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Weyrauch: The Personality of Lawyers

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THE PERSONALITY OF LAWYERS. By *Walter O. Weyrauch*. New Haven, Conn. and London, England: Yale University Press. 1964. Pp. xvii, 316. \$7.50.

The modern organization of human societies necessitates a system of laws in which authority and power are vested in controlling institutions. While the direction in which a society develops is largely determined by the value-system of the political elite, the momentum

of change is, in large measure, influenced by the practices and functioning of the legal system, for it is the latter that gives outward authority to the exercise of power in whatever hands that power may rest. The legal profession and its individual members, accordingly, have a significant role in the continuing function and development of a society. The history of Germany in the past half decade is as good an example as one could wish to have to study the influence of personality factors of lawyers in a highly developed Western society.

As Professors Lasswell and McDougal point up in the foreword, the problems of leadership, selection, and training are at the heart of any system of public order, especially those systems which seek to foster the harmonizing of personality and practice with the requirements of law, science, and the policy of human freedom. Clearly, then, the personalities of lawyers, their perspectives, their intellectual orientations, and their motivations may be of importance in determining whether the legal profession is an active force for the advancement of a democratic society or is a passive instrument—a mere tool in the hands of the elite.

Professor Weyrauch's research was directed to the exploration of the lawyer in action, focusing on the characteristics and motivations, conscious and unconscious, of German lawyers, with the objective of establishing areas in which consensus could be demonstrated.

Professor Weyrauch, recognizing the inadequacies of the more customary methods of legal research in such a venture, has adopted a more clinical approach; that is to say, he has utilized the interview situation, in a relatively unstructured form, to obtain personal data from the subjects comprising his sample. From the information they supplied, the author endeavored to formulate hypotheses based on interpretations of the motivations and practices of those interviewed. The methods essentially are those of the behavioral scientist, but, for such research, training, experience, and specialized skills are necessary qualities of the investigator if his conclusions are to carry much weight. The author recognizes the possibilities of deficiencies in technique and emphasizes that his research is hypothesis-forming rather than hypothesis-testing. He has had the advice of an informal consulting group composed of both Germans and Americans, although with numerical concentration on German lawyers who would not be expected to be psychologically oriented.

Although the essential purpose of the investigation was to establish hypotheses for future work, there are two basic hypotheses to the present study. First, in a society with emphasis on class stratification, it may be a function of lawyers, and perhaps of law, to counteract social change, thus protecting the prevailing distribution of

things valued by the current privileged strata of society. The second working hypothesis is that the lawyers' personality characteristics, allowing for deviant cases, may conform to this social function of maintaining the status quo.

The social values chosen for study were enlightenment, skills, respect, affection, rectitude, wealth, power, and well-being. These were selected in an earlier study by Lasswell and McDougal with the assumption that a balanced distribution of these social values is desirable for individual adjustment and for a well-functioning body politic. The interviews were analyzed in terms of these categories, but a weakness of the study is the isolation of each in the reporting. Thus, although an integral part of the hypothesis is the balanced sharing of such values within the personality, they are discussed seriatim without cross-reference, and it is not possible to discern the degree to which certain combinations occurred in individual subjects. For example, it would be significant to find that a balanced distribution of these values occurred mainly in the lawyers occupying positions in the elite strata, in the spheres of power, education, etc., whereas there was an unbalanced distribution of such values in those occupying the middle and lower professional and social strata.

The intimacy of the interviews, the need for confidentiality, and the necessity of avoiding identification of the individual participants may have militated against such reporting, especially if data of a very personal description were to be obtained. Other methodological problems hampered the project, although many were overcome in some measure. Assuming that German lawyers were to be studied (a personal choice by a former German lawyer), the investigator inevitably had a number of conscious and unconscious attitudes and positions which undoubtedly influenced his observations. Fortunately, Professor Weyrauch recognizes potential difficulties arising out of his own background and experience. An indication of his objectivity is the observation on his own responses to individual statements by the subjects depending on his geographical situation. Thus his reaction to single, emotionally charged statements varied one hundred and eighty degrees according to whether he received them in Germany or whether he reread them when he was back in the United States.

The first section of the volume is devoted to methodology and is as important for readers who are not behavioral scientists as it is for those who are. Professor Weyrauch's findings may be fully appreciated only with the understanding of his approach. The sample consisted of approximately one hundred and thirty persons, the vast majority being lawyers, including judges, law professors, government attorneys, and lawyers in private practice and in corpora-

tion counsel. His small non-lawyer group of seventeen persons included wives, clients, friends, and employees who had close relationships with attorneys. The range of ages encompassed both the law student and the retired judge. The professional strata included the elite and the malcontented misfits, with a representative selection between these extremes. Approximately only half the number were given intensive interviews, lasting over many hours, because the pressures of time limited the availability of the investigator. A larger sample on which statistical evaluation might have been useful would have imposed an unmanageable burden. Nonetheless, one of the weaknesses of the study is the method of selection of subjects. For a truly scientific study, subjects should be chosen by some method of chance to eliminate the effects of personal bias. Many in the sample were apparently personal acquaintances who were chosen because of this. Others were included for reasons which, in at least some cases, were related to personal acquaintanceships. Allowing for these factors, however, the range of subjects appears to have been reasonably inclusive.

Another difficulty, acknowledged by the author, arises from the method of recording the interviews. The information was largely taken in note form, sometimes from memory and, occasionally, from letters. Under such conditions, memory is notoriously unreliable because of unconscious repression by the investigator and a tendency to remember only what is desired. The antagonism of German lawyers even to verbatim transcripts of court hearings and the dependence on the judge's dictation of what shall be recorded is an interesting aspect of the personalities of the lawyers. This reviewer is left with the impression that the judge of the lower court controls the evidence available to an appellate court and that the insecurity of the judge is dealt with by a practice which prevents adequate examination of his judgments. It is small wonder then that the particular data-seeking and data-recording procedures employed in this research were followed. Nor is it surprising that the reaction to this type of research was almost unanimous disapproval by the German subjects. Whether American lawyers would respond any differently is, of course, another question. Many of the attorneys apparently were willing to accept enlightenment only if it was conducive to self-assurance. Such research was regarded as un-German and as being more characteristic of American patterns of thinking—and, interestingly, of Russian thinking. One conclusion evident to the author was that sociology and psychology are perceived as Jewish disciplines—a relic of the Nazi era and indicative of one of the continuing influences of Nazi philosophy in spite of massive repression of the memory of the internal events of that period. The few positive responses to this project tended to occur in practicing

attorneys and in the age groups under forty and over seventy—those involved in the struggle for professional recognition and those retired from the power struggle.

It is held by some psychologists and psychiatrists that particular professions and occupations attract individuals with specific personality characteristics and that the law especially recruits persons with obsessive-compulsive traits which cover hostile and ambivalent emotions. The ambivalence of German lawyers toward their legal educational system was indeed profound. Vigorous criticism was the rule, whether the subject was law professor or student, judge or prosecutor, practicing attorney or corporation counsel. Each group, irrespective of age, was contemptuous of all the other groups. It was inferred that widespread dissatisfaction is manifest throughout the whole of the profession with respect to legal education, professional practices, and professional standards. The subjects showed greater criticism only when discussing the American counterparts. The confusion evident in the German legal profession with regard to the goals of legal education appeared to reveal the confusion in the professional identity of the professors of law.

The chapter on professional status and prestige gives some indication of the sensitivities, prejudices, motivations, and rationalizations of attorneys. Specialization is the hallmark of prestige. The lack of awareness on the part of many, if not all subjects, of the social pressures to which they react and conform is probably paralleled in attorneys in other countries. The investigator is of the opinion that, in Germany, the tangible prestige factors are of greater significance, while in the United States the intangible factors are dominant—a conclusion that is not well-substantiated by his data. He was able to establish three groups of attitudes of lawyers toward the law. Those who emphasized the abstract notion of “government of laws and not of men”; those who advocate inspiration and intuition in the application of the law with precedents found to support the conclusions already reached; and those who comprised a heterogeneous group of disillusioned, skeptical, or heretical individuals.

But more fundamental to the central hypotheses are the sections on the perspectives of lawyers toward power and wealth. Although not specifically distinguished, there are two attitudes on economic matters. According to the investigator, all the subjects in the sample appeared to be indifferent to wealth, certainly to its enjoyment. On the other hand, the majority were preoccupied with economic security, especially for the future. Wealth is a relative term and there are no indications of the criteria by which either the investigator or the lawyers measured this quite tangible social value. This reviewer formed the impression from the data that wealth was one

of the taboo subjects, an impression reinforced by consideration of the factors which rate high in prestige, and by the extraordinary fees not infrequently paid to law professors for participation in law suits. Yet other observations made elsewhere in the volume—for example about the social limitations placed on the attorney's freedom to patronize places of entertainment and recreation—would appear to contradict the finding of indifference to wealth. Of possible significance also is that the investigator was a resident of the United States, and most Europeans regard America as a land of wealthy individuals compared with their own.

The exercise of power by judges in deciding cases and in determining the nature of the record available to appellate judges is paralleled by the professional social value of unanimity on the part of appellate jurists, dissenting opinions being disapproved, presumably as weakening the power of and faith in authority. The attitude that criticism of the United States is acceptable, but criticism of the Soviet Union unwise, exists because there is seen no present or potential danger as to the former but an uncertainty in regard to the latter. Power that is not or will not be exercised against the individual is regarded as unimportant. This is but another example of the emotional insecurity which intrudes in so many areas of activity of the German lawyer, but leaves still unanswered the question of how subservient this, in fact, makes him in his social and professional roles. It is generally true that emotionally insecure individuals, irrespective of occupation or social position, tend to be anxious to maintain the status quo.

Professor Weyrauch's investigations are provocative and yield considerable information on the legal system in Germany. His footnotes are very numerous and the bibliography is extensive. But, as he acknowledges, his findings are inconclusive. The study is interesting and stimulating in its implications and will provide for American lawyers seeking enlightenment the patterns on which they may examine their own profession.

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