

Forms of Public Law

- **Constitutional Law**
- **Administrative Law**
- **Commercial Regulation**
- **Criminal Law**
- **International Law (between nations)**

Forms of Private Law

- **Contracts**
- **Torts**
- **Property**
- **Family Law**
- **Trusts and estates**

State Action Doctrine

Constitutional rights only apply against government (except for 13th Amendment)

Rights against private persons provided through statute authorized under proper government powers or through private agreements (contracts)

State Action Implicated in Private Law

- **State asked to enforce private rights (courts)**
- **State resources used by private parties**
- **Private party pervasively regulated by state as a utility or franchise providing “public goods”**
- **Private entity exercises state functions: private jails, Valley Mental Health**

Section 1983 Actions

- **42 U.S.C. § 1983 provides damages for actions “under color of state law”**
- **Extends civil rights protections to private parties who are carrying out state functions**
- **Also used to sue municipalities (which are corporations, not sovereigns)**

Traditional Public Fora

**Streets, sidewalks, parks, grounds of
“public” government buildings.**

**No exclusions based on viewpoint or
subject matter (except Establishment)**

**Time, place, and manner regulations must
be “narrowly tailored to serve a
significant government interest, and
leave open ample alternative channels
of communication.”**

***Marsh v. Alabama* (1946)**

Jehovah's Witness wished to leaflet in company town, told it was private property

Town had no general restrictions on public access, streets were always open

Supreme Court: "The owner of the company town was performing the full spectrum of municipal powers and stood in the shoes of the state." (Description of ruling found in *Lloyd Corp. v. Tanner* (1972))

Venetian Casino v. Culinary Workers (2001)

Casino promised city that it would “dedicate [a] necessary right-of-way ... [and] construct thereon a sidewalk” to replace sidewalk on public right of way that was eliminated to widen street to accommodate the Venetian

Union uses sidewalk to protest lack of contract

Venetian insists Union stay off its property, even though dedicated as right of way