

*New Oxford Companion to Law*, Oxford University Press. 2008.

**legal consciousness** The concept legal consciousness is used to name analytically the understandings and meanings of law circulating in social relations. Legal consciousness refers to what people do as well as say about law. It is understood to be part of a reciprocal process in which the meanings given by individuals to their world become patterned, stabilized, and objectified. These meanings, once institutionalized, become part of the material and discursive systems that limit and constrain future meaning-making. Consciousness is not an individual trait nor solely ideational; legal consciousness is a type of social practice reflecting and forming social structures.

The study of legal consciousness documents the forms of participation and interpretation through which actors sustain, reproduce, or amend the circulating (contested or hegemonic) structures of meanings concerning law. Although researchers collect signs of legal consciousness by observing people thinking, doing, talking, telling stories, lumping grievances, working, playing, marrying divorcing, suing a neighbor, refusing to call the **police**, or joining a **social movement**, legal consciousness, as participation in the production of legal meanings, cannot be understood independent of its role in the collective construction of legality, or the **rule of law**.

As a theoretical concept and topic of empirical research, legal consciousness developed among socio-legal scholars to explain how law sustains its institutional power across wide spans of time, space, and variable performance. Researchers theorize that law is a durable and powerful human invention because a good part of legality invisibly suffuses everyday life so much so that, where there is a rule of law, legal authority is normally uncontested, or challenged primarily within the legally provided channels for dispute. This legal hegemony derives from long habituation to routinized forms of legal authority that are fused into the material, as well as social organization of ordinary life, for example, in traffic lanes, parking rules, ticket stubs, and sales receipts. Law's mediations of social transactions have been sedimented throughout the habits of daily living, helping to make things move around in more or less expected ways, without having to invoke, display, or wield its elaborate and intricate procedures, especially its ultimate physical force. Of course, this sedimentation and normative regulation is never complete. People do not always stay within the boundaries of legally sanctioned expectations and the reach of law is always disputed. However, visible legal battles, e.g. trials, are the outliers of the law's more routine, habituated activities. Ironically, it is the outliers that end up constituting the textual body of legal doctrine, especially in **common law** regimes.

Thus, the study of legal consciousness traces the ways in which law is experienced and interpreted by specific individuals as they engage, avoid, or resist the law and legal meanings. The research seeks to connect theoretically all these pieces: to show how the lived experiences of ordinary people produce simultaneously open, malleable yet stable systems of practice and signification; to demonstrate how the law remains rich with variation and possibility; and to explore how in representative **democracies** governed through law, the people might be simultaneously both the authors and victims of their history.

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*Further reading:*

Patricia Ewick and Susan Silbey, *The Common Place of Law: Stories From Everyday Life* (Chicago: University of Chicago Press, 1998)