

THE AMBIGUITY OF IDEOLOGICAL AMBULANCE CHASING

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Mark Kessler. *Legal Services for the Poor: A Comparative and Contemporary Analysis of Interorganizational Politics*. (Westport, CT: Greenwood Press, 1987). xi + 183 pp. Notes, tables, appendix, index. \$29.95.

As the program of federally funded legal services for the poor approaches its twenty-fifth anniversary, it is appropriate to step back and look at what the program has accomplished, whether it has achieved its stated goals, and what future structural problems it faces. The evolution of the program, from a national organization under the auspices of the Office of Economic Opportunity to a locally controlled structure under the rubric of the privatized Legal Services Corporation, has had a profound impact. Political controversies have consistently dogged legal services. Moreover, since the mid-1960s there have been significant changes in the way law is practiced, particularly poverty law, and the legal services movement itself is responsible for many of these changes. Significantly, despite both the gains and the persistent problems of public legal services for the poor, the program has had a profound effect on both the practice of law in the United States and the way in which communities view lawyers and law practice.

In *Legal Services for the Poor: A Comparative and Contemporary Analysis of Interorganizational Politics*, Mark Kessler, a political scientist, has presented a comprehensive empirical study of the structure of legal services practice. The book looks beyond the political controversy that surrounds legal services practice to assess structure and effectiveness by examining what legal services offices do on a day-to-day basis, and what factors explain their goals and activities. Kessler tackles head-on the assertions by conservative critics that the program engages in "ideological ambulance chasing," fomenting "radical and revolutionary programs at taxpayers' expense" (p.1).

Kessler initially set out to examine the day-to-day functioning of the offices, comparing legal services offices located in different demographic areas in a single state: the urban Metro City Legal Services; Industrial Region Legal Services, serving a high percentage of white working-class people; Suburban Legal Services; Rustic Legal Services, located in a small, poverty-ridden area; and Re-

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gional Rural Legal Services. Using a theory of interorganizational relations drawn from political scientists who study the politics of corporations (Thompson, 1967; Pfeffer and Salancik, 1978), the book addresses the organizational context of legal services practice, and the impact of factors such as lawyer ideology, modalities of practice, and relationships with local bar and political and community organizations.

Kessler first explores the philosophical underpinnings of the legal services movement and the political controversy it has generated. That exploration lays the groundwork for the organizing themes of the book, the impact of legal services' two transitions: (1) from a federally funded and managed program under the management of the Office of Economic Opportunity to a quasi-private Legal Services Corporation, funded primarily at the state level, and managed by local boards; and (2) from a law reform orientation to a direct service orientation.

The empirical analysis examines the present day-to-day operating environment of the offices. The conclusions are not surprising. Funding and management had a strong impact on the day-to-day activities. Although there is a complex funding system and a similarly complicated management system, most funding decisions are made at the federal and state levels, while decisions about day-to-day management are local. Lawyers in all of the offices considered the impact of local governing boards to be negligible. However, when Kessler examined this notion closely, he concluded that, except for Metro City, the local influence had been primarily responsible for the transition from a law reform to a direct service orientation. For instance, only Metro City actively encouraged interaction with community organizations, and its lawyers allocated a much greater proportion of their time to law reform activity than did lawyers in any of the other offices (p. 41).¹

Kessler found little variety in the background of the lawyers and training in the offices. Factors such as administrative centralization, lawyer specialization, and size of caseload seemed to play a more important role in defining the offices' activities (pp. 148-49).² Most revealing was the growing influence of the local legal and political communities. As control of legal services has moved from the federal to the local level, the influence of locally powerful groups, such as bar associations, judges, and local politicians, has increased. Only Metro City and Industrial Region, with a strong commitment to law reform, were relatively autonomous (pp. 128-29). Thus the price of integration into the local legal community is

¹ Forty-two percent of their time, compared with 28% for Industrial Region, 6% for Suburban Legal Services, 13% for Regional Rural, and 0% for Rustic Legal Services.

² Metro City was the most administratively decentralized office. It also encouraged lawyer specialization and allowed lawyers to adjust their caseload if necessitated by their law reform activities.

high—less commitment to law reform activities and less deference to community groups that do not have a traditional political base.³

The information presented is interesting. However, as Kessler uses it, the interorganizational analysis methodology does not answer some key questions relating to legal services practice—what do the offices do and why do they do it (and do they do it effectively)? Ideological analysis takes a secondary role to empirical discourse, and therefore many contextual issues raised by the empirical data are not addressed.

For example, who is practicing law in legal services organizations? While we see a variety of empirical data describing characteristics of the lawyers, no mention is made of race, ethnicity, or gender. This is particularly surprising because in many offices most of the clients are female and belong to ethnic or racial minorities. Kessler also did not ask whether factors such as race, ethnicity, and gender affected the intra- and interorganizational structure.

The book also presumes that the primary purpose of legal services organizations is trial work, even though few cases ever get to trial. Many alternative dispute resolution (ADR) programs originated in legal services practice, and the impact of ADR on poverty law has been sharply debated among legal services practitioners. The absence of discourse about its impact is a serious omission.

Most studies of legal services organizations have fallen into two categories. Some are empirical catalogs, and others have looked at the history and ideological impact of the enterprise. While this book contains elements of both, the author's stated goal was to examine the content and context of the legal services enterprise itself, through empirical analysis. Kessler provides a cogent understanding of day-to-day legal services practice. However, there is another context for analysis—stories. The book contains considerable factual information but very few descriptions of practice dilemmas or successes that could significantly amplify understanding of what legal services practice is like as it enters its third decade.

Kessler suggests that we should not despair at the diminution of law reform activities. He suggests, optimistically, that because legal services has been integrated into local legal practice, its ideology is becoming a significant feature of legal culture. However, the story of law-reform-oriented offices such as Metro City remains an underlying theme. The question persists: have such of-

³ This conclusion is borne out by two additional findings. In the integrated offices, relationships with local political entities—the county commissioners, bar association, and judiciary—are considered to be important by the offices' program staff. For Metro City and Industrial Region, these relationships were relatively less important than relationships with community groups, who were not necessarily central to the local political climate.

lices become marginal . . . or does the law reform effort continue to be successful in defining the boundaries of ideology for direct service practitioners?

The answer is unclear. The book is useful both for students of legal history and social movements and for those who study the structure of organizations. However, the reader is left with a sense of cognitive dissonance, between the expressed ideologies of those who support and engage in legal services activities, and the impact and implementation of the activities themselves. As the Reagan era ends, perhaps that dissonance will bring about an attempt to align practice with ideology.

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