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# Book Notes: The Paradox of Professionalism: Lawyers and the Possibility of Justice, by Scott L. Cummings (eds)

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Book Note

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## Book Note

### THE PARADOX OF PROFESSIONALISM: LAWYERS AND THE POSSIBILITY OF JUSTICE, edited by Scott L. Cummings<sup>1</sup>

ALIZA PREMJI

THE FUNDAMENTAL QUESTION this book seeks to address is “whether lawyers can transcend self-interest to meaningfully contribute to systems of political accountability, ethical advocacy, and distributional fairness.”<sup>2</sup> This is the “paradox” confronted by Cummings’ fascinating collection of essays on legal professionalism.

The impetus behind this book was a “crisis” moment in the legal profession that originated in the global economic meltdown of 2008.<sup>3</sup> Drawing on interdisciplinary and comparative data to examine the role of lawyers in constructing a just society, the book seeks to spark debate about the current model of public-interest law.<sup>4</sup>

For Cummings, “although justice is possible, it is never complete.”<sup>5</sup> In this collection, legal academics and practitioners, primarily from the United States, present normative and empirical analyses of the roles of lawyers in relation to the legal profession’s three basic justice claims: to serve the public good, to uphold norms of ethical practice, and to contribute to transformative justice.

Part I (Lawyers and the Public Good: The Fundamental Dilemma) examines the basic divide between public- and market-oriented versions of legal professionalism. It begins with a historical assessment of the role of American lawyers in developing democratic institutions.<sup>6</sup> It draws on evidence of legal mobilization in Asia, Latin America, and Africa to highlight the nexus between the legal profession and religion, and how that nexus can assist lawyers in mobilizing the public in “pursuit of

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1. (Cambridge: Cambridge University Press, 2011) 336 pages.

2. *Ibid* at 3.

3. *Ibid* at 4.

4. *Ibid* at 4.

5. *Ibid* at 3.

6. Robert W Gordon, “Are Lawyers Friends of Democracy?” in Cummings, *supra* note 1, 31.

political liberalism.”<sup>7</sup> The following chapters<sup>8</sup> consider how justice is affected by the rise in the number of legal professionals and the corresponding incapacity of the legal system to accommodate this change. These chapters ask whether the conditions of legal practice today promote greater access to justice, whose interests are ultimately being served, and what the role of lawyers ought to be in improving access to justice.

Part II (Lawyers and Their Clients: Determinants of Ethical Practice) explores the factors that influence ethical lawyering. It surveys ethical practices across several areas of law, considers the usefulness of informal sanctions in policing lawyer misconduct, and makes proposals for reforms to formal professional regulation. This Part concludes by articulating the power of legal education in reshaping professional values as another mechanism to operationalize the legal profession’s commitment to public service.

Part III (Lawyers and Social Change: Mobilizing Law for Justice) illustrates how lawyers can use law as a tool to advance social change. The first essay presents the iconic case of South Africa where political and legal struggles to overcome apartheid and the “formal victories” achieved are juxtaposed against the structural challenges limiting equality “on the ground.”<sup>9</sup> Other chapters in this Part<sup>10</sup> consider how advocacy networks can influence policymaking at the national level. Social movements in Thailand are offered as examples of “cause lawyering,”<sup>11</sup> by which lawyers may contribute to progress on a macro level (*e.g.*, via increased government accountability). Another way in which lawyers can contribute to the public interest is through a practice called “innovative lawyering,” exemplified by lawyers advocating for economic and social rights in Ghana.<sup>12</sup>

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7. Terence C Halliday, “‘The Conscience of Society?’: The Legal Complex, Religion, and the Fates of Political Liberalism” in Cummings, *supra* note 1, 50 at 51.
  8. Marc Galanter, “More Lawyers than People: The Global Multiplication of Legal Professionals” in Cummings, *supra* note 1, 68; John T Nockleby, “Faces of the Tort Pyramid: Compensation, Regulation, and the Profession” in Cummings, *supra* note 1, 90.
  9. Penelope Andrews, “Without Fear, Favor, or Prejudice: Judicial Independence and the Transformation of the Judiciary in South Africa” in Cummings, *supra* note 1, 197 at 198.
  10. Ann Southworth, Anthony Paik, and John P Heinz, “Lawyers in National Policymaking” in Cummings, *supra* note 1, 220; Frank Munger, “Cause Lawyers and Other Signs of Progress: Three Thai Narratives” in Cummings, *supra* note 1, 243 [Munger, “Cause Lawyers”]; Lucie E White, “African Youth Mobilize against Garbage: Economic and Social Rights Advocacy and the Practice of Democracy” in Cummings, *supra* note 1, 274 [White, “African Youth”].
  11. Munger, “Cause Lawyers,” *supra* note 10.
  12. White, “African Youth,” *supra* note 10.

Finally, the book concludes with an epilogue<sup>13</sup> by Richard Abel, in which he asks whether and under what conditions the law can, in fact, promote justice. Abel ends on an inspirational note, suggesting that while law may offer only partial justice, it is a justice worth fighting for. In his words, “[t]he struggle for justice never ends; but each chapter inspires future generations to persevere.”<sup>14</sup>

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13. Richard L Abel, “Epilogue” in Cummings, *supra* note 1, 296 at 296.

14. *Ibid* at 317.