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American system for making and implementing public policy and resolving disputes is distinctive. It generally entails (1) more complex bodies of legal rules; (2) more formal, adversarial procedures for resolving political and scientific disputes; (3) a

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much larger role for

Adversarial Legalism: The American Way of Law

For good and for ill, adversarial legalism is the American way of law, and it is likely to remain so. The purpose of this book, therefore, is not to provide a definitive overall assessment of adversarial legalism, nor to call for its burial, nor particularly to praise it.

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It is an elegantly written, consistently insightful analysis and critique of the American emphasis on litigation and punitive

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sanctions in the policy and administrative process... Adversarial Legalism is in many ways a breath of fresh air. Political elites, scholars, and college students alike may find much that is new and surprising in this book—and it is Kagan's key purpose to surprise and stimulate fresh thinking about the range of possibilities for addressing policy problems.

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Robert Kagan's Adversarial Legalism is one of the most important books on law and courts published in the last several decades. It is probably best known for its critique of adversarial legalism, the distinctively American legal style that produces high transaction costs and enormous legal uncertainty.

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In the United States adversarial legalism accelerated and persisted in the last third of the twentieth century because Americans (and the interest groups they form) wanted their governments to wield power.

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American dispute resolution is more adversarial, compared with systems of other economically advanced countries. Americans more often rely on legal threats and lawsuits. American laws are generally more complicated and prescriptive, adjudication more costly, penalties more severe.

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Adversarial Legalism - The American Way of Law, Second

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American dispute resolution is more adversarial, compared with systems of other economically advanced countries. Americans more often rely on legal threats and lawsuits. American laws are generally more complicated and prescriptive, adjudication more costly, penalties more severe. Here, Kagan examines the origins and consequences of this system.

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The American culture of adversarial legalism may fuel rights consciousness that encourages citizens to stand up for themselves, but also all too often under or over compensates victims, missing the target of consistent and fair compensation.

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