

INJUSTICES IN AMERICAN LAW

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Does it seem to you a child has a thousand and one questions? Does it seem as if their vocabulary is limited to why, how many, when? A few weeks ago, my neice visited me at the dormitory. There happened to be a magazine lying on my desk. On the cover of the magazine was a picture of the statue of justice. As Carrie glanced around my room, she noticed the magazine. With all the wide-eyed innocence of her six years, she asked, "Why is the lady blindfolded, Joanie? Is she playing a game?" I assured her that the lady wasn't playing a game, and I tried to explain why justice is blindfolded. I gave her the same traditional answers that I had received. Justice is blindfolded so she can be fair. She is blindfolded so she can't favor one person over another. She is blindfolded so the scale she holds in her hand can be balanced evenly. I don't think my neice was really interested in the lady on the magazine. It was something that had caught her attention and stirred that boundless curiosity. After she left, I began to browse through the magazine, and much to my surprise, the cover article was not about the fairness of justice. It didn't say that the scale of justice was balanced. Instead, it stated that the scale of justice rested on a fulcrum of clay, and the pendulum teetered on its softness.

My curiosity was aroused. Suddenly, I was interested in laws and courtrooms. I decided to satisfy my curiosity with a little research. I must admit, I wasn't very happy with what I learned. I realize the complexity of our law system. I realize too that many times it is impossible to present all the evidence all the time. But I do believe there are vast areas in our present law system which need improvement, and vast areas where courtroom injustice is the rule rather than the exception.

In Washington D.C., James W. Killough, who confessed three times that he murdered his wife, was set free by a United States district court on October 8, 1964. The reason: The Supreme Court's Mallory rule, which invalidated the confession as evidence if there had been unnecessary delay between the time of a man's arrest and his appearance before a magistrate. In this case, the defendant on three occasions voluntarily confessed of foully killing his wife and throwing her body on a dump like a piece of garbage. He even led police there. Yet, the United States court of appeals in its wisdom saw fit to dismiss the confessions.

The first conviction was dismissed because Killough was not taken before a magistrate for approximately twenty-six hours after arrest. This was held to violate the Mallory rule. A second confession was dismissed because it was held to stem from and be tainted by the first. Killough's next conviction was dismissed on the ground that the third confession was made in an interview with a jail clerk, and there was an implied pledge of confidentiality. Without his confession, there was not enough evidence to convict Killough. District Court Judge George L. Hart told the third assembled jury, "I will direct a verdict of acquittal, and I do so with a heavy heart. In fact, it almost makes me physically ill."

Our way of life demands the jealous protection of individual rights, but rights shouldn't become licenses to commit crimes with impunity. The law-abiding citizen also has rights -- including the right to be protected from the pillage and plunder of the lawless and the right to live without fear for his safety.

It isn't only injustices in the courtroom which concern me. Many times society itself inflicts the worst injustices. If I may, I would like to move away from the court cases I have been citing. I would like to tell you a true story about a friend of mine in a small suburb of Chicago. P.K. was fifteen years old. She earned spending money by babysitting. On her way home, three boys pulled her into a parked car and raped her. They threw her body out in front of her home. Her father was looking out of the window. He was able to identify the car and one of the boys in the car. The boys were never brought to trial. The judge ruled insufficient evidence. P.K. identified one of the boys. Again the judge ruled insufficient evidence. He said that in her state of emotional shock it was impossible for her to recognize any of the youths. The newspapers didn't carry the story of the rape or the judge's decision. One of the boys identified was the mayor's son. The other boy was the son of a prominent businessman. P.K. has been under psychiatric treatment for the last four years. Her family has since moved. She said it was hard to go back to school. It wasn't her fellow classmates that made her uneasy. It was those three boys, walking the halls, sitting next to her, and receiving laurels for their fine athletic and academic ability. When I first heard P.K.'s story, I was shocked, and I was sorry. Unfortunately, I didn't view the court hearing as unjust. I too was only fifteen years old, and the only thing I knew about courtrooms and trials was that the guilty go to jail and the innocent go free. Now at nineteen, my concepts of courtrooms and trials have been greatly altered. I have seen how laws can bind a judge's decision rather than be the tools of his trade. I have seen how the guilty

go free and the innocent pay for their crimes. A wrong exists and something must be done to correct it.

Perhaps the initial step lies in adjusting courtroom procedure. The scale of justice is greatly unbalanced here. A prosecuting attorney must convince twelve jurors of a man's guilt. A defense attorney need implant a reasonable doubt in the mind of only one juror. A prosecutor can loose a case only once. An acquittal is the final decision for the state can't appeal. But if the prosecuter wins, the defense has the right to countless appeals and retrials. Even the decision of the judge can be biased. A judge knows that if the prosecution wins, his decision will be open for criticism and possible reversal. With this fact in mind, even the most impartial judge is likely to favor the defense rather than the prosecution. A defense attorney can argue for a life sentence rather than a death sentence, and if the life sentence is granted, it is in actuality a sentence of seven to thirteen years, according to some parole rules.

I believe a Supreme Court Commission should be established to study and review rules of evidence. It has been stated that a trial is a contest of lawyers and out of this comes truth. But surely it can't be just to place a man's life, his innocence or guilt, on a lawyer's eloquence and mastery of the English language. There must be areas and devices where truth can be determined with more validity than this.

I sometimes wish Justice could be unblindfolded -- just for awhile -- just until she could see the teetering scale and the fulcrum of clay, just until she could replace that fulcrum with one strong enough to hold the scales evenly and flexible enough to allow the pendulum to swing freely. Right now, justice is a prism reflecting many colors and figures. Perhaps someday, Justice can be a mirror reflecting only the truth. Then will I be able to answer truthfully the questions of wide-eyed innocence, "Why is the lady blindfolded, Joanie? Is she playing a game?"