
Book Reviews

Kathleen E. Hull, Editor

Lawyers in Practice: Ethical Decision Making in Context. Edited by Leslie C. Levin and Lynn Mather. Chicago: University of Chicago Press, 2012. 392 pp. \$39.00 paper.

Reviewed by Carole Silver, Indiana University Maurer School of Law

Lawyers in Practice: Ethical Decision Making in Context, edited by Leslie Levin and Lynn Mather, is an excellent and important addition to existing resources on the ethical conduct of lawyers. It offers nuanced and textured analyses of lawyers' decisionmaking with regard to issues of ethics and professional identity, using the lens of the contexts in which lawyers practice to frame the discussion. The work is supported by both qualitative and quantitative empirical research that provides richly detailed and convincing backdrops for examining ethical conduct. The stated goal of Levin and Mather was to "narrow the gap between what sociolegal scholars are learning about lawyers' ethical decision making in context and the legal profession's approach to the teaching and regulation of lawyers" (21). They fulfill this by incorporating a discussion of specific ethical issues, including citations to rules, using the terminology familiar to lawyers, law students, and regulators.

Levin and Mather open with a discussion of "communities of legal practice" (18) and "areas of practice" (17) as the book's framework for analysis. Their premise is that lawyers gain experience addressing ethical dilemmas as part of their practices generally, and that this occurs in the context of communities of practitioners working in similar practice areas, regardless of whether they are within any particular practice organization. Consequently, while individual characteristics of lawyers or practice settings also matter, they are subsidiary issues.

Two additional introductory chapters explore issues implicated by the focus on practice areas as a framework for analysis. In "Some Realism about Legal Realism for Lawyers," David B. Wilkins revisits his earlier work on the importance of "specific lawyering contexts" with regard to regulating lawyers' behavior, and identifies six trends that complicate the notion of context today, including globalization, mobility, and technology. These, he suggests, will "make

it more difficult to identify which contextual factors are relevant and for which purposes” (39). In “Whose Ethics? The Benchmark Problem in Legal Ethics Research,” Elizabeth Chambliss suggests that understanding what lawyers and scholars mean by “ethical behavior” involves identifying the lens or framework they embrace. She explores notions of ethical fading and ethical learning as complementary rather than conflicting explanations, and in doing so adds an important note of caution about universal interpretations of lawyer conduct.

The mainstay of the book is comprised of 13 chapters focused on lawyers working in particular practice areas and the typical ethical issues that arise in the course of their work. This discussion provides a wonderfully diverse view of what lawyers do, sure to appeal to the curiosity of any law student or scholar. This is a book that has something for everyone, from sole practitioner, to in-house, large firm, and public interest lawyers.

At the same time, the book does not sacrifice depth for breadth. Each chapter delves into an area of practice in order to provide a thorough understanding of the influences and constraints on lawyers’ work with regard to ethical decision making and related issues. The areas addressed include family law, immigration, personal injury, a variety of corporate-related areas, criminal law, and public interest work. Four areas benefit from multiple chapters that take different vantage points (including personal injury (plaintiffs and insurance defense), criminal (prosecutors and defense), public interest (legal services and cause), and corporate). In these chapters, the ethical issues considered are not necessarily identical, which further highlights the importance of context. Corporate-related practice areas span five chapters on corporate litigation and discovery, in-house practice, global practice, securities lawyers, and patent law. In three of these, practice setting also is used as a defining construct. For example, Sung Hui Kim’s chapter on in-house practice considers situations in which lawyers may assume responsibilities that exceed their legal expertise, and is framed by the Model Rules of Professional Conduct on lawyers advising organizational clients. One of the most insightful parts of this chapter is her suggestion of the factors that can influence the roles assumed by in-house lawyers, including the industry in which the organization is engaged, its competitive position in the industry, and the organization’s tolerance for risk generally (218). Many of the factors she identifies have not been considered in earlier works on in-house lawyers.

One of the strengths of the book is its reference to the Model Rules. This not only makes it an easily accessible resource for law school classes on professional responsibility and ethics, but it also promises to engage regulators. Nearly all of the 13 practice-focused chapters include multiple references to the Model Rules. For

example, in their chapter on divorce and family law lawyers, Lynn Mather and Craig A. McEwen consider the issue of delay, which is the focus of several Model Rules (including MR 3.2 [duty to expedite litigation], MR 1.3 [diligence], and MR 1.4 [communication]). They describe lawyers' use of delay as a way to protect their clients from irrational decisions (75), using their data gained from an empirical study to guide a thoughtful inquiry about the ways in which the Rules sometimes pit compliance against furthering clients' interests. Apart from specific references to the Model Rules, the authors have taken care to identify issues common to several practice areas (see, e.g., Chapters 5 [immigration] and 14 [criminal defense] regarding lawyers' general sense of unfairness regarding the legal system's treatment of their clients). In this way, the coherence of the lessons drawn from the book is strengthened by the dialog among authors.

A particular benefit of the book for law students is the insight it offers into the important consequences of physical and logistical details of practice settings, such as office size and resources. Ellen Yaroshefsky and Bruce Green's chapter is a nice example, describing the ways in which "[h]igh caseloads and underfunding" and office size may influence ethical decision making of prosecutors (283–84).

Lawyers in Practice offers what has been a missing link between the study of ethics and an exploration of professional identity. Levin and Mather had this in mind when they developed the book's design: "The book deliberately focuses on empirical research rather than on normative perspectives. Normative perspectives are well represented in the literature, but to be useful, they must be grounded in the realities of lawyers' professional lives. Knowing what 'is' can help the bar, lawmakers, and other regulators construct and enforce what lawyers 'ought' to do" (21). In fact, it is crucial to understanding why and how the existing regime works—a subject worthy of scholars' and students' attention, as well.

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War•Time: An Idea, Its History, Its Consequences. By Mary L. Dudziak. New York: Oxford University Press, 2012. 221 pp. \$24.95 cloth.

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Since the early years of the current century, scholars have turned their attention to the American practice of armed conflict and its