

Law, in the broadest sense, can be defined as rules established by a governing authority to institute and maintain order in a civilized society. However, to define and understand law solely as a tool to maintain a civilized society and to promote civil rights would be to understand law only in its ideal form. Law can be used as a weapon in social conflicts between unequal groups in our society; those with power, whether it is economic or societal power, can manipulate the law to promote their own interests against others. In doing so the legal system does not perform how it is ideally meant to perform, which is to promote justice, order and individual civil liberties.

Throughout his speech “Address to the Prisoners in the Cook County Jail,” Clarence Darrow argues that written law frames a leniency towards the economically advantaged. Darrow claims that those with the economic power make laws to protect their own property. He states, “They fix up a sort of fence or pen around what they have, and they fix the law so the fellow on the outside cannot get in” (229). This biased legislation, according to Darrow, is responsible for the incarceration of economically poor citizens who are not given a chance to live (229-230). Those economically powerful, who raise the price of coal when there is no need for it, are not punished under the law despite the fact that raising the price may lead thousands of people to the poorhouse. However, offenses against property make up most of the criminal code (Darrow 229). Those with economic power wield the law as a weapon to protect their own interests, not to protect honest and fair justice.

The economic advantage one has plays out a great deal in the courtroom. Marc Galanter, in his paper “Why the ‘Haves’ Come Out Ahead: Speculations on the Limits of Legal Change” provides an analysis of the differences between kinds of parties and the effect those differences

have on the American legal system. Galanter divides the different parties into two groups: one-shotters/"have-nots" and the repeat players/"haves" (81-82). A one-shotter is an actor in society who is rarely involved with the courts, whereas a repeat player is engaged in much litigation over time (Galanter 81). Repeat players have a significant advantage in our system. They are larger, richer and more powerful than the one-shotter. They are able to buy large quantities of dedicated legal service while the one-shotter lawyers tend to make up the lower stratum of the legal profession. Galanter stresses that "differences in the quantity and quality of legal services will affect capacity to derive advantages from the rules. (86). Darrow emphasized the same point in his speech stating "When your case gets into court it will make little difference whether you are guilty or innocent, but its better if you have a smart lawyer. And you cannot have a smart lawyer unless you have money" (229). The prosecutor is a repeat player; therefore Darrow argues that in order for our criminal justice system to be fair, the courts need to hire people as smart and resourced as the prosecutors to defend the criminals (229). People who are not economically powerful do not have a fair chance because of their incapability to acquire a smart and well-resourced lawyer. Not only can the economically advantaged promote their short-term interests by winning a trial they can promote their long –term interests through legal precedence.

Much like the economically powerful, those with societal power, whether it be a racial or gender advantage, can employ law to benefit their own advantages. In 1963 Martin Luther King, Jr. wrote a paper that emphasized the oppression of the African American minority under laws made by the white majority. In his paper King discussed the undemocratic creation of unjust laws. Although at the time African Americans were given suffrage, the white majority kept power away from them by deviously preventing African Americans to register to vote. King cited that there were even some counties in Alabama where African Americans constituted the

majority of the population and yet not a single one of them was registered to vote (252). Furthermore, King mentions that laws can be just on the books and yet unjust in its application. Prior to writing this paper, King had been arrested with the charge of parading without a permit. While the law requiring a permit is just, denying the permit without legitimate reason was an instance of the white majority using law to “maintain segregation and to deny citizens the First Amendment privilege of peaceful assembly and protest” (King 252). Hence in both situations, law was used to endorse the interests of privileged groups.

In continuing with the theme of racial injustice, Jackie Campbell, an African American police officer, wrote an essay titled “Walking The Beat Alone” which addressed the problem of petit apartheid. Campbell makes the point that though little empirical data exists; petit apartheid is easily observable within the system (278). While policing in a “high narcotic area” Campbell witnessed many cases of petit apartheid. For example it was customary for a driver to immediately raise both hands after being pulled over, and for officers to assume when a minority is driving an expensive car that he is a drug dealer but most importantly she noticed that Fourth Amendment rights meant less in “high narcotic areas” (278-279). Campbell also witnessed numerous “warrantless searches of individuals, directly in opposition to the Fourth Amendment of the U.S. Constitution” (279). The officers who are able to arrest subjects for drug offenses and violent crimes are considered to be the top officers and therefore receive job benefits and desired assignments. Therefore by exploiting the fact that the minorities may think it is the norm for the Fourth Amendment rights to be debased, officers are able to get ahead in their profession. Again, this is an instance in which a majority is manipulating law to promote their own interests.

“A Rally against Rape” by Catherine Mackinnon addresses the problem of what can be defined as rape. Though the law on rape is bold and very general, the inaccurate preconceived

notions of what constitutes a rape by the police, hospitals and the legal system are preventing women from not only reporting rape; but from being able to recognize whether or not they have been raped. The factors that shape our understanding of rape are based upon the rapes that have been reported. However, Mackinnon believes that women only report rape when they know they will be believed; and that is when the rape is either by a black man or a stranger (15). Rape should be understood by “how violated the women feels...not how intimate she was with the person that did it” (Mackinnon 16). The problem of women not going to authorities because of the inaccurate perception they have of rape can be linked back to “Walking the Beat Alone.” Campbell pointed out that minorities do not report petit apartheid because their perception is that the police officer is acting within the law (278). Both situations show a minority’s perception of law warped by the enforcement of the white male majority to promote and enforce laws in a way that benefits their status.

Whether it’s on the books or in action, those with either an economic or societal advantage have found many ways to manipulate the law for their benefit. The economically powerful effectively create laws to maintain their status quo and continue to oppress the minorities and the poor. Societal powers, while not as relevant on the books, can be seen in the elites’ manipulation of the way laws are carried out. Law will remain to be tilted in the favor and interests of the “haves” so long as the minorities are being oppressed by unequal treatment and opportunity on the streets, in the books and in the courts.

MLA FORMAT.

