

Judge Judy's Justice

Lawrence M. Friedman*

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I. INTRODUCTION

The daytime television show of Judge Judy (Judith Sheindlin) is extremely popular. It acts as a kind of (imitation) small claims court, drawing a bright line between right and wrong, at least as the judge sees it. The key factor in its success is Judge Judy's personality and the way she harangues and bullies the "litigants." Both the impact of this show on public opinion and its political meaning are obscure and have sometimes been exaggerated. Basically, this is reality TV and yet another phenomenon of a culture, which emphasizes pure entertainment.

Judge Judy is the most prominent example today of a "syndi-court," that is, a syndicated program that takes place in a courtroom, or to be more accurate, an imitation courtroom. Her show was the most popular program on daytime television in 2011. This means she commands an audience of millions.¹ Judge Judy began her broadcasts in 1996 and is still going strong. She has been described as "one of the highest-paid stars on television," and it was recently announced that she had signed a new contract with CBS, set to run until 2015.² Although the show's ratings have fluctuated somewhat over the years, she has never lost her hold on the public.

The runaway success of *Judge Judy* has inspired a whole flock of clones. Daytime television is teeming with ersatz judges, sitting in their ersatz courtrooms, wearing their costume-department robes, but making what seem to be real decisions about real people who have come before these judges with real problems to be solved. Some of these clone judges are shameless imitations of *Judge Judy*. Others are at least a bit different. All in all, the judge shows are an amazing phenomenon both in and outside of the United States. There are judge

* Marion Rice Kirkwood Professor, Stanford Law School, Stanford University.

1. See Charles Leroux, *There's No Justice Like Show Justice*, CHI. TRIB., Dec. 24, 2008, available at <http://www.post-gazette.com/pg/08359/937221-42.stm>.

2. Brian Stelter, *ARTS, BRIEFLY; Judge Judy Signs Up for More Time in Court*, N.Y. TIMES, May 3, 2011, at C3.

shows in Germany, for example, though in style they deviate considerably from the *Judge Judy* model.³

Judge Judy is, of course, Judith Sheindlin. At one time, she was an actual, real-live judge—a family court judge, in fact, in Manhattan.⁴ That job is history. Today, she is a celebrity, a star among stars, rich and famous. Probably millions of people could not name a Supreme Court justice to save their lives, but they know who Judge Judy is, what she looks like, what she sounds like, and how she acts.

I cannot claim to be a regular viewer of *Judge Judy*. I have seen the show, but frankly not all that often. In each half hour segment - twenty-two minutes, if you exclude the commercials - two “cases” appear before Her Honor. Each set of plaintiffs and defendants is different, of course, but there is nonetheless a kind of numbing sameness about the program. Frankly, I would find it painful to be sentenced to watch *Judge Judy* on a regular basis. Clearly, I do not share the tastes of millions of people who are glued to their sets, day in and day out, hungrily and avidly watching *Judge Judy* in action.

What is it that they see? They see a middle-aged woman in a judge’s robe presiding over an event that looks something like a courtroom. Judge Judy has a rather thin sharp face and an acerbic voice. She listens to the woes and complaints of the plaintiff and defendant. Sometimes “listens” is too strong a word. She interrupts whenever she feels like it. In any event, after more or less hearing both sides and asking some sharp questions, Judge Judy reaches a decision. The cases are disposed of very promptly. By the end of the show, justice (if that is what it is) has been done.

What kinds of cases come before Judge Judy? For the most part, small-bore, interpersonal disputes. The plaintiff and defendant almost always know each other. They are always individuals; nobody is suing a business corporation on Judge Judy’s show. These are people-to-people cases. We see boyfriends suing girlfriends, girlfriends suing boyfriends, roommates and friends suing each other, people with apartments suing people who rent rooms, and vice versa. Sometimes the cases turn on tiny, nagging transactions that go sour between buyers and sellers who are friends, or former friends. There are arguments over children, spouses, and loved ones. There are arguments over borrowed cars, dented fenders, engagement rings, and small loans. No lawyers ever appear on the show. Nobody cites statutes and cases except Judge Judy, and she does this rarely. Some people bring witnesses, usually a friend or relative, or a neighbor. Parties also bring, when they can, papers, documents, bills of sale, letters, or whatever they consider evidence. There are no real rules of evidence. Forget what you learned in Civil Procedure. Forget what you learned in Evidence. Judge Judy makes up her own rules. They are simple, common sense, and in-

3. See Stefan Machura, *German Judge Shows: Migrating from the Courtroom to the TV Studio*, in *LAWYERS IN YOUR LIVING ROOM: LAW ON TELEVISION* 321 (Michael Asimow ed., 2009).

4. Judge Judy’s Bio, <http://www.judgejudy.com/bios> (last visited Mar. 15, 2012).

formal rules.

She also dispenses her own brand of justice, justice that is (to paraphrase Hobbes) nasty, brutish, and quick. What makes the program work, apparently, is Judge Judy herself, or rather, her acerbic personality, the way she admonishes, insults, castigates, lectures, and humiliates the hapless litigants, or at least those against whom she chooses to rule. Judge Judy is rude, imperious, caustic. She breaks in constantly. She badgers and harangues the parties. She tells people off, she yells, she snaps, she admonishes. And the litigants stand there and take it.⁵

What kind of a court is Judge Judy's court? It seems, at first blush, like a kind of peoples' court. There is considerable literature about such courts. Anthropologists have described quite a few of them among pre-literate societies. Max Weber, in his magisterial treatment of the sociology of law, used the term "Khadi justice" to describe a particular type of lower court. "Khadi" (the Arabic word for "judge") is Weber's name for a wise judge who sits under a tree and dispenses homespun, common sense justice.⁶ Judge Judy does not sit under a tree, and her justice is very different from "Khadi justice" or even the justice one finds in studies of the Barotse, the Zapotek, Pacific Islanders, or pre-literate peoples in general.⁷ Justice in close-knit communities is informal justice, but it is designed, to use Laura Nader's phrase, to "make the balance."⁸ It is designed to smooth out controversy, to restore community harmony, to mediate and compromise if at all possible. The point is to mend a ripped social fabric between people who, like many of the litigants that come before Judge Judy, are connected by friendship, kinship, or community. Legal rights and wrongs are not the main issue in these courts. Something of this flavor, this passion for balancing, for restoring social harmony, was even present in the work of the courts of some socialist systems—law which could be called "parental," as described by Inga Markovits in her fine study of the work of a lower court in a small town in East Germany. East German law was especially "parental" in the early days of the East German state, before faith and legitimacy in the system had curdled beyond redemption.⁹

5. The format in the other judge shows more or less resembles Judge Judy's. One of the shows, *Divorce Court*, makes Judge Judy look quite tame. This program has been running for some years. At first, the litigants were actors, but now it has been converted into a reality show. Husband and wife, or ex-wife, often try to outdo each other in invective, shouting, denouncing, spewing hatred for each other. The judge adds to the general pandemonium.

6. See MAX WEBER, *MAX WEBER ON LAW IN ECONOMY AND SOCIETY* 213 (Max Rheinstein ed., Edward Shils trans., Harvard University Press 1954) (1925).

7. One of the classic works is MAX GLUCKMAN, *THE IDEAS IN BAROTSE JURISPRUDENCE* (1965).

8. See Laura Nader, *Styles of Court Procedure: To Make the Balance*, in *LAW IN CULTURE AND SOCIETY* 69, 69 (Laura Nader ed., 1969) (explaining with regard to the Mexican Zapotec people, the goal of "the decision-making process [is] . . . the restoration of equilibrium;" legal process in this community "aims at balance.").

9. The study in question is INGA MARKOVITS, *JUSTICE IN LÜRITZ: EXPERIENCING SOCIALIST LAW IN EAST GERMANY* (2010).

But Judge Judy's brand of justice does not look very much like the justice that comes out in peoples' courts. In Judge Judy's court, there is a bright line between right and wrong. One side is right, and the other side is wrong. She gives out this message very clearly. What Judge Judy's court most resembles is a small claims court; and indeed, it *is* a kind of small claims court. At any rate, it is a court that hears small claims, even though Judge Judy hardly fits the model of the ideal small claims judge. Or, for that matter, the model of an ideal judge in *any* court, wise, just, and neutral. There are most definitely winners and losers in Judge Judy's court. Especially losers who are likely to get a stern lecture. They are likely to be told to straighten up and fly right, to cut out the booze, to stop making babies they cannot afford, to pay what they owe. They will hear a diatribe on whatever subject is germane. The winners can get a lecture too: stick up for yourself, stop being a doormat, and in general, get a life.

II. THE IMPACT OF JUDGE JUDY

Millions of people watch *Judge Judy*. Does she have some sort of impact on American justice or American life? This is of course not an easy question to answer. Interestingly, TV syndi-judges are mostly women and minorities; white males hardly register.¹⁰ This might mislead viewers into imagining that women and minorities dominate the bench in real life, which is hardly the case.¹¹ Perhaps, television in general, including law shows and commercials, is more race-neutral, more diversified than society as a whole. After long years of exclusion, African-Americans and other minorities have a share in the world of television. And who can object?

We can speculate about Judge Judy's influence, but Kimberlianne Podlas ran a study, which at least tried to collect data to measure the program's impact.¹² She conducted a survey among members of jury pools in Manhattan, D.C., and Hackensack, New Jersey, divided subjects into "frequent viewers" of *Judge Judy*, and "infrequent or non-viewers."¹³ She then asked a series of questions about the role of judges in trials. One question was: whether the judge should make his own opinion "clear or obvious" to the jury.¹⁴ 76.5% of the frequent viewers said yes.¹⁵ Less than half of this percentage of people in the other category of non-frequent viewers felt this way. 82.5% of the frequent viewers thought judges "should frequently ask questions," but only 38.16% of those in the other category agreed.¹⁶ And so it went. Clearly, frequent viewers of *Judge*

10. Steven A. Kohm, *The People's Law versus Judge Judy Justice: Two Models of Law in American Reality-Based Courtroom TV*, 40 LAW & SOC'Y REV. 693, 696 (2006).

11. Taunya Lovell Banks, *Judging the Judges—Daytime Television's Integrated Reality Court Bench*, in LAWYERS IN YOUR LIVING ROOM 309, 316 (Michael Asimow ed., 2009).

12. Kimberlianne Podlas, *Blame Judge Judy: The Effects of Syndicated Television Courtrooms on Jurors*, 25 AM. J. TRIAL ADVOC. 557, 557 (2001-2002).

13. *Id.* at 566.

14. *Id.* at 567.

15. *Id.*

16. *Id.*

Judy had a definite idea of how judges should act. They should be like Judge Judy.

Is this a problem? Would these members of jury pools be disappointed if they actually got to serve on juries and saw judges behaving not at all like Judge Judy? The study, of course, shed no light on this question; somehow I doubt it. It would be hard to show whether Judge Judy has had an impact on actual behavior as well as on certain attitudes. To be sure, *Judge Judy* may dominate daytime television, but nighttime television is far more important, and presents far more material that might affect people's ideas about law and justice. Nighttime television is awash with crime shows, cop shows, lawyer shows. The same is true of the movies.¹⁷ Exposure to legal justice in the media does, apparently, have an impact on what people *think* about justice, both in the United States and abroad.¹⁸ However, the ultimate impact, on people's behavior and actions, is far more mysterious.

III. THE POLITICS OF JUDGE JUDY

Laurie Ouellette, has leveled a more serious charge against Judge Judy. She considers her an apostle of "neo-liberalism."¹⁹ Ouellette argues that Judge Judy sends a message that "disdains state authority and intervention," and "demands a heightened form of personal responsibility and self-discipline from individuals."²⁰ Judge Judy hates people who are on welfare, who do not take charge of their lives, who have babies they cannot afford to feed, and so on. Judge Judy according to this view sends a powerful anti-statist or even right wing message.

Stephan Kohm, another scholar, agrees with Ouellette's view but carries the argument a bit further. Kohm believes the popularity of *Judge Judy* is evidence of a shift in American political culture. It is a rejection of "liberal legalism."²¹ In Judge Judy's eyes, people create their own problems, and "the only prescriptions for healthier social relations" are "personal responsibility and ac-

17. There is a considerable literature on the subject. *See, e.g.*, LEGAL REELISM: MOVIES AS LEGAL TEXTS (John Denvir ed., 1996); REEL JUSTICE: THE COURTROOM GOES TO THE MOVIES (Paul Bergman & Michael Asimow eds., 2006); *see also* Stewart Macaulay, *Images of Law in Everyday Life: The Lessons of School, Entertainment, and Spectator Sports*, 21 LAW & SOC'Y REV. 185 (1987) (discussing a number of interesting suggestions about the impact of popular culture); Lawrence M. Friedman, *Lexitainment: Legal Process as Theater*, 50 DEPAUL L. REV. 539 (2000).

18. Stefan Machura & Stefan Ulbrich, *Law in Film: Globalizing the Hollywood Courtroom Drama*, 28 J.L. & SOC'Y 117 (2001); *see also* Machura, *supra* note **Error! Bookmark not defined.**, at 321.

19. Laurie Oueillette, *Take Responsibility for Yourself, Judge Judy and the Neoliberal Citizen*, in REALITY TV: REMAKING TELEVISION CULTURE 223, 240 (Susan Murray & Laurie Ouellette eds., 2009).

20. *Id.* at 223-40.

21. Kohm, *supra* note 10, at 698-99.

tion.”²² She represents a “privatized model of citizenship where the individual is solely responsible for the minimization of risk and personal victimization.”²³ Kohm goes so far as to say that Judge Judy’s insistence that people are responsible for their own problems “is a very powerful way of advancing a neoliberal agenda of cuts to social programs and the dismantling of the final vestiges of the welfare state.”²⁴

Is there anything to this? Possibly, but this charge is, at the very least, vastly overblown. I have no idea whether Judge Judy, in her heart, would like to privatize or abolish social security or get rid of Medicare, Medicaid, and food stamps. An essay on Judge Judy is hardly the place to discuss the nature of the modern welfare state, but I cannot help thinking that these two authors got it wrong. The welfare state is not and never has been a form of socialism, no matter what the right wing says about it. The phrase “social safety net” is, in my opinion, a pretty apt metaphor. The welfare state, unlike (say) Castro’s Cuba or the Soviet Union in its heyday, is not opposed to individual responsibility and individual initiative. It is an insurance state. It reflects the belief that, without a safety net, few people would walk the tightrope to begin with. It wants to level the playing field, at least somewhat, rather than to abolish the playing field altogether, or pick winners and losers in advance. The safety net includes public education and also bankruptcy laws, which let people who fail start over.

Judge Judy is quite moralistic; that much is true. And, yes, she calls women “stupid” or “dopes” if they let husbands or boyfriends walk all over them, or punch them, or knock out their teeth. Is this “neo-liberalism?” I think Kohm misreads her when he says she continues the “tradition of circumscribing the problems of women and children within the private realm, far from the constructive potential of legal intervention.”²⁵ “Stupid” in Judge Judy’s mouth has nothing to do with a low I.Q. Judge Judy is telling the women to *do* something, not just sit back and take it. This may be unrealistic, but it is certainly not part of a “tradition” of subordination, or a hands-off approach, or letting men do what they want to their women-folk. Indeed, Nancy Marder, who is otherwise extremely critical of Judge Judy, thinks that Judge Judy “tries to teach women to think for themselves and not just do what the men in their lives tell them to do.” In short, Judge Judy tries to empower women.²⁶

Judge Judy’s politics may be naive, simplistic, overly moralistic, but the political message is far from obvious. Arguably the message might be—dare I say it—a bit revolutionary. Take charge of your lives! Get smart! Do something

22. *Id.* at 713.

23. *Id.*

24. *Id.* at 716.

25. *Id.* at 715.

26. Nancy S. Marder, *Judging Judge Judy*, in *LAWYERS IN YOUR LIVING ROOM: LAW ON TELEVISION* 299, 304 (Michael Asimow, ed., 2009) (claiming that one can “take issue with her approach,” but “her message is an important one”).

for yourselves! After all, the “something” here might involve demanding rights, or invoking the law. Judge Judy, after all, despite the fakery and her cavalier disregard for formal rules, does represent the law, the rules, the norms, and she does so very forcefully. She is a powerful authority and the imagery she uses is an imagery of authority: the robe, the bailiff, the gavel, the courtroom set. The law is there to help you take charge of your lives. You are not adrift in society, totally helpless. Judge Judy will give you your due.

IV. JUDGE JUDY'S LITIGANTS

Who are the litigants, the men and women who come to Judge Judy, and what are they doing in this TV courtroom? Of course, they have material incentives. The litigants are paid \$100 for appearing, plus a daily stipend, airfare and hotel expenses.²⁷ Even if you lose your case you still win in a sense; the show will pay any damages imposed on you. But the money can hardly explain why people eagerly volunteer to subject themselves to Judge Judy's tongue-lashing. I do not know if anyone has surveyed the people who go on Judge Judy's show, but I suspect that many of them are just looking for their fifteen minutes of fame. Supposedly, people in our society dearly value privacy, and most do. Yet, a small but significant minority seems willing to strip naked, so to speak, to wash their dirty linen in public, and consider the loss of privacy a very small price to pay for the thrill of appearing on national television.

Judge Judy's show, after all, is just another example of that ubiquitous TV phenomenon, the reality show. You can ask the same question about people who clamor to be on other reality shows. You can ask why Kody Brown and his four wives are willing to let cameras follow them around (the show is *Sister Wives*). You can ask why somebody would care to have the search for a wife, husband, or sex-mate broadcast to the whole nation. Television attracts some people like a moth to a flame. There they are, all those famous people, in your living room, as large as life. In Woody Allen's film, *The Purple Rose of Cairo* (1985), the title refers to a movie within a movie: one of the characters in the movie steps out of the screen and into the life of someone who was avidly watching the film. Television is so vivid, so (apparently) intimate, that it promotes this sort of illusion. It blurs the distinction between what is a show and what is real life. On many talk shows, the host sits next to some celebrity; they chat so amiably that one might think they were guests in your own home, in your living room, or even your bedroom. In a sense, they actually are in your home. Many people, perhaps, find it easy to fantasize, putting themselves in that role—sitting in an easy chair, chatting away with Oprah, Conan, Jay, or whoever. The idea is incredibly seductive. They too can become a celebrity. We once had *Queen for a Day*;²⁸ now we can have *Celebrity for a Day*.²⁹

27. Leroux, *supra* note 1.

28. *Queen for a Day* was a program on radio (1945-1957), and then on TV, from 1956 to 1964. Poor, suffering, unfortunate women appeared on the show telling their tales of misery. The audience selected one to be the winner: *Queen for the Day*. This woman, generally sobbing uncon-

Elsewhere, I have also written about the overwhelming importance of entertainment in our society. Even politics has become a branch of entertainment. A politician who is a wooden speaker, who has no “charisma,” is severely handicapped, to say the least. Even the law, to an extent, is judged for its entertainment value. Big trials, the kinds of trials that play well on television, captivate the public. However, real law is technical and boring. This is even true of most courtroom trials. They can be long, drawn-out, and (to an audience) insufferable. Nothing could be more offensive to American culture than for some institution to become tedious, to lack entertainment value. Boring is almost, as it were, unconstitutional. Judge Judy is absolutely the opposite of, say, a six-month antitrust trial. Whatever Judge Judy does, and whatever her manner, boring and drawn-out are not words that could be applied to her show.

V. JUDGE JUDY’S AUDIENCE

Who watches *Judge Judy*? Millions of people, apparently. The audience consists mostly of women. This is of course true of all daytime programs. They watch it because they like it. Michael Asimow has admitted that he found these court shows “both annoying and tedious,” which led him to ask, “What am I missing?”³⁰ He suggested a few factors that might account for the popularity of these “judges.” First of all, law and the legal process fascinate people.³¹ Some people feel, too, that they might “learn something they can use in their own lives.”³² Or perhaps, these programs satisfy their “hunger for quick, definitive resolutions to big messy problems.”³³ People surely like the absence of jargon and technicality. But above all, Asimow feels the shows have “something to do with relationships and community.”³⁴ Many of the daytime viewers are alone, lonely, and have nobody to talk to. The judge shows in a way might help satisfy that that hunger for community.

Alethea Sargent, a student of anthropology, has written an interesting (unpublished) paper on Judge Judy’s audience.³⁵ This was part of a larger study of homeless women in a shelter in New England. The women turned out to be huge fans of Judge Judy. Sargent’s study tries to explain exactly why these women value Judge Judy. Perhaps, she suggests, Judge Judy creates a “vision of a forum unthreatening to their relationships and at the same time accepting

trollably was then showered with all sorts of prizes.

29. See LAWRENCE M. FRIEDMAN, *THE REPUBLIC OF CHOICE: LAW, AUTHORITY, AND CULTURE* 116, 116-21 (1990), on celebrity culture in general.

30. Michael Asimow, *Justice with an Attitude: Judge Judy and the Daytime Television Bench*, 38 *JUDGES’ J.* 1, 26 (1999).

31. *Id.* at 26.

32. *Id.*

33. *Id.*

34. *Id.* at 27.

35. Alethea Sargent, *Fantasy and Forum: Adjudicating Claims in Judge Judy’s Court* (unpublished paper) (on file with author).

of their disputes.”³⁶ In other words, a place “where women’s moral claims could become legal ones.”³⁷ These women were “far outside the socio-political order of the State.”³⁸ Their lives were a train-wreck. The real legal system was hardly hospitable to them. But Judge Judy “purported to offer the women” a place in society, and, perhaps, an image of justice they could approve of and understand.³⁹

The study is intriguing, but I am not sure that it explains Judge Judy’s mass appeal. For one thing, Sargent’s study dealt with a very small part of the audience for *Judge Judy*. Most of *Judge Judy*’s viewers are not homeless women, but working-class or middle-class women watching *Judge Judy* in their living rooms or kitchens.⁴⁰ However, the point about moral claims and legal claims does ring a bell. *Judge Judy* elides the distinction between these two types of claim.

The actual legal system is a complicated beast. It is full of tricks and technicalities. It is a tangle of mystifying rules, or so it can seem at times. In contrast, “law” from the mouth of Judge Judy is simple, decisive, and clear. Judge Judy’s law is (to the viewers) extraordinarily just. The righteous are rewarded; the wicked are struck dumb. Judge Judy is not a warm, compassionate healer. She is a naked thunderbolt. This “reality” program comes to a quick and meaningful climax. It is like a prime-time cop show, where at the end the innocent are vindicated and the wicked consigned to a kind of ultimate theatrical hell.

36. *Id.* at 30.

37. *Id.*

38. *Id.* at 32.

39. *Id.*

40. Leroux, *supra* note 1 (“Judge Judy’ has been the ratings leader among court reality shows with about 10 million viewers daily (75% women).”).