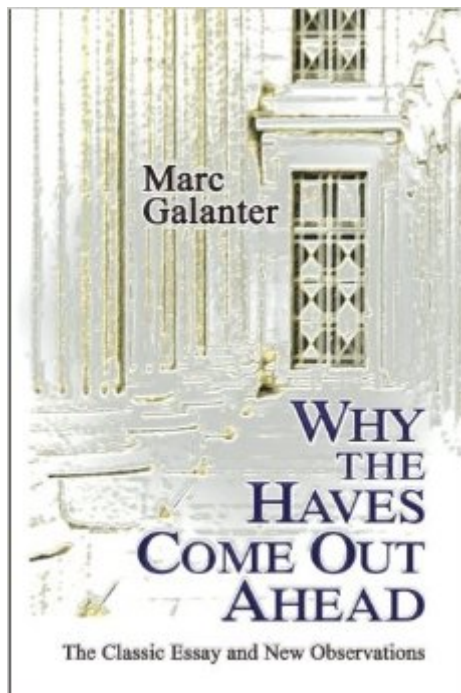


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Why The Haves Come Out Ahead: The Classic Essay And New Observations



Synopsis

This is the fortieth anniversary edition of a classic of law and society, updated with extensive new commentary. Drawing a distinction between experienced “repeat players” and inexperienced “one shotters” in the U.S. judicial system, Marc Galanter establishes a recognized and applied model of how the structure of the legal system and an actor’s frequency of interaction with it can predict outcomes. Notwithstanding democratic institutions of governance and the “majestic equality” of the courts, the enactment and implementation of genuinely redistributive measures is a hard uphill struggle. In one of the most-cited essays in the legal literature, Galanter incisively demolishes the myth that courts are the prime equalizing force in American society. He provides a penetrating analysis of the limitations and possibilities of courts as the source and engine of large-scale social change. Galanter’s influential article is now available in a convenient, affordable, and assignable book, with a new introduction by the author that explains the origins and aftermath of the original work. In addition, it features the author’s 2006 article applying the original thesis to real-world dilemmas in legal structure and consequence today. The collection also adds a new Foreword by Shaubin Talesh of the University of California-Irvine and a new Afterword by Robert Gordon of Stanford. As Gordon points out, “The great contribution of the article was that it went well beyond local and contingent political explanations to locate obstacles to social reform and redistributive policies in the institutional structure of the legal system itself.” Gordon details ways in which Galanter’s prophecies have come true and even worsened over four decades. Talesh catalogs the article’s place in legal lore: “seminal, blockbuster, canonical, game-changing, extraordinary, pivotal, and noteworthy.” Talesh introduces how repeat players gain advantages in the legal system and how “Galanter set out an important agenda for legal scholars, sociologists, political scientists, and economists. In short, “every law and legal studies student should be required to read the article because it contextualizes the procedural system as something more than a set of rules that should be memorized and mechanically applied.” A powerful new addition to the Classics of Law & Society Series by Quid Pro Books.

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Customer Reviews

This small volume contains Galanter's seminal article that is the title of the book along with a more recent paper that updates some of his original discussion and a brief introduction giving some background regarding the article. Galanter's essays are book-ended by a brief Foreword by Shauhin Talesh and an afterword by Robert Gordon. Galanter's "Have's" article is easily the most cited piece of work in the social science study of law and legal phenomenon, and among the top forty most cited law review articles of all times. The thrust of Galanter's argument is that the Have's come out ahead when they go to court or are taken to court for a number of reasons: resources to hire talented lawyers, an ability to play the odds because they are "repeat players" (one term that one sees regularly in the legal literature) while the "one-shot players" (now another standard term) are risk averse, and the desire and ability to "play for rules" by strategically conceding if a case might produce a bad precedent and fighting to get a good precedent. This is a great package at a low price!

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