



An Introduction to Law

Session Two: Batman: What is Law?

Exercise: Reading

What is law? You probably think that, whether successful or not, law is the way we try to achieve justice in society. The aim of the legal system is to produce justice, by granting compensation when someone has been wronged or harmed, for example. In Gotham City, where the legal system has become corrupt and crime rules the streets, it may be tempting to simply say that justice is not being done, so Batman does it instead. He swoops down in order to protect citizens and stop the criminals, to root out corruption and make the city better. Batman steps in to bring justice where the government and police fail to do so. But Batman is not the law—he is a private citizen without any authority from the State. If law is the way we do justice in society, and Batman is not 'law', can what he does actually be seen as 'justice'?

In this way, Batman encounters a central division as to how we answer the question 'what is law?'. In legal theory, there are two big ideas of what law is, and they both relate to law's relationship with justice: positive law and natural law. Those who agree with positive law think that law and justice are completely separate things; whether a law is 'just' or not is irrelevant. When Batman takes up his mission to bring justice to Gotham, he is operating outside the law. He is a force of justice, but he is separate from the laws and institutions of government. As a vision of positive law, then, Batman would not be bothered with the operation of law in Gotham. He would only be concerned with bringing justice to the streets; the technical rules would not concern him, just as justice is of no concern to a positive lawyer.

But this doesn't quite fit Batman. Batman is very concerned with the official law and governance of Gotham, as his relationship with Commissioner Gordon and Harvey Dent shows. Like Gordon and Dent, Batman wants Gotham to be a better city, wants to get rid of the corruption in the legal system so that it can produce justice. And this relates to the idea of natural law. Like Batman, those who agree with natural law think that law and justice are (or should be) the same. Laws that harm people or promote unfairness, for example, are not proper laws at all because they are seen to be unjust. This is partly how human rights work: they are fundamental principles that act as a limit to the power of a government over its citizens. If Batman is a vision of natural law, Gotham is a lawless city, rife with crime and corruption, and the Dark Knight is the force of justice trying to restore legal order to society.

So, what is law? If, like Batman, we follow natural law, we can say that law is justice. But this doesn't really help us understand what law is, as it doesn't tell us what we mean by justice. Justice is a concept that has been debated for thousands of years, with no settled answer ever being found. But there are certain questions or ideas that are important in understanding something of what justice might be. And if we think a bit more about what Batman is actually trying to achieve and why, we can see some of these ideas. In particular, the public nature of justice.

Why did Bruce Wayne become Batman? As is well known, as a child Bruce witnessed the murder of his parents, and it was this event that set him on his heroic path. Fuelled by a dark desire for revenge, Bruce Wayne set out to clean Gotham of the crime and disorder that took his parents from him. Batman uses his immense physical and intellectual skill, coupled with a large helping of violence, in his fight against crime. But is violent, personal revenge really the 'justice' that natural lawyers want law to reflect? Probably not. So, what is the difference between justice and vengeance? What makes Batman's dishing out of violence OK; what makes it 'justice' rather than criminal assault?

The clue to answering this lies in Batman's aims. Initially, he may have sought only to enact vengeance upon his parents' killer, but as he emerges as the Dark Knight his goal becomes much more general. He is not only seeking his personal vengeance, but is also trying to protect the innocent more generally from crime, harm, and other kinds of injustice, and to help Commissioner Gordon fix the corrupt legal system. Batman is working to make Gotham better for everyone. He channels his personal pain, his private desire for revenge, into a public fight to protect the innocent. His violent activities on the streets of Gotham, then, become justice in the sense that they are public—they are for everyone, not just for Bruce.

So, the idea of justice we find in Batman is one of public protection. In his extra-legal fighting against crime and corruption in Gotham, Batman encounters key problems for understanding law and justice. He raises the questions of whether law itself should be just, or whether it's merely a system of rules, leaning strongly towards the first option: law needs to be just. His activities raise questions as to the nature of justice itself, suggesting that it is by being public, by being 'for everyone', that his violent actions become just (rather than being merely revenge).

Taking these insights back to 'real life', we can see that the force used by government agencies (police, courts, prisons, military) might also be justified in its aim of securing peace and order for society as a whole. This may be so, but it in turn raises a whole set of further questions. For example:

- Who defines what counts as 'peace and order'? (Is Batman's or the government's vision of society the best one?)
- Can this peace and order ever actually be achieved? (Could Batman ever retire?)
- Are there limits to the amount of force the State can use to secure order? (Is Batman's 'no killing' rule enough to keep the amount of violence he uses in check?)
- Are violence and force the best way to achieve peace and order? (Could Batman use different methods?)... and so on.

As we noted before, 'justice' is something that has been debated without end for thousands of years. Asking 'what is law?' is like opening a can of worms. Or maybe... a can of bats?

Session Tutor

Dr Thomas Giddens
Lecturer in Law
St Mary's University Law Programmes
<http://www.stmarys.ac.uk/undergraduate/law/>