

## Unequal Justice Lawyers And Social Change In Modern America

How do lawyers resolve ethical dilemmas in the everyday context of their practice? What are the issues that commonly arise, and how do lawyers determine the best ways to resolve them? Until recently, efforts to answer these questions have focused primarily on rules and legal doctrine rather than the real-life situations lawyers face in legal practice. The first book to present empirical research on ethical decision making in a variety of practice contexts, including corporate litigation, securities, immigration, and divorce law, *Lawyers in Practice* fills a substantial gap in the existing literature. Following an introduction emphasizing the increasing importance of understanding context in the legal profession, contributions focus on ethical dilemmas ranging from relatively narrow ethical issues to broader problems of professionalism, including the prosecutor's obligation to disclose evidence, the management of conflicts of interest, and loyalty to clients and the court. Each chapter details the resolution of a dilemma from the practitioner's point of view that is, in turn, set within a particular community of practice. Timely and practical, this book should be required reading for law students as well as students and scholars of law and society.

"Established in 1964, the federal Legal Services Program (later, Corporation) served a vast group of Americans desperately in need of legal counsel: the poor. At the program's zenith in 1981, more than 1,450 offices employing six thousand attorneys and three thousand paralegals worked to aid those who could not afford private attorneys. In *Rationing Justice*, Kris Shepard looks at this pioneering program's effect on the Deep South."--BOOK JACKET. The topical chapters in this cutting-edge collection at the intersection of comparative law and anthropology explore the mutually enriching insights and outlooks of the two fields. *Comparative Law and Anthropology* adopts a foundational approach to social and cultural issues and their resolution, rather than relying on unified paradigms of research or unified objects of study. Taken together, the contributions extend long-developing trends from legal anthropology to an anthropology of law and from externally imposed to internally generated interpretations of norms and processes of legal significance within particular cultures. The book's expansive conceptualization of comparative law encompasses not only its traditional geographical orientation, but also historical and jurisprudential dimensions. It is also noteworthy in blending the expertise of long-established, acclaimed scholars with new voices from a range of disciplines and backgrounds. In *Lawyers in the Dock*, Richard L. Abel examines accounts of disciplined New York lawyers, whose vivid, compelling dramas breathe life into the ethical rules governing the legal profession. Abel identifies ways to devise better strategies for restoring trust in lawyers, a prerequisite for an effectively functioning justice system. This book is essential for lawyers, prospective and current law students, and anyone who has sought or might seek legal representation.

*Tournament of Lawyers* traces in detail the rise of one hundred of the nation's top firms in order to diagnose the health of the business of American law. Galanter and Palay demonstrate that much of the large firm's organizational success stems from its ability to blend the talents of experienced partners with those of energetic junior lawyers driven by a powerful incentive—the race to win "the promotion-to-partner tournament." This calmly reasoned study reveals, however, that the very causes of the spiraling growth of the large law firm may lead to its undoing. "Galanter and Palay pose questions and offer some answers which are certain to change the way big firm practice is regarded. To describe their work as challenging is something of an understatement: they at times delight, stimulate, frustrate and even depress the reader, but they never disappoint. *Tournament of Lawyers* is essential to the understanding of the business of the big law firms."—Jean and Colin Fergus, *New York Law Journal*

A collection of essays and insights from the hindsight of a renowned historian: "I was exceedingly fortunate to teach (for forty years) in an elite undergraduate college, where I could mentor intelligent young women who were eager to learn. But Wellesley, still a bastion of Christian privilege a century after its founding, continued to experience (and demurely tolerate) dismaying episodes of anti-Semitism. How ironic that Wellesley and Israel, each in its own distinctive way, had converged to liberate me from my past as a non-Jewish Jew. Regardless of the subject—law, modern American history, American Judaism, Israel—deference to the conventional wisdom never had been my style. I always enjoyed the stimulation of writing against the grain: discovering hidden meanings, challenging historical and political pieties, and exposing the self-serving ideology that often lurked beneath self-evident truths. Providing intellectual catnip, it also enabled me to reach readers far beyond the narrow confines of academic journals. My creative work always was done in the solitude of my study, my sanctum within my home. Enclosed within the treasured artifacts, maps, photographs, prints, and books accumulated during decades of research and travel, I explored the historical past that both inspired and reflected my own intellectual trajectory. Virtually every book I have written, to my genuine surprise, contained within it the seed of its successor. That, of course, is discernible only with hindsight which, after all, is the distinctive attribute of a historian. I invite my family, friends, and interested readers to accompany me to some favorite destinations during my journey."

This collection of original essays by leading and emerging scholars in the field examines the history, conditions, organization, and strategies of pro bono lawyering. *Private Lawyers and the Public Interest: The Evolving Role of Pro Bono in the Legal Profession* traces the rise and impact of the American Bar Association's campaign to hold lawyers accountable for a commitment to public service and to encourage public service within law schools. Combining empirical legal research with reflections by practitioners and theorists about the meaning and practice of pro bono legal work, this collection of essays interrogates the public service ideals that are inscribed within the legal profession and places these ideals within a broader social, economic, ideological, and normative context. Particular attention is paid to the factors that explain why lawyers engage in pro bono work and the ways in which their views of pro bono are mediated by the institutional context of their legal practice. The book also explores the concept of "public" in public service and compares pro bono as a means of delivering legal services with other mechanisms such as state funding. Collectively, these essays

investigate the evolving role of pro bono in the legal profession and in law schools, the relationship between pro bono ideals and pro bono in practice, the way that pro bono is shaped by external forces beyond the individual practitioner, and the multi-faceted nature of legal professionalism as expressed through pro bono practice.

In the history of the U.S. Supreme Court, Associate Justice Charles Evans Whittaker (1957–1962) merited several distinctions. He was the only Missourian and the first native Kansan appointed to the Court. He was one of only two justices to have served at both the federal district and appeals court levels before ascending to the Supreme Court. And Court historians have routinely rated him a failure as a justice. This book is a reconsideration of Justice Whittaker, with the twin goals of giving him his due and correcting past misrepresentations of the man and his career. Based on primary sources and information from the Whittaker family, it demonstrates that Whittaker's life record is definitely not one of inadequacy or failure, but rather one of illness and difficulty overcome with great determination. Nine appendices document all aspects of Whittaker's career. Copious notes, a selected bibliography, and two indexes complete a work that challenges the historical assessment of this public servant from Missouri.

The secrets of one of history's greatest orators are revealed in "one of the most stunningly original works on Abraham Lincoln to appear in years" (John Stauffer, professor of English and history, Harvard University). For more than 150 years, historians have speculated about what made Abraham Lincoln truly great. How did Lincoln create his compelling arguments, his convincing oratory, and his unforgettable writing? Some point to Lincoln's study of grammar, literature, and poetry. Others believe it was the deep national crisis that gave import to his words. Most agree that he honed his persuasive technique in his work as an Illinois attorney. Here, the authors argue that it was Lincoln's in-depth study of geometry that made the president's verbal structure so effective. In fact, as the authors demonstrate, Lincoln embedded the ancient structure of geometric proof into the Gettysburg Address, the Cooper Union speech, the first and second inaugurals, his legal practice, and much of his substantive post-1853 communication. Also included are Lincoln's preparatory notes and drafts of some of his most famous speeches as well as his revisions and personal thoughts on public speaking and grammar. With in-depth research and provocative insight, *Abraham Lincoln and the Structure of Reason* "offers a whole new angle on Lincoln's brilliance" (James M. Cornelius, Curator, Lincoln Collection, Abraham Lincoln Presidential Library and Museum).

This book is about the role of lawyers in constructing a just society. Its central objective is to provide a deeper understanding of the relationship between lawyers' commercial aims and public aspirations. Drawing on interdisciplinary and comparative perspectives, it explores whether lawyers can transcend self-interest to meaningfully contribute to systems of political accountability, ethical advocacy and distributional fairness. Its contributors, some of the world's leading scholars of the legal profession, offer evidence that although justice is possible, it is never complete. Ultimately, how much - and what type of - justice prevails depends on how lawyers respond to, and reshape, the political and economic conditions in which they practise. As the essays demonstrate, the possibility of justice is diminished as lawyers pursue self-regulation in the service of power; it is enhanced when lawyers mobilize - in the political arena, workplace and law school - to contest it.

There are many controversial aspects of our criminal justice system, and this encyclopedia examines the most significant controversies throughout American history with emphasis on current debates, trends, and issues. Arranged alphabetically, approximately 100 entries cover background, explanations, notable cases and events, various sides of an issue, and what to expect in the future. Entries are objective and factual, allowing readers to formulate their own conclusions. Sidebars and case examples help to illustrate each entry, and sources for further reading point readers to other important materials. Given the prevalence of controversial criminal justice topics in the news, this timely reference is an important resource for anyone interested in crime and justice. Entries include: Boot Camps, Corporal Punishment, DNA Evidence, Domestic Violence, Expert Testimony, Eye Witness Identifications, Gun Control, Homeland Security, International Criminal Court, Legalization of Marijuana, Mental Health and Insanity, Police Brutality, Prison Violence, Racial Profiling, School Violence, Sex Offender Laws, Stalking Laws, Supermax Prisons, Three Strikes, Treating Juveniles as Adults, War on Drugs, and more.

Unequal Justice Lawyers and Social Change in Modern America Oxford University Press on Demand

Describes the disadvantages of litigation, looks at what the American legal system suggests about our society, and discusses arbitration, mediation, and conciliation, alternatives to our adversary approach to justice

A past president of the Association of American Law Schools and senior counsel for the House Judiciary Committee during Clinton's impeachment proceedings, Rhode brings an insider's knowledge to the labyrinthine complexities of how the law works, or fails to work, for most Americans and often for lawyers themselves. She sheds much light on problems with the adversary system, the commercialization of practice, bar disciplinary processes, race and gender bias, and legal education.

Among all those who encounter the law in the conduct of their lives or who consider it as a career, few have a solid understanding of the legal profession in America, and fewer still know anything about systems in other parts of the world. *Lawyers in Society* offers a concise comparative introduction to the practice of law in a number of countries: England, Germany, Japan, Venezuela, and Belgium. Extracted from the editors' three highly successful volumes *Lawyers in Society*, these essays guide readers through the differing worlds of civil and common law, law in Europe and Asia, and first and third world legal systems. One contribution addresses the changing role of women in the profession--women comprise half of all new lawyers in most countries--and the changes they are bringing. A new introduction and concluding essay reflect on the place of this volume in current and future research.

Legal ethics should be far more than a set of rules on professional responsibility; they can serve as a means for changing power relations, empowering the disenfranchised, and advocating progressive social change. *Lawyers' Ethics and the Pursuit of Social Justice* broadens the discussion on legal ethics by first introducing the historical and theoretical background and then connecting it to real world issues while addressing lawyers' ethical obligations to work for social justice. The reader features differing critical approaches and opens up new avenues of ethical debate. While the literature included is diverse and interdisciplinary, it shares a vision of legal ethical inquiry as a means for changing power relations, empowering the disenfranchised, and advocating progressive social change. Through a combination of provocative selections, lively writing, concrete examples of cases and social movements, and incisive editorial commentary, *Lawyers' Ethics and the Pursuit of Social Justice* defines the emergence of an exciting new field of critical legal ethics scholarship.

A collection of biographies of ten American lawyers. Some are well-known, such as Thurgood Marshall and Morris Dees and

Ralph Nader; others, such as Belva Lockwood and Samuel Leibowitz, are not. Each chapter is accompanied by an annotated bibliography, a chronology, and a table of cases.

This book re-examines fundamental assumptions about the American legal profession and the boundaries between "professional" lawyers, "lay" lawyers, and social workers. Putting legal history and women's history in dialogue, it details the history of the origins and development of free legal aid for the poor in the United States.

The ABA Journal serves the legal profession. Qualified recipients are lawyers and judges, law students, law librarians and associate members of the American Bar Association.

Je tiens également à remercier l'éditeur KLUWER que nous a garanti une publication aisée et attrayante. Ce n'est pas sans fierté que j'ai l'honneur d'introduire la présente édition des actes du congrès. PREFACE In the text mentioned above, it has been stated that the texts of the General Rapporteurs were published in their original language and the texts of the opening and closing speeches, although they were made in the five Congress languages (Dutch, French, English, German and Spanish), were published in English, as the Belgian organisers deemed this to be the most rational solution, even though the Congress took place in a country where three different languages (Dutch, French and German) are spoken there. As regards the publication of this book, I would like to thank Mrs. CASMAN, who made the texts ready for printing, Professor R. DE CORTE, who saw to the distribution of the texts during the Congress, and the KLUWER publishing company for their excellent and faultless publication. I cannot stifle a distinct feeling of pride at being privileged enough to introduce this publication of the Reports. VORWORT Im vorstehenden Text ist erörtert worden aus welchen Gründen die Gesamtberichte in ihren originellen Sprachen veröffentlicht wurden, und die Texte der feierlichen Eröffnungssitzung und der Schluss-sitzung im Englischen, obwohl diese verfasst wurden in den fünf Kongresssprachen (Deutsch, Englisch, Französisch, Niederländisch und Spanisch) und obgleich der Kongress veranstaltet wurde in einem Land wo es drei Sprachen (Niederländisch, Französisch und Deutsch) gibt.

Why do we look to lawyers to lead, and why do so many of them prove to be so untrustworthy and unprepared? In *Lawyers as Leaders*, eminent law professor Deborah Rhode not only answers these questions but crafts an essential manual for attorneys who need to develop better leadership skills.

In the second half of the twentieth century, a number of researchers have conceptualized modern society as a social system composed of differentiated yet interrelated institutional spheres. Commonly identified institutional spheres are the family, religion, the economy, the polity or state, medicine or health care, religion, law, and education. The institutional perspective has sometimes been linked to a structural-functional framework; it has often been asserted that institutions must be understood as parts of a larger whole operating at the societal level. Equally important have been recent institutional theory and research focusing on the more microscopic dynamics of intrainstitutional change. The concern here has been processes governing the institutionalization of rules and practices and the formation and decline of particular social structures. Although valid and useful, neither of these perspectives has yielded a systematic comparative assessment of societal institutions. The aim of this edited volume is to meet this critical need. It brings together recent theoretical and empirical research on societal institutions in a time of rapid change. The chapters focus on how these institutions adapt to societal change and what the outcomes of these changes are.

Provides an overview of the most controversial issues in criminal justice today.

Twenty distinguished philosophers and social theorists have contributed original papers to this stimulating investigation into the nature of the economically just society. Collectively, and in a remarkably coherent fashion, these papers set out the problems of contemporary social theory within the context of the distributive justice vs. property rights debate initiated by the works of John Rawls and Robert Nozick.

"The Florence Access-to-Justice Project"--T.p.

Renowned legal historian Lawrence Friedman presents an accessible and authoritative history of American law from the colonial era to the present day. This fully revised fourth edition incorporates the latest research to bring this classic work into the twenty-first century. In addition to looking closely at timely issues like race relations, the book covers the changing configurations of commercial law, criminal law, family law, and the law of property. Friedman furthermore interrogates the vicissitudes of the legal profession and legal education. The underlying theory of this eminently readable book is that the law is the product of society. In this way, we can view the history of the legal system through a sociological prism as it has evolved over the years.

The Politics of Informal Justice

"An important and thought-provoking addition to the literature on the ethics of lawyers." ---Kimberly Kirkland, Franklin Pierce Law Center *The Consciousness of the Litigator* investigates the role of the lawyer in modern American political and social life and in the judicial process, and plumbs lawyers' perceptions of themselves, their work, and, especially, their sense of right and wrong. In so doing, the book sheds light on the unique and little-examined subject of the moral mind of the litigator, whose work extends to all corners of society and whose primary expertise---making legal arguments---is the fundamental skill of all lawyers. *The Consciousness of the Litigator* stands with Michael Kelly's *Lives of Lawyers* as a must-read for the many law students, scholars, and practicing litigators who struggle to balance ethical questions with the dictates of their highly commercialized profession.

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American legal history is traditionally viewed as a succession of discrete schools of thought or landmark court decisions, not as the work of individuals. Such an approach, however, hardly does justice to the lives of two of the foremost

teachers and theorists of American jurisprudence. In *Roscoe Pound and Karl Llewellyn: Searching for an American Jurisprudence*, N. E. H. Hull reconstructs the historical, cultural, and intellectual context of the work of Pound and Llewellyn, bringing to light their private and public relationship as well as the diverse sources - from psychology to plant ecology to Icelandic sagas - they separately drew upon in making their contributions to the American legal tradition. These are perilous times for Americans who need access to the legal system. Too many lawyers blatantly abuse power and trust, engage in reckless ethical misconduct, grossly unjust billing practices, and dishonesty disguised as client protection. All this has undermined the credibility of lawyers and the authority of the legal system. In the court of public opinion, many lawyers these days are guiltier than the criminals or giant corporations they defend. Is the public right? In this eye-opening, incisive book, Richard Zitrin and Carol Langford, two practicing lawyers and distinguished law professors, shine a penetrating light on the question everyone is asking: Why do lawyers behave the way they do? All across the country, lawyers view certain behavior as "ethical" while average citizens judge that same conduct "immoral." Now, with expert analysis of actual cases ranging from murder to class action suits, Zitrin and Langford investigate lawyers' behavior and its impact on our legal system. The result is a stunningly clear-eyed exploration of law as it is practiced in America today--and a cogent, groundbreaking program for legal reform.

In this lively and persuasive critique, Franklin Strier doesn't simply describe problems with the American trial system; he proposes reforms. He offers a detailed blueprint of how to improve our basic adversarial system while blunting its excesses and inequities. Strier points out that the jury system was originally intended to diffuse the power of the government, but criticizes the method by which jurors are selected, patronized, and manipulated. Among his suggestions: eliminate peremptory challenges, give jurors the authority, and judges the responsibility, to ask questions of witnesses, and use neutral expert witnesses.

*The World's Cause Lawyers Make* examines the connections between lawyers and causes, the settings in which cause lawyers practice, and the ways they marshal social capital and make strategic decisions.

Jews are a people of law, and law defines who the Jewish people are and what they believe. This anthology engages with the growing complexity of what it is to be Jewish — and, more problematically, what it means to be at once Jewish and participate in secular legal systems as lawyers, judges, legal thinkers, civil rights advocates, and teachers. The essays in this book trace the history and chart the sociology of the Jewish legal profession over time, revealing new stories and dimensions of this significant aspect of the American Jewish experience and at the same time exploring the impact of Jewish lawyers and law firms on American legal practice. "This superb collection reveals what an older focus on assimilation obscured. Jewish lawyers wanted to 'make it,' but they also wanted to make law and the legal profession different and better. These fascinating essays show how, despite considerable obstacles, they succeeded." — Daniel R. Ernst Professor of Law, Georgetown University Law Center Author of *Tocqueville's Nightmare: The Administrative State Emerges in America, 1900-1940* "This fascinating collection of essays by distinguished scholars illuminates the distinctive and intricate relationship between Jews and law. Exploring the various roles of Jewish lawyers in the United States, Germany, and Israel, they reveal how the practice of law has variously expressed, reinforced, or muted Jewish identity as lawyers demonstrated their commitments to the public interest, social justice, Jewish tradition, or personal ambition. Any student of law, lawyers, or Jewish values will be engaged by the questions asked and answered." — Jerold S. Auerbach Professor Emeritus of History, Wellesley College Author of *Unequal Justice and Rabbis and Lawyers*

Focuses on the elite nature of the profession, with its emphasis on serving business interests and its attempt to exclude participation by minorities.

This book is a close study of lawyers who practise occupational safety and health law in the United States, using detailed interview and survey data to explore the roles that lawyers have as representatives of companies, unions, and OSHA (the Occupational Safety and Health Administration). Placed in the context of evolving understandings of regulatory politics as a problem of public-private interaction and negotiation, the book argues that lawyers adapt to multiple roles in what prove to be highly complex settings. The core chapters examine stages of the administrative process where various groups attempt to shape the immediate outcomes and the development of OSHA law. These stages include administrative rulemaking, post-rulemaking litigation of government standards, regulatory enforcement, and compliance counseling by lawyers.

Discusses and illustrates the major problems with the adversary system of criminal justice in the United States and proposes provocative solutions to them.

Why do some lawyers devote themselves to a given social movement or political cause? How are such deeds of individual commitment and personal belief justly executed, given the ideals of disinterested professional service to which lawyers are (in theory, at least) supposed to adhere? What can we learn from such lawyers about the relationship between law and politics? *Cause Lawyering* is a wise and varied collection of responses to these questions, featuring a number of distinguished legal scholars concerned with anti-poverty lawyers, lawyers who work against capital punishment, immigration lawyers, and other lawyers working to end oppression. Editors Austin Sarat and Stuart Scheingold have assembled here a valuable cross-national portrait of lawyers compelled to sacrifice financial gain so as to use their legal skills in the promotion of a more just society. These telling and important essays fully explore the relationship between cause lawyering and the organized legal professions of many different countries--the US, England, South Africa, Israel, Cuba, and so forth. They describe the utility of law as a resource in political struggles and, conversely, highlight the constraints under which lawyers necessarily operate when they turn to politics. Some provide broad theoretical overviews; others present rich case studies. Advancing a fundamental argument about the very nature of the legal profession, this book explains the strategies that cause lawyers deploy, as well as the challenges they face in

trying to be legally astute and effective while remaining politically devoted and aware. Although it is a controversial way of practicing law, cause lawyering, as explicated in the essays in this volume, is indeed indispensable to the legitimization of professional authority.

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