

the in-house counsel, CEOs, HR professionals and judges who constructed, managed and institutionalized a symbolic civil rights law at the expense of mitigating deeply entrenched racist and sexist workplaces should be required to read *Working Law*.

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Vaccine Court: The Law and Politics of Injury. By Anna Kirkland. New York: New York University Press, 2016.

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Although most Americans probably believe that the federal and state courts handle all civil legal cases, in fact the U.S. Congress has placed a few matters, such as vaccine injuries, in the hands of special courts. Kirkland's illuminating and insightful book introduces us to the vaccine court, created in 1986, a relatively obscure hybrid institution where "parents, activists, researchers, doctors, lawyers, and health bureaucrats come together to wrangle over what vaccine injuries really are" (2) and which cases should receive compensation. And although the special masters of the vaccine court encounter a great deal of uncertainty as they try to decide which injuries merit compensation, those judging this book have a comparatively easy task: its considerable merits are easily discerned.

Through the hybrid institution of the vaccine court, law and science work together to co-produce the "immunization social order," essentially the laws, institutions, biotechnologies, and social practices that jointly produce high levels of vaccine coverage. A stunning success by any measure, the immunization social order has vastly

reduced illness and death from the 14 diseases included in state mandated childhood immunization programs and has done this in a notably even-handed way. In a country known for health disparities, the vaccine program is an important exception. Noting the challenge of making people appreciate the absence of something—here, those illnesses and deaths prevented by vaccines—Kirkland describes vaccination as an act of citizenship. Because vaccination is as much a contribution to the collective good of herd immunity as the protection of any individual's health, governments need to encourage compliance with immunization programs by ensuring that vaccines are safe, acknowledging the possibility of injury, and providing redress for the few who in fact are injured.

But how do we know whether injuries in fact are caused by vaccines? "We come to know what a vaccine injury is through the law," Kirkland provocatively asserts (3). Because vaccine injury is simultaneously a scientific, political, ethical, and legal problem, a hybrid institution is needed to adjudicate cases. Kirkland draws on an extensive array of documents, painstakingly collected and supplemented with interviews, to look closely at how the work of the court has been structured to be attentive to and respectful of the contributions of science and the kinds of uncertainties that scientists routinely encounter. Although her account is appropriately contextualized with discussions of health libertarianism, intensive mothering, vaccine-critical social movements, and key controversies, her focus is squarely on the court itself. The vaccine court differs from other courts on procedure (how evidence is presented, how expertise is assessed), standards of proof (preponderance of evidence, evolving over time), precedence (earlier decisions do not set a precedent for subsequent ones; decisions rendered by special masters do not bind their colleagues), the availability of financial support for building and adjudicating cases (ultimately paid by an excise tax on vaccines), and the very practical combination of expedited processing of well-established types of injuries (with automatic and quite generous awards) and more protracted consideration of cases where causal connections and patterns of side effects are still being worked out.

That part of the social world is co-produced by science and law (as well as medicine, activists, parents, etc.) may not surprise many law and society or science studies readers. Yet a quick comparison of Kirkland's findings with other analyses of co-production (whether classified that way by their authors or not) clarifies the importance of her contribution. Co-production happens all the time. Medical professions are, in some senses, co-produced by law, science, and educational institutions when legal regulation helps shape our sense that some professions are more legitimate (allopathic physicians) than others (homeopaths) or when state-level professional accountability boards consider alleged infractions by medical professionals

(Horowitz 2013). Scientific and medical practices and the facilities in which scientific and medical work occurs also are co-produced when the government regulates indirectly through an independent non-profit such as the Joint Commission, which accredits medical organizations and programs. And scientific and medical knowledge are co-produced by law and science when governmental bodies establish frameworks for the regulation of research ethics, clinical trials, and approval of pharmaceutical products (Heimer 2010).

One could argue that in distinguishing between law on the books and law in action, sociolegal scholars are in essence making an argument about co-production. Many of the instances that look like failures of law—for instance the very limited reach of advance directives for end-of-life decision making (Shapiro 2015) or the persistence of a “culture of the ward” alongside the “culture of rights” in intensive care units (Zussman 1992)—can then be re-described as co-production. Generally speaking, these encounters between science, law, and medicine, whatever the type of law or the practice setting, involve tensions over law, science, and medicine’s different modes of working, often centering on differences in timelines, in tolerance for uncertainty, in standards for acceptable and satisfying answers, and in ways of thinking about collective vs. individual solutions. In part, the vaccine court was created to do a better job of managing this interface. And the adaptations that it made, meticulously catalogued and analyzed in this book, go a long way to bridging the gap. Thoughtful co-production with rules adapted to the task at hand, seems like a pretty good recipe for good governance.

As long as we keep our eyes on the American system, the vaccine court seems like a useful innovation that is functioning reasonably well. From a comparative perspective, though, it looks less good. If the U.S. had a no-fault system like New Zealand’s, vaccine accidents would not need to be processed by the courts at all. Short of that, a more generous social welfare system and a stronger safety net would surely make the plight of American parents less desperate, reducing some of the pressure that so often moves American law in the direction of adversarialism. When the pie is always too small, people will struggle to get their piece.

As a matter of institutional design and public policy, the tendency to look at elements of the legal system—laws, courts, etc.—as essentially separate from level of social provisioning seems a mistake. When large sectors of the society are badly mismanaged, as is true with both the social welfare system and healthcare in the U.S., then other sectors may develop workarounds to ameliorate resulting injustices. But however laudable the intent, such adjustments often work poorly precisely because they are embedded in a fundamentally broken system. In the long run, the accretion of workarounds becomes cumbersome, creating fresh problems.

To be fair, Kirkland does note the stinginess of the American social welfare system, and this is of course not her main subject. But given that the vaccine court is an attempt to get more justice for the families of those who may have been injured, it is wise to remind ourselves that there are likely more direct routes to justice. And it behooves us to ask whether the best use of legal energy is producing workarounds.

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Criminal Defense in China: The Politics of Lawyers at Work. By Sida Liu and Terence C. Halliday. New York: Cambridge University Press, 2016.

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This lucid book is an important addition to a groundswell of research on Chinese lawyers. Aimed squarely at a sociolegal audience, it bridges two familiar research agendas: how lawyers work, and their prospects for political activism. The latter theme has been particularly prominent in writing about China, as observers reflect on the real world rise of legal activism as a form of political participation. But evaluating Chinese lawyers as a political force is challenging. Social scientists find ourselves sandwiched between journalists and historians, responsible for finding a narrative to link day-to-day news items, but without the benefit of knowing how the story turns out. Fortunately, *Criminal Defense in China* is written by two of the people best-equipped for this task, sociologists Sida Liu (University of Toronto) and Terence Halliday (American Bar Foundation). The book focuses on criminal defense as a "sensitive pulse in China's social and political life," and is firmly founded on 329 interviews and two careers spent considering the worldwide evolution of the legal profession (xiii).