will be used in determining the result of the case. Framing that appeals to the decision-maker’s sense of justice or fairness will have a greater chance of being chosen.

Here is an example of the legal analysis of a dispute between a nephew and his uncle. Some time ago, the uncle voluntarily promised to pay tuition fees if his nephew went to college. Now that the time has come, the uncle has failed to pay. The nephew might frame the situation and the legal issue in one way: “My uncle breached (broke) a contract between us to support me through college by failing to pay when the time came.” However, the uncle might frame the situation differently: “Informal discussions between family members such as the ones I had with my nephew do not create a binding (legally enforceable) contract, and I am not legally required to pay.” The uncle might well add another legal issue in his defence: “If there is a contract, then the law requires it to be in writing, and it is therefore unenforceable (not enforced by the court) because I never signed anything.” Notice how framing the facts and legal issues tends to support the argument of the person who is putting it forward.

Framing a legal issue is an invitation to a decision-maker to characterize a situation or event in a certain way that benefits the party putting it forward. Characterization of the facts, by a judge for instance, may also be called labeling, categorization, or classification, but it is more than just description. Because of the authority given to the decision-maker by law, legal characterization has significant, sometimes violent, real-life consequences—how a judge frames an event results in one side winning a civil case, and sometimes a loss of freedom in criminal cases. Consider the difference it makes to the accused whether a
judge characterizes his act as murder or self-defence. Characterization of the facts in one way or another is sometimes the key decision to be made in a case when there is no real dispute about the law; this is another reason why framing legal issues is so important. Framing the issue well is the first step in winning a legal argument.

Even so, framing a problem as a legal issue can lead to a sense that the situation has somehow been distorted. The legal issue may not fully describe the real needs and concerns of the parties involved. For instance, the nephew in the example above might believe that his uncle made a solemn promise which should be kept, but might not think the legal concept of contract is quite right to describe the situation. The word contract in everyday language is usually associated with business; however, as a legal concept it is the only one available that describes a mutually binding legal agreement, and so the nephew must use it to frame his claim. The number of available legal concepts is finite, and the conceptual structure of law evolves slowly over time. These are some of the reasons why people often feel their problems fit awkwardly within the conceptual structure of law when they are framed as legal issues.

Framing legal issues has been described as a process of translation or transformation of peoples’ needs, interests, and disputes. These descriptions recognize the difference between how people see their problems, and how the law frames and characterizes them. In particular, it has been noted that the law tends to restrict the questions to be decided, while the parties may want to resolve wider issues between them. Mather and Yngvesson note how disputes are narrowed by framing: “Narrowing is the process through which established categories for classifying events and relationships are imposed on an event or series of events, defining the subject matter of a dispute in ways which make it amenable to conventional management procedures.” The courts enforce narrowing by using the legal concept of relevance to exclude evidence and argument that are not logically related to the legal issues as they have been framed.

Lawyers play a major role in framing their clients’ problems as legal issues, and how they do this has been studied extensively. Researchers have found that lawyers help to shape the client’s “legal self” to fit the issues at hand. This may include convincing the client that his or her emotions should be ignored or suppressed because they are irrelevant to the issues and obstruct rational problem-solving. Or they may overlook or ignore their clients’ non-monetary objectives when making claims for personal injury, disregarding the fact that
sometimes injured parties also seek to ensure that similar accidents do not affect others. Courts cannot order changes in manufacturing processes, apologies, or forgiveness, so these are never framed as issues by lawyers, although they may be important to their clients. Monetary compensation, known as damages, is usually the only relief (remedy ordered by the court) available through litigation. The principle of relevance rules out discussion of any other solutions, even if they are of highest importance for the injured person.

Although the conceptual structure of law is slow to change, it can happen. In the Mabo case in Australia\(^4\), and the Delgamuukw case in Canada\(^5\) for the first time courts recognized land rights for Indigenous peoples. A new legal concept, that of aboriginal title (called native title in Australia), was introduced to the common law. This development in the law, however, only came hundreds of years after colonization and much struggle by Aboriginal people.

Change in law can also involve abandoning legal concepts, such as the one that occurred with the move to “no-fault” divorce. Because the concept of a “marital offence” (for example, adultery or cruelty) was no longer part of divorce law, the concept of “mental cruelty” was also dropped. Lawyers with clients in no-fault divorce proceedings may discourage expressions of emotion that might have formerly been considered useful because they were relevant to the concept of “cruelty” under the old law. Framing the legal issues in an unemotional way may seem insensitive or unfair to clients, but it is helpful to lawyers who are not trained to deal with emotions.

How lawyers are involved in framing issues leads us to consider legal institutions next. Legal concepts do not impose themselves—they are suggested or required by people acting within legal institutions.

**Institutional Structures of Law**

What is a legal institution? This question has been studied and debated by philosophers of law, sociologists, and others. Sometimes legally recognized relationships and rights are described as legal institutions, such as the “institution of marriage,” or the “institution of private property.” This way of speaking acknowledges that certain legal relationships have become so enmeshed in the structure of society that they are part of its foundation, like democracy. In this sense, social practices can become “institutionalized” if they are almost universally accepted and followed. We can also think of institutions as similar to
trading, and thus speak of the “institution” of marking a new court year by a ceremonial procession of judges. In this book, however, we will draw on the related word, “institute,” to help us in defining legal institutions. An institute is an organization, and therefore a legal institution is considered an organization connected with the law.

There is some vagueness in speaking of institutions “connected with the law.” In this book, organizations that are involved with making or administering law or adjudicating disputes over legal issues will be called legal institutions. Another way of putting it is that legal institutions form part of the framework of the state. They are distinct organizations, but they carry out complementary functions prescribed by law. This is the institutional structure of the law we will examine.

A constitution serves to create (constitute) the legal institutions of a state among other purposes, such as recognizing basic rights and obligations. Most constitutions establish legislative institutions (such as Parliament) to make law, executive bodies (such as Cabinet) to administer law, and judicial institutions (courts and tribunals) to adjudicate legal disputes. Dividing legal functions between different institutions is known as separation of powers, and helps to prevent the accumulation of all legal authority in a single institution or person, such as a dictator. The names of these legal institutions vary from country to country—above we used the word “branches” of government to describe them in functional terms.

As the supreme law of a state, a constitution is expected to be obeyed by members of all legal institutions, including elected leaders. It is the task of judicial institutions to decide disputes over what the constitution and other laws require, even if this means concluding that state officials have acted unlawfully. This is what is known as the principle of the rule of law; according to it, nobody is free to ignore the law, especially the constitution.

If we focus on the structure of judicial institutions, we find they are usually organized hierarchically, according to differing levels of authority. Higher courts in a hierarchy can overrule (reverse or overturn) the decisions of lower ones. This form of organization recognizes two realities: the possibilities of error and inconsistency among judges. A single court for all people in a state is only feasible in the smallest of states; most have multiple levels of courts and many judges. Judges are human and may make errors. Also, as we will see in Chapter 7, most laws may be interpreted in different ways by different judges.
A hierarchy of courts allows people to *appeal* (ask for correction of error) decisions they think are wrong to a higher authority, and permits higher courts to resolve differences of interpretation among lower courts in the hierarchy. Errors may thus be corrected and consistency ensured.

The court hierarchy in most states resembles a pyramid, with many lower courts at the base, and a single highest court at the top. Some states have several parallel pyramids (hierarchies), with the courts in each hierarchy dealing with a specific type of dispute, such as constitutional law cases, or religious matters. In Canada there are two hierarchical systems of courts—the provincial courts system and the federal system, which share a single court at the top, the Supreme Court of Canada. Note that there are *intermediate courts* that allow for a series of appeals before a decision made at the bottom reaches the highest court. Since many *administrative boards* and *tribunals* make decisions similar to those made by judges (known as *quasi-judicial* decisions), these organizations can be included at the base of the pyramid. The decisions made by these tribunals can be overturned by courts above them in the hierarchy, particularly if the requirements of natural justice have not been followed.

Each level of courts and tribunals is also organized internally in a hierarchical structure. This means there is a chief judge, chair, or president who is given a title that varies according to the institution. Usually the senior judicial official within a court has only additional administrative powers, and no authority to overrule the decisions of fellow judges or tribunal members. In an appeal heard by a *panel* or group of judges (which may include the chief judge), the decision of the court is that of the majority. For this reason, panels of judges or other decision-makers usually consist of an odd number of members to avoid a tie.

There are many courts and tribunals at the bottom of the hierarchy. Choosing the correct court in which to make a claim is part of legal analysis, followed by planning how to proceed there. The correct court for a particular case is the one with *jurisdiction* over (authority to decide) the legal issues involved in it.

**Jurisdiction in Law**

Jurisdiction is the concept used to relate one court to another in a legal system. It allocates cases to designated decision-makers within the overall structure of the judicial institution. Framing a case by legal analysis should include listing
relevant facts that may be disputed, clarifying the area of law relevant to the situation, and stating the legal issues to be decided. All of these factors are relevant to the question of which judicial or quasi-judicial body has jurisdiction to hear the case. The next step of legal analysis after framing involves the question of jurisdiction—identifying the correct forum (court or other decision-making body) in which to proceed.

As we saw in the previous section, there are usually many courts and tribunals at the bottom of the pyramid of judicial institutions. Jurisdiction defines which body has the authority to consider cases fitting a certain description provided by law (usually legislation). Three criteria are commonly used in setting the jurisdiction of a particular court or tribunal: geography, the subject matter of the dispute or issue, and procedural conditions.

The principle of territorial sovereignty (legal authority within a certain area) of states helps explain jurisdiction based on geography. Sovereignty means that events within the geographical boundaries of a state should be free from interference by anyone outside those borders. Thus the courts of one nation-state should not intervene in matters that take place wholly within another. This principle of sovereignty applies internationally between countries, and also internally in federal states that have internal geographic divisions, such as provinces in Canada, or states in Australia and America. The courts of a province or state in a federal system have jurisdiction only over disputes with a geographical connection to their territory. The word jurisdiction is sometimes also used to describe the geographical area governed by a particular court system. For instance, Canada has ten provincial jurisdictions, meaning components of a nation with their own internal court structures and hierarchies.

Jurisdiction based on geography is also relevant where a single court has branches in many locations, each serving a defined geographical area. The branch of the court closest to where the disputed events occurred will usually have jurisdiction over the matter.

The second criteria used to describe the jurisdiction of a court or tribunal is the subject matter of the legal issue or dispute. Subject matter refers to those broad categories of law that are found in the legal encyclopaedias or digests (such as criminal law or divorce), and also sometimes refers to the monetary amount claimed in the dispute. The jurisdiction of the lowest court in a hierarchy is usually limited to cases that do not involve large sums of money (in debts or contracts, for instance) or severe penalties (in criminal matters). Some
legal issues, such as *defamation* (harming someone’s reputation), are not within the jurisdiction of courts at the lowest level. For other legal issues, such as tax and military discipline, special courts may be set up with jurisdiction over those particular subject matters. The broadest way of classifying courts according to their jurisdiction is by dividing them into two types: superior and inferior courts. Superior courts have jurisdiction over all legal disputes except those that have been specifically excluded from their jurisdiction by legislation. For inferior courts the reverse is true: they only have jurisdiction over those legal matters that have specifically been given to them.

Tribunals and boards with “quasi-judicial” decision-making powers generally have the narrowest subject matter jurisdiction, although some may have a wide geographical jurisdiction, such as the Canadian Radio-television and Telecommunications Commission (CRTC). Some boards have a very narrow geographical and subject matter jurisdiction, such as a municipal decision-making institution like the City of Edmonton Subdivision and Development Appeal Board.

Typically, the higher a court is located in the hierarchy, the wider is its jurisdiction. For instance, provincial *appeal courts* have jurisdiction over all matters falling within the geographic and subject matter jurisdiction of all lower courts and provincial tribunals in their province. In Canada, the Supreme Court of Canada at the very top of the national pyramid has jurisdiction over all types of legal disputes wherever they may arise throughout the country. The jurisdictional pyramid is turned on its head compared to the pyramid illustrating the hierarchy of courts. The top is wide, indicating that the highest court has the broadest jurisdiction, while the bottom is pointed, showing that the lowest courts or tribunals have the narrowest jurisdiction in terms of geography, subject matter, or both.

The final criterion used to define the jurisdiction of judicial institutions is whether mandatory *procedural steps* have been taken. When starting a legal proceeding, the rules of the court or tribunal that has been chosen indicate what steps must be taken to properly commence and advance a case. If certain procedural rules are not followed, the legal institution may not have jurisdiction to proceed. For instance, the rules of an appeal court or tribunal will specify a time period within which an appeal must be started, usually by filing a document with the court. If that deadline is missed, the court or tribunal may not
have jurisdiction to proceed with the appeal unless an extension is requested, the court has the authority to give it, and grants the request.

Today, most courts in Canada and elsewhere have websites for a variety of purposes—many include information and charts or diagrams showing the judicial hierarchy in each geographical area, the names of each level of courts, and their jurisdictions. These are a good reference source when analyzing the question of jurisdiction.

The question of jurisdiction is a crucial one in any legal proceeding. If a judicial body has no jurisdiction over a matter brought before it, then that court or tribunal cannot do anything for (or against) you.

**Critical Perspectives on Structure**

Physical structures affect our perceptions, institutional structures our actions, and conceptual structures our thoughts. Structure can be comforting in many ways. Thinking of the world in terms of its structure can give us a feeling of order, stability, and predictability. We like to live in solid and reliable dwellings, and we also want our social environment to be stable and predictable. The concept of well-defined roles is part of social structure—we know what to expect, at least in general terms, from a teacher, a doctor, or a preacher. Language itself is a structure that allows us to communicate with the confidence that others will recognize and use mutually accepted grammar and syntax so that we can make sense together. Law is another important way we structure our social world.

Nevertheless, structure can also be confining. Just as a family can outgrow its home, social structures can put limits on leading a full and creative life. Structure can also be oppressive if it obstructs change in response to new conditions or needs. There have been many criticisms of structuralist views of society. From a structural perspective the institutions of society work together to maintain a coherent and stable state. This point of view tends to support the status quo, where the mere existence of institutions is taken to show that they are well designed and equipped to carry out the role assigned to them. As a result of many critiques of structuralism, our contemporary period is sometimes described as a post-structuralist era. Two of the leading critics of structuralism were the French philosophers Michel Foucault and Jacques Derrida. Their critiques give us another perspective on legal structures.
Michel Foucault described how powerful interests in society influence the spread of ideas that become accepted as knowledge by promotion through influential discourse. That knowledge in turn helps to shape laws that accord with the views of those whose voices are most heard. Viewed from this perspective, the development of law is only politics in another form, and the conceptual structures of law reflect the demands of power structures in society. Critical legal studies may help us see how legal structures empower some people in society, and disempower others. Those who are most familiar with legal structures are often in the best position to use law to their advantage. Lawyers in particular are comfortable within legal structures. While politicians may be masters of the structure of power, lawyers are masters of the power of structure.

Jacques Derrida argued that language is both a necessary tool and an unavoidable trap for thought. He juxtaposed structure with “play” so as to emphasize the creative and impermanent aspects of language. The concepts we create rapidly escape our control—our authority is fleeting. As one scholar has put it, he called into question “the law of writing in the writing of law.” The phenomenon of deconstruction described by Derrida leads us to think of law as an always unfinished project, reaching for but never finally grasping justice. For Derrida, justice can never be defined in words that are eternal and pure. He thus cautions us that we should always be seeking to do justice, but never complacent in thinking we have finally achieved it. The institutions of society are therefore never as stable and reliable as the structuralist perspective assumes. The critiques of Foucault and Derrida warn us not to think of the structures of law as natural, inevitable, or unchangeable. In pursuing critical legal studies, one should always keep in mind that legal structures are made and can be remade by society.

Finally, British sociologist Anthony Giddens suggests that social structures have a dual nature—they have power through repeated use, but they are also useful to individuals who may be empowered through them. His theory of structuration is a more hopeful view of social structures. Clinton W. Francis has described Giddens’ perspective as “the idea that at the same time actors mobilize structure in practice they reproduce that structure, and at the same time structure empowers practice it constrains that practice.”

These critiques lead to the view that power structures law, but also that legal structures have power in themselves. Becoming legally literate in a critical way...
must include analyzing the structures of law to reveal the powerful interests behind them, and finding a way to use the power of legal structure to secure more just results from law.

CHAPTER REVIEW

After reading this chapter you should be able to:

- give examples of different levels of legal concepts
- describe how legal structures constitute the state
- explain the concept of framing
- describe the institutional structure of courts
- explain the concept of jurisdiction