

***The Politics of Informal Justice, Volume I: The American Experience and Volume II: Comparative Studies*, Richard Abel ed., Don Mills: Academic Press, 1982. Volume I Pp. xii, 335, Volume II Pp. xv 338, \$40.00 each (cloth).**

Over the past decades, one of the major objectives of the legal process has been to encourage people to assert their legal rights and assure greater recourse to the courts. Unfortunately, despite such noble goals, this trend toward popular justice met with difficulties. There was the inevitable backlash as the courts were unable to fulfill their promises and fell short of the expectations they had helped to raise. Formal justice proved to be overpriced, drawn-out and often unsatisfactory. The demands had outstripped the supply. In order to combat this disturbing state of affairs, there was a shift towards informalization. In reducing the strain on the courts, it was found necessary to de-bureaucratize the legal process and, consequently, there has been an increasing resort to more casual procedures and informal institutions. The central question that this book addresses is whether the move from formal to informal justice is a major transformative event crucial to legal politics or is simply a mere cosmetic change to the face of the law.

The book stems from a panel discussion at the Second Conference on Critical Legal Studies in 1978. This burgeoning movement is beginning to have a significant impact upon the legal establishment. Its basic message is that the law can only be viewed in its ideological context; that law is simply politics dressed up in different garb. Adherents of the view include such notable figures as Duncan Kennedy, Mark Tushnet, Robert Unger, Richard Abel, and Morton Horwitz.

Concentrating on the processual side of the law, this collection of twenty essays amounts to an attack on the legal process as an ideological institution which operates largely in the interests of class domination and state hegemony. The pervasive pessimism is exemplified by Andrew Scull:

Only a confirmed Pangloss can view the realities of a traditional penal system with equanimity, but what I have learned about the community corrections movement simply reinforces my conviction that tinkering around with the criminal justice system in a radically unjust society is unlikely to advance us very far toward justice, equity, or (come to that) efficacy. Perhaps the best I can do is to persuade others to share my sense of discomfort.¹

As is usual in collections of this nature, the quality is uneven and the writing is often stilted. Interdisciplinary in scope and nature, there are a variety

¹Richard Abel ed., *The Politics of Informal Justice* Vol. I (Don Mills: Academic Press, 1982) at 115.

of perspectives which can be loosely and profitably grouped together under the rubric of 'ideological enquiries into procedural law and institutions.'

The first volume of the essays deals with the American experience. There is a broad historical spread from the Knights of Labour in the nineteenth century through to the recent introduction of neighbourhood law centres. The exposition and analysis is often difficult, dense and, occasionally, obscure. The message is too often hidden within the medium, behind the jargon and technicalities of sociology. A particular strength of the collection is that it manages to combine the general and theoretical with a more particular and specialized account of selected topics. For instance, the essay by Mark Lazerson deals with the resolution of housing disputes in the South Bronx.

The second volume is, quite naturally, more diffuse in its focus for its essays are comparative in range and character. They include interesting, if uninspiring, work on such topics as legal rhetoric in Argentina by Halee Ietswaart and the Chilean experience of neighbourhood courts by Jack Spence. Although the settings are very different, they do provide the reader with a panoramic view of the modern global trend toward informalization. However, the essays do suggest that informal justice can be put to a variety of uses. Indeed, the conclusion of both volumes is that informalism is morally and politically ambiguous in that it can function as a powerful device for domination or an enlightening tool of liberation. Essentially, it must be viewed as a means and not an end. After reading all the essays, the belief lingers, at least as regards capitalistically-aligned states, that informalization represents not so much a genuine move towards real justice, but more an accommodating and elaborate smoke screen behind which the status quo and its attendant iniquities continue unabated. Despite the appearance to the contrary, the consensus seems to be that the shift subtly extends rather than reduces state control.

Any attempt to open up the procedural process to a broader, more interdisciplinary approach is to be applauded. For too long, procedure has been the poor relation of the jurisprudence family. Although this book will not find favour with some legal academics because of its distinctly "radical" approach, it deserves to be read by a far wider legal audience than this reviewer anticipates. If nothing else, it is an antidote to the complacency and smugness of many law reformers. The trend to informalism is not necessarily to be equated with a move towards the good. Conversely, formalism need not always be associated with the bad. The pervasive message of this book is that it is nothing more than idealistic fervour, lacking historical or experiential substance, to suggest that the existence or extent of informalism is somehow commensurate with the quality of justice. Like the law generally, informalism is a vehicle rather than a journey's end.

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