

ACCESS TO THE LAW

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Legal scholars are traditionally very reluctant to utilize research methods developed in other disciplines, (among notable exceptions one finds such important scholars as M. McDougal, J. Hogarth, D.A. Schmeiser and M.L. Friedland). Yet law cannot be separated from its social context and increasingly has to be viewed as a mass policy making process. The reluctant marriage between law and the social sciences in the long term will most certainly become beneficial to both parties.

Among many important contributions of the Law Reform Commission of Canada, one has to note the sponsorship of several multi-disciplinary studies. Dean Friedland's book is a result of one of such studies.

Dean Friedland opens an area which traditionally lawyers dismissed with the laconic statement that *ignorantia juris non excusat*. The book at the outset makes a very challenging statement: that "the state has an obligation to ensure that its laws are available in an understandable fashion to laymen". This challenge however, is not met by either legal or sociological analysis in the book. The study examines the sources which people utilize in obtaining legal information, and the accuracy of such information provided for the public by some of the government and non-government agencies as well as lawyers.

Legal materials (statutes, regulations, cases, etc.) are examined with the objective of improvement in their clarity both in terms of language and organization. This part is supplemented by a test of the citizen's ability to research statutes on their own.

The final chapter contains some recommendations as to the improvement in access to the law. Among the most important recommendations one finds the following: education of the general public about the law, organizational improvements in existing systems of delivery of legal information, development of written materials about law for non-lawyers and a call for improvement in legal draftsmanship.

The study has several shortcomings of a "technical nature". The author himself points out that his surveys are pilot studies only. It is

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very likely that the term "sample" (used to describe the one hundred people who answered the questionnaire on sources of legal information and the thirty-five people who searched the statutes for correct answers to legal problems) is used in a different way than in survey research.

One can also have some reservation as to the choice of questions which the subjects were asked – (e.g. people were asked what would they do upon writing music and words for a song) the most striking omission is the lack of any questions on tax law.

In the assessment of the quality of legal information received from various sources (which is the most informative part of the book) there is perhaps, a lack of distinction between various governmental agencies. It would be more significant if we knew whether functionally appropriate government agencies give better information than general information offices (e.g. Unemployment Insurance Commission, Income Tax Division, Manpower and Immigration). The various pamphlets, booklets, and other similar means of providing information about law deserve more attention.

Among some of the more important questions which remain unanswered is the basic premise that differences in information about the law leads to its different usage. Presumably the more we know about the law the more likely we are to select the most favorable options or refrain from behaviour prohibited by the law. This assumption (it seems) is taken for granted by the author, although it requires a very careful examination.

The second substantive problem of the study is the assumption of the neutrality of legal information rather than a proposition that it is a series of optional interpretations pending on the goals of the user. One can also question the extent of information considered as complete by the author. One can illustrate this by using one of Dean Friedland's legal problems: X receives a speeding ticket on which there is an incorrect license number. In the solution the following elements are missing. a) Number of points against X's driver's licence b) Time involved in arguing before the court c) Probable cost d) Probability of winning the case.

The third vital problem deals with the delivery of the legal information. Some assessment should have been made as to the basic direction depending on the assessment of the quality of information. The two routes which can be followed are: unlimited proliferation of the various sources of legal information or some attempt at consolidation.

The greatest value of the book lies in two critical statements: citizens much too often receive incorrect legal information, and laws are written without any thought about "consumers". The authority of Dean Friedland gives some assurance that these statements will not be taken lightly.