

Faculti Summary

<https://faculti.net/where-is-the-law/>

This video discusses the author's intentions behind writing a piece related to a forthcoming book about the American common law tradition. The work aims to uncover the underlying assumptions of legal education and how legal reasoning is approached in the U.S. compared to the U.K. It emphasizes the ambivalence within American legal education regarding the relevance of social, historical, and economic contexts in legal argumentation.

The author explores the traditional distinction in legal practice between "holding" (essential legal reasoning necessary for a decision) and "dicta" (non-essential commentary), arguing that the legal community often dismisses social context as irrelevant to legal arguments. However, they suggest that understanding these contexts can enrich legal reasoning and critique traditional views of legal authority, which often overlook the historical background of legal rules.

The author advocates for a more dynamic understanding of legal arguments that considers these broader implications, encouraging future legal scholars and practitioners to question established norms and explore the nature of legal reasoning over time. Ultimately, the piece serves as a preface to a book intended to delve deeper into these themes and the evolution of legal thought and practice.