

Lives of Lawyers Revisited

Law, Meaning, and Violence

The scope of Law, Meaning, and Violence is defined by the wide-ranging scholarly debates signaled by each of the words in the title. Those debates have taken place among and between lawyers, anthropologists, political theorists, sociologists, and historians, as well as literary and cultural critics. This series is intended to recognize the importance of such ongoing conversations about law, meaning, and violence as well as to encourage and further them.

Series Editors: Martha Minow, Harvard Law School
Austin Sarat, Amherst College

RECENT TITLES IN THE SERIES

- Strangers to the Law: Gay People on Trial*, by Lisa Keen and Suzanne B. Goldberg
- The Politics of Community Policing: Rearranging the Power to Punish*, by William Lyons
- Laws of the Postcolonial*, edited by Eve Darian-Smith and Peter Fitzpatrick
- Whispered Consolations: Law and Narrative in African American Life*,
by Jon-Christian Suggs
- Bad Boys: Public Schools in the Making of Black Masculinity*, by Ann Arnett Ferguson
- Pain, Death, and the Law*, edited by Austin Sarat
- The Limits to Union: Same-Sex Marriage and the Politics of Civil Rights*,
by Jonathan Goldberg-Hiller
- From Noose to Needle: Capital Punishment and the Late Liberal State*,
by Timothy V. Kaufman-Osborn
- Communities and Law: Politics and Cultures of Legal Identities*, by Gad Barzilai
- The Jurisprudence of Emergency: Colonialism and the Rule of Law*, by Nasser Hussain
- Jurors' Stories of Death: How America's Death Penalty Invests in Inequality*,
by Benjamin Fleury-Steiner
- Transformative Justice: Israeli Identity on Trial*, by Leora Bilsky
- Suing the Gun Industry: A Battle at the Crossroads of Gun Control and Mass Torts*,
edited by Timothy D. Lytton
- Punishing Schools: Fear and Citizenship in American Public Education*,
by William Lyons and Julie Drew
- Among the Lowest of the Dead: The Culture of Capital Punishment*,
by David Von Drehle
- Lives of Lawyers Revisited: Transformation and Resilience in the Organizations of Practice*,
by Michael J. Kelly
- Punishment and Political Order*, by Keally McBride

Lives of Lawyers Revisited

Transformation and Resilience in the Organizations of Practice

MICHAEL J. KELLY

The University of Michigan Press

ANN ARBOR

Copyright © by the University of Michigan 2007
All rights reserved
Published in the United States of America by
The University of Michigan Press
Manufactured in the United States of America
⊗ Printed on acid-free paper

2010 2009 2008 2007 4 3 2 1

No part of this publication may be reproduced, stored
in a retrieval system, or transmitted in any form or by
any means, electronic, mechanical, or otherwise, without
the written permission of the publisher.

A CIP catalog record for this book is available from the British Library.

Library of Congress Cataloging-in-Publication Data

Kelly, Michael J., 1937–

Lives of lawyers revisited : transformation and resilience in the
organizations of practice / Michael J. Kelly.

p. cm. — (Law, meaning, and violence)

Includes bibliographical references and index.

ISBN-13: 978-0-472-09963-4 (cloth : alk. paper)

ISBN-10: 0-472-09963-9 (cloth : alk. paper)

ISBN-13: 978-0-472-06963-7 (pbk. : alk. paper)

ISBN-10: 0-472-06963-2 (pbk. : alk. paper)

1. Practice of law—United States. 2. Lawyers—United States.
3. Law firms—United States. 4. Legal ethics—United States. I. Title.

KF300.K453 2007

174'.30973—dc22

2006021907

To Kieran
a ray of sunshine

In case I have not said this somewhere earlier in the book I will say it now: beware of my partisanship, my mistakes of fact, and the distortion inevitably caused by my having seen only one corner of events.

George Orwell

Taken in isolation, men resemble each other; it is their constellations that are unique and unparalleled.

Montaigne

[E]very science confesses that the subtlety of nature flies beyond it, and that its formulas are but approximations.

William James

[T]he two distinct and complementary functions and forms of thought, imagination and intellect, should always be considered equal.

Stuart Hampshire

Acknowledgments

This book follows an earlier volume, which described five law practices in the mid-1980s. I cannot do better than to reiterate what I wrote at that time: my primary debt of gratitude is owed to the generosity of scores of people who talked candidly with me and helped me understand, in some small measure, their lives in the law and the character of their organizations. Like its predecessor, this book is built on the perceptions and ideas about the practice of law of the people of these five practices, to whom (with one exception) I promised anonymity. The indigenous natives who helped me construct a rudimentary anthropology of their law practices inform and animate the descriptions and thinking of this volume.

Two institutions took me in at an early stage in the gestation of this book—the Organization Studies Group at the Sloan School of Management at the Massachusetts Institute of Technology and the Carol and Lawrence Zicklin Center for Business Ethics Research at the Wharton School of the University of Pennsylvania. These small organizations enabled me to start on this expedition, for which I am thankful. I am deeply appreciative of my colleagues at the Center for Applied Research (CFAR), who were patient and generously respectful of the time and effort required to create this attempt to understand the lives of lawyers. And I am particularly grateful to Avi Soifer, David Luban, and Tom Gilmore, kind souls who read small parts of earlier drafts of this book and made helpful comments but most of all encouraged me to carry on with this project, the errors and follies of which are in no way their responsibility.

Contents

Chapter 1. The Fishing Expedition	1
Part 1. Stories of Law Practices	
Chapter 2. Marks, Feinberg, Fried and Burch	21
Chapter 3. Public Interest Law at the Maine Public Utilities Commission	53
Chapter 4. The Lawyers of Standish Development Company	96
Chapter 5. Mahoney, Bourne and Thiemes	130
Chapter 6. McKinnon Sieves	168
Part 2. Reflections on the Profession	
Chapter 7. Change and Continuity in the Organizations of Practice	225
Chapter 8. Thinking about Practice Organizations	261
Chapter 9. The Idea of Profession	292
Afterword: Reflections on Describing a Sardine Factory	333
Appendix	349
Notes	367
References	395
Index	405