

Lawyers of the Right: Professionalizing the Conservative Coalition.
By Ann Southworth. Chicago: University of Chicago Press, 2008.
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Reviewed by Kevin R. den Dulk, Grand Valley State University

Sociolegal researchers have a long-standing interest in lawyers and legal advocacy for the left. Judging from the size of the literature, one might even surmise that there has been little comparable legal activity on the ideological right. In the past several years, however, a small group of scholars has helped correct that misperception, with notable contributions from Teles (2008), Keck (2004), and Hatcher (2005), among others. Their work paints a portrait of conservative legal activism since the 1970s that is robust, influential, and remarkably diverse. Yet this scholarship has not addressed the full scope of legal alliances among business, libertarian, and socially conservative factions. Ann Southworth's fascinating *Lawyers of the Right* helps fill this void by exploring the interactions of lawyers across the conservative spectrum.

Southworth begins by chronicling the development of conservative public interest law in the early 1970s. Faced with much larger, better resourced, and more experienced consumer and civil rights groups on the left (Southworth also could have noted church-state separationists here), many of the lawyers and firms that were first associated with the nascent conservative movement soon realized they were out of their depth. After internal soul-searching and cultivation of intellectual and philanthropic bases of support, conservative legal groups began to develop greater expertise and specialization. Southworth draws an interesting and plausible connection between this change toward professionalization and the eventual emergence of conservative lawyers as leaders in the factions that coalesced around the Republican Party in the 1980s.

But did these conservative factions constitute a movement? Southworth argues that the proper description is an "uneasy alliance" or "coalition." Yet I came away from the book somewhat unsatisfied even with those watered-down terms. If one approaches the question ideologically, her rich set of interviews with key attorneys suggests a range of conservative interests with fundamentally divided constituencies and little cross-pollination. As Southworth details in Chapter 5, the "common ground" of these groups seemed to be their common enemies on the left, not their shared visions on the right.

But one might approach the question differently: Is the shared characteristic that binds the conservative legal "alliance" a distinctive professional identity? Is there a unified conservative idea of what *role* lawyers and law ought to play in public life? Certainly not

if one examines the organizational strategies and tactics of conservative groups, which Southworth points out were “created . . . in the image of public interest organizations of the political left” (p. 5). What is more, conservative attorneys’ own role perceptions differ greatly. As Southworth details in Chapter 5, business lawyers often come off as conventional hired guns, while libertarians and lawyers for religious groups generally appear as the quintessential “cause lawyers.” Indeed, differences in role perceptions were a source of significant conflict between the various conservative factions.

Despite these ideological and professional differences, however, Southworth still contends that the conservative coalition was fostered through the work of “mediator organizations,” that is, groups that attempt to gather disparate interests under the conservative umbrella. Her hypothesis is that these organizations helped forge communication networks among lawyers from business, libertarian, and religious groups, thereby linking the key constituencies of the conservative alliance. Drawing from her interviews and her previous research with Heinz and Paik (Heinz et al. 2003), she focuses particularly on the Federalist Society (with some attention to the Heritage Foundation as well). Her research suggests that there are indeed some key communication pathways that the society has fostered, especially among libertarian and social conservatives. In the final analysis, however, she does not make the case that heightened communication has actually resulted in active coordination or cooperation. I was left with the impression—confirmed by own research on legal advocacy groups of the Christian Right (e.g., den Dulk 2006)—that while the Federalist Society and similar groups provide opportunities for intellectual stimulation and camaraderie, many of the activists and hired guns on the ground remain highly specialized and unaffected by these concerted efforts.

Still, I would argue that Southworth’s treatment of mediating organizations is one of the most significant contributions of the book. While leaders of these groups have not always enforced unity among factions, they were nevertheless instrumental in spawning an intriguing and important political debate about whether conservatives of all stripes could claim the mantle of “public interest lawyers.” Southworth’s excellent treatment of the debate throughout *Lawyers of the Right*, as well as her reflections on other analytical concepts such as “cause lawyering” and the “politics of rights,” shows the benefits of increased scholarly attention to comparison of lawyers and legal advocacy from across the ideological spectrum.

References

- den Dulk, Kevin R. (2006) “In Legal Culture, But Not of It: The Role of Cause Lawyers in Evangelical Legal Mobilization,” in *Cause Lawyering and Social Movements*. Stanford, CA: Stanford Univ. Press.

- Hatcher, Laura (2005) "Economic Libertarians, Property, and Institutions," in A. Sarat & S. Scheingold, eds., *The Worlds Cause Lawyers Make: Structure and Agency in Legal Practice*. Stanford, CA: Stanford Univ. Press.
- Keck, Thomas M. (2004) *The Most Activist Supreme Court in History: The Road to Modern Judicial Conservatism*. Chicago: Univ. of Chicago Press.
- Heinz, John P., Anthony Paik, & Ann Southworth (2003) "Lawyers for Conservative Causes: Clients, Ideology, and Social Distance," 37 *Law & Society Rev.* 5.
- Teles, Steven (2008) *The Rise of the Conservative Law Movement: The Battle for the Control of the Law*. Princeton, NJ: Princeton Univ. Press.

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From Words to Worlds: Exploring Constitutional Functionality. By Beau Breslin. Baltimore: Johns Hopkins University Press, 2009. Pp. xii+213. \$50.00 cloth.

Reviewed by Paul Chen, Western Washington University

In *From Words to Worlds*, Beau Breslin attempts to understand "the various functions of the modern constitutionalist text" and "explores the most critical design features of constitutions" (p. 6). He argues that constitutionalist texts "all have similar features, even if those features translate into very different political practices" (p. 7). His "primary aim" is "to acknowledge the importance of texts as instruments to order political societies, as documents that use words to create worlds" (p. 4).

After carefully limiting his discussion in Chapter 1 to constitutionalist regimes with "fully operative" constitutions, Breslin proceeds to explicate seven key functions of such constitutions. First, constitutions transform a polity by destroying an old regime and giving birth to a new one, often at a distinct point in time (Chapter 2). Second, constitutions inspire "a vision of the future for a specific and collective people" by articulating "certain collective values or principles" as aspirations often embodied in a preamble or bill of rights (Chapter 3). Third, constitutions design the institutions of government whose very structure helps prevent the infringement of rights (Chapter 4). Fourth, constitutions manage conflict by establishing rules to guide the resolution of disputes (Chapter 5). Fifth, constitutions recognize minorities, entrenching their political participation in the constitution's text, thereby enhancing the government's legitimacy with the minority (Chapter 6). Sixth, constitutions empower the political institutions that maintain order and stability, the necessary preconditions for individual liberty (Chapter 7). Last, and arguably most important, constitutions limit political power so as to prevent arbitrary rule (Chapter 8).

Despite the abstruseness of much constitutional theory, Breslin's writing style makes the subject accessible to general read-