

2/1/07

Discussion Questions

*What is Law?*

1. What is meant by saying law is a system of thought?

When it is said that law is a system of thought, it means that law does not have an objective existence. By referring to law as a system of thought it is recognized that everyone has their own preconceived notions of what the law entails. Whether our understanding of law comes from the media or from our own personal involvement with a part of the law, it is obvious that law is not a concrete, finite body, and often what we expect from it shapes our understanding of it.

2. In what ways is law more than a list of controlling behaviors?

While most of us think of law as a body of restrictions, the law has many valuable functions in our society. While one responsibility of the law is to prohibit certain behaviors, those behaviors are forbidden in order to protect the majority of society, such as laws against drunk-driving. Also, law gives benefits to people, such as providing social welfare programs or deciding who is allowed to drive a car, and it creates new necessary programs such as highway construction. Law also supplies society with a notion of predictability, which allows us to go about our daily lives knowing what to expect in certain situations. Finally, law is a struggle over symbols, as interest groups often try to use the law to promote their beliefs and values.

3. What is the relationship between formal rules and social norms?

As Abel points out, rules are not self-enforcing, and instead have to be applied and, in turn, followed. Rules and social norms are often intertwined due to the fact that the law is created and is not inherent, and tends to reflect, or at times reject, the values of society. When a social norm is represented in a formal rule, it can affect the willingness of individuals to follow that rule. When the formal rule embodies a norm, people may be more willing to comply because they believe the principle behind it. On the other hand, if a formal rule goes against a social norm, people may dismiss the law and civil disobedience may occur. Formal rules and social norms tend to be related because of their overlap in the legal system, and this often affects the respect individuals have for the law.

4. What is the connection between law and power? I.e. how is law made and whose interests does it serve?

Turk views law as a set of resources that individuals contend over. Whoever is in control of these resources, which includes being in control of the power to conduct physical violence, of economic power, of political power, ideological power and power to control who or what society pays attention to, has the ability to promote and ensure their personal interests. With these resources, Turk claims, one has the power to make certain that conflicts and problems are

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resolved in favor of their ideas and values. Therefore, the law be used in social conflicts to preserve the wants of those in power, and, in turn, those laws are protected and perpetuated.

Good answers, you have shown you understand the readings. Continue to dig into them, and support with examples