

POL 385, Law and Society, Fall 2002
Brett Marston

Reading Questions

Tue, 9/17: Ewick and Silbey, 129-138

Wed, 9/18: Ewick and Silbey, 139-164

Fri, 9/20: Ewick and Silbey, 165-189 ("Against the Law")

Do you get the joke in the postcard on p.130?

Ewick and Silbey argue that it's more appropriate to view law as a game than to view law simply as an instrument for achieving certain objectives (132-136). Why? According to the authors, what are the differences between viewing law as an instrument and viewing law as a game? What are the characteristics of games that make it appropriate, according to the authors, to use the metaphor of gaming to describe the approach that respondents often had toward the law?

The authors contrast the norm of "partiality" that is visible in the view of law as a game, with the norm of "impartiality" that is visible in the view that law is reified and remote (139). What do they mean by this claim? What's the difference between using the rules of the game to advance your own economic interests, and using your position to tilt the rules of the game in your favor? Why is one normal and the other, "corrupt"?

An important part of the argument in Chapter 5 is dedicated to describing the idea that the game of the law is structured so as to assure that outcomes cannot be known in advance (146-148). What do the authors mean here? How important is this idea for the criminal law, for example?

What's the importance of lawyers in the narrative of law as a game?

What's the significance of group or collective action in the narrative of law as a game?

What's the significance of the different ways Jamie Leeson describes his old girlfriend on 160-161?

On 164, the authors suggest that " 'before the law' can be read as law's own story, [and] 'with the law' is the realist tale." What do the authors mean by this claim?

What's the significance of Bess Sherman's laughter in response to the hypothetical situations that the interviewer presents to her (172)?

What are the main differences between being "before the law" and "up against the law"? They both describe experiences of subordination. How are these experiences understood in each case, according to the authors?