

## Detrimental Effects of Humanizing the Legal System

While in theory the legal system is designed to serve as a mechanism for protecting individuals from government, the jury system introduces an element of humanization that can complicate the system, introduce variables, and lead to inconsistencies in the level of protection for individuals. Juries selected from public juror pools are intended to take the bulk of responsibility away from government and lay it in the hands of the people. Rather than hanging at the will of a superior, a citizen's fate is determined by the will of his or her equals. Alas, juries have proven to be unpredictable and at times ineffective at discerning truth in court cases. The unavoidable subjectivity of jurors and their vulnerability to manipulation by lawyers results in limitations on the system's ability to protect.

In Laura Gaston Dooley's essay entitled *Our Juries, Our Selves* she speaks of the "previously unknown" legal restraints on 20<sup>th</sup> century juries.<sup>1</sup> As the legal system strived to come closer to providing a jury of one's peers in court cases, it recognized the obligation to include minorities, women, and other non-professional/non-expert members of society. Again, in theory reaching this goal was admirable but led to unexpected results. According to Dooley, as women entered the juries, judges began treating the juries as late nineteenth and early twentieth century women were treated – not seriously. Since the introduction of women, the lack of credibility given to juries results in condescension and a shift in power to the judge who "retains ultimate authority to override jury decisions."<sup>2</sup> Furthermore, it effectively voids the former power held by the jury.

Since the introduction of women into juries, the legitimacy of the jury system itself has been called into question. According to Dooley, modern juries now "enjoy far less prestige" and

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<sup>1</sup> Dooley, Lauren G. "Our Juries, Our Selves: the Power, Perception, and Politics of the Civil Jury." Before the Law. Ed. John J. Bonsingore, Ethan Katsh, and Peter d'Errico. Boston: Houghton Mifflin Company, 2006. page 451.

<sup>2</sup> Dooley, 451

are “condescended to by other actors in the legal system.”<sup>3</sup> The power of the jury is diminished by their reputation for being “easily swayed by emotion” and “not given to hard logical thinking.”<sup>4</sup> While this assessment of jurors is certainly cynical it is not untrue. The average citizen is subject to all of his or her conscious and subconscious associations, assumptions, and thought processes. The legal system requires people to attempt shedding any traces of these natural human qualities, which rarely is possible.

Charles R. Lawrence addresses these natural human inclinations in his essay, *The Id, the Ego, and Equal Protection*, and specifically how they affect race relations in a legal context. His ideas transcend legalities concerning race and apply to all situations where a human mind tricks itself into thinking it can shed programmed associations and opinions. As “racial inequality exists irrespective of the decisionmakers’ motives”<sup>5</sup> so do other assumptions. A juror may have a gut feeling or a subconscious inclination toward one verdict based on the race, gender, age, or socioeconomic standing of the trial parties, or even the nature of the case, in spite of being led logically in the direction of truth.

The concept of humanization undermining the logic and rationale that lead to valid verdicts is exhibited in Reginald Rose’s stage play *12 Angry Men*. Most of the jurors in the play harbor ulterior motives and presumptions that nearly lead them to a premature verdict, “Juror number ten” in particular exhibits the way in which humanized jurors can corrupt the efficiency of the legal system. While prejudiced jurors must be removed from juries beforehand, it may be impossible to recognize every one – and it *is* impossible to fully remove every prejudice from every juror. Lawrence reinforces this idea in his brief discussion of cognitive psychology

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<sup>3</sup> Dooley, 451

<sup>4</sup> Dooley, 451

<sup>5</sup> Lawrence, Charles R. "The Id, the Ego, and Equal Protection: Reckoning with Unconscious Racism." Before the Law. Ed. John J. Bonsingore, Ethan Katsh, and Peter d'Errico. Boston: Houghton Mifflin Company, 2006. page 461.

claiming that many beliefs are so ingrained in people and culture that individuals may be unaware of them themselves<sup>6</sup>.

As normal human beings and citizens, jurors carry these ingrained beliefs into the courthouse. The defendant in the play's murder trial is from the slums and while it is possible that each jury member is affected by this knowledge "juror number 10" isn't shy about it. He frequently expresses thoughts such as "Look at the kind of people they are – you know them"<sup>7</sup> and doesn't seem as concerned with getting to the truth, as he is with executing what to him is just another slum criminal.

Prejudice is a flaw in humans' abilities to render unbiased opinions whether they are in a classroom such as in Lawrence's example or in a courtroom. Regardless of the defendant's guilt or innocence, "juror number ten" has brought with him into the courtroom the human qualities that prevent clear evaluations of trials and he can easily be considered "swayed by emotion". Other jurors are subtler but also harbor motives detrimental to the system, whether it is a juror who is hasty to leave or one's inability to recognize the seriousness of the situation.

An additional complication that negatively affects the efficacy of jurors is their relationship to lawyers in a trial. Again, humanization is the process at work in limiting jurors' capabilities to accurately assess the facts of a case amidst strategic and controversial techniques used by lawyers. As Jerome Frank observes in his essay on "Fight Theory", "the lawyer aims at victory, at winning the fight, not at aiding the court to discover the facts."<sup>8</sup> Not only can this be interpreted to mean that the quality of the lawyer (another distinct humanization) may affect the outcome of a case, but also that juries are being manipulated to look at a case not by the cold

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<sup>6</sup> Lawrence, 460

<sup>7</sup> Rose, Reginald. 12 Angry Men, copyright MCMLV, by Reginald Rose, Act 1, page 13

<sup>8</sup> Frank, Jerome. "The "Fight" Theory Versus the "Truth" Theory." Before the Law. Ed. John J. Bonsingore, Ethan Katsh, and Peter d'Errico. Boston: Houghton Mifflin Company, 2006. page 377.

hard facts but through the eyes of an attorney. The jurors' vulnerability to manipulation during trial serves as another example of how their human qualities lead to kinks in the system.

Frank expresses dissatisfaction for the system through his analysis of "Fight" theory. He argues that the purpose of the legal system should be "to get as close as humanly possible to the actual facts"<sup>9</sup>; this is not the case largely in part to lawyers' distortion or neglect of evidence and their manipulation of witness testimony. While he recognizes the benefits of fight theory and in having a lawyer fight as hard as they possibly can for a client – the effect this fight has on juries can be detrimental. By the end of a case, juries have not observed every detail and every fact and much of the information has been skewed. Juries may then be rightfully confused and come to a conclusion that does not lead to just settlements.

Again, Frank does discuss the benefits of this system but points to the fact that it may lead many to be satisfied with a court decision whether or not it is just, true, or fair. All that matters in a system under "Fight" theory is who wins the case; this attitude prevents the system from fulfilling its duty to protection<sup>10</sup>. The "Fight" theory is only applicable to the humanized juries; if there were no one to persuade and no need to twist facts and testimony there would be no need for "Fight" theory. The link can be made between his musings on "Fight" theory and his opinion of juries as quoted in Dooley's essay: "[a] better instrument could scarcely be imagined for achieving uncertainty, capriciousness, lack of uniformity, disregard of former decisions – utter unpredictability", and furthermore on jurors themselves: "notoriously gullible and impressionable" and "hopelessly incompetent as fact finders."<sup>11</sup> It seems that Frank might believe the bad outweighs the good regarding the humanized juries' involvement in the legal

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<sup>9</sup> Frank, 379

<sup>10</sup> Frank, 379

<sup>11</sup> Dooley, 452

system as there is actual intent in preventing the jury from “correctly evaluating the truth-worthiness of witnesses and to shut out evidence the trial court ought to receive.”<sup>12</sup>

In contrast to jury-based legal systems, Laura Nader introduces a less complex system of dispute settlement in *The Case of the Spoiled Chiles*. In the town of Ralu’a in Oaxaca, Mexico, disputes are settled between three parties, the two parties with a dispute and a court president. This system removes the humanizing qualities of juries and lawyer’s affect on them. The parties tell their story as accurately as possible and the judge determines a solution that is as fair as possible. In her documentary *Little Injustices* we learn that the judge is not an overbearing government official but an unpaid, elected member of the community. The only humanization involved in this court is compassion and understanding as many of the disputes involve community members who know one another and the judge himself, who is a member of the community. By eliminating the juror aspect they were able to come to conclusions quickly and efficiently.

A true legal mechanism that satisfactorily protects people from government must be free of variables and manipulation. The “humanizing agency” in juries touched on by Frank in Dooley’s essay is precisely the reason there is so much uncertainty in court cases. The active participation of juries who are frequently uninformed, easily manipulated, and subject to being overruled by a judge often leads to uneasiness, lack of trust, and consequently an inefficient system. There are other options available in modifying the legal system by eliminating the “humanizing agency” such as the dispute settlement technique used in Ralu’a. While in theory the jury system was designed to maximize justice, discrepancies therein have led to other complications.

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<sup>12</sup> Frank, 377

Works Cited: MLA

Dooley, Lauren G. "Our Juries, Our Selves: the Power, Perception, and Politics of the Civil Jury." Before the Law. Ed. John J. Bonsingore, Ethan Katsh, and Peter d'Errico. Boston: Houghton Mifflin Company, 2006. Page 450-453.

Frank, Jerome. "The "Fight" Theory Versus the "Truth" Theory." Before the Law. Ed. John J. Bonsingore, Ethan Katsh, and Peter d'Errico. Boston: Houghton Mifflin Company, 2006. page 375-377.

Lawrence, Charles R. "The Id, the Ego, and Equal Protection: Reckoning with Unconscious Racism." Before the Law. Ed. John J. Bonsingore, Ethan Katsh, and Peter d'Errico. Boston: Houghton Mifflin Company, 2006. page 461.

Little Injustices. Dir. Terry Rocaefeller. Perf. Laura Nader. Odyssey, 1981.

Rose, Reginald. 12 Angry Men, copyright MCMLV, by Reginald Rose.