

LEGAL PROFESSION

What is a profession? How does it differ from other occupations?

public good (Durkheim)
autonomy (Weber)
monopoly and market entry
technical skill
prestige/ income?

How is law practiced?

A. Blumberg, "The Practice of Law as a Confidence Game"

"Legal service lends itself particularly well to confidence games. Usually a plumber will be able to demonstrate empirically that he has performed a service by clearing up the stuffed drain, repairing the leaky faucet or pipe - and therefore merits his fee. He has rendered, when summoned, a visible, tangible boon for his client in return for the requested fee. A physician who has not performed some visible surgery or otherwise engaged in some readily discernible procedure in connection with a patient may be deemed by the patient to have "done nothing" for him. As a consequence, medical practitioners may simply prescribe or administer by injection a placebo to overcome a patient's potential reluctance or dissatisfaction in paying a requested fee "for nothing."

"In the practice of law there is a special problem in this regard, no matter what the level of the practitioner or his place in the hierarchy of prestige. Much legal work is intangible either because it is simply a few words of advice, some preventive action, a telephone call, negotiation of some kind, a form filled out and filed, a hurried conference with another attorney or an official of a government agency, a letter or opinion written, or a countless variety of seemingly innocuous and even prosaic procedures and actions."

End products of legal work: criminal work - often guilty plea
Defense lawyers as double agents

Sarat and Felstiner, "Law and Social Relations: Vocabularies of motive in lawyer/client interaction"

C. Wright Mills, "motive mongering" - imputation of motive in the effort to construct shared interpretations of action;" motives are the terms with which interpretation of conduct proceeds..."

"Lawyer and client sometimes negotiate agreed interpretations of behavior. Agreement is more often reached when the discussion of motive concerns behavior during the divorce than when the focus is on behavior during the marriage."

Lawyers represent the system to the client - descriptions become resources in managing relations with clients.

Structure of the Profession

