

Adversarial system of justice

Law



Adversarial system of justice The adversarial system of justice is where two advocates represent their before a group of people or a person usually a judge or jury. This person or group tries to understand the truth of the case. In this case, there is no investigation into the case as in the inquisitorial system. With this system, justice gets served when the most effective adversary gets to convince the jury or the judge that his or her point of view on the case is the correct one. It is a two sided structure where both the accuser and accused get a chance to explain their views and defend what they believe is the truth (Kubicek 25). With this system getting increasingly employed in the courts, there are many concerns that the system is adversarial in name only. Critics pose some questions about the adversary system. Many wonder whether justice gets served by a process that is more concerned with resolving controversies than with finding the ultimate truth. It gets questioned whether people with limited resources are able to enjoy the same legal resources as the wealthy do. This means that those that are unable to afford legal counsel get disadvantaged by this system.

We can argue that Gideon V. Wainwright lost his case in 1963 because he lacked the funds to hire a lawyer to prepare his defense. This was after he requested the court to appoint a lawyer for him which the court refused. He defended himself in the trial and got convicted by a jury leading the court to sentence him to five years in a state prison (Fridell 69). It gets speculated that the state court's lack of assigning Gideon a counsel violated his right to a fair trial. This clearly shows that this system is adversarial in name only. Question is, does a system that places value on winning encourage manipulation and deception? The clear answer to this indicates vividly if this system of justice is losing or gaining.

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This system is full of deception because the law gets highly manipulated to favor the side that can argue best. We are losing more because truth and justice do not play a role in its operation. Winning and losing is the main goal of the adversarial judicial system (McBride 94). It is a game of words where every side attempts to discredit the other's witnesses and evidence. Lawyers get obligated to challenge the evidence against their clients even if it means impugning the police. They even attack a victim's or witness's character. Any judicial system should ensure justice. The adversarial judicial system is increasingly leading to injustice because lawyers bargain for less punishment or no punishment at all for even those that are guilty. This means that more and more people are suffering injustice with this system.

We are also losing with the adversarial system of justice due to its slow and cumbersome nature. The procedural rules slow down the process, and judges can do remarkably little to accelerate a trial. This means that we lose a lot of resources and time trying to resolve an issue hence dragging out justice. It is fair to question the ethics of the adversarial system of criminal justice because it places a higher value on winning rather than truth seeking (Kubicek 118). It is also vital to acknowledge that there is less adversarial system of justice than we did prior to the Gideon v. Wainwright. This is because due to economic and social conditions there is unequal access to legal services. Equal legal services do not get delivered to both parties and the less disadvantaged party may suffer the same fate as Gideon's in 1963. This is because even with the provision of free, legal counsel it is a fact that those who can afford to pay for legal counsel get better services.

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