LEGAL MOBILIZATION FOR SOCIAL REFORM: POWER AND THE POLITICS OF AGENDA SETTING

MARK KESSLER

This article develops an agenda setting framework for studying the role of American courts in protecting and promoting the interests of the politically disadvantaged. Drawing from work on agenda setting processes in local political systems, the author presents a framework that examines the ways in which varying configurations of organizational power influence the types of issues that reach lower court agendas. The framework and its implications are illustrated with findings from empirical research on legal mobilization on behalf of the poor by federally funded legal services lawyers. The article shows the variety of mechanisms employed by powerful local interests to constrain poverty lawyers who wish to mobilize issues of social reform. The findings suggest that judicial agendas may reflect prevailing distributions of power to a much greater extent than is implied by conventional views of the legal system's utility in effecting social reform.

For several decades sociolegal scholars have debated the role of law, lawyers, and legal institutions in movements for social reform. The attention paid to this fundamental issue has intensified since the late 1950s, as legal institutions have been asked increasingly to provide remedies for various social problems affecting minority groups and disadvantaged interests within society (Chayes, 1976; Handler, 1978). A series of landmark decisions of the United States Supreme Court benefitting groups and individuals that have traditionally been politically disenfranchised has suggested to many that law and courts may play an important role in protecting and furthering the interests of those without effective access to political institutions.[1]

I would like to thank Brad Canon, Shari Diamond, Jim Eisenstein, Mary Katzenstein, Arlene MacLeod, Doug Telling, and three anonymous reviewers for their valuable comments on earlier drafts of this paper. Claire Schmoll and Joyce Caron assisted in preparing the manuscript. This research was supported by the National Science Foundation, Grant SES81-11984.

[1] Examples of such decisions include *Mapp v. Ohio* (1961); *Gideon v. Wainwright* (1963); *Miranda v. Arizona* (1966); *Shapiro v. Thompson* (1969); *Goldberg v. Kelly* (1970); *Brown v. Board of Education* (1954); *Heart of Atlanta Motel, Inc. v. United States* (1964).

These decisions, and several others of benefit to the politically disadvantaged, are generally applauded by liberals. Conservatives, on the other hand,

These decisions reinforce conventional notions about the legal system held by many Americans. Referred to by Scheingold (1974) as the "myth of rights," this perspective views the law as a ready source of remedy for disadvantaged interests victimized by present policies and action. Those whose rights are violated can count on a mandate for redress if they bring their claims to legal institutions and demonstrate harm. Judicially affirmed rights, moreover, are viewed as self-implementing instruments of social change removed from the constraints of politics and power. According to Scheingold (1974: 5), the "assumption is that litigation can evoke a declaration of rights from courts; that it can, further, be used to assure the realization of these rights; and, finally, that realization is tantamount to meaningful change."

Several empirical studies since the 1950s provide a generally optimistic view about the accessibility of legal institutions to the demands of disadvantaged interests. In particular, research on interest group involvement in the legal system documents how groups lacking an effective voice in the political system—for example, blacks, political dissidents, religious minorities, women, and the disabled—have won important legal victories in appellate courts (e.g., Vose, 1959; Casper, 1972; Sorauf, 1976; O'Connor, 1980; Olson, 1984).[2] The appellate court decisions themselves, protecting criminal defendants and the poor from unfair and arbitrary treatment by government agencies and promoting the goals of civil rights groups, are viewed as evidence of the responsiveness of legal institutions to the plight of the politically marginal.[3]

The implications of this perspective are especially significant

---

argue that activist courts have gone too far in promoting such interests. Morgan (1984), for example, argues that the groups which pressed these issues, along with liberal law professors and activist lawyers, form a "rights industry" that has "run amok," causing serious damage to such American institutions as schools and law enforcement institutions.

[2] In general, the research does not suggest that disadvantaged groups always win in courts or that obtaining legal victories is cost-free. Some, like Olson (1984), recognize the limitations of the legal system in providing material benefits to the disadvantaged. In her study of disabled groups and the courts, Olson discusses the conditions under which such victories are gained and the ways in which declarations of rights may be used to mobilize potential beneficiaries to continue their struggle in other arenas. Interest group studies, however, vary in their emphasis on the limitations of courts in protecting the disadvantaged and are used by some as evidence that those without access to political institutions may petition judicial institutions successfully.

[3] To some extent, this argument is made by the U.S. Supreme Court in the famous "footnote 4" in *United States v. Carolene Products Company* (1938). In this footnote, the Court suggested that an explicit "double standard" (Abraham, 1982: 8–27) would be used to judge the validity of laws and practices. Legislation and action that violates personal rights and freedoms would be given "more exacting scrutiny" by courts than legislative or executive action that seeks to regulate economic activity. Courts would be especially concerned with legislation and institutional practices that restrict access to political processes for groups, such as blacks, who historically have been disenfranchised. The perspective outlined in *Carolene Products* appears to have greatly influenced conventional views. On this point, see McCann (1989).

when viewed in the context of democratic theory. If courts are accessible to groups without influence in the political arena, and enable those groups to obtain significant benefits, then courts may be viewed as providing an important correction for inequalities in the political system noted by critics of pluralist democratic theory. Even if Schattschneider's (1960: 35) observation that the "chorus" in the "pluralist heaven . . . sings with a strong upper-class accent" is accurate, law and courts may provide an equilibrium of sorts by responding to demands of groups and classes excluded from participation in political institutions.[4]

Legal institutions are uniquely able to play this role, according to this view, because they operate under substantially different rules and conditions from more explicitly political institutions (Scheingold, 1974). Judicial decisions are not products of bargaining and compromise among competing interests, as are decisions rendered in the political arena. Judges, at least those with life tenure, are insulated from political pressure (this point is developed by Perry, 1982). Consequently, judicial policies are thought to be influenced less by the relative political strength of parties than in legislative bodies and executive agencies. Bennett (1983: 61), for example, in an essay about judicial policy regarding the poor, writes that "courts are designedly insulated from the usual levers of political influence and thus are particularly charged with ensuring that the benefits of the rule of law reach the nation's poor."

In recent years a substantial body of critical scholarship presents a more pessimistic perspective regarding the role of law and courts in promoting social change. One body of literature, emanating in large part from the Critical Legal Studies movement, seeks to demonstrate the ideological biases and constraints of prevailing legal doctrines which redefine social and political conflict in innocuous ways or exclude fundamental conflicts altogether (see, e.g., Kairys, 1982; Hutchinson and Monahan, 1984; Kelman, 1987). Some scholars argue that the exchange-oriented and individualistic biases of liberal rights discourse significantly constrain efforts on behalf of egalitarian social reform (e.g., Milner, 1986; McCann, 1989).

A growing body of empirical research also challenges the adequacy of conventional views. For example, research on the impact and implementation of judicial decisions (for a review of this literature, see Johnson and Canon, 1984; also see Handler, 1978) suggests that compliance with judicial mandates is often problematic when legal victories run counter to prevailing power relationships.

---

[4] A similar line of argument is provided by McIntosh (1983) in a historical study of litigation in a St. Louis trial court. McIntosh found that high rates of litigation accompanied low voting turnout and single-party dominance of elective offices. He concluded that "litigation may represent an alternative form of political activity, particularly when a minimal number of access points is available to a sizable segment of the population" (*ibid.*, p. 1003).

Since courts have no independent authority to enforce their decisions, those in power may delay or obstruct implementation, or ignore court decisions altogether.

Recent research on civil litigation and dispute processing, while it does not explicitly address the role of law in promoting change, also provides a rather pessimistic view. Case studies of civil litigation filed in lower courts (e.g., Dolbeare, 1967; Wanner, 1974; Friedman and Percival, 1976; *Law & Society Review*, 1980-81; Engel, 1984; Greenhouse, 1986) demonstrate, among other things, that issues of concern to disadvantaged interests are rarely brought to lower courts.[5] And studies of small claims courts show that these institutions, established originally to serve the needs of average citizens, are most typically employed by business firms to collect debts (Yngvesson and Hennessey, 1975).

Although this body of research makes an important contribution in describing the types of issues mobilized and brought to lower civil courts, it fails to explain adequately much of what it describes, especially the relative lack of litigation on issues of concern to those without access to political institutions. Further, with the exception of Bumiller's (1988) revealing analysis of the social-psychological reasons for the failure of women to litigate discrimination claims, the extant research does not examine systematically the mechanisms which constrain the mobilization of law and use of courts for purposes of social and political reform.

This article seeks to contribute to a more complete understanding of the role of law and litigation in social reform by developing a framework for studying legal mobilization and the issues reaching lower court agendas. Employing insights from research and theoretical writings on agenda setting processes in local political systems, I develop a framework for studying the ways in which judicial agendas are shaped. The framework is sensitive to the mechanisms employed in constraining the mobilization of law for purposes of social reform. To illustrate the potential utility of this framework, I also discuss empirical research on legal mobilization on behalf of the poor by federally funded poverty attorneys.

A FRAMEWORK FOR STUDYING LEGAL MOBILIZATION AND AGENDA SETTING

An important body of research on the allocation of resources by local political institutions suggests that the process by which issues reach governmental agendas is crucial for understanding the particular interests that benefit and lose in the political system (Bachrach and Baratz, 1970; Crenson, 1971; Gaventa, 1980; Cobb

[5] On federal district court agendas, see Grossman and Sarat (1975). On the composition of state appellate court agendas, see Kagan *et al.* (1977, 1978). For a set of explanations regarding why trial courts are not optimal arenas for promoting the interests of the politically disadvantaged, see Galanter (1974).

and Elder, 1983). Conceived primarily as a critique of pluralist notions of power in the political system (such as those found in Dahl, 1961; Polsby, 1963), research on agenda setting is linked closely to the study of power and policymaking. One major point of agreement among those who write about agenda setting is that "power may consist of something more than the ability to influence the resolution of local political issues; there is also the ability to prevent some types of issues from ever becoming issues and to obstruct the growth of emergent issues" (Crenson, 1971: 184). Empirical studies have focused on the ways in which dominant interests exclude from government agendas issues that threaten the status quo, for example, by the use of force, threat of sanctions, and the operation of what Schattschneider (1960) refers to as a "mobilization of bias"—"a set of predominant values, beliefs, rituals, and institutional procedures ('rules of the game') that operate systematically and consistently to the benefit of certain persons and groups at the expense of others" (Bachrach and Baratz, 1970: 43; also see Lindblom, 1977). Research on agenda setting seeks to identify the interests and issues that gain access to political institutions, those that are systematically excluded from consideration, the mechanisms through which undesirable issues are excluded, and the implications of differential access to agendas for the allocation of resources by policymakers. The major expectation derived from such research is that governmental agendas will reflect the interests, concerns, and prejudices of dominant local groups.[6]

---

[6] For studies of agenda setting at the national level, see Walker (1977), Light (1982), and Kingdon (1984). Of these works, Kingdon's is the most theoretically sophisticated. Based in large part on Cohen, March, and Olsen's (1972) "garbage can model" of decisionmaking, Kingdon's study examines the ways in which vast numbers of solutions and problems are processed by national policymakers. According to Kingdon's framework, a mix of solutions and problems that circulate in a "garbage can" of sorts are processed by participants, when decisional opportunities present themselves. Problems and solutions are widely discussed among relevant publics and participants, and when opportunities for action are presented, or in Kingdon's terms, when "policy windows open," solutions attach to problems, or "couple." Governmental agendas, then, are a function of the opening of opportunities for policymaking, the mix of "garbage" (problems, solutions, participants) in the "can," and the processing of it by political officials and other relevant publics.

While this theoretical formulation may provide some insight into the diffusion of innovative policy among political and legal institutions, it does not adequately address the structural processes by which some issues are systematically excluded from agendas. Kingdon focuses primarily on problems and issues that receive some consideration from political elites, issues that are able at least to find their way into the "can." He recognizes that there are important boundaries regarding what may be discussed (or what gets into the "garbage") but does not analyze the process of boundary construction. In other words, while Kingdon acknowledges that such things as preferences of the mass public, special publics, and elected officials create boundaries separating "legitimate" from "illegitimate" issues and solutions, his framework does not guide an exploration of the processes employed in maintaining this separation. The theoretical framework I employ explicitly examines these processes.

Students of the American judicial system are not unaware of the importance of agenda setting processes. However, most judicial research on agendas looks primarily at discretionary decisions on certiorari and appeal made by the U.S. Supreme Court (e.g., Tanenhaus *et al.*, 1963; Ulmer, 1978; Provine, 1980). For the most part, this body of research examines agenda setting for the insights it may provide into elite and small-group decisionmaking processes, rather than for what it might contribute to a more complete understanding of the role of courts in movements for reform.

Since lower courts have much less discretion over their dockets than does the Supreme Court, research on agenda setting requires the study of legal mobilization—"the process by which legal norms are invoked to regulate behavior" (Lempert, 1976: 173; also see Black, 1973). Rather than reflecting the decisions of judges, lower court agendas are a function of decisions made by individuals, groups, and their lawyers to invoke law and seek authoritative resolutions of conflict. Indeed, as Zemans (1983) argues, legal mobilization may be viewed as an especially significant form of political participation because when they use the legal system, individuals may petition governmental institutions for redress of grievances much more directly than is possible when they engage in more traditional modes of political participation. Because the judicial system is limited to controversies involving directly injured parties, it "provides a uniquely democratic (as opposed to republican) mechanism for individual citizens to invoke public authority on their own and for their benefit" (Zemans, 1983: 692).[7]

Since the local legal system provides direct access to those with grievances, it presents a promising arena in which to study relationships between political power, issue agendas, governmental allocations of resources, and the role of law and courts as promoters of change. An agenda-setting framework applied to local courts focuses attention on the norms that govern the initiation of legal action, the mechanisms employed to sustain and enforce such norms, and the interests which benefit from normative systems. The framework suggests that judicial agendas will reflect the interests of dominant local groups, and will exclude from consideration issues which threaten the interests of such groups. The empirical study of legal mobilization and the mix of issues reaching lower court agendas, then, may provide a different and, perhaps, more complete description of how courts allocate resources than

[7] By and large, writings on legal mobilization assume that trial court judges are passive, only acting upon those issues raised by litigants. In the context of the diffusion of innovative legal doctrine, however, it may be the case that judges behave proactively, attaching predetermined solutions to problems implicit in cases. Indeed, cases may present "policy windows" (Kingdon, 1984) for judges, giving them the opportunity to attach innovative solutions, even when lawyers and litigants are not working consciously toward such ends. However, instances where judges play such a proactive role appear to be relatively rare compared to the more routine processes discussed here.

would studies focusing on interest group behavior and appellate court decisionmaking. Such studies may also broaden our understanding of more general distributional patterns, for as Zemans (1983: 694) notes, "what the populace actually receives from government is to a large extent dependent upon their willingness and ability to assert and use the law on their own behalf."

In the remainder of the article, I attempt to illustrate the potential utility of an agenda setting framework for understanding the role of law and courts in promoting change.[8] I present findings from empirical research on legal mobilization on behalf of the poor by federally funded legal services lawyers, exploring the type and scope of poverty issues brought to court. I also examine "nondecisions"—the process "by which demands for change in the existing allocation of benefits and privileges in the community can be suffocated before they are even voiced; or kept covert; or killed before they gain access to the relevant decision-making arena" (Bachrach and Baratz, 1970: 44). The findings suggest that judicial agendas at the local level reflect prevailing distributions of political power. By implication, this strongly suggests that local courts may not protect or promote the interests of those groups lacking influence in the political system. Instead, agenda setting processes may serve to maintain existing inequalities.

THE DATA

To illustrate the potential utility of an agenda setting framework, I use data from a study of five local agencies in a single state funded in part by the national Legal Services Corporation: two large metropolitan agencies (Metro City Legal Services and Industrial Region Legal Services), two smaller rural programs (Regional Rural Legal Services and Rustic Legal Services), and one medium-sized suburban agency (Suburban Legal Services).[9] The agencies varied in size of staff and size of population served, and were re-

[8] Research on lower court agendas has discussed the role of courts, but typically in terms of whether trial courts have shifted from authoritatively resolving genuine disputes between parties (dispute settlement) to routinely processing undisputed matters (routine administration). See Friedman and Percival (1976), Lempert (1978), and McIntosh (1980–81). For the most part, however, these studies do not examine the role of courts in the process of change. For notable exceptions, see Dolbeare (1967) and Wanner (1974).

[9] Pseudonyms are used to protect the anonymity of agencies and individuals studied. The field research in the five communities was conducted from August 1981 to March 1982. Shortly before the fieldwork began, the Reagan Administration announced its intention to eliminate funding for the LSC. In such a political environment, it was necessary to promise anonymity in order to gain access to the programs under study.

Metro was the largest program studied, employing some seventy lawyers scattered among a handful of offices. It served one county containing well over a million persons, approximately 15 percent of whom received AFDC benefits and 40 percent of whom are black. An important characteristic distinguishing Metro City from the other four sites was the large number of active low-income community groups. These groups ranged from neighborhood-

puted to differ in the manner in which they mobilized legal issues of concern to the poor.[10]

The data come from three major sources: lengthy semistructured interviews with ninety legal services attorneys and administrators, questionnaires administered to these same poverty lawyers, and interviews with ninety-four individuals representing organizations that interact with legal aid offices.[11]

---

based community development corporations to citywide advocacy organizations.

Industrial Region was nearly as large as Metro, employing approximately as many lawyers, but the lawyers were scattered in more offices. The total population it served was nearly as large as that served by Metro, but it was dispersed among four counties. The population included a smaller percentage of blacks (about 10 percent) and low-income people (about 6 percent receive AFDC benefits). Although Industrial Region was surrounded by many community organizations, few were advocacy oriented.

Suburban employed ten lawyers and operated two offices. It served one county with a population of approximately 500,000. The population includes few poor people (2 percent received AFDC benefits) or blacks (4 percent). The county it served, like the rural areas studied, had no low-income advocacy organizations.

The two rural programs, Rustic and Regional Rural, were similar in many respects. Both employed a small number of lawyers—four in Rustic and nine in Regional Rural—and served communities containing relatively small populations. In both communities, approximately 4 percent of the population received AFDC benefits and less than 1 percent were black. Major differences in the two agencies rest in the number of counties served and offices in operation. Rustic operated one office serving the poor in one county, while Regional Rural had three offices, one in each of the counties it served.

[10] To select agencies that varied on these dimensions, I conducted interviews in 1980 with national, regional, and state legal services officials and read recent program evaluations written by LSC regional office staff.

[11] Individuals representing external organizations included six local bar association officials, twenty-one judges, fourteen government agency lawyers, fourteen leaders of low-income groups, one local political official, and eighteen national, regional, and state level legal services officials. Interviews were tape recorded and transcribed. Interviews with legal services personnel lasted from one to three hours, and those with representatives of other organizations ranged from forty-five minutes to two hours long. Poverty lawyers were asked about the cases they handled, various personal attributes (e.g., values, ideology, ambition, experience), characteristics of the organization in which they worked, and the political environment surrounding their agency. Representatives of external organizations were asked about their relationship to the legal aid office and its personnel, general assessments of program quality, and avenues available to express criticism or praise for the activity of office staff.

With only one exception, all lawyers in the rural and suburban programs were interviewed. Because the staffs of the multioffice metropolitan agencies were quite large, a sample was selected based on official location. The total sample of lawyers in each metropolitan program reflects a percentage from any one office corresponding to the percentage from that location in the entire agency. Representatives of other organizations were identified and selected in a number of ways. Literature on legal aid programs suggested that certain groups, such as the local bar association and judiciary, should be sampled. Legal services lawyers identified judges they appeared before most often, and as many of them as possible were interviewed. Other external organizations and contacts within such groups were identified by agency lawyers in their interviews or by others in the community who participated in the study. The entire set of research instruments used in this study are reproduced in Kessler (1987).

FINDINGS

Forms of Legal Mobilization

Throughout the history of government-funded legal services programs, a debate has raged concerning appropriate forms of legal mobilization on behalf of the poor (Johnson, 1978; Champagne, 1984). The debate centers on whether poverty attorneys should mobilize narrow issues of concern only to individuals directly involved in cases (service issues) or broader policy issues affecting the poor as a class (reform issues). In representing clients, lawyers mobilizing service issues employ strategies of informal negotiation, bargaining, and ad hoc litigation when negotiation fails. In contrast, attorneys mobilizing reform issues seek legal victories through class action lawsuits, appeals based on broad principles of law, and legislative and administrative lobbying.

This research examined the relative emphasis given by poverty lawyers to the mobilization of service and reform issues. Table 1 reports one measure of the issues mobilized in the five agencies: lawyers' responses to a question asking how they divided their time between cases involving services and reform issues.[12]

Table 1. Average Time Spent on Reform Issues by Agency

Agency	Mean Time on Reform (%)	*n*
Metro	41.8	20
Industrial Region	27.7	26
Suburban	6.1	9
Regional Rural	13.3	9
Rustic	0.0	4

On average, Metro attorneys reported spending the greatest amount of time on reform issues (41.8 percent), whereas Rustic lawyers said they spent no time on them. Industrial Region attor-

[12] All legal services attorneys handling cases for clients (this excluded program administrators) were asked: "What percentage of your time is spent on law reform—the preparation of class action lawsuits or test cases?" "What percentage of your time is spent servicing individual client needs as they relate to common daily problems?" These questions were asked late in the interview. Earlier, lawyers had been asked about their own beliefs about the proper mix of legal strategies: "I would like to ask you about your personal feelings concerning the proper role of legal services programs. Some believe the program should service the needs of individual clients, helping with the day to day problems confronting the poor. Others see the program as properly fighting for broad reform goals. What is your belief about the proper role of legal services?" The sequence of questions was designed to ensure that attorneys would clearly understand the distinction intended between service and reform.

neys said they allocated more time to reform issues (27.7 percent) than lawyers in the suburban and rural agencies, but considerably less than in Metro. Of the nonmetropolitan programs, Regional Rural lawyers reported spending the greatest amount of time (13.3 percent) working on reform issues.

The *Clearinghouse Review*, a monthly journal funded by the Legal Services Corporation, publishes descriptions of "significant" reform cases brought by poverty lawyers. The *Review* provides an alternative measure of issues mobilized. Table 2 presents an analysis of cases reported in this journal between 1969 and 1982.[13]

Table 2. Reform Cases Reported in *Clearinghouse Review*, 1969–1982, by Agency

		Agency					
Printed Cases	State-wide	Metro	Industrial Region	Suburban	Regional Rural	Rustic	Other
Number[a]	519	253	81	2	12	0	171
Average number per year	37	18	6	0	0.9	0	12
Percentage of total	100	49	16	0	2	0	33

[a] Cases appearing in more than one issue were counted as one case.

Despite their crude nature, these data confirm the self-report responses. On average, Metro had more reform cases published (eighteen per year) than any other agency studied. The journal published descriptions of six Industrial Region cases per year and, on average, less than one per year from Regional Rural. In the entire thirteen-year period, Suburban only had two cases reported and Rustic did not appear at all. Metro attorneys brought nearly half of all published cases from agencies in the state, while Industrial Region and Regional Rural lawyers were responsible for 16 percent and 2 percent, respectively.[14]

[13] All cases were culled from those brought by agencies in the state in which the five programs are located. Figures in Table 2 should be interpreted with caution because the journal publishes cases in response to submissions by local agencies. The editorial staff of the *Clearinghouse Review* makes no independent effort to identify reform cases (telephone conversation with Lucy Moss, editorial staff of *Clearinghouse Review*).

[14] The rank orders of programs depicted in Tables 1 and 2 were also confirmed by interviews with government agency lawyers familiar with all the agencies in the state, interviews with personnel in the LSC regional office overseeing programs in this state, and by local agency evaluations prepared by LSC regional office staff.

Mobilization of Bias and Legal Mobilization

In four of the five programs studied, attorneys reported allocating a quarter or less of their time to mobilizing reform issues, despite the fact that a majority of lawyers in each agency characterized their political ideology as left of center and believed that at least half of their time should be devoted to reform cases.[15]

What explains the reluctance of attorneys in these agencies to mobilize legal issues that challenge existing laws and institutional practices? Why doesn't the mix of service and reform issues mobilized conform more closely to the personal predilections of staff attorneys? In general terms, the agencies lacked sufficient autonomy due to their relatively impoverished political position in the local community. Unlike government agencies that aggressively promote the interests of politically powerful constituency groups that provide needed political support (McConnell, 1966; Lowi, 1969), the four legal services programs represented the interests of those in the community least able to provide effective support. Established interests in the community, such as the local bar association, the judiciary, and political officials, monitored program activity closely and vigorously opposed the mobilization of reform issues on behalf of the poor.[16] The four communities lacked organized and politically influential groups favoring the use of legal services resources for reform purposes.[17]

The political environment forced the legal services programs to depend on established local organizations for various types of support.[18] For example, the suburban agency received some of its

[15] Attorneys were asked in the questionnaire to identify their ideology as either conservative, moderate, liberal, or left of liberal and to express a preference for legal services programs exclusively mobilizing service issues, exclusively mobilizing reform issues, or mobilizing an equal mix of both. A majority of lawyers in each agency characterized their ideology as either liberal or left of liberal and indicated a preference for legal services programs exclusively mobilizing reform issues or equal mixes of service and reform.

[16] All poverty attorneys and administrators in the study were asked the following set of questions during interviews. "Who are the critical people who evaluate, criticize, and praise your work in this community? What are —— looking for when they evaluate your work? What do they want you to do? What do they want you to avoid doing? What is there about —— that makes the evaluation relevant and important to you? How does the fact that —— evaluates your work affect the way in which you handle cases?" The discussion in the text about relations with others in the local community and constraints on law reform work is based on attorneys' responses to these questions. Opposition to reform litigation by the local bar and judiciary has been reported in other studies of legal services programs. See Stumpf (1975), Handler *et al.* (1978b), and Meeker *et al.* (1987).

[17] A few low-income groups existed in the communities served by Industrial Region, Suburban, and Regional Rural. However, these organizations had difficulty maintaining memberships and were only sporadically active.

[18] This conclusion is based on attorneys' responses to the question of why the evaluations of salient external organizations and individuals were important to them (see note 16). Responses fell into five major categories—direct funding support, indirect political support, importance in making decisions on clients, career support, and assistance in case processing.

funding directly from the county government. Consequently, all agency personnel believed that the program's continued survival depended on favorable evaluations by the county's commissioners. Most staff in each of the four agencies valued the more indirect political support for continued program funding provided by members of the local bar and judiciary, who wrote letters to legislators and passed formal resolutions advocating funding from state and national sources. Many attorneys also cited the legal community's importance in rendering judgments affecting their clients and assisting in the expeditious disposition of routine service cases.

Dependencies that developed between legal services offices and conservative local organizations constrained staff attorneys from mobilizing reform issues. Although lawyers in Industrial Region, Suburban, and Regional Rural agencies spent a small portion of their time working on reform cases, decisions were often made to avoid litigating issues that had the potential to jeopardize relationships with groups relied on for support.

Powerful local interests, especially prominent members of the legal community, established a set of norms regarding legal activity, norms that constitute an important part of what those writing about agenda setting processes refer to as a "mobilization of bias." One key component of this normative system is that attorneys properly represent individual clients seeking narrow resolution of conflicts, rather than particular class interests through the use of broader litigation and lobbying strategies. Lawyers mobilizing reform issues on behalf of group plaintiffs are engaged in behavior viewed as fundamentally inappropriate for members of the bar.[19]

Interviews uncovered five major mechanisms sustaining legal community norms against litigating reform issues: the imposition of sanctions and use of force, explicit threats of sanctions, criticism carrying implicit threats, the application of negative labels, and anticipated reactions.[20] Least often used but extremely effective in producing "nondecisions" was the direct imposition of sanctions and use of force against programs and attorneys contemplating re-

---

[19] As Scheingold (1974: 162–69) points out, this view of the attorney's role is reflected in the legal profession's *Code of Professional Responsibility* and is an important obstacle for all activist lawyers.

[20] The mechanisms discussed in the text emerged from responses to two interview questions. First, in the series of questions about relations with external organizations and actors (see note 16), attorneys were asked how the fact that certain external organizations evaluated their work affected the way they handled cases. And after attorneys were asked how they divided their time between service and reform cases, they were asked why they did not allocate more time to reform work. The examples used in the text to illustrate the mechanisms sustaining local norms were those that appeared most salient to staff attorneys and program administrators. All the examples pertaining to their program were mentioned in interviews by an overwhelming majority of respondents in the large, urban program. In the suburban program, all but one of the respondents made reference to the program-specific illustrations used in the text. And in the rural programs, all of the staff discussed each example used.

form litigation. For example, a Regional Rural lawyer filed preliminary papers with the court in preparation for a discrimination lawsuit against a coal company, the major employer in the county. Infuriated by the prospects of such a suit, the county's sole judge (and former legal counsel for the coal company) prohibited the attorney from ever again appearing in his courtroom, forcing him to practice law at another Regional Rural office in a neighboring county. In an interview, this attorney described his exile.

> The judge said, "I never want to see you again in my court." That's pretty serious. He's the only judge in town. So it's outrageous, it's unfair, it's illegal. But, nevertheless, that's what they face up there and it was decided that I had better leave.

At Rustic, an attorney considered bringing a lawsuit against the county asking for major renovations at the jail. Shortly after his intentions became known in the community, the attorney was physically removed from the jail during an investigatory visit and prohibited from any further meetings with inmates. The program's director then received threats of bodily injury from jail personnel and witnessed two jail guards intentionally damage his automobile. When the director complained to the police, they refused to investigate. The director explained:

> The jail situation is a good example of what we have here. —— [the attorney considering the lawsuit] had communicated to the jail board that he might bring suit. The jail is in poor shape and needs major renovation. I received abusive and threatening calls from people connected with the jail. . . . The tires on my car were slashed in broad daylight by two of the guards over there. They didn't care if I saw it. They seemed to want me to know. The police refused to even open a file. I got the impression that they felt I got what I deserved.

Rarely did the direct use of force emerge as an issue; more often, powerful local groups and individuals merely threatened to impose sanctions if reform issues were mobilized. The local bar and attorney members of the program's governing board communicated their willingness to withhold political support for funding if staff litigated certain issues. At Suburban, the agency receiving funding directly from the county, the county's commissioners threatened to cut or terminate funding if lawyers pursued certain cases. In one instance, for example, a Suburban attorney filed a suit against the county asking for general improvements in the jail. The commissioners convened a meeting to discuss methods of pressuring the attorney to drop the suit, as described in the following comments of the county's minority commissioner.

> The majority commissioners were fit to be tied that among the suits brought against them, one was brought by an attorney from legal aid. . . . And their first reaction was, "And how much money have we given them? This has got

> to stop. What can we do to cut their feet off?" We really had a serious discussion in there with the solicitor as to what we could do about it. And the solicitor . . . felt that members of SLS's board were reasonable people. . . . And so the solicitor felt we should try to get to the board.

Subsequent to this meeting, the commissioners dispatched the county solicitor to meet with members of the program's governing board and the commissioners personally contacted the attorney bringing the lawsuit. In both cases, funding termination was threatened if the action proceeded through the courts, a threat resulting in a suit's abandonment. A member of the board of directors and the attorney who initially filed the suit described the pressure exerted by the commissioners.

> We've been under a lot of pressure. Threats, outright bold threats from the county commissioners. . . . They are in no way subtle. I've had meetings where an attorney on our board has said, "such and such called. He wants to have a meeting." This person who called was the right hand man of the commissioners, the county solicitor. We had a meeting for an hour. He said, "We don't like you suing the county because of the prison situation."

> The prison suit that I brought is asking for upgrading conditions. The county commissioners called me and said they felt that their money was better spent on legal aid than on building a new prison. That was pretty straightforward.

Attorney members of Rustic's governing board supported their opposition to reform litigation with threats on several occasions to fire the program director if such cases were brought. In an interview, a member of the board explained:

> I don't think that —— [the director] ever had a question in his mind that if in fact he flagrantly went in opposition to the expressed policy of the board that he'd be fired. I don't think there ever was a doubt in his mind. It was very clearly stated by me and I know by others that we would never tell him how to handle a case. But don't get into the class action business.

Threats of sanctions often were more implicit in general criticisms communicated to program staff and administrators by members of the bar, the board, judges, and political officials. Although criticisms were not consistently linked to possible sanctions, agency personnel recognized the potential political repercussions that could follow if the activity in question continued. For example, in response to a discrimination lawsuit filed in federal court against a prominent member of the local bar by a Suburban attorney, the local President Judge scheduled a meeting with the program's director, expressed deep reservations about the suit, and the case was dropped. One Suburban administrator recalled:

> Apparently the biggest concern was that the President Judge indicated that it was bad publicity for the bar association and though there may be merit to the suit, he would appreciate it and was advising our director for future reference to be contacted to see if something couldn't be informally worked out. In other words, don't make bad publicity for us. Talk to me first. . . . Yeah, we get called on the carpet here, maybe more so than in a lot of counties. . . . And —— [the director] feels it's prudent to listen.

Just as those challenging the status quo in the political system may be denied legitimacy by being branded "unpatriotic" or "radical" (Bachrach and Baratz, 1970: 45), negative labels were applied by powerful individuals and groups to those bringing reform issues to court. Attorneys who bring policy suits are referred to derisively by judges and private lawyers as "crusaders," "social engineers," "rabble rousers," and "troublemakers." Further, they are accused of unethical practices, such as solicitation or the "stirring of litigation." A Regional Rural attorney who brought a class action lawsuit against a local hospital for refusing to admit and treat indigent patients described his subsequent reception in court as follows:

> Before we could even begin to argue our case, the judge raised serious questions about how we found our clients. He said, "You people were out beating the bushes to build this case. That's solicitation." So immediately, before we could even state our case, we're on the defensive about ethics.

The Rustic lawyer who considered filing a lawsuit asking for improved conditions in the county's jail described the reaction of local attorneys.

> I walked into a restaurant for coffee. Several lawyers were sitting at a table. It was like a convicted felon had walked in. They stared at me for awhile. Finally, one said, "there's that troublemaker. You legal services people are always stirring up trouble."

Some or all of the mechanisms described above were employed occasionally in each of the four communities. The knowledge that these mechanisms had been employed at least once (although not used continuously) in the past was sufficient to influence the daily decisions of program staff and administrators regarding the types of issues to mobilize. In each agency, a "rule of anticipated reaction" (Friedrich, 1946: 589–90) operated to constrain attorneys. Circumstances surrounding previous attempts to litigate reform issues were well known by staff lawyers and administrators and had become an important part of the organization's collective memory. The cases and responses of significant actors in the environment were communicated and discussed with newly hired staff. Indeed, hearing these stories and learning about the local political environment were significant components of the

"training" received by staff. Consequently, poverty attorneys in the four agencies learned to fear the negative political consequences of mobilizing reform issues for their program, their own career, and their clients. That these lessons were learned well is evidenced in comments made by Rustic, Suburban, and Industrial Region attorneys:

> The bar and the judges are extremely important for our continuing to receive funding. They have written to our funding sources on behalf of this program. Getting into the law reform area would seriously jeopardize this support. And we don't have a lot of friends up here to begin with.

> You want to fight against what you see as wrong, but you need to realize early on that this approach doesn't get you very far in a county like this. It doesn't make sense here. So you do the best you can without rocking the boat. . . . Aggressive advocacy of the broader types of issues affecting your clients can have very real repercussions on your future ability to do your job and even on your career. I could think of all kinds of things.

> While it sounds nice to say we'll be aggressive in bringing challenges to the local establishment for our clients, our clients may not reap the benefits. You need to consider what will happen to them if your program is viewed negatively by judges and lawyers here. Will this affect future decisions on your clients? I think it will.

The one agency, Metro, spending a significant amount of time mobilizing reform issues was able to do so because its political environment differed dramatically from that found in the other four agencies. Metro allied itself with large numbers of well-organized low-income organizations that had become an important political force in the community. Several groups were allied closely to state and local political officials, and an increasing number of community activists had gained elective office.

By and large, the groups represented by Metro staff requested lawyers to argue broad policy issues in courts and other political forums, requests consistent with the lawyers' personal predilections. More conservative groups, such as the bar association and judiciary, criticized Metro for litigating so many reform cases. But Metro attorneys, unlike those in the other four agencies, could ignore such pressure because they received crucial political support from low-income groups and most did not desire a future position in the private bar. Therefore, the anticipation of negative political consequences, a critical constraint on lawyers in the other four agencies, did not operate in Metro. As one veteran attorney put it:

> I would chance to say that there has not been an attorney in this program that would not file a lawsuit because they thought a judge wouldn't want it. I think that probably

> from a strategic point of view, we would probably fare better if we were a little more sensitive to that. But I would say overwhelmingly nobody's concerned about that kind of thing.

Without community group support, it is unlikely that Metro could have survived or been able to mobilize substantial numbers of reform issues. Over the years, several lawsuits filed by program attorneys had been quite visible and controversial. One lawsuit, for example, resulted in a ruling that forced a recalcitrant city government administration to construct a long-planned public housing project in a predominantly white, working-class neighborhood. Program attorneys brought a series of successful lawsuits leading to the creation of an affirmative hiring and promotion plan for blacks in the state police force. Several lawsuits against the local housing authority culminated in a class action requesting that the authority be placed in receivership. In short, most of the leading individuals and institutions in this community—including mayors, city councilmen, universities, judges, and prison wardens—had been the target of a lawsuit filed by the program.

Mobilizing these types of issues engendered political opposition from many outside the program. In the late 1970s, for example, several members of the city council charged Metro with representing "political" organizations in violation of the statute creating the Legal Services Corporation. Further, state legislators annually complained about the program's legislative advocacy activity. In 1981, the state's governor blamed Metro for a prison riot and hostage taking because the inmates' leader had been released from solitary confinement several years earlier due to a lawsuit filed by a program lawyer. In each of these cases, community groups, along with state legislators allied with them, publicly supported the program and its activity. The comments of a state welfare department attorney opposed to the program's reform work suggest that this support may have been crucial for the program's survival.

> I'm pro-legal services, but anti-Metro. I voice my opposition. . . to the Secretary of Welfare regularly. I've suggested on several occasions that the state stop funding them. Why doesn't the state do it? Well, I can just see it now. All these people rushing up here on buses to sit-in and demonstrate. All the theatrics . . . that goes with it and these people saying, "you're cutting the only legal services program with teeth." It is not really possible politically.

SUMMARY AND CONCLUSIONS

Poverty attorneys in four of the five programs studied were unable to spend much of their time working on reform cases. Their subordinate political position in the local community forced them to establish and maintain ties to groups opposing legal chal-

lenges to the political and economic status quo. When, occasionally, attorneys in these programs considered mobilizing reform issues, established groups and individuals employed a variety of techniques to force "nondecisions." The four agencies had no alternative sources of support enabling them to resist efforts by powerful local interests to prevent reform issues from reaching court agendas.

The only program studied able to consistently bring reform issues to court could withstand pressures from conservative groups by allying with politically powerful low-income organizations. Although this research cannot determine whether the political environment of Metro City is characteristic of many other American communities, research on low-income organizations suggests that their number and strength decreased significantly throughout the 1970s (Gittell, 1980). Therefore, given the apparent paucity of well organized and politically powerful groups supporting the mobilization of reform issues, it is unlikely that many legal services offices allocate substantial amount of time to such cases.

Findings reported here regarding constraints on government-sponsored poverty attorneys in bringing reform litigation are consistent with the few existing studies that look explicitly at legal mobilization by private lawyers on behalf of disadvantaged interests. For example, Lochner (1975) found that private lawyers engaging in reduced or no-fee work for indigent clients initiated few legal actions, settling most disputes with dispatch. None of the more than 150 lawyers interviewed brought reform issues to court. Macaulay (1979) reported that private attorneys in Wisconsin were reluctant to initiate consumer cases because of their direct and indirect ties to local business establishments. Some lawyers faced conflicts of interest because they provided legal representation to banks, lenders, and local automobile dealers. Others believed that pursuing consumer claims jeopardized their relations with potential clients and endangered existing networks of contacts. And finally, Landon (1985) found that pressures from citizens and members of the legal community forced private practitioners in rural areas to reject certain types of cases, such as medical malpractice, sexual abuse, and especially civil rights. It appears, then, that private attorneys who may be sympathetic to the broader goals of disadvantaged groups and indigent clients are generally reluctant to bring legal action that challenges powerful local groups, individuals, and institutions. Like the poverty lawyers discussed here, private practitioners appear to be constrained in bringing reform cases by the anticipated negative reactions of powerful interests, reactions which are perceived as a direct threat to their professional and personal lives in the community.

There are important exceptions, of course, to what appears to be a general reluctance among lawyers to mobilize reform issues. Since the late 1930s, more suits advocating political and social

change on behalf of disadvantaged interests have been filed than in previous eras, and several significant victories have been won. These suits, however, typically are filed by a relatively small group of attorneys working exclusively for advocacy interest groups, like the NAACP, or in nonprofit public interest law firms devoted to change in particular policy areas (e.g., housing, welfare, consumer protection) or to particular target groups (e.g., Hispanics, women, the disabled). Lawyers in these organizations generally are much less dependent on powerful local organizations than private attorneys or legal services lawyers. Public interest firms and interest group lawyers receive their funds primarily from private foundations, membership fees, and private donations (Handler *et al.*, 1978a; Settle and Weisbrod, 1978). Consequently, they do not depend on local interests for direct funding, political support for public funds, or for legal business. Attorneys in these firms, like those working for Metro City Legal Services, need not fear anticipated political fallout from bringing policy suits. In addition, public interest attorneys appear to be deeply committed to the legal work they do and the interests they serve (e.g., Casper, 1972), so they are unlikely to be concerned with any adverse consequences of their legal activity for future employment opportunities in the private bar.

While the data base employed in this article is too narrow to draw firm and definitive conclusions about legal mobilization and agenda setting processes, this case study does address in a tentative way the role of legal institutions in promoting change. The judicial system does indeed provide politically disadvantaged groups with access to authoritative decisionmakers. But the data presented suggest that the demands of these groups in many communities are mobilized in forms that are least threatening to powerful interests. Issues of concern to individual parties, rather than those of interest to a broader class, reached the agendas of courts. Courts at the lower level may most typically provide an authoritative forum for resolving narrowly framed disputes, rather than those more broadly conceived. This suggests that as a function of the legal mobilization process, lower-level courts reflect in their work the prevailing distribution of power in the external environment. This conclusion, at the very least, suggests that students of the legal system ought to incorporate legal mobilization and agenda setting in future research as a way of reconsidering the view that courts promote the interests of those lacking effective access to political institutions, a view reinforced by studies of appellate court processes and decisions.

Courts at the appellate level may promote through their decisions the interests of politically disadvantaged groups. Indeed, studies of the substantive composition of the United States Supreme Court's docket show a dramatic increase in recent decades in civil rights and personal liberties issues (Casper and Pos-

ner, 1974). In part, this reflects a difference in agenda processes, as appellate court judges exercise discretion on cases to accept for review, contributing more directly to agenda composition (Provine, 1980). However, simply looking at the court's docket ignores problems in implementing these decisions and the ways in which local politics and the mobilization of bias in local communities constrain the mobilization of law at lower levels. Consequently, those who rely on appellate court studies may confuse the allocation of symbolic benefits at the appellate level with the allocation of more material rewards, such as money and power, at lower levels.[21]

In sum, this case study suggests that students of the judicial system should broaden their scope to examine more systematically the legal and political processes influencing issue initiation and agenda setting. Future research should be concerned with the conditions under which laws are mobilized that challenge the prevailing distribution of resources and privileges in local communities. Equally important, this research should focus on the mobilization of bias in local communities, the ways in which informal norms of legal activity are developed, sustained, and enforced, and the conditions under which "nondecisions" are made. The approach discussed and illustrated here, based on concepts emphasized in studies of political agenda setting, promises to more clearly delineate linkages between legal and political process and provide a more complete picture of the role of law, litigation, and American legal institutions.

REFERENCES

ABRAHAM, Henry J. (1982) *Freedom and the Court: Civil Rights and Liberties in the United States*. 4th ed. New York: Oxford University Press.

BACHRACH, Peter, and Morton S. BARATZ. (1970) *Power and Poverty: Theory and Practice*. New York: Oxford University Press.

BENNETT, Robert W. (1983) "The Burger Court and the Poor," in Vincent Blasi (ed.), *The Burger Court: The Counter-Revolution That Wasn't*. New Haven, CT: Yale University Press.

BLACK, Donald J. (1973) "The Mobilization of Law," 2 *Journal of Legal Studies* 125.

BUMILLER, Kristin (1988) *The Civil Rights Society: The Social Construction of Victims*. Baltimore: Johns Hopkins University Press.

CASPER, Gerhard, and Richard A. POSNER (1974) "A Study of the Supreme Court's Caseload," 3 *Journal of Legal Studies* 339.

[21] Eisenstein (1973: 311–12) argues that the balance of symbolic and material benefits in court decisions varies by court level. Lower level courts allocate material benefits almost exclusively. At appellate levels, the symbolic component increases dramatically. While appellate court decisions may have some material impact, "they are very often less significant than the symbolic ones" (*ibid.*, p. 312). It should be noted that symbolic victories are not insignificant to politically disadvantaged groups. As Scheingold (1974) argues, court decisions are political resources that may be used to activate constituencies for change. However, the benefits of appellate court decisions to disadvantaged groups are much more modest than conventional views suggest.

CASPER, Jonathan D. (1972) *Lawyers Before the Warren Court: Civil Liberties and Civil Rights, 1957–66.* Urbana: University of Illinois Press.
CHAMPAGNE, Anthony (1984) "Legal Services: A Program in Need of Assistance," in Anthony Champagne and Edward J. Harpham (eds.), *The Attack on the Welfare State*, Prospect Heights, IL: Waveland Press.
CHAYES, Abram (1976) "The Role of the Judge in Public Law Litigation," 89 *Harvard Law Review* 1281.
COBB, Roger W., and Charles D. ELDER (1983) *Participation in American Politics: The Dynamics of Agenda-Building.* 2d ed. Baltimore: Johns Hopkins University Press.
COHEN, Michael, James MARCH, and Johan OLSEN. (1972) "A Garbage Can Model of Organizational Choice." 17 *Administrative Science Quarterly* 1.
CRENSON, Matthew A. (1971) *The Un-Politics of Air Pollution: A Study of Non-Decisionmaking in the Cities.* Baltimore: Johns Hopkins University Press.
DAHL, Robert A. (1961) *Who Governs? Democracy and Power in an American City.* New Haven, CT: Yale University Press.
DOLBEARE, Kenneth M. (1967) *Trial Courts in Urban Politics.* New York: John Wiley & Sons.
ENGEL, David M. (1984) "The Oven Bird's Song: Insiders, Outsiders, and Personal Injuries in an American Community," 18 *Law & Society Review* 551.
EISENSTEIN, James (1973) *Politics and the Legal Process.* New York: Harper & Row.
FRIEDMAN, Lawrence M., and Robert V. PERCIVAL (1976) "A Tale of Two Courts: Litigation in Alameda and San Benito Counties," 10 *Law & Society Review* 267.
FRIEDRICH, Carl (1946) *Constitutional Government and Democracy.* Boston: Ginn & Co.
GALANTER, Marc (1974) "Why the 'Haves' Come Out Ahead: Speculation on the Limits of Legal Change." 9 *Law & Society Review* 95.
GAVENTA, John (1980) *Power and Powerlessness: Quiescence and Rebellion in an Appalachian Valley.* Urbana: University of Illinois Press.
GITTELL, Marilyn (1980) *Limits to Citizen Participation: The Decline of Community Organizations.* Beverly Hills, CA: Sage Publications.
GREENHOUSE, Carol J. (1986) *Praying for Justice: Faith, Order, and Community in an American Town.* Ithaca, NY: Cornell University Press.
GROSSMAN, Joel B., and Austin SARAT (1975) "Litigation in the Federal Courts: A Comparative Perspective," 9 *Law & Society Review* 321.
HANDLER, Joel F. (1978) *Social Movements and the Legal System: A Theory of Law Reform and Social Change.* New York: Academic Press.
HANDLER, Joel F., Betsy GINSBERG, and Arthur SNOW (1978a) "The Public Interest Law Industry," in Burton A. Weisbrod (ed.), *Public Interest Law: An Economic and Institutional Analysis.* Berkeley: University of California Press.
HANDLER, Joel F., Ellen Jane HOLLINGSWORTH, and Howard S. ERLANGER (1978b) *Lawyers and the Pursuit of Legal Rights.* New York: Academic Press.
HUTCHINSON, Allan C., and Patrick J. MONAHAN (1984) "Law, Politics, and the Critical Legal Scholars: The Unfolding Drama of American Legal Thought," 36 *Stanford Law Review* 199.
JOHNSON, Charles A., and Bradley C. CANON (1984) *Judicial Policies: Implementation and Impact.* Washington, DC: CQ Press.
JOHNSON, Earl, Jr. (1978) *Justice and Reform: The Formative Years of the American Legal Services Program.* New Brunswick, NJ: Transaction Books.
KAGAN, Robert A., Bliss CARTWRIGHT, Lawrence M. FRIEDMAN, and Stanton WHEELER (1977) "The Business of State Supreme Courts, 1870–1970," 30 *Stanford Law Review* 121.
KAGAN, Robert A., Bliss CARTWRIGHT, Lawrence M. FRIEDMAN, and Stanton WHEELER (1978) "The Evolution of State Supreme Courts," 76 *Michigan Law Review* 961.
KAIRYS, David (1982) *The Politics of Law: A Progressive Critique.* New York: Pantheon Books.

KELMAN, Mark (1987) *A Guide to Critical Legal Studies*. Cambridge, MA: Harvard University Press.
KESSLER, Mark (1987) *Legal Services for the Poor: A Comparative and Contemporary Analysis of Interorganizational Politics*. New York: Greenwood Press.
KINGDOM, John W. (1984) *Agendas, Alternatives, and Public Policies*. Boston: Little, Brown.
LANDON, Donald D. (1985) "Clients, Colleagues, and Community: the Shaping of Zealous Advocacy in Country Law Practice," 1985 *American Bar Foundation Research Journal* 81.
LAW AND SOCIETY REVIEW (1980–81) "Special Issues on Dispute Processing and Civil Litigation," 15 *Law & Society Review*.
LEMPERT, Richard (1976) "Mobilizing Private Law: An Introductory Essay," 11 *Law & Society Review* 173.
——— (1978) "More Tales of Two Courts: Exploring Changes in the 'Dispute Settlement Function' of Trial Courts," 13 *Law & Society Review* 91.
LIGHT, Paul Charles (1982) *The President's Agenda: Domestic Policy Change from Kennedy to Carter*. Baltimore: Johns Hopkins University Press.
LINDBLOM, Charles E. (1977) *Politics and Markets: The World's Political Economic Systems*. New York: Basic Books.
LOCHNER, Philip J., Jr. (1975) "The No Fee and Low Fee Legal Practice of Private Attorneys," 9 *Law & Society Review* 431.
LOWI, Theodore (1969) *The End of Liberalism*. New York: Norton.
MACAULAY, Stewart (1979) "Lawyers and Consumer Protection Laws," 14 *Law & Society Review* 115.
McCANN, Michael W. (1989) "Legal Protection for Social Inequality: Race and Class in Constitutional Ideology," in Michael W. McCann and Gerald L. Houseman (eds.), *Judging the Constitution* Glenview, IL: Scott, Foresman & Co.
McCONNELL, Grant (1966) *Private Power and American Democracy*. New York: Alfred A. Knopf.
McINTOSH, Wayne (1980–81) "150 Years of Litigation and Dispute Settlement: A Court Tale," 15 *Law & Society Review* 823.
——— (1983) "Private Use of a Public Forum: A Long Range View of the Dispute Processing Role of Courts," 77 *American Political Science Review* 991.
MILNER, Neal (1986) "The Dilemmas of Legal Mobilization: Ideologies and Strategies of Mental Patient Liberation Groups," 8 *Law & Policy* 105.
MEEKER, James W., John DOMBRINK, and John SONG (1987) "Perceptions About the Poor, Their Legal Needs, and Legal Services," 9 *Law & Policy* 143.
MORGAN, Richard E. (1984) *Disabling America: The "Rights Industry" in Our Time*. New York: Basic books.
O'CONNOR, Karen (1980) *Women's Organizations' Use of the Courts*. Lexington, MA: Lexington Books.
OLSON, Susan M. (1984) *Clients and Lawyers: Securing the Rights of Disabled Persons*. Westport, CT: Greenwood Press.
PERRY, Michael J. (1982) *The Constitution, the Courts, and Human Rights*. New Haven, CT: Yale University Press.
POLSBY, Nelson W. (1963) *Community Power and Political Theory*. New Haven, CT: Yale University Press.
PROVINE, Doris Marie (1980) *Case Selection in the United States Supreme Court*. Chicago: University of Chicago Press.
SCHATTSCHNEIDER, E. E. (1960) *The Semi-sovereign People: A Realist's View of Democracy in America*. New York: Holt, Rinehart & Winston.
SCHEINGOLD, Stuart A. (1974) *The Politics of Rights: Lawyers, Public Policy, and Political Change*. New Haven, CT: Yale University Press.
SETTLE, Russell F., and Burton A. WEISBROD (1978) "Financing Public Interest Law: An Evaluation of Alternative Financing Arrangements," in Burton A. Weisbrod (ed.), *Public Interest Law: An Economic and Institutional Analysis*. Berkeley: University of California Press.
SORAUF, Frank J. (1976) *The Wall of Separation: The Constitutional Politics of Church and State*. Princeton, NJ: Princeton University Press.

STUMPF, Harry (1975) *Community Politics and Legal Services: The Other Side of the Law*. Beverly Hills, CA: Sage Publications.
TANENHAUS, Joseph, Marvin SCHICK, Matthew MURASKIN, and Daniel ROSEN (1963) "The Supreme Court's Certiorari Jurisdiction: Cue Theory," in Glendon Schubert (ed.), *Judicial Decision-Making*. New York: Free Press.
ULMER, S. Sidney (1978) "Selecting Cases for Supreme Court Review: An Underdog Model," 72 *American Political Science Review* 902.
VOSE, Clement E. (1959) *Caucasians Only: The Supreme Court, the NAACP, and the Restrictive Covenant Cases*. Berkeley: University of California Press.
WALKER, Jack L. (1977) "Setting the Agenda of the U.S. Senate," 7 *British Journal of Political Science* 423.
WANNER, Craig (1974) "The Public Ordering of Private Relations, Part One: Initiating Civil Cases in Urban Trial Courts," 8 *Law & Society Review* 421.
YNGVESSON, Barbara, and Patricia HENNESSEY (1975) "Small Claims, Complex Disputes: A Review of the Small Claims Literature," 9 *Law & Society Review* 219.
ZEMANS, Frances Kahn (1983) "Legal Mobilization: The Neglected Role of the Law in the Political System," 77 *American Political Science Review* 690.

CASES CITED

Brown v. Board of Education, 347 U.S. 483 (1954).
Gideon v. Wainwright, 372 U.S. 335 (1963).
Goldberg v. Kelly, 397 U.S. 254 (1970).
Heart of Atlanta Motel, Inc. v. United States, 379 U.S. 241 (1964).
Mapp v. Ohio, 367 U.S. 643 (1961).
Miranda v. Arizona, 377 U.S. 201 (1966).
Shapiro v. Thompson, 394 U.S. 618 (1969).
United States v. Carolene Products Co., 304 U.S. 144 (1938).