



The Functions of Law

Kenneth M. Ehrenberg

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What is the nature of law and what is the best way to discover it? This book argues that law is best understood in terms of the social functions it performs wherever it is found in human society. In order to support this claim, law is explained as a kind of institution and as a kind of artifact. To say that it is an institution is to say that it is designed for creating and conferring special statuses to people so as to alter their rights and responsibilities toward each other. To say that it is an artifact is to say that it is a tool of human creation that is designed to signal its usability to people who interact with it. This picture of law's nature is marshalled to critique theories of law that see it mainly as a product of reason or morality, understanding those theories via their conceptions of law's function. It is also used to argue against those legal positivists who see law's functions as relatively minor aspects of its nature.

This method of conceptualizing law's nature helps us to explain how the law, understood as social facts, can make normative demands upon us. It also recommends a methodology for understanding law that combines elements of conceptual analysis with empirical research for uncovering the purposes to which diverse peoples put their legal activities.

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