

LAW, POWER, AND THE ILLUSION OF NEUTRALITY: A CRITICAL REFLECTION ON CONTEMPORARY LEGAL SYSTEMS

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Abstract

Law is frequently presented as a neutral system of rules, operating independently of social and political forces. This paper challenges that assumption by examining the relationship between law and power from a critical legal perspective. Drawing on contemporary legal theory and socio-legal analysis, it argues that law does not merely regulate society but actively participates in the production and maintenance of power structures. The analysis explores how claims of neutrality obscure underlying inequalities and legitimize particular forms of authority. Rather than proposing doctrinal reform, the paper seeks to reframe legal understanding by foregrounding the inherently political nature of legal systems. The study contributes to legal scholarship by offering a critical lens through which law can be examined as a dynamic and contested social institution.

1. Introduction

1. The Comfort of Neutral Language

Legal systems speak in a language that appears reassuringly stable.

Terms such as:

- “reasonableness”
- “objectivity”
- “due process”

suggest a world in which decisions are guided by principles rather than power.

This vocabulary does not merely describe law; it shapes how law is perceived.

And yet, there is something quietly paradoxical about this presentation.

For a system so deeply embedded in social life, law often insists on its **distance from politics**.

2. The Construction of Legal Objectivity

Objectivity in law is not simply discovered—it is constructed.

Judicial reasoning, for example, is framed as:

- Logical
- Structured
- Impartial

But closer examination reveals that legal interpretation inevitably involves:

- Choice
- Emphasis
- Exclusion

These are not failures of the system; they are its conditions of possibility.

To decide a case is to select among competing interpretations. The language of objectivity masks this act of selection.

3. Law as a Site of Power

If law is not neutral, then what is it?

One answer is that law operates as a **site of power**, where competing interests are:

- Articulated
- Negotiated
- Stabilized

Power in this sense is not always overt. It is often embedded in:

- Institutional practices
- Procedural norms
- Accepted interpretations

Legal outcomes may appear inevitable, but they are shaped by:

- Historical context
- Social hierarchy
- Institutional authority

4. The Subtlety of Legal Authority

Legal authority rarely presents itself as coercion.

Instead, it relies on:

- Legitimacy

- Acceptance
- Internalization

Individuals comply with law not only because they must, but because they **recognize its authority**.

This recognition is produced through:

- Education
- Institutional trust
- Discursive repetition

In this sense, law does not simply command—it persuades.

5. Inequality and Legal Form

One of the most persistent critiques within socio-legal scholarship concerns the relationship between law and inequality.

Legal rules are formally general. They apply equally.

Yet their effects are often uneven.

Consider:

- Access to legal representation
- Ability to navigate legal processes
- Structural socio-economic disparities

Equality before the law, while foundational, does not guarantee **equality within the law's operation**.

6. The Illusion of Separation

A recurring theme in legal thought is the distinction between law and politics.

This distinction is useful. It allows law to:

- Claim independence
- Maintain legitimacy

But it is also misleading.

Law and politics are not separate domains. They are:

- Interconnected
- Mutually constitutive

Legal decisions often have political consequences, just as political contexts shape legal interpretation.

7. Critique Without Cynicism

To question the neutrality of law is not to dismiss its importance.

On the contrary, it is to take law seriously.

A critical perspective does not imply that:

- Law is arbitrary
- Legal reasoning is meaningless

Rather, it suggests that:

- Law is contingent
- Interpretation matters
- Power is always present

8. Rethinking Legal Understanding

What follows from this critique?

Not a call to abandon law, but a call to **engage with it differently**.

This involves:

- Recognizing the limits of neutrality
- Examining the role of power
- Questioning taken-for-granted assumptions

Such an approach does not weaken law. It deepens our understanding of it.

9. Conclusion: Law as a Living Practice

Law is not a static system of rules. It is a living practice shaped by:

- Institutions
- Actors
- Contexts

Its authority derives not from neutrality alone, but from its capacity to:

- Adapt
- Persuade
- Legitimize

To study law critically is to move beyond its surface appearance and engage with its deeper structures.

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