Reconstructing the Truth about Justice

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Reviewing:


As an excursion into the failings of the U.S. adversarial system of trial justice, *Reconstructing Justice* might have provided an impetus for beneficial changes. Franklin Strier ambitiously takes a global view of both civil and criminal trial justice, discussing rules of procedure, evidence and attorney ethics, the jury system, and the roles of judges and attorneys and comparing these to their counterparts in the continental (primarily French and German), "inquisitorial" system. Although others have taken a similar approach in exploring the perceived deficiencies of the adversarial system, as compared to the inquisitorial system,¹ the book

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offers some unique and important proposals for reform, some of which would not be difficult to implement. It is also thoroughly researched and clearly written.

Unfortunately, *Reconstructing Justice* suffers from several fundamental problems that prevent it from being taken seriously by legal reformers. First, Strier demonstrates open hostility toward the legal profession by making attacks on attorneys, some fair, but many not. Although the book appears to be directed at the public at large,² not lawyers and judges, the tenor of Strier's criticisms may turn even general readers off. Moreover, excluding legal professionals from his audience, whether by design or by offensiveness, reduces the possible impact of the book as an engine for reform. This is particularly unfortunate since the book offers some insightful suggestions for change that attorneys and judges might consider seriously if presented in an evenhanded manner.

Second, the book lacks credibility because of Strier's tendency to draw sweeping and questionable conclusions from insufficient information. Third, *Reconstructing Justice* lacks cogency by not giving its presumed audience of lay readers enough background information to enable them to follow the rather technical discussion. Finally, the book's comprehensive approach may go too far: Strier addresses too many tough issues in too little space with the consequence that inadequate attention is paid to some of the most important questions.

At the outset Strier stakes his claim that "the adversariness of the system is just as likely to hide or corrupt the truth" as to discover it, and

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