

Book Review: “The Law Says What?: Stuff You Didn’t Know About the Law (But Really Should!)”

By: Michael Drake¹

In his book, “The Law Says What?”, Maclen Stanley sets out two goals: “To introduce you to the interesting, weird, and sometimes irritating things that you don’t know about the law, but really should[;]”² and, “to show you how to think like a lawyer.”³ From my readthrough, he achieves both goals. Stanley’s book is easy to read, entertaining, and manages to provide a broad overview of legal education. However, Stanley – like many legal educators – undercuts his otherwise enjoyable book by approaching legal issues “objectively”, i.e., justifying both sides of an issue instead of taking a position or engaging in critical analysis. While this is to be expected in a legal book trying to reach the broadest audience possible, it is disappointing nonetheless.

Stanley organizes his book into six “global sections”: 1. The police; 2. Crime and Punishment; 3. Self-Defense; 4. Your Rights; 5. Employers and Landlords; and, 6. The Court System.⁴ Within each “global section,” he covers multiple topics. For example, some topics covered in “The Police” include, “You Can Legally Flip the Bird to Police”,⁵ “No, the Police Don’t Always Need a Warrant”,⁶ and “Crossing County Lines Doesn’t Mean the Police Will Stop Chasing You”.⁷ Within each subsection, Stanley provides an example from a case or a practical hypothetical to introduce the topic. Then, he explains the applicable law and how it relates to the example and the subsection in general.

Stanley’s prose is strong. So is his ability to explain complex legal issues in a digestible manner, which is only made clearer through his precise method of organization. In fact, I have not read a book that purports to explain the law that is as easy to read and understand as Stanley’s book. Further, Stanley’s employment of humor and contemporaneous examples renders the majority of his book enjoyable and accessible.

Right from the jump, it is clear that Stanley’s intent is not to cri-

1 Michael Drake is the Executive Editor of the National Lawyers Guild Review and a staff attorney at Beyond Legal Aid in Chicago, IL.

2 MACLEN STANLEY, *THE LAW SAYS WHAT? STUFF YOU DIDN’T KNOW ABOUT THE LAW (BUT REALLY SHOULD!)* 3 (2021).

3 *Id.* at 4.

4 *Id.* at 3.

5 *Id.* at 15.

6 *Id.* at 20.

7 *Id.* at 34.

tique the existing legal system. To me, this is a missed opportunity. While he acknowledges that some legal topics he discusses may make the reader “angry” or “infurcate[d]”, he backs away from blaming the legal system: “Seldom are judges, lawmakers, and lawyers seeking to make the world even more unfair.”⁸ Rather than weighing in on legal topics in any meaningful way, Stanley instead seeks to “explain” the “underlying rationales” of the legal topics he discusses and leaves it to the reader “to decide whether [the rationales] pass muster.”⁹

To my surprise, Stanley comes close to engaging in a Marxist analysis of the law early in his book by noting that “the law sets the standard for those who *have* and those *have not*.”¹⁰ Sadly, he fails to expand on this materialist analysis. Instead, he continues, “[I]and, money, access to good and services, fundamental rights and privileges, and even basic freedoms – those are all shaped by the hands of the law.”¹¹ Stanley follows by stating he “will aim to approach the law factually and in an unbiased manner[.]”¹² As I learned in law school, teaching the law “objectively” does little more than justify an inherently biased system.

Like law school, Stanley takes the position that the law itself is complicated and hard to understand—to grasp it, you must study it. This position is both widespread and self-serving, the harder the law is to understand, the more business there is for lawyers and law schools. I acknowledge that the law can be convoluted, contradictory, and dense. However, as a Marxist, I believe that people’s confusion about the law can be explained, primarily, from two points: 1. The law is inaccessible to most people; and, 2. the law is, at its core, a mechanism of control implemented by the ruling class. If one accepts these two propositions, then, it follows that the confusing nature of the law is by design.

The solution to this problem, in my opinion, is not to provide people with neat tidbits about the law, or to teach them to “think like a lawyer”.¹³ Rather, the solution is to make the law more accessible – both substantively and financially. A book on general legal principles suffers the same setbacks as the Uniform Bar Exam¹⁴ and law school in general: General legal prin-

8 *Id.* at 4.

9 *Id.*

10 *Id.* at 5.

11 *Id.*

12 *Id.*

13 I have always considered that teaching someone to “think like a lawyer” is just a weird way of saying developing analytic skills.

14 The National Conference of Bar Examiners defines the purpose of the Uniform Bar Exam as follows: The UBE is designed to test knowledge and skills that every lawyer should be able to demonstrate prior to becoming licensed to practice law. NCBE, <https://www.ncbex.org/exams/ube/> (last visited Apr. 21, 2022).

ciples are not the law as it is applied to individuals throughout various states and municipalities. Understanding the general, guiding concepts of landlord tenant law does not mean that you have the tools or resources required to defend yourself in an eviction suit. Knowing how most states interpret and apply criminal statutes does not mean you know how the state you reside in interprets and applies criminal statutes. The availability of state statutes is not enough to offset this knowledge divide. Assuming one can decipher the general meaning of a statute, without access to case law, it is more or less impossible to determine how the relevant courts interpret the statutes in question. In short, one needs more than a generalized understanding of the law and the ability to “think like a lawyer” to effectively prosecute or defend a case.

To be fair, Stanley does not advertise his book as a resource to navigate legal proceedings. His book is not marketed as a solution to the inaccessibility of the legal system. He wrote a fun book that, I imagine, he hopes to sell as many copies of as possible. I further imagine that a book covering the topics that I outlined above would not be as marketable as Stanley’s book. Such a book – covering the fact that the vast majority of legal sources and scholarship is concealed behind insurmountable paywalls and opaque prose – hardly qualifies as an enjoyable read. I suppose that is why Stanley is publishing a book while I am reviewing it for a legal journal. Still, while I understand Stanley’s choices when it comes to the manner in which he discusses the law, I do not understand his insistence on defending so many indefensible legal principles.

Throughout his book, Stanley attempts to justify the existence and maintenance of indefensible laws perpetuated by an unjust system. For example, when discussing the felony murder rule,¹⁵ Stanley correctly points out that “a great deal of criticism has focused on the disproportionate impact these laws have on young minority populations.”¹⁶ He continues: “Indeed, some studies have shown that African American and Hispanic first-time offenders form the majority of those affected by felony murder laws.”¹⁷ I draw issue with this framing. By stating that “some studies have shown” he undercuts an observable fact. I would defy anyone to find a study on felony murder that does not show the disproportionate impact the rule has on non-white populations. A recent study conducted by Duke Law School found that in Cook County, Illinois, “almost 75 percent of cases had a Black

15 For an in-depth discussion of the felony murder rule and its results, see Alison Flowers & Sarah Macaraeg, *Charge with Murder, but they didn’t Kill Anyone – Police did*, READER (Aug. 18, 2016), <https://chicagoreader.com/news-politics/charged-with-murder-but-they-didnt-kill-anyone-police-did/>.

16 STANLEY, *supra* note 2, at 60.

17 *Id.*

defendant, while less than eight percent had a white defendant.”¹⁸ When considering equal rates of charge reduction or dismissal, the outcome is that 81% of people sentenced in Cook County under the felony murder rule are Black.¹⁹ Approximately 23.8% of the Cook County population are black while approximately 42% are white.²⁰ That same study found that, in Pennsylvania, “more than 1,000 people convicted of felony murder are serving life without parole sentences. Seventy percent of them are Black, nearly eight times the proportion of Black people living in the state.”²¹

Stanley does not stop at the misleading framing. He goes on to defend the felony murder rule by discussing two recent, racially charged murders – the murders of Ahmaud Arbery and George Floyd.²² First, Stanley notes that “it would be extremely difficult for the prosecution to prove that the McMichaels intended to kill Arbery, particularly to a rural, largely white, and largely conservative Georgia jury.”²³ This is a bizarre sentiment to share considering that a video exists of Travis McMichael shooting Arbery in the chest with a shotgun. It is even weirder when you consider the fact that Travis McMichael *was* convicted of malice murder.²⁴ Malice murder is not felony murder.²⁵

After discussing Arbery, Stanley moves to George Floyd. Stanley asserts that, like the Arbery case, it would be hard to convict Chauvin without the Felony Murder Rule: “[I]n order for ‘regular’ murder charges to stick, all twelve Minnesota jurors would have to believe beyond a reasonable doubt that Chauvin intended to kill Floyd, and all twelve Georgia jurors would have to believe beyond a reasonable doubt that the McMichaels intended to kill Arbery.”²⁶ Stanley then asks the reader to imagine themselves as a prosecutor, “wouldn’t you go with proverbial ‘sure bet’ and charge felony murder instead?”²⁷ Ultimately, Derek Chauvin was charged with, and convicted of, an iteration of felony murder – as were Travis McMi-

18 Shobha L. Mahadev & Steven Drizin, *Felony Murder, Explained*, THE APPEAL (Mar. 4, 2021), www.theappeal.org/the-lab/explainers/felony-murder-explained/.

19 *Id.*

20 U.S. Census, <https://www.census.gov/quickfacts/cookcountyillinois> (last visited Mar. 24, 2022).

21 Mahadev & Drizin, *supra* note 17.

22 STANLEY, *supra* note 2, at 60-62.

23 *Id.* at 61.

24 *E.g.*, Eric Ortiz, *Why Was Only One Defendant in Ahmaud Arbery’s Killing Guilty of Malice Murder?*, NBC (Nov. 24, 2021), www.nbcnews.com/news/crime-courts/only-one-defendant-ahmaud-arbery-killing-was-guilty-malice-murder-rcna6660. It is worth noting that Travis McMichael was convicted of malice murder in November of 2021; Stanley’s book was released in the summer of 2021.

25 *See* Ga Code § 16-5-1 (2014).

26 STANLEY, *supra* note 2, at 62.

27 *Id.*

chael, Gregory McMichael, and William Bryan for their murder of Ahmaud Arbery. Despite that fact, it is unsettling that he chose these examples to illustrate a legal principle wielded as a weapon almost exclusively against black men – and almost never against police officers.

After outlining these examples, Stanley proposes the following: “Thus, a strange role-reversal has surfaced: the felony murder doctrine that has typically been derided by progressive thinkers as racially oppressive and unjust has recently formed the most tenable basis for charging and prosecuting the killers of two unarmed Black men for murder. Has your initial reaction to the felony murder doctrine changed?”²⁸ For me, no, not at all. This kind of strained, both-sides argument that law schools drill into students is neither necessary nor helpful to gaining an understanding of how, and why, the law functions as it does. The fact that an unjust, racially charged legal doctrine has been recently invoked to charge racists does not justify the doctrine. A few high-profile cases where the felony murder rule is used in a “good” way does little to erase the decades it has been used a cudgel against poor, non-white populations. Arguments like this are nothing more than rhetorical tricks that resonate with the overly analytical – i.e., lawyers. I would caution Stanley, and anyone reading this, against using the exceedingly rare prosecution of murderous police officers to justify the inherently racist legal system – lest you end up arguing that felony assault charges should run consecutively.²⁹

While not as egregious, Stanley also attempts to justify civil forfeiture³⁰ laws. After providing a thorough, accessible understanding of the basics of civil forfeiture laws,³¹ he once again cannot resist the insatiable urge of a law school graduate to provide “both sides” of the issue. First, Stanley explains how civil forfeiture laws are used to fund police departments – and the inherent problems therein – as well as noting accusations that the laws are wielded in a racist manner at the border.³² Despite failing to explain how civil forfeiture laws – like most laws – are enforced in a racialized way outside of the border area,³³ Stanley does remark on how the existence of

28 *Id.*

29 Illinois Attorney General, www.illinoisattorneygeneral.gov/press-room/2019_02/20190211.html (last visited Mar. 24, 2022) (announcing that the Illinois Attorney General’s Office filed a writ of mandamus challenging the sentence of former Chicago Police Officer Jason Van Dyke arguing that he should have been sentenced to 16 charges of aggravated battery that would run consecutively).

30 For an explanation of civil forfeiture laws, see, e.g., Waseem Salahi, Jessica Brand, & Callie Heller, *Civil Asset Forfeiture: Explained*, THE APPEAL (Jan 3, 2018), <https://theappeal.org/understanding-civil-asset-forfeiture-e803c59e633b/>.

31 STANLEY, *supra* note 2, at 75-82.

32 *Id.* at 82.

33 See, e.g., ACLU, *Civil Asset Forfeiture: a 5-Month Snapshot in New Jersey*, <https://www.aclu-nj.org/theissues/criminaljustice/civil-asset-forfeiture> (last visited Mar. 24,

the Federal Equitable Sharing Program³⁴ undercuts any meaningful state reforms.³⁵ Still, he finishes the section by noting that “[i]n spite of all the problematic practices we have covered thus far, civil forfeiture laws actually have positive intentions at heart. When used for their proper purpose, these laws have historically enjoyed bipartisan support.”³⁶

There is a clear fault with the assumption that bipartisanism equates to positive intentions – by that metric, both the Iraq War and the Patriot Act had positive intentions at heart. But, to me, the real issue in this section is Stanley’s final example. To justify civil forfeiture – presumably by providing an example of a “proper purpose” of civil asset forfeiture – Stanley has the reader imagine the existence of a Chinese spy ring.³⁷ He implores the reader to imagine a situation where said ring is busted by the FBI and the spies flee to China.³⁸ He finishes the section by explaining that, without civil forfeiture, there would be no way to seize the assets of the Chinese spy ring.³⁹ While I doubt that the executive branch needs civil forfeiture laws to curb foreign spy rings, such an extreme example – ostensibly given to people unfamiliar with the law – distorts the reality of civil forfeiture. It takes a mechanism by which police departments all over America seize property with impunity to fund advanced surveillance apparatuses levied against citizens⁴⁰ and turns it into a way to curb foreign spying. It would be laughable if the underlying sentiment was not so alarming.

Overall, I did enjoy Stanley’s book. The portions critiqued above are a fraction of his book. Outside of the sections outlined above, I did not have issue with Stanley’s framings and explanations. While I do not believe that I am the intended audience, I would recommend it to anyone seeking a straightforward, easy to understand – and, above all entertaining – overview of the law.⁴¹

2022).

34 The equitable sharing program “allows state and local law enforcement agencies to partner with the federal government to seize and forfeit property under federal law—and receive up to 80% of the proceeds—regardless of state law.” Institute for Justice, *Equitable Sharing Creates a Giant Loophole*, <https://ij.org/report/policing-for-profit-3/pfp3content/equitable-sharing-creates-a-giant-loophole/#> (last visited Apr. 25, 2022).

35 STANLEY, *supra* note 2, at 80-81.

36 *Id.* at 82.

37 *Id.* at 83.

38 *Id.*

39 *Id.*

40 See, e.g., Matthew Guariglia, *End Two Federal Programs that Fund Police Surveillance Tech*, EFF (Jan. 25, 2021), <https://www.eff.org/deeplinks/2021/01/end-two-federal-programs-fund-police-surveillance-tech>; Shannon Dooling & Christine Willmsen, *Boston Police Bought Spy Tech with a Pot of Money Hidden from the Public*, WBUR (Dec. 17, 2021), <https://www.wbur.org/news/2021/12/17/massachusetts-cell-site-simulator-civil-forfeitures>.

41 While I may have been a bit hard on Stanley considering the above examples, in all fairness, his agent did ask *The Review* to author a book review. I have to imagine this is what they expected.