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978-0-521-14599-2 - The Paradox of Professionalism: Lawyers and the Possibility of Justice

Edited by Scott L. Cummings

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THE PARADOX OF PROFESSIONALISM

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 practice. As the chapters 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.

Scott L. Cummings is a Professor of Law at the University of California, Los Angeles, where he is also the faculty coordinator of the Epstein Program in Public Interest Law and Policy. He specializes in the legal profession, law and social change, and economic development.

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LAWYERS AND THE POSSIBILITY OF JUSTICE

Edited by

SCOTT L. CUMMINGS

University of California, Los Angeles, School of Law



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Preface and Acknowledgments

This book is a testament to the power of one person to make a difference. It grew out of a conference in September 2009 honoring the extraordinary legacy of Richard L. Abel, whose field-defining work on the legal profession has been a gift to all of us who care deeply about law as an instrument of justice. Abel's career has spanned – and helped define – the trajectory of contemporary sociolegal thought. He was a founding member of the law-and-society movement, editor of the *Law & Society Review*, and president of the Law and Society Association, which in 1989 bestowed on him its prestigious Harry J. Kalven Prize honoring the powerful impact of his overall body of scholarly work. He participated in the founding conference on Critical Legal Studies and helped organize the meeting on “Law and Racism: The Sounds of Silence,” which contributed to the development of Critical Race Theory. His scholarly influence is broad, spanning the legal profession, disputing, law and social change, and torts. He is perhaps best known for fundamentally reshaping our understanding of the role of lawyers in society – focusing attention on their collective quest for power while also highlighting their individual struggles to redistribute it. It is this paradox at the heart of lawyers’ “professional project” that is explored in this volume.

The 2009 conference also marked Abel's enormous influence on his community. It was organized to honor the occasion of his retirement from the UCLA School of Law, where he spent thirty-five years as brilliant scholar, beloved teacher, and esteemed colleague. He has touched a generation of students and mentored a legion of junior scholars – always with his characteristic warmth and generosity. Indeed, many of the conference participants spoke fondly of his influence. Perhaps his most enduring institutional legacy – and the one of which he is most proud – is the creation of the Program in Public Interest Law and Policy, which graduated its first class in 2000 and now counts nearly 300 graduates among its ranks.

While we have Abel's life work to thank for inspiring the conference, there are many others to thank for actually carrying it to fruition. The conference itself

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(and therefore this book) would not have been possible without the tremendous generosity of Michael Schill, who was Dean of the UCLA School of Law when it took place. His enthusiastic support was crucial in allowing us to bring together such a stellar lineup of world-class scholars. A special thanks also goes to the Epstein Program in Public Interest Law and Policy, whose directors, Cathy Mayorkas and Rochelle Adelman, contributed enormously to organizing the conference, and to Vice Dean Devon Carbado for his warm introductory remarks. I am grateful to my colleague Noah Zatz for prodding me to advance this project as part of a joint celebration of UCLA's two law and society giants, Rick Abel and Joel Handler. Last but not least, I am forever indebted to UCLA's Summer Rose, whose tireless efforts made the conference possible.

The contributors to this volume all participated in the conference, which also included other important scholars in the field of sociolegal studies and beyond, who I must thank for enriching the discussion. Robert Nelson, Director of the American Bar Foundation and Professor of Law and Sociology at Northwestern University, provided important insights on legal professionalism, while Bryant Garth, Dean of Southwestern Law School, offered a wonderfully nuanced international perspective. Gary Blasi, Professor of Law at UCLA, was the ideal facilitator for a discussion on "law and the power to change," and Kimberle Crenshaw, also from UCLA, was a brilliant interlocutor on our "law and social theory" panel. Others presented compelling papers: Professor Laura Gómez from the University of New Mexico School of Law spoke eloquently of law and racial inequality; Professor Christine Harrington from New York University gave a fascinating account of the politics of sociolegal theory; Professor Sally Engle Merry, also from NYU, discussed the role of indicators in global governance; and Professor Avrom Sherr traveled all the way from the University of London's Institute of Advanced Legal Studies to give an uproariously funny – and at the same time devastatingly serious – analysis of the reaction to Abel's work on the legal profession in England (which was published in a 2009 issue of the *International Journal of the Legal Profession*). Finally, I am deeply indebted to Marc Galanter and David Trubek, both towering figures in the law-and-society movement from Wisconsin Law School (and longtime friends of Abel), who gave absorbing, powerful, and moving speeches about Abel and his legacy.

This book is, in the end, a labor of love, dedicated to Rick Abel – my dear friend and mentor. Though your own professional project may remain unfinished, it lives on in all of us whom you have nurtured and inspired.

SLC

Los Angeles, California