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SPECIAL ISSUE

Comparative Studies of Lawyer Deviance and Discipline

Richard L Abel, Guest Editor*

This special issue of *Legal Ethics* argues that we can illuminate the nature of and explanations for lawyer misconduct and the relative advantages of different regulatory responses by comparing case studies of lawyers disciplined in a variety of countries. Case studies are an essential first step in understanding the nature of lawyer misconduct, the accounts lawyers give for their behaviour, and what explains it. Only after we have limned such thick descriptions of individual instances can we construct categories of unethical behaviour in order to determine their frequency in the population of disciplined lawyers. Such an understanding of lawyer misbehaviour is an essential prerequisite to devising remedies. Furthermore, the variation in national responses to lawyer misconduct allows us to compare their relative efficacy. Finally, case studies have unique pedagogic value. My own experience teaching legal ethics for 35 years, as well as reports by others, suggest that the subject poses unique challenges.[1] Law school teaches students to think cynically, like Oliver Wendell Holmes's 'bad man', argue both sides of every case, approach law positivistically, as a set of constraints to be manipulated or evaded, followed grudgingly, only as required by the letter of the law, not its spirit.[2] By contrast, legal ethics ask students to view law as an end, not just a means, to seek justice, not just pay lip service to rules. It is difficult to shift gears from instrumental utilitarianism to a Kantian categorical imperative. Furthermore, law students tend to dismiss discipline as something that happens only to others; case studies show how *they* might be tempted to transgress—and the consequences.

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1 Ronald M Pipkin, 'Law School Instruction in Professional Responsibility: A Curricular Paradox' [1979] *American Bar Foundation Research Journal* 247.

2 Elizabeth Mertz, *The Language of Law School: Learning to 'Think Like a Lawyer'* (Oxford University Press, 2007).

These are some of the reasons why I wrote two books of case studies of disciplined American lawyers.[3] I conceptualised lawyer misconduct as a breach of trust. Professions are an extreme manifestation of the division of labour—which, Adam Smith demonstrated, is essential to increasing efficiency in the production of goods and services. Lawyers' specialist expertise—indispensable to a modern economy—necessarily constructs dependence in others: clients, adversaries, fora (courts, administrative agencies, legislatures), and society. All those individuals and institutions must trust lawyers to behave ethically (whether or not they subjectively believe that lawyers are trustworthy). Criminology has extensively studied and theorised breaches of trust.[4] It has conducted ethnographies of confidence games, scams, and fiddles. It has distinguished ordinary crime—in which criminality is clear and the central question is 'who done it'—from white-collar crime—in which perpetrators' identities are clear but the legality of their behaviour is problematic. Ethical misconduct by lawyers is a paradigmatic instance of white-collar crime.

I was surprised to learn that scholars and law teachers have made little use of disciplinary case files.[5] Those records have many advantages. They are voluminous—often running to thousands of pages. Lawyers write down everything and preserve every paper and electronic document. They defend disciplinary proceedings vigorously because the stakes are enormous: reputation, even livelihood, is on the line. Some lawyers represent themselves, because they either lack the resources to hire another or are emotionally invested in the process (and convinced that they can represent themselves more effectively than anyone else). Their opportunity costs often are low because their practices have dried up (some may be provisionally suspended). Proceedings are often bifurcated into guilt and penalty phases. During the latter lawyers have a powerful incentive to disclose a great deal about themselves (if selectively) in order to mitigate the punishment.

But disciplinary records also have limitations. Ethical rules define what can be prosecuted (excluding much behaviour that non-lawyers find objectionable). The content of these rules partly explains the overrepresentation of solo and small firm practitioners and the virtual invisibility of prosecutors (and other government lawyers), house counsel, and large firm lawyers (although the lawyers I studied spanned the entire prestige spectrum, as defined by class and ethno-religious background, law school attended, first jobs, and financial success). Obstructive behaviour by megalawyers—eg, papering the opposition to death

3 Richard L Abel, *Lawyers in the Dock: Learning from Attorney Disciplinary Proceedings* (Oxford University Press, 2008); Richard L Abel, *Lawyers on Trial: Understanding Ethical Misconduct* (Oxford University Press, 2010). Five contributors to the present volume reviewed the first of those books: Leny de Groot-van Leeuwen, 'A Window on Lawyer Misconduct' (2008) 11 *Legal Ethics* 103; Nienke Doornbos, 'Risk Factors of Malpractice' (2008) 11 *Legal Ethics* 107; Linda Haller, 'Questions of Loyalty' (2008) 11 *Legal Ethics* 122; Andrew Boon, 'Review' (2009) 16 *International Journal of the Legal Profession* 119; Leslie C Levin, 'Bad Apples, Bad Lawyers or Bad Decisionmaking: Lessons from Psychology and from *Lawyers in the Dock*' (2009) 22 *Georgetown Journal of Legal Ethics* 1549. I replied to the first three in 'Author's Response' (2008) 11 *Legal Ethics* 126.

4 Abel, *Lawyers in the Dock* (n 3) ch 1.

5 I know of only two precursors: James Kelley, *Lawyers Crossing Lines: Nine Stories* (North Carolina Academic Press, 2001) (relatively brief case summaries) and Milton C Regan, Jr, *Eat What You Kill: The Fall of a Wall Street Lawyer* (University of Michigan Press, 2004) (a detailed account of a corporate lawyer).

and exploiting grossly unequal resources—falls outside disciplinary jurisdiction. Unlike ordinary policing, professional discipline is entirely reactive and therefore dependent on complaints. Because almost all come from clients (rather than other lawyers or judges), they are restricted to what clients observe, care about, and believe is wrong. Even after clients complain, prosecutorial discretion within the disciplinary institution shapes which cases are pursued and how vigorously. For all these reasons, the large 'dark figure' of undisciplined misconduct makes it very difficult to say anything about the representativeness of reported cases.

My two books dealt with New York[6] and California[7], arguably the two leading jurisdictions, which together contain 275,000 lawyers—a quarter of all American lawyers and more than any other country. The disciplinary systems of those two states offer access to the entire case file of any lawyer publicly reprimanded, suspended or disbarred. In selecting cases, I excluded two large categories: misappropriation of client funds (because other jurisdictions have adopted a variety of practices that greatly reduce this temptation) and felonies (where the disciplinary process is little more than an adjunct of the criminal justice system). The cases I chose involved behaviours that were common and had serious consequences: neglect and overcharging (the two most frequent client complaints), fraud and conflict of interest (which exploit client vulnerability), ambulance chasing (which outrages lawyer competitors, if not clients), and overzealous advocacy (the mirror image of many of the other categories—an instance of too much loyalty to clients rather than too little). I deliberately selected extreme examples of misconduct. Scientists as respected, and different, as William Harvey (who discovered the circulation of blood) and Sigmund Freud have argued the virtues of pathology for illuminating behavioural patterns.[8] And as storytellers have long known, pathology also engages the listener. To adapt the Italian adage '*si non è vero, è ben trovato*': extremes (truthful as well as fictitious) make good reading.

Although generalising from my 12 case studies (involving 16 lawyers) would be premature without analysing statistically significant variation among larger populations, I offered a number of tentative hypotheses about patterns of misconduct. Greed or need was the dominant motive (as Donald Cressey found in his pathbreaking study of embezzlement, aptly titled 'Other People's Money').[9] Many lawyers seemed to have a sense of entitlement to what they pocketed, justifying it by reference to the effort they invested, the expertise they had painfully acquired, or the rewards reaped by other (less deserving) lawyers. Opportunity beckoned, and no one seemed to be watching. But lawyers were not driven only by money. Some also sought the psychic rewards of being helpful, including the gratitude of their dependent, often female, clients. As a legal aid lawyer representing almost exclusively female divorce clients in New Haven in the early 1970s (when divorce was still based on fault), I repeatedly heard plaintiffs and their (female) witnesses talk emotionally about 'their' lawyers and 'their' judges (all male). Austin Sarat and William Felstiner vividly describe a

6 *Lawyers in the Dock* (n 3).
7 *Lawyers on Trial* (n 3).
8 *Lawyers on Trial* (n 3) x.
9 Donald Cressey, *Other People's Money: A Study in the Social Psychology of Embezzlement* (Free Press, 1953).

woman divorce petitioner calling her male lawyer a 'knight in shining armor'.[10] That his only response was to say 'Ouch!' shows that lawyers, unlike psychotherapists, are untrained to recognise or deal with transference and counter-transference. Victor Sifuentes (played by Jimmy Smits) regularly bedded his divorce clients in the television serial *LA Law*. Some states responded to this exploitation of emotional vulnerability by promulgating an ethical rule against it (a typically lawyerlike response). The lawyers I studied had years, often many decades, of experience. Their errors were not the product of ignorance; indeed, they had often learned the unethical behaviour from other lawyers.[11] Lawyers (by self-selection or training) seemed to have unusually rigid personalities: once committed to an action, they rarely engaged in course corrections, much less desisted. They also seemed strongly, and irrevocably, convinced of their own rectitude. Even when a strategic expression of remorse might have reduced or avoided a penalty, few could bring themselves to confess error.

The case studies left me quite skeptical about the efficacy of the disciplinary system (despite the professionalism of the lawyers who prosecuted and adjudicated those cases). Almost all scholarship about legal ethics is devoted to clarifying, criticising, refining and reforming the rules. But the rules these lawyers transgressed were patently clear. Legal ethics teachers are (rightly) concerned with improving pedagogy. But the lawyers I studied did not violate ethical rules because they had failed to learn, or internalise, them in law school. Rather, they had learned their unethical behaviour during years of practice. Although the formal disciplinary system is often criticised for lenience by clients and lawyers, the media and the public—foxes guarding the henhouse—I found the adjudications thorough and fair and the penalties appropriate. The real problem is the opacity of the process in the vast majority of cases that do not culminate in a full trial and significant punishment. The litigation pyramid of lawyer discipline looks like every other: a minuscule tip of visible adjudicated cases lying above an invisible iceberg of charges dropped or bargained down to minimal penalties. More troubling, I found little evidence that even serious punishments changed the disciplined lawyer's subsequent behaviour, much less his moral consciousness, and no evidence of general deterrence.

In the conclusions to the two books I canvassed a number of reforms. It would be difficult to reduce the dark figure of unreported misconduct. Lawyers avoid complaining about others, out of loyalty or sympathy, distaste for snitching, or fear of retaliation (tit-for-tat grievances could easily become yet another weapon, like sanctions motions, in a scorched-earth litigation strategy). Judges do not want responsibility for regulating lawyer misconduct—unless their dignity is challenged or the judicial process corrupted. (Judges and lawyers often are friends, especially in smaller jurisdictions.) Clients have little incentive to initiate a disciplinary process that is opaque, dilatory, and offers them no reward.

10 Austin Sarat and William LF Felstiner, 'Law and Strategy in the Divorce Lawyer's Office' (1986) 20 *Law & Society Review* 93.

11 Others have documented this, including Jerome Carlin, *Lawyers; Ethics: A Survey of the New York City Bar* (Russell Sage Foundation, 1966); Leslie C Levin, 'The Ethical World of Solo and Small Firm Practitioners' (2004–5) 41 *Houston Law Review* 309.

One response would be to make it transparent and speedy and require disciplined lawyers to compensate clients for inadequate professional service (as happens in Britain). The entire disciplinary process could be made a matter of public record as soon as a grievance is filed. But that would expose lawyers to reputational harm from false positives. Given that all litigation has a loser as well as a winner and clients are chronically angry about delay and cost, lawyers have good reason to fear unwarranted grievances, and ultimate vindication might not undo the damage. Firms could be required to maintain their own internal grievance mechanisms (as in Britain and Australia), but these can also serve to delay, or even frustrate, redress. Professional associations could enact a clients' bill of rights, requiring lawyers to give it to clients at the initial interview and keep a signed and dated copy with the retainer. This could include the right to a second opinion (about strategy and cost) and information about any internal grievance mechanism and disciplinary procedures. Periodic audits and regular financial reporting (required by some jurisdictions) could reduce opportunities for lawyers to misappropriate client funds. (Banks might be enlisted in this effort.) Mandatory tickler systems could reduce missed deadlines and neglect of clients and cases. Mandatory partnerships would respond to the overrepresentation of solo practitioners among disciplined lawyers by giving partners a reputational and financial incentive to oversee each other. Compulsory malpractice insurance (found in just *one* US jurisdiction) would give underwriters an incentive to police misconduct; experience-rated premiums (encouraged by market forces operating on competing insurers) would encourage lawyers to modify risky behaviour and perhaps eliminate those who could not or would not change. But this mechanism depends on clients claiming for malpractice, which few do. And experience-rating often relies on crude distinctions between risk-generating behaviours or lawyer characteristics.

Lawyers' fees are one of the two most frequent sources of client dissatisfaction (the other being neglect). All fee arrangements contain the potential for perverse incentives: fixed and contingent fees encourage early (and inadequate) settlements; hourly fees motivate lawyers to run up the meter. Lawyers could be required to give written advance fee quotations; clients could comparison shop; and public entities could review costs after the fact (as happens in many common law countries but rarely in the US). Restrictions on advertising could be relaxed to let lawyers publicise their fees (and success rates, if agreement could be reached on how to measure it).

A variety of reforms could reduce market imperfections (such as information asymmetries, transaction costs, and collective action problems). For-profit referral sources could warrant the quality and price of lawyers, competing for customers in terms of their own reputations for accuracy and integrity. Third-party payers (government legal aid schemes and private legal expense insurers) could monitor and minimise prices (through their bargaining power and discounts for quantity) and ensure quality (although their interests and those of their clients might diverge). The vast majority of individuals who are one-shot clients could be aggregated into repeat players through trade unions, consumer organisations, and other collectivities. Easing class action requirements could also collectivise client

interests (although it is lawyers, with potentially divergent interests, who typically construct the class). We could increase access to justice and reduce prices by letting lawyers actively seek clients, ie, chase ambulances, as other service providers do, subject to the usual safeguards against fraud and overreaching.[12] The profession could certify specialists, just as it certifies lawyers (although all entry barriers create additional opportunities for rent-seeking behaviour). At the other end of the specialisation spectrum, we could deprofessionalise many lawyer tasks, thereby lowering cost (but simultaneously requiring another regulatory regime to ensure the quality and integrity of paraprofessionals). Finally, we could delegalise some areas of social life, as in no-fault schemes for tort and divorce (but this might entrench extra-legal inequalities, eg, between one-shot accident victims and repeat-player defendants or insurers, or between women and men in divorce).[13]

I began one of my first articles by arguing that comparative research can 'awaken us to phenomena which at home are so familiar as to be almost invisible', thereby forcing 'us to recognize the contingency of our own ways' and 'look for explanations'.[14] I was drawn to the comparative sociology of legal professions by an invitation to comment on the 1979 Report of the Royal Commission on Legal Services.[15] This led me to collaborate with Philip Lewis in organising the Working Group for Comparative Study of Legal Professions, which produced two volumes of sociologies of the legal professions of seven common law and eleven civil law countries, together with a volume of comparative and theoretical essays.[16] That project taught me the difficulty of cross-national comparison. Civil law countries have no word for 'legal profession'. The category 'jurist'—all law graduates—typically includes advocates (with rights of audience in court), lawyers employed in business and government (who usually have a different occupational name and lack those rights), and judges, as well as occupations not part of common law legal professions, such as court clerks, bailiffs and notaries. Both the protected monopoly of civil law advocates and their actual functions are more limited than those of American lawyers. Civil law professions have many more

12 Richard L Abel, 'The Real Tort Crisis—Too *Few* Claims' (1987) 48 *Ohio State Law Journal* 443.

13 Richard L Abel, 'Delegalization: A Critical Review of its Ideology, Manifestations, and Social Consequences' in E Blankenburg, E Klausa and H Rottleuthner (eds), *Alternative Rechtsformen und Alternativen zum Recht*, VI *Jahrbuch für Rechtssoziologie und Rechtstheorie* (Westdeutscher, 1979) 165.

14 Richard L Abel, 'A Comparative Theory of Dispute Institutions in Society' (1973) 9 *Law & Society Review* 217, 219.

15 Royal Commission on Legal Services, *Final Report*, Cmnd 7648, 2 vols (HMSO, 1979); see Richard L Abel, 'Toward a Political Economy of Lawyers' [1981] *Wisconsin Law Review* 1117; Richard L Abel, 'The Politics of the Market for Legal Services' in PA Thomas (ed), *Law in the Balance: Legal Services in the Eighties* (Martin Robertson, 1982) 6.

16 Richard L Abel and Philip SC Lewis (eds), *Lawyers in Society*, 3 vols (University of California Press, 1988–9). These volumes have been reprinted by Beard Books. A selection is available in Richard L Abel and Philip SC Lewis, *Lawyers in Society: An Overview* (University of California Press, 1995). My involvement in the Working Group led to two books: Richard L Abel, *American Lawyers* (Oxford University Press, 1989) and *The Legal Profession in England and Wales* (Blackwell, 1988); republished as *The Making of the English Legal Profession, 1800–1988* (Beard Books, 2005). I extended the English study through the Thatcher years in *English Lawyers between Market and State: The Politics of Professionalism* (Oxford University Press, 2003). For an update of the comparative project, see William LF Felstiner (ed), *Reorganization and Resistance: Legal Professions Confront a Changing World* (Hart Publishing, 2006).

employed lawyers (in business and government) and judges than their common law counterparts. Universities historically played a much larger role in constructing legal professions in the civil law world, whereas professional associations dominated common law professions. Until recently, civil law countries had no large firms, and even now they remain less dominant (and smaller) than in common law countries. All these differences make comparison simultaneously challenging and illuminating.

The present project to compare lawyer deviance and discipline across nations also grows out of the Working Group, which remains a vibrant organisation of legal scholars and social scientists from many countries.[17] Over the course of several semi-annual meetings, members produced and discussed case studies of disciplined lawyers in their own countries. The present volume is the first product of what I hope will be ongoing collaborative work. (Anyone interested in participating should contact me or any of the other contributors.) It profiles deviant lawyers and disciplinary processes in England, Canada, Australia, New Zealand, and the Netherlands. The imbalance between common law and civil law reflects the relative difficulty of gathering information. Serious discipline creates a public record in common law countries (although defamation law may limit what can be said, and case reports are less comprehensive than in the US). But discipline remains secret in civil law countries, compelling researchers to rely on criminal prosecutions, newspaper accounts, or disciplined lawyers willing to be interviewed.

The concluding essay by Leslie Levin analyses similarities and differences among the five national reports (and between them and my American cases). Let me conclude this introduction by suggesting questions that readers may want to keep in mind as they encounter the fascinating stories in the next five articles. These lawyers (like many of mine) are extreme cases; what can they tell us about the more common forms of quotidian deviance? Are they illuminating exaggerations or *sui generis* exceptions? Many of these lawyers (again like mine) were recidivists, who had developed a modus operandi which seemed to work (until they finally received serious punishment). How did they learn it? Why were they not stopped earlier? They seemed unable to acknowledge error and to feel no remorse. How did they justify themselves? Why did they see nothing wrong in their behaviour? Lawyers spend their lives applying the law to others; why did these lawyers apparently feel little or no obligation to play by those same rules? Concern to preserve a good reputation is often said to be one of the most powerful means of social control, especially for those selling personal services. Yet some of these lawyers actively courted notoriety; why did they do so? What was the payoff? Much lawyer discipline is directed toward rehabilitating the fallen; what do these case studies suggest about the likelihood of fundamentally modifying lawyer character or behaviour? The most severe penalties—suspension and disbarment—purport to prevent lawyers from doing more harm (at least temporarily). What should the disciplinary system do about lawyers who circumvent those penalties by continuing to act through others?[18]

17 For information, contact the chair: Ulrike.Schultz@FernUni-Hagen.de.

18 A notorious example is Burton Pugach, chronicled in Berry Stainback, *A Very Different Love Story* (Morrow, 1976) and the documentary film by Dan Klores, *Crazy Love* (2007). Disbarred for a felony (hiring thugs to throw lye in the face of a young woman who rebuffed his advances), he joined a law firm as a paralegal after

These lawyers approached law instrumentally, as a means rather than an end. They embraced a role morality, elevating the pursuit of client ends (and sometimes their own) over any greater obligation to seek justice. Role morality can justify filing unmeritorious claims, making implausible arguments, using delay tactically, and abusing adversaries and courts. (My American lawyers 'stole' crucial papers from an adversary, defied a court-approved settlement negotiated by a client, and blatantly violated a law limiting their fees.) Are these traits typical of disciplined lawyers? Are they shared by all lawyers (if to a lesser degree)?

Like my American subjects, these lawyers were experienced, practised alone or in small firms (which they usually dominated), and all were men. Is this true in other countries? How are these traits related to lawyer deviance?

Several of these lawyers (and several of mine) engaged in mass processing of claims, such as immigration and personal injury. Is this generally associated with ethical misconduct?[19] Mass processing often requires aggressive advertising, bordering on solicitation. Should that be regulated (beyond laws against fraud)? What about lawyers who use lay employees to perform essentially legal tasks (thereby greatly increasing the lawyer's profits)? If laypersons can do this work as employees, should they be allowed to perform it independently of lawyers and in competition with them (thereby driving down costs because of paralegals' lower entry barriers)? Should lay intermediaries be able to charge for lawyer referrals?[20] Some of these lawyers justified their conduct as increasing access to justice. Did they actually do so? Is there a necessary sacrifice in the quality of lawyering? For instance, are these lawyers more likely to settle low in order to maximise their own profits? Some mass processing is paid for by government (eg, legal aid mills and public defenders). Does third-party payment (by government or private insurance) create additional opportunities for ethical misconduct? Could third-party payment become a more effective means of regulating lawyer behaviour? (Legal aid is much more restricted in the US than in many other countries, and most of it is delivered through salaried lawyers. Why do they almost never appear in disciplinary proceedings?)

The clients of most of these lawyers (as well as mine) were unusually vulnerable: immigrants, psychiatric patients, personal injury victims, criminal defendants, divorcing couples, native Canadians. Do such clients need different rules and protections? Is neglect and incompetence a more serious problem in the United States? If so, is this because of the profession's greater size, diversity and commercialisation? Some of the lawyers in this volume also failed to consult with or be accessible to clients or keep them informed. How

serving a lengthy prison sentence and continued to 'practise' personal injury law (without appearing in court or signing legal papers).

19 Nora Engstrom, 'Run-of-the-Mill Justice' (2009) 22 *Georgetown Journal of Legal Ethics* 1485; Nora Engstrom, 'Sunlight and Settlement Mills' (2011) 86 *New York University Law Review* 805.

20 Sara Parikh, 'How the Spider Catches the Fly: Referral Networks in the Plaintiffs' Personal Injury Bar' (2006) 51 *New York Law School Law Review* 243; Richard L Abel, 'How the Plaintiffs' Bar Bars Plaintiffs' (2006–7) 51 *New York Law School Law Review* 345.

could lawyers be made more accountable? If some lawyers neglected their clients or sold them short, others were overzealous advocates. Influential American legal scholars have extolled the 'hired-gun' view of the advocate's role.[21] Is this a distinctively American problem, and if so, why?

Several of these lawyers (and many of mine) appeared to charge excessive fees. Were they unusual in this respect? Why did they feel they deserved what they pocketed: comparisons to other successful lawyers, an inflated sense of self-worth, or their hard-driving work ethic? (Most fee disputes are mediated or adjudicated outside the disciplinary system; only repeated, egregious overcharging is punished.)

The formal disciplinary systems of the countries described in this volume display the familiar litigation pyramid: dramatic attrition from large numbers of (client) complaints to very few significant punishments. In some countries, the local bar still plays an important role in screening complaints and handling most of them. (Decades ago California replaced a similar system with professionalised prosecution and adjudication, although only in the face of considerable resistance from lawyers.)[22] What is the best mix of self-regulation (often local) and professionalised prosecution (by those with greater social distance from the accused)? How much attrition is appropriate (because client dissatisfaction does not necessarily signify ethical misconduct)? If valid complaints are being dismissed prematurely or settled with inadequate penalties, why is this happening? Can differences in disciplinary processes within and between countries provide useful information about relative efficacy in preventing deviance?

Comparative studies of lawyer deviance and discipline cannot resolve every one of these issues. But like all good social science, they generate more important questions than they can answer.

21 eg Monroe Freedman, *Lawyers' Ethics in an Adversary System* (Bobbs Merrill, 1975); Murray Schwartz, 'The Professionalism and Accountability of Lawyers' (1978) 66 *California Law Review* 669; Charles Fried, 'The Lawyer as Friend: The Moral Foundations of the Lawyer-Client Relation' (1976) 85 *Yale Law Journal* 1060. For a critique, see William H Simon, 'The Ideology of Advocacy: Procedural Justice and Professional Ethics' [1978] *Wisconsin Law Review* 29; David Luban, 'The Adversary System Excuse' in David Luban (ed), *The Good Lawyer* (Rowman & Allanheld, 1984).

22 Abel, *Lawyers on Trial* (n 3) ch 1.