

Why Do We Have Laws? (All About Law, Gibson, p.4)

Janelle lived by herself on an island and did whatever seemed right to her. She did not need any laws. But Stacie was shipwrecked during a storm and landed on Janelle's island. Now Janelle had to adjust her needs, desires, and actions to accommodate Stacie. Janelle and Stacie had a discussion and developed some rules. These rules became laws when the two agreed that certain rules would always control their actions. For example, the agreement, "We will always share all our food, so that each of us gets an equal portion" is a law. So is "Neither of us will make noise after the other has gone to sleep." Laws usually create clear understandings about expected behaviour. They are necessary for people to live together peacefully in society.

Suppose more people are shipwrecked on the island. If the number of people increases, so will the need for laws. There might even be a need to write down the laws, so that they are available to everyone. Then, if people break the law, they cannot say that they did not know about it. Of course, as the number of laws increase, people will have less freedom to do what they want as individuals.

The Need for Law (guide p. 22)

As humans developed the institutions of community, the need for norms of organized and predictable behaviour to guide the relationships between individuals became increasingly important. Behavioural norms of early social groups were based upon local customs and spiritual beliefs, enforced through the power of individuals or groups. These were usually founded upon common sense, and transmitted to new members of societies by word of mouth. As these customary norms were adopted over long periods of time, they became accepted as laws, and became part of the social contract of the society.

The increasing complexity of societies resulted in the need for more formal and complex behavioural norms, or laws. Inconsistent application and interpretation of law was common. Decisions about the laws made in one particular community would often contradict decisions in another community, even when circumstances were similar. Despite this injustice, the need remained to limit the behaviour of individuals where such behaviour infringed upon the freedom of others, or was offensive to the community at large.

In England, this led to the development of the common law. This system of recording cases and examining precedent significantly improved the application of law and administration of justice, and continues to be an important facet of the Canadian justice system today. The quest for consistency and fairness in application of the law continues as a significant issue for individuals, institutions and societies.

What is a good law and what is not a good law? A society needs to construct laws that are based on criteria that make them just. Some criteria include laws that are:

- reasonable, fair and useful
- clearly worded, with explanation of terms that may cause confusion
- made known to those who are expected to follow the laws
- based on the values and beliefs of society
- enforceable

- not in conflict with other laws.