Book Review/ Compte rendu

Tejani, Riaz. *Law Mart: Justice, Access, and For-profit Law Schools.* Stanford: University of Stanford, 2017, 272 pp, $ 24.95 paper, (9781503603011).

The neoliberal embrace has led to the marketization of public goods, including higher education, all over the world. Once it became apparent that education was a profitable commodity, private equity financiers began to take notice, which led to the creation of for-profit educational institutions. However, in this detailed ethnographic study of one American non-elite, 4th tier, for profit law school, Tejani reveals that this neoliberal shift has had disturbing consequences. He highlights the multifarious contradictions that emerge when a higher education institution is run by a private equity company where there is perennial pressure to generate profits for investors.

Trained as an anthropologist as well as a lawyer, Tejani spent three fraught years at the pseudonymously named New Delta School of Law (NDSL) as a member of faculty. The documentation and analysis of his stint at NDSL includes the deleterious impact on staff and students of the global financial crisis (GFC) of 2009 and its aftermath. As a participant/observer, he is able to paint an unusually detailed picture of a kind that tends to elude an independent researcher. The commercial-in-confidence prescripts surrounding the internal machinations of a private for-profit corporation generally demand secrecy, which renders scrutiny difficult.

To present an appealing face to the world, NDSL was ostensibly committed to social inclusion with a mission of 'serving the underserved' (don't overlook the first 'r'). The 'underserved' are poor whites and minorities with complicated lives unlikely to qualify for entry to other law schools. While the grandiose claim of social justice for the 'underserved' was widely trumpeted, Tejani shows that NDSL was in fact capable of 'ruining lives'. In fact, the 'underserved' paid hefty tuition fees of USD43,000 pa, leaving them with a repayment debt on graduation of around USD250,000 which meant that many of them had great difficulty in repaying. However, Tejani graphically shows that the more NDSL drew revenue from vulnerable students, the more it sought to remind staff that its mission was ideologically

praiseworthy. Entry standards at NDSL were lower than at almost 90 per cent of other law schools. Students were offered flexibility, including part-time day and night programs, as well as a trimester system, so that they could finish in two years rather than three. This enabled them to start earning money to begin repaying their tuition debt as soon as possible. The curricular focus was on being 'practice-ready' so that graduates could set themselves up as sole practitioners, rather than vainly hoping to obtain a highly competitive position in an established law firm. Although the aim of solo practice struck me as unrealistic, it was believed that it would enable graduates to serve the legal needs of their demographic group, that is, poor whites and racialized minorities. Tejani reminds us that this rhetoric of service comported with NDSL's social justice mission.

The business of Law Corps, NDSL's owner, was premised on rapid growth. By taking in increasing numbers of students, it hoped to attract more private equity investors. However, as the effects of the GFC began to bite, nearby Big State University began welcoming more and more low-scoring transferees. This induced the phenomenon of 'transfer attrition' from NDSL, each one of which caused NDLS to lose about USD40,000 pa. In the classic manner of 'throwing good money after bad', the response of NDSL was to make more scholarships available to students. Compelled to make savings elsewhere, NDSL looked to 'reduction in force', the euphemism used to refer to fiscally necessary layoffs inscribed in each faculty employment agreement. This resulted in the dismissal of three senior and committed tenured professors who were suspected of being outspoken and influencing others in their criticism of the philosophy of NDSL. The loss of respected faculty induced students to transfer out, which led to the dean calling on colleagues 'to build a better mousetrap' to stop the haemorrhage.

The faculty dismissals resulted in actions for breach of contract and, as reports appeared in the national press, the secrecy surrounding the machinations of NDSL could no longer be maintained. Needless to say, a great deal was made of the 'better mousetrap' soundbite. It also transpired that the appearance of regular faculty governance had been kept in place only until the school had secured American Bar Association accreditation in 2010, after which oversight began to be dismantled. Being viewed like dollar signs, induced even more students to leave. One might ask why experienced and well qualified faculty from reputable law schools had accepted appointment at NDLS in the first place. Tejani suggests that they had been attracted by the mission of 'serving the underserved', rationalising that all schools are 'for profit' at some level (in that they seek to bring in more revenue than

they expend). The problem was that these professors also insisted on old-fashioned values such as transparency and accountability, values that did not accord with the for-profit philosophy of secrecy. With the dismissal of the three prominent professors, there was a shift to casualization in staffing, with an increasing use of adjuncts, visitors and former students. To restrict the distinctive voice of the professoriate, the lines between permanent and other staff were blurred. They were now all referred to as 'professor', and administrative staff were given voting rights at faculty meetings in order to dilute further the voices of faculty. In 2014, the author himself left, together with several other professors.

This considered and timely study reveals that the attempt to absorb market-based thinking into higher education is fraught. NDSL may be a bellwether for for-profits as it was one of the first to be run by a private equity-held company, although similar institutions are now appearing in other parts of the world as the privatization imperative gathers momentum.

Tejani shows insightfully how the move towards greater diversity within the student body in legal education is a direct outcome of neoliberalism rather than the manifestation of an increased sensibility in favour of social justice, as it is claimed to be. Somewhat depressingly, the move may also be regressive as he suggests that the NDSL example may signal the possible racialization of for-profit law schools.

In highlighting the contradictions inherent in for-profit law schools, Tejani poses the provocative question of how faculty can fulfil their responsibility of socializing students into ethical legal practice when they are implicated in producing a significant moral hazard. He emphasises that the NDSL scenario did not arise from being executed poorly, as some want to claim; the problem is more diffuse as the individualized economics of capital effectively attenuate collective reflection. This diffusion of responsibility attests to the success of neoliberalism as each day we see a further erosion of higher education as a public good. I highly recommend this excellent study as it addresses an issue of vital importance to all of us.

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