

LAW AND JUSTICE AS SEEN ON TV

by Elayne Rapping

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The invention of the television and its incredible proliferation into American household is truly one of the most influential technological revolutions in the history of the country. Televisions have become embedded so deeply into our society and homes that we take their presence for granted. This is understandable considering the fact that 99% of American homes possess at least one television set¹. American dependence on television goes beyond its obvious entertainment value. A growing number of Americans rely on their TV's as their sole source of news and information. Partly due to our busy daily lives and partly due to an aversion to reading, many people's knowledge of current events comes from a 30-minute evening news program. Unfortunately, evenings news programs are a business and often rely on sensationalism to attract viewers. This is reflected in the fact that 53.8 of nightly news stories concern violence, disaster and war².

In *Law and Justice as Seen on TV*, Elayne Rapping discusses the profound impact that television has had on the American public's perception of our legal and justice system. Rapping draws distinct parallels between the political leanings of the time and how our justice system is portrayed on television. Rapping relies on two genres of

¹ See <http://articles.student.com/article/cover960422>. The article goes on to say that, on average, a television set is on for 6 hours and 47 minutes a day in each home. The article goes on to inform the reader that April 24-30 is National TV-Turnoff Week.

² Id.

television to do this – fictional programs such as *Law and Order* and live trials as seen on channels like Court TV. Regardless of the type of programming, the criminal justice system itself is the star of the show and its portrayal parallels current political movements.

In 1981, as the Republican party was retaking control of the White House, the Supreme Court of the United States decided to allow television cameras into the courtroom to give the American public an unprecedented inside view of the justice system at work. This decision was politically motivated, for the American public viewed the justice system as soft on crime and incapable of protecting them from a growing number of violent criminals walking the streets. This perception was the product of years of defendant-friendly decisions by the Warren Court, i.e. *Miranda*³, and liberal policies espoused by the federal government. It was widely believed that “super criminals” were being bred as a direct result of the court system’s failure to keep them off the street. These fears triggered a swing right in American culture, away from liberal policies to one of punishment and the belief that steps must be taken to put more people behind bars. In an effort to allay the public’s fears, the criminalization of the American legal system was initiated. The administrations under George Bush and Ronald Reagan pushed through federal laws that criminalized activities historically left to the states. Once these laws were in place, it was decided that cameras in the courtroom would allow the American public to see that the government and the legal system itself were cracking down on the liberal judges responsible for putting dangerous criminals back on the streets.

³ Elayne Rapping, *Law and Justice as Seen on TV* (New York University Press, 2003), 108.

Once television cameras were allowed into courtrooms, the American public was provided a front-row seat of the justice system, and people were soon obsessed. Court TV, which was a fledgling cable station created to essentially fill in programming gaps, became immensely popular. Live criminal trials became, arguably, the first reality show and people were tuning in in record numbers. While cameras in the courtroom did have the intended effect of allowing the public to see criminals being put away, it also became the forum by which important and sensitive social issues were discussed. This was evident with the televised trials of the Menendez brothers⁴ and OJ Simpson⁵.

When the Menendez trial started, the trial was widely viewed as a formality before the judge laid down a harsh sentence on two spoiled Beverly Hill kids who viciously killed their parents for their money. What America was not ready for was the defense team's masterful use of the cameras to get sympathy on their side. For months they paraded witnesses onto the stand who told stories of years of sexual abuse of the boys by their parents to the spellbound American public. It was the first time that a defense appealed to the American conscious as a complete defense⁶. People knew that such incestuous sexual abuse occurred, but its reality and its consequences were never brought to the forefront before as it was in the Menendez trial. Other sensitive social issues like inter-racial sexual relationships and the dangerous psychology of jealous males were forced into the American living room via the television during the OJ trial. Important issues such as homeland security, such as the legality of prisoner abuse and the legal status war detainees in Guantanamo Bay, are still being discussed through a legal lens, with the television as the preferred forum for discussion.

⁴ Id. at 113.

⁵ Id. at 120.

⁶ This case predated the now widely accepted "Battered Woman" doctrine.

A distinct parallel also exists between the public's view of the legal system and fictional television programming such *Law and Order*, *Cops* and *America's Most Wanted*. This genre of television became popular when the American public was introduced to the defense attorney hero *Perry Mason*, who throughout the 1960's and 1970's always found a way to set free the innocent defendant being wrongly accused by the government. This prototypical defense attorney hero, however, was soon wiped out as society and politics shifted right. Today, defense attorneys are seen as the conduit through which violent criminals are allowed back onto the street. Cops and prosecutors have emerged as the new heroes. Defendants often find themselves guilty until proven innocent. Even if acquitted, many defendants are portrayed on the television as still being guilty but were fortunate enough to either buy their acquittal with a good defense team or slip through the cracks on account of a technicality.

Rapping ends with a lyric by Bob Dylan, "Sometimes I think this whole world is a big prison yard, some of us are prisoners, some of us are guards". Today's media coverage is saturated with discourse on crime and punishment, law and order. Rapping believes that we live in a world in which "every issue on the public table" is only able to be solved through the criminal justice system and not through economics, social reform, education or rehabilitation. The American public is portrayed as being afraid of everybody and everything, with television news coverage and programs as the vehicle by which the criminalization of America continues.

The author makes several poignant observations of the nexus between politics, the legal system and television. However, this theme becomes repetitive about halfway through the book, making it difficult to stay interested. Rapping does, however, do a

great job of drawing the somewhat obscure parallels between technology and the law in a clear and readable fashion. The goal of Rapping's book is to enlighten the reader as to how politics, the law and television are linked, thus giving a new context through which to view them. She is successful in that, after completing the book, the reader thinks, "how come I never picked up on that before?" Although the book is a bit redundant, it is a worthy pleasure-read for anyone interested in politics, the law or television's impact on society.