



The Rights of the People and the Role of Librarians

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OUR JUDICIAL SYSTEM assumes that citizens know the law. We declare that ignorance of the law is no excuse for its violation. We maintain public schools so every person can become educated for his duties of citizenship, as well as to earn his living, but we do nothing to teach the fundamentals of law in our schools, nor do we refer people to clearly written books on legal questions.

People need access to ideas about freedom. They need access to precise information about their rights and the ways of retaining these rights. Sometimes this means help in finding a competent lawyer who will represent a person who has no money; sometimes this means finding a book that accurately describes the rights of a person who is being evicted, being held in juvenile hall, or awaiting a military trial. If there are not enough such books in print at this time—books that explain the law in terms the non-lawyer can comprehend—they must be written and put onto the shelves of public libraries. We can no longer afford to keep the law a secret.

Librarians today, whether they work in a public, law, academic, or special library, can perform a valuable service for both their patrons and the democracy of our country by recognizing the importance of the people's need to know their rights, and by providing them with the necessary materials and information. The advice given in some library schools and in the past (lead the patron with a legal problem to the *Martindale-Hubbell Law Directory*, then walk away fast, before he can ask you for more help) is inadequate for today's society.

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We need collections of pertinent legal materials, and concerned librarians with some knowledge of basic legal questions and bibliography who can evaluate a patron's questions and refer him to the most useful source.

Serious difficulties arise when the law is kept a secret. For one thing, citizens do not go to lawyers for a redress of grievances unless they already know enough about the law to believe they have a legal problem for which the law has a remedy. A person does not try to get something if he does not know it exists or that he has a right to it. For example, in New York City, if someone talked about abolishing rent control today, there would be a rash of mass meetings leading to many lawsuits. The person proposing rent control in most other areas of the country might be asked if he were some kind of a Communist.

Another problem arises when people feel their rights as citizens have been violated, but do not know how to get these rights protected peacefully through the courts. If more citizens understood how to fight their grievances by the legal methods available to them under our Constitution, fewer of them might be arrested for allegedly violating a law while fighting for their rights in the streets.

Also a difficulty is that the people sitting on juries can only absorb a certain amount of law during a trial. Unless they know some basic legal concepts before they are selected for jury duty, they will not be able to listen effectively to the facts in the case because they will be hung up on the legalisms. For example, if they come into the jury box knowing that the First Amendment guarantees the free exercise of religion, and understanding the legality of conscientious objection to participating in war, the lawyers and the judge will find it easier to present the facts and the law in a case concerning a particular conscientious objector.

The middle-class or wealthy adult with a legal problem does not generally go to a library for help—he consults his lawyer. The bulk of requests to librarians will come from a group that can be loosely termed “the disadvantaged.” This includes the unemployed, indigents, welfare recipients, heads of one-parent families, members of racial minorities, students, and juveniles. A large percentage of these people are poor; they do not have the money to hire a lawyer listed in a law directory; they have the scantiest information about legal processes, and yet they are the group most in need of legal help, the segment of the population most frequently arrested. Those most in

need of information often have an additional language or cultural barrier to communication.

In addition, different laws are applied to the poor and disadvantaged and to the middle and upper classes. Broadly speaking, law for the disadvantaged and the poor is administrative law, not law written by legislators or made by judges or juries, even though it is applied in cases that would be tried by judges and juries if the clients were not poor. Social workers and welfare workers are the judges in the family problems and squabbles of poor people. The social worker is not the judge when most professionals get divorced. The judge decides.

This means that we have two kinds of law, one for the people who can afford a lawyer and a court, and the other for people who cannot. The late Professor Jacobus tenBroek wrote telling articles on the dual system of family law¹ describing precisely how people with means go through the judicial system with lawyers and get legal redress by judges and juries, while people without means get justice, if it is justice, through welfare workers and administrators of social agencies who must decide what to do for them based, in part, on the social work facilities available at the time.

There is nothing inherently better about an official called a judge making a decision about people's lives than an official called an administrator, social worker, or housing superintendent making the decision. The judge is more likely to produce a fairer judgment only because the procedures followed in a courtroom are the result of centuries of struggle to provide safeguards for the weaker side. Under the best of circumstances, the judge has a set of legislative or judicial standards governing his decision, and he has the benefit of careful analysis of trained advocates who discuss the facts in the case being tried measured against those general standards. What he does is public, and frequently he rules only on the law, while a representative jury rules on the facts. He knows as he acts that his rulings are being recorded and that a higher court may reconsider his decision. The lawyers, too, are constrained to play their roles so as to avoid criticism by an appellate court on the one hand, and by their clients on the other.

These safeguards—definite standards for decision, limitation on fact finding to verifiable facts that are relevant, right to counsel, to public trial, to appeal—are not available in most administrative decision-making, and certainly not in agencies dealing with the poor.

The law for poor people is not found in a book of court decisions,

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because most decisions are not made by appellate courts and many are not made in writing. Neither is it found in the statute books. The law is in oral or written rules that are largely hidden from the public, from the group of people governed by those rules, and even from lawyers. For example, five years ago a lawyer representing poor people in Mississippi could not get a copy of the state regulations used to decide eligibility for welfare payments, although a book of regulations did exist. It was finally obtained by someone who knew a social worker, and it has since been reproduced. This was considered a great feat—to discover and disseminate the law. The same situation existed in the field of draft law. Until 1968 there was no way for clients, or even lawyers, to obtain new selective service regulations or local board memos promptly on promulgation, although they were used by draft boards in deciding cases.

What are the criteria used in deciding which tenants qualify for the scarce public housing units in our cities? Or the rules governing expulsion from academic public schools and transfer to disciplinary or continuation schools? In an administrative field that concerns non-indigents, that is, consumers, it is almost impossible, for example, to get to the root of decision-making on the level of insecticides permitted on agricultural products.

Administrative law, by and large, is secret law. It is made in secret, it is kept secret, and it is changed in secret. Yet it is as binding as statutes or court decisions on administrators who decide cases involving all people who are not able to go to the judicial system for adjudication of their rights. Librarians may feel they need the qualities of Sherlock Holmes to collect such materials, but they are in a better position to get them than the lawyers who need them. An administrative agency is more likely to send a copy of its manual to a library requesting it for part of its general research collection, than to a lawyer with a client who wants to sue that agency.

Traditional Roles in a New Light

Librarianship has always been a service-oriented profession, collecting and disseminating material to meet the needs of the library's patrons. In the areas of constitutional and poverty law, librarians are needed today to perform traditional tasks cast in a new light, a light that keeps visible both the rights of the people in a democracy to know their laws, and the laws themselves. To the cautious librarian who fears that giving legal help to a patron may endanger both him-

self and the patron, it should be noted that in the field of medicine, which is equally shrouded in a hands-off policy, the librarian has no fear in handing a patron a book on first-aid. What is sorely lacking in libraries today are books on legal first-aid.

The Meiklejohn Civil Liberties Library, in Berkeley, California, offers the following suggestions as to how the concerned librarian can provide and service a relevant collection of legal information that will be useful to his patrons:

1. *Collect the laws.* Most libraries have the official state and federal statutes (or should have), but the collection of even the smallest public library should be broader. If each library made a list of the most important administrative agencies in the community and wrote for a copy of the regulations of each agency, that would be a tremendous step forward. For assistance in compiling the list of agencies, ask any Office of Economic Opportunity legal service attorney, active Community Action Program worker, National Lawyers Guild chapter, or any social workers' organization.

2. *Collect secondary materials, particularly those which relate to the needs of your library's clientele.* Abundant secondary sources are available to help in keeping up with developments in the field of public law. Happily for the library's budget, most of this material costs little or is available free on request.

a. *Periodicals.* America today is a land of movements and causes, many of which publish periodicals you can collect for your library. As a sample of such publications, the list of serials collected by the Meiklejohn Library for the letter "C" includes: the Central Committee for Conscientious Objectors, the Citizens Alert, Inc. (which acts as a watchdog of the San Francisco Police Department), Citizen's Committee for Constitutional Liberties (which is working to repeal federal detention camp legislation), Committee for Non-Violent Action, Committee to Free Morton Sobell (out of business after nineteen years of seeking the release of this Cold War defendant), the Congressional Record, the Connecticut Commission on Civil Rights, Constitutional Rights Foundation (which prepares materials for California classroom teachers), Counterdraft, and Current.² Many of these publications are fugitive and ephemeral, but they are also timely and important documents, well worth the time it takes to write for them.

b. *Organizational material.* Write to the organizations and causes that deal with subjects that can help your library's patrons; if they

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are local organizations, advise them of your legal collection and invite them to use it. Ask for their publications. In addition to their periodicals, you may receive pamphlets and brochures that answer the questions most frequently asked by patrons, in language they can understand.

c. *Subject files.* One of the most useful sources of legal information is an up-to-date subject file on legal topics that concern members of your community. It will include newspaper clippings, articles from periodicals, and other printed material, such as the brochures you receive from organizations. Today every library in an urban community should find the following subject headings useful:

- (1) rights of students,
- (2) rights of juveniles,
- (3) draft and military law,
- (4) school integration,
- (5) academic freedom,
- (6) police practices in the community (this file, which collects newspaper clippings concerning police action, can be useful both to citizens and to the police department; invite the police department to contribute material to the file and to use it), and
- (7) the Bill of Rights (Special emphasis can be placed on collecting material for teaching the Bill of Rights in school. A flyer to schools and teachers can alert them to this service.).

3. *Keep a list of agency referrals and help patrons use them.* Compile and have available near the *Martindale-Hubbell Law Directory* an up-to-date list of local government agencies and other referral sources, annotated to describe the services each agency performs; its hours of service, address, telephone number, and other pertinent information. But merely handing this list to a person with a legal problem may be a waste of time for both librarian and patron, because the people who come to libraries for legal help are likely to be intimidated by agencies and afraid of the government; if Spanish-speaking, they may not know English well; if Black, they may not speak the white-collar English of the middle-class administrator. To provide genuine help to such a person may require assisting him in making the initial contact with the agency—telephoning the agency for an appointment or helping him draft a letter that explains his problem. Such action may seem out of the librarian's line of work, but if one reviews the articles that have appeared in library journals

in recent years detailing elaborate schemes for turning on the disadvantaged to the benefits of libraries, this may appear as a simple and appropriate gesture that will serve two purposes: it will help a person in need and it will turn him on to libraries more surely than a dozen clever parties of introduction.

4. *Publicize the collection.* Having collected this useful material, librarians should find ways to let the interested public know it is there. If the library has a monthly newsletter of acquisitions, an issue could be devoted to describing and explaining the law collection, with perhaps a foreword by a local attorney, pointing out its importance. The local newspaper and regional publications could be sent publicity releases or invited to do a feature article on the law collection.

Library displays are another way to advertise and engender interest in the law. The right to justice must be advertised, the methods of achieving it must be publicized, as well as the sources of legal assistance, if there is to be justice in the land. Shouldn't there be an exhibit of materials on the Declaration of Independence in the library on July 4, celebrating the successful revolution against oppression from overseas; a display on the United Nations Declaration of Human Rights for December 10, and a display on the Bill of Rights on December 16?

Bibliographies, both on the general law collection or on a special part of it, can be immensely useful. And a series of lectures on the law sponsored by the library, drawing on local lawyers, legal defense organizations, social workers, teachers, police officials, legislators and judges as speakers, will stimulate interest in the law as well as publicizing your collection.

New Roles for Librarians

For those librarians interested in charting new paths for their profession, the following additional ideas, although directed to law librarians, have been found useful by other librarians. They may also stimulate some "activist" library school students seeking a relevant way to work for the improvement of society to specialize in law librarianship and to help pioneer in the development of new-style law librarians.

Today every citizen who believes there is an urgent need for constructive social changes in this country, and who wants to achieve these changes peacefully, has a responsibility to work actively in

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whatever capacity his talents and training indicate. Librarians can make a valuable contribution by helping lawyers who are working to have social questions decided peacefully, by reason and due process in the legislative halls, administrative agencies, and courtrooms. These lawyers need the legal materials that librarians can provide.

Because of this pressing need for pertinent material, the Meiklejohn Civil Liberties Library was established in 1965 to collect legal materials pertaining to human rights, a part of the field of constitutional law. In the United States legal system, this can be subdivided into three categories: civil liberties, due process, and civil rights. The library collects the complaints, pleadings, interrogatories, depositions, and briefs that lawyers file in cases pertaining to these subjects; it collects only material that cannot be found in any of the printed books of court opinions that are available in typical law libraries. It is a working library for the use of lawyers and others specializing in the field of human rights.

Since these cases frequently have as clients the disadvantaged who pay their lawyers little or nothing, the library operates on a well-worn shoe-string, depending to a marked extent on the cooperation of concerned librarians, court clerks, and law offices across the country who send the library copies of legal materials that come to their attention. The library prepares a monthly list of acquisitions, lists its material in the *Civil Liberties Docket*³ which is distributed nationally to lawyers and libraries, and sends out material to individual lawyers and organizations on request.

The Meiklejohn Library offers to assist other libraries in setting up somewhat similar services geared to the local needs of patrons, and seeks suggestions for the improvement of its method of work from others already engaged in similar work. There is need for quick transmission of legal information across the country to people actively working on constitutional questions. Since there will always be a shortage of lawyers in this unremunerative field, each piece of research and writing must be used many times by many people in many cases in order to make a dent in legal precedents, and to help solve problems in the desperate lives of individuals who are at the bottom in our society.

Law librarians can do more than pass on significant material for lawyers to use. They can edit material for publication and prepare annotated legal bibliographies of cases on a particular point from which a lawyer can write a brief much more quickly than if he starts

from scratch. If they can spell, punctuate, think, outline, research, or write, their talent is needed. And their time and talent are wasted if they collect material for one person only. If the important point of law in a case or document is found and written it will be ready for some lawyers to use in court in their pending cases.

But to write effectively for lawyers, the nonlawyer librarian needs a working knowledge of legal language, as, for example, to list a particular article under "Equal Protection," (a legal concept guaranteed in the Fourteenth Amendment), instead of under "Civil Rights," a lay phrase. If librarians have not learned legal terminology in school or on the job, they will have to learn it by individual study, or by spending a few sessions with an interested lawyer. Books and articles in annotated bibliographies should be listed with legal concepts pinpointed, to give lawyers quick access to information needed for their cases.

Two recent examples of legal materials edited from items in the Meiklejohn Library point up a practical use for such materials, and may stimulate some creative law librarians to look at their own materials in the field of human rights with an eye to editing them for publication. In 1968, a commercial law publishing company requested an article on police misconduct litigation. The library staff took all the complaints it had collected in suits against the police, cut and pasted them together, edited them, added comments, and thanked the lawyers who had supplied them. The resulting article⁴ may help lawyers all over the country with clients who want to sue the police for false arrest or physical attacks and may perhaps help some to win their cases.

Later, the Meiklejohn Library obtained a copy of the transcript of the *voir dire* (questions to prospective jurors) in the trial of Huey Newton of the Black Panther Party. Defense counsel Charles R. Garry used 290 different questions seeking to determine the basic racial and social attitudes of prospective jurors, filling over 1,500 pages of transcript with the examination. So many requests for these questions were received that in 1969 the staff cut and edited the transcript for publication in book form, with an insightful essay added on sociological aspects of the jury selection process.⁵ This book is expected to be of value to any attorney defending a member of the Black Panther Party, or defending any minority group member where the racial or social prejudice of prospective jurors may affect the outcome.

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New Roles for Library Schools

If there are to be new style librarians in the field of law, the library schools must help train them. Basic reference courses need to cover more about the law than the United States Codes. Any area with an accredited library school will have lawyers who are able and willing to lecture to library school students on the law; their lectures could be a unit in one of the required reference courses, or be arranged as a separate course. Students specializing in law librarianship need more than bland courses in legal bibliography that are geared to training clerks who recognize the titles of law books and can produce them on request.

Faculty members, administrators, law librarians, and constitutional lawyers need to come together to re-evaluate and actually to change the legal training in library schools to meet the needs of our society. The field of librarianship needs to recognize the importance of the right of the people to know the law of the land.

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