Book Notes

Follow this and additional works at: http://digitalcommons.law.yale.edu/ylpr

Part of the Law Commons

Recommended Citation
Available at: http://digitalcommons.law.yale.edu/ylpr/vol13/iss1/5
Book Notes


This book takes a long-term view of American poverty and makes policy recommendations aimed at providing a broad framework for action. The author approaches the problem of the poor—an estimated 37.5 million in 1992, according to the U.S. Bureau of the Census—by looking at the issue in the context of human life span. His analysis advances chronologically through the stages of life from prenatal development to aging and dying in order to grasp the whole scope of poverty.

The book gives a journalistic account of different people and families from around the country whose lives brought home the issues of poverty. The author attempts to place isolated experiences, policies and programs in a larger and more meaningful context. Attempting to make recommendations about a support network to prevent Americans from falling into permanent poverty or to make their way out of it, the author relies on individual accounts of poverty and poverty programs. His stated aim is to root his policy recommendations in the reality of human lives, reflecting various races, classes, and ages, rather than in the abstract arguments of economists, politicians and social scientists. By adopting this perspective he hopes to provide insights that normally lie outside the frame of the polarized poverty debate.

Freedman envisions a support system which would draw on every segment of society—the private sector, the national government, local communities, families, and individual citizens. He envisions government playing a more active role in four areas: child development, family support, health care, and care for the aged. While not intending to supplant the role of the family, the government would design programs to provide basic resources and structures for individuals. Private sector entities would supplement government through programs of their own. In this way, the private sector would become a better social partner, as government becomes more responsive to individual needs.

The proposed support system would be smaller than those of western European countries and Japan. Rather than providing for European style universal support, Freedman’s system would attempt to differentiate between the transitional and permanent poor and focus resources upon providing both groups with the skills necessary to lift themselves out of poverty. In order to achieve this goal, Freedman would allocate most resources to early development programs, on the theory that early intervention would reduce problems later in life.
In order to design programs most effectively, the author believes that national government should look to grassroots programs as a model. Consequently, a system would have to be developed to assess the experience of poverty alleviation programs in various communities. Many of these programs, he argues, are successful because they are effective for all income groups, and they depend on personal contact.

Toward the end of the book, Freedman supports several specific programs. In particular, he supports a national children's trust to ensure prenatal care, enhance child development, support family leave, provide resources for child care, and secure financial assistance for children with absent parents. He also supports universal health coverage which would not only provide for hospitalization, but also focus most of its resources on preventative measures.

The unique character of this volume is found in its attempt to relate the policy debate on poverty to factual situations. The author's accounts of the lives of different individuals provides a human dimension to the poverty debate. Additionally, the discussion of the roles of families, communities and non-governmental programs lends insight into what affordable national anti-poverty programs might look like.

Sarbani Sen


This ambitious collection represents one of the few recent attempts to examine and explain the types of democratic politics in terms of the institutional structures within which they unfold. With contributions from many of the leading scholars in comparative democracy, including Arend Lijphart, Giovanni Sartori, and Alfred Stepan, the book fashions an illuminating, innovative approach to understanding political dynamics both in the United States and abroad.

In his introductory essay Linz focuses on the implications of what he calls presidentialism's inherent "rigidity" relative to the more flexible nature of parliamentary systems. Like many of his co-contributors, he is often forced by history to distinguish the United States as unique; nonetheless, his cosmopolitan approach to such issues as political outsiders, accountability, political style, executive leadership, and divided government provides insights generally missing from the analyses of more parochial writers. Both Lijphart's exposition of the majoritarian tendencies of presidentialism and Sartori's endorsement of
Book Notes

semipresidentialism à la the Fifth Republic, yield similarly valuable perspective before the book closes with a series of insightful country studies including Valenzuela on Chile and Ezra Suleiman on the mixed case of France.

Here in the United States, the world’s oldest constitutional democracy, it can be easy to forget that different political structures have varying implications not only for the conduct of politics but also for the varieties of policy they produce. This volume reinforces that lesson and in the process helps explain why American politics is often so tawdry.

Seth Schiesel


This is a study of the failure of the Superfund program created by the passage of the Comprehensive Environmental Response Compensation and Liability Act, as a mechanism to rectify the toxic legacy of the industrial revolution. The work expands on arguments already presented by the Office of Technology Assessment and several law and economics approaches attributing the program’s failure to transaction cost and implementation delays engendered by confrontation and litigation.

The study emphasizes the political and economic power of concerned parties that establish the options and constraints faced by legislators and regulatory officials. At the same time it stresses the environmental consequences of political inaction. Barnett relates the failure of the Superfund Program to the conflict among competing interests and between contradictory goals in the Superfund mandate, the strategy adopted by Superfund to satisfy that mandate and the resources made available to pursue an effective strategy.

The study relies largely on historical and statistical analyses when examining the Superfund Act of 1980 and its reauthorization in 1986, to explain the determinants of state funding and enforcement decisions, the accomplishments of the EPA’s regional offices and the determinants of EPA cleanup and enforcement decisions.

The author begins by establishing the necessity of government intervention in environmental affairs due to the failure of private lawsuits to provide appropriate incentives for cleanup. But he goes on to state that the Superfund program has failed to provide effective and fair social regulation. The primary cause of this failure is held to be the inability to resolve conflicts over decisions on the scope of the program, selection of cleanup remedies, and the
mechanisms to distribute the cost and benefits of cleanup.

The study draws on instrumental and structural perspectives. The former emphasizes the link between private interests and public decisions. The structural model highlights the tension between the economic costs of environmental action and threats to social harmony flowing from environmental inaction. Taken together the models predict that polluting corporations have a great deal of potential to use government as an instrument of self-interest and thus enhance regulatory conflict. In attempting to resolve conflict and to contain fund costs, legislative and agency decisions are likely to produce an inequitable and inefficient program. According to the author, this inequity and inefficiency define Superfund failure.

Instead of the present system, Barnett favors distributing responsibility for hazardous waste disposal and for Superfund cleanup problems across American industry instead of tracing responsibility to specific corporations. Barnett believes that the present attempt to trace harms to specific polluters enhances corporate power by providing stalling techniques in the regulatory process. However, he also feels that the major contribution of the chemical and petroleum refining industries to hazardous waste generation suggests that substantial responsibility can be traced to those specific corporations that make up the petrochemical industry.

Building on this perspective, the remaining chapters follow the course of legislative and agency decisions and trace the relationship between conflict and program failure. An overview of the environment movement and environment legislation of the seventies is given. He looks at the congressional debate over the issue of Superfund cleanup, the extent and funding of the response, and liability and victim compensation. He cites the imposition of a cleanup tax on the petrochemical industry and acceptance of a make-polluters-pay principles as examples of public pressure countering corporate power. But, the defeat of a victim compensation provision and exclusion of explicit liability standards he cites as concessions to industry.

Having established the framework of the Superfund Program and the parameters within which it operates, the author asserts his thesis that the program has failed and examines four reasons for that failure. The first reason is said to be the EPA's rejection of explicit cleanup standards—a move which lowered the cost of cleanup and the protection afforded exposed communities. The second reason was the preference for impermanent containment technologies that were really more expensive in the long run. The third was the EPA's strategy of fund conservation and nonconfrontational voluntary compliance in order to minimize public and private expenditures. The fourth reason was the program's budget constraints which affected the EPA's effort to use the fund to finance cleanup.

These problems largely emerge from executive and congressional budgetary
decisions and limited regional and state resources. The author's conclusion is that a social consensus has to be forged on acceptable tradeoffs between efficiency and equity. He makes recommendations about the program which could be built on such a consensus. For instance, there should be firm objectives and procedures that reward compromise and punish recalcitrance. Affected parties should be involved in defining the scope of remedial investigations and selecting site objectives. And, any enforcement strategy should contain incentives for the responsible party to participate in remedy selection and to accept a compromise solution.

Sarbani Sen
The Notre Dame Journal of Law, Ethics & Public Policy is unique among legal periodicals in directly analyzing legal and public policy issues from an ethical perspective. The Journal seeks to build upon Notre Dame’s religious tradition by translating Judeo-Christian principles into imaginative yet practical proposals for legislative and judicial reform.

Forthcoming symposia include: Sexual Orientation, Right to Die, Culpability in the Law, and Law and the Family.

Annual subscriptions to the Notre Dame Journal of Law, Ethics & Public Policy are $16 and may be ordered from the

Thomas J. White Center on Law & Government
Notre Dame Law School
Notre Dame, IN 46556-0780
219-631-5913