

**TOPIC ELEVEN – CARRYING OUT POLICIES:  
BUREAUCRACY AND THE COURTS**

**Shively, Chapter 16 – Bureaucracy and the Public Sector**

**Overview:**

This chapter looks at the public administration of the state and bureaucracies. It discusses one of the main problems posed by public administration (the fact that a large amount of government power is not under close political control) and the qualities of good public administration. The chapter then goes into the emergence, features, and functions of bureaucracies and the problems they face. The chapter ends with a discussion of bureaucracy in France and a comparison of bureaucratic culture in Europe and Africa.

**Outline:**

- I. Public administration defined
  - A. The people involved in the construction and implementation of policies
- II. Public administration as a political problem
  - A. Significant part of government power of any state not under close political control
- III. Characteristics of good public administration
  - A. Honest, accurate translation of political leaders' decisions into more specifically designed policies
  - B. Flexibility in dealing with special cases at the point of delivery (should be obedient but not slavishly obedient)
  - C. Flexibility not used arbitrarily
  - D. Feedback of expert advice; active imagination and assertive inquiry on the part of administrators
  - E. Efficiency
- IV. "Bureaucracy": a reform of the last century
  - A. Mode of administrative organization developed in 19<sup>th</sup> C
  - B. The most commonly used mode of public administration today
  - C. Features of bureaucracy
    1. members appointed and promoted based on qualifications
    2. positions have special requirements of training and experience
    3. administrative procedures standardized so that little is left to individual biases or passions
    4. clear lines of command established from top to bottom (hierarchical structure)
    5. public administrators shielded from day to day political pressures
- V. Bureaucracy versus flexibility
  - A. Standardization and clarity of command may conflict with local flexibility and independent-mindedness
  - B. Bureaucratic organization better for some areas of public administration than for others
  - C. Most organizations organized more bureaucratically than necessary
- VI. The problem of protected incompetence
  - A. Difficulties evaluating job performance
  - B. Requirement that administrators be shielded from political pressure, usually by a system of tenure.
- VII. Adjustments to bureaucracy
  - A. The office of ombudsman
  - B. Freedom of information laws
  - C. "Interference" administration by political leaders
  - D. Pressure from public opinion
  - E. Examples of problems with agencies not under much pressure from public opinion
- VIII. Social representativeness of public administration
  - A. Concern about top bureaucrats being unrepresentative of general population (class, race, gender)
  - B. Many governments have made efforts to make public administrators more representative
- IX. Examples:
  - A. The French Bureaucracy
  - B. Bureaucratic Cultures in Europe and Africa

**Keywords:**

- 1) public administration
- 2) bureaucracy
- 3) higher civil service
- 4) arbitrary action
- 5) spoils system
- 6) ombudsman
- 7) representative bureaucracy
- 8) hierarchical command structure
- 9) National School of Administration (ENA)

**Shively, Chapter 17 – Law and the Courts**

**Overview:**

This chapter defines law and introduces the concept of the legal system. The chapter then examines Anglo-Saxon case law and continental European code law (the two dominant systems in the world today), and the *Sharia* or Islamic law. The chapter then forwards the argument that in practice, case law and code law systems are converging to a certain extent and gives examples of how this is happening. The chapter then outlines the differences between various types of courts and ends with an examination of the developing legal systems in China and the European Union.

**Outline:**

- I. Definitions
  - A. Law
  - B. Legal system
- II. Anglo-Saxon case law
  - A. Most familiar to Americans and Canadians
  - B. Developed in England
  - C. Also known as “common law”
  - D. Courts largely independent of state’s government
  - E. Cases serve as precedents for future decisions
  - F. Affinity with Liberalism’s desire for limited government
- III. Continental European code law
  - A. Related to Roman Law
  - B. Detailed code of law produced and interpreted by the government
  - C. The dominant legal system across continental Europe
- IV. Religious law: the *Sharia*
  - A. Most important of various forms of religious law
  - B. Also known as Islamic Law
  - C. Supplements and blends with western law
  - D. Used most extensively in Iran and Saudi Arabia
  - E. Box: Émile Durkheim’s Theory of Law
- V. The blending of case law and code law
  - A. Distinctions between the two are a matter of degree
  - B. Distinctions becoming less clear in recent years as code law systems adopt features of case law systems and vice versa
- VI. Courts
  - A. Extent of tradition of constitutionalism related to how removed courts are from other sources of political power
  - B. Courts often organized to handle different kinds of law (criminal, civil, constitutional)
  - C. Courts also organized by jurisdiction
- VII. Examples
  - A. The law in China
  - B. The European Court of Justice

**Keywords:**

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|---------------------------|-------------------------------|
| 10) law                   | 19) injunction                |
| 11) legal systems         | 20) lower courts              |
| 12) courts                | 21) juvenile courts           |
| 13) case law/common law   | 22) appeals courts            |
| 14) code law              | 23) "state" courts            |
| 15) administrative courts | 24) religious courts          |
| 16) criminal law          | 25) Confucian tradition       |
| 17) civil law             | 26) European Court of Justice |
| 18) constitutional law    | 27) <i>Sharia</i>             |