

"One can see that insiders are caught in the paradox of community: The same cultural vocabulary that undermines community is simultaneously that community's idiom of self-affirmation" (Greenhouse, et al. 175). In *Law and Community*, David M. Engel explores how ordinary people in a small, rural, Illinois town perceive the law, courts, litigants, and community. By analyzing the legal practices and relations in Sander County, it is evident that law and the courts play a central role in the processes of making and unmaking communities. Furthermore, this study illustrates how such manifestations, reflections of the "insider's" ideology, fail to live up to the promises for "law" in our society.

In the 1970s, Sander County was undergoing great social and economic changes. Agriculture, a central part of life for most residents, became more mechanized and a few large manufacturing plants opened, bringing in "quite a number of a certain element" Sander County had "never had before" (29). Long-time residents, worried about change, express what they believe to be "the new role of laws and the courts in the local and national society" (1).

Though personal injury litigation rates are lower in Sander County than other major types of litigation, a norm of aversion towards this legal discourse is evident throughout the majority of the community. Those who enforce personal injury claims are viewed by fellow residents as greedy, selfish, and "quick to sue." Litigation is portrayed as weakening the collective values personified in the law as a means of turning the law against the community to make an "easy buck" (144). Even highly respected members of the community are criticized for making personal injury claims. For example, a minister filed a suit after slipping and falling at a school. A local observer commented by saying there are "a lot of people who are resentful for it, because...he chose to sue" (28). The long-time residents of Sander County were experiencing a prevalent sense of a collapse in the conventional dependencies and exchanges that had typified life in Sander County. Understandings of personal injury claims are largely shaped by these societal transformations as the local populace encounters them and also by the notion that traditional relationships in the community were progressively falling apart (30). These changes threaten Sander County's sense of community. This manifests in the frequent condemnation of personal injury claims.

Sander County values an individualism that emphasizes self-sufficiency and personal responsibility rather than a rights-oriented individualism. To be a part of the community, an insider must embrace the reality that one's concerns are "not entirely one's own," that one's wants are linked to the wants of others (123). Pursuing a claim against someone else because of a personal injury is "an attempt to escape responsibility for one's own actions" (33). The wide-spread notion here is that the victims probably could have prevented the injury if they were more careful. This strong sense of self-reliance also stems from their perceptions of money. The people of Sander County, many of them farmers, work long and hard hours for their money. Dramatizing one's ill fortunes is not a legitimate means of acquiring it. As a rather close-knit community, the residents are well acquainted with each other and interact frequently if not on a daily basis. Pursuing a personal injury claim is not only atypical but rather awkward for the plaintiff since it is highly probable that he or she knows the defendant. This community pressure keeps the majority of the people from pursuing litigation for personal injuries. For example, a woman who lost her child in a car accident, influenced by community pressure, failed to file a claim. Instead, she settled for \$12,000 (35). Wronged individuals usually react to injuries without litigation. They do so either because they do not regard the issue as a contention with another person or because association in an insular society hinders them from maintaining an assertion that is socially unacceptable.

Even the lawyers of Sander County, whose professional role is to assert claims on behalf of plaintiffs, share the indigenous partiality to criticize those who advance personal injury claims. "A lot of people are more conducive to settlement here," says a local attorney, "because they are attempting to be fair as

opposed to making a fast buck" (38). Of the small handful of personal injury cases that make it all the way to Sander County Court, most have a common trait: The participants are divided by either a geographic or cultural stretch that cannot be spanned by any means bereft of litigation (40). If retort embracing the assertion of rights transpires at all, it is ordinarily proposed by "outsiders," those who otherwise lack an acknowledged place in the status power structure of Sander County (44). The Court is able to overcome distances between parties to personal injury cases and to advance social intercourse. However, it accomplishes this by the persuasion of pressure, and its results have a tendency to provoke conflict rather than amend it (46). The progressive break down of the familiar social values and the advent of a "plurality of cultures" in Sander County creates a "confusion of norms" and of tools for resolving disputes. The outsiders represent and materialize a social and cultural diversity that Sander County has never known. Their very presence is a threat to the earlier system of standards produced by intimate alliances inside the community (47).

In Sander County, there is a strong distinction between the inappropriate use of law for personal ends and the appropriate litigation for the preservation of public harmony (143). This ambivalence of law in practice is apparent in Sander County's approval of claims based on breeches of contract. Long-time Sander County residents regard their society as one that is historically grounded in mutual reliance among fellow inhabitants. In a region that is still chiefly agricultural but where industrialization is swiftly changing the type of dependencies representative of yesterday's farming communities (143), trust in a person's word, "including promises to pay for goods and services," is fundamental to the sustenance of this way of life. The law is seen as encoding these values and many creditors take their grievances to Sander County Court. Of these cases, many of the plaintiffs litigate solely to express their strong feelings towards debt and accountability. One businessman lamented, "...it wasn't the money...but because of the principle of it that I would definitely go to whatever means necessary...to get it collected" (50). Contract litigation contrasts from tort litigation in that it is perceived as inciting a central value of the established culture of Sander County (50). This value prescribes that covenants should be kept and those who break them should be held accountable. Opposition in the marketplace is for insiders a justified manifestation of individualism (4). Consequently, litigation is relevant in community terms when it is agreeable with the norms of local trade. Litigiousness, or lack thereof, is an important signifier of distinctive classifications of appropriate and inappropriate court use. These classifications are "a part of the cultural fabric of the community itself" (120).

The dubious disposition of the law as representative of core values and concurrently as indicator of difference in Sander County makes the courthouse an effectual place of endeavor for "those who would transform community" (147). The court is a chief symbol of community and "the epitome of local identity" (141). Notwithstanding, it is an ambiguous symbol. On the one hand, it exemplifies local autonomy and conservatism. On the other, it signifies "the reach of the state into the fabric of local society" (1). The insiders simultaneously condemn and celebrate forms of individualism that are seen as destructive of community yet are also essential for its existence. Sander County is an example of the "American myth of a fundamentally egalitarian ethic of community responsibility," and ideology where getting along is commended, but only the tough and self-reliant can get along (151). This democratic notion of community paradoxically suggests a hierarchy of those who are important (insiders) and those who are not (outsiders). Community is seen as a "matter of choice" (17). However, only certain people have the ability to make this choice. "...One can see that insiders are caught in the paradox of community" (175).

The analyses of the legal practices and relations in Sander County illustrate how such manifestations fail to live up to the promises for 'law' in our society. Law in practice should match our expectations of promoting trust and community. These expectations are met through good legal reasoning. Though a judge can never reach a "correct" decision, he gains the trust of the community when he satisfies

the audience that he speaks for the public as a whole. The Sander County Court does not speak for Sander County as a whole; it speaks for the insiders. Outsiders in Sander County live under the same rules as the insiders and they share common expectations of the legal process. By reaffirming the insider's myth of community, the legal system is in no way contributing to the creation of community in Sander County. It is, in fact, perpetuating the instability of society by employing its partial and arbitrary judgments. The outsiders do not feel that the legal system is part of their community and the insiders still perceive the outsiders as a threat to their way of life.

The residents of Sander County are entitled to the same rights, regardless of any ethnographic association. It is the duty of the legal system to manifest these entitlements and to promote an ideology that extols the assertions and actualization of these rights. The court fails to act impartially when it supports the criticism of certain legal discourses, mainly personal injury claims. Sander County views the court as a symbol of 'law': the legal system's powerful assent of such inequalities gives justification to the values of the insiders. Where is the legal reasoning in the legal system of Sander County? Unfortunately, it is rendered virtually unrecognizable.

Without impartial reasoning of the facts about the case, the rules relevant to the case, social background facts, and the moral values of society, Sander County will lack trust in the legal process and community (Carter 11). The irony lies in the fact that the power of the insiders as a whole disempowers the individual, whether the individual is an insider or an outsider. Every member of Sander County is rather powerless before the law; the efforts to keep the town safe from change paradoxically caused a lack of trust in the legal process. This lack of trust contributes to the chaos of community that already existed in Sander County.

"Law is a language by which we constantly reconstruct our communities" (Carter viii). Instead of constructing community through just legal discourse, Sander County destructed what it had left of a community in a desperate act of warding off that which it did not understand (or did not want to understand). Law in practice, in Sander County, does not produce justice; it produces inequality. This prevalent inequality, or difference, is a "justification of litigation by 'insiders' in defense of their community" (Greenhouse, et al. 175). They fail to see that their myth of community is challenging "community." Disempowerment and inequality will not generate trust. Furthermore, of what use, or longevity, is a community without trust?

