

BOOK REVIEW/COMPTE RENDU

Tamara Relis, *Perceptions in Litigation and Mediation: Lawyers, Defendants, Plaintiffs and Gendered Parties*. (Cambridge: Cambridge University Press, 2009), 304 pp. \$US 85.00 hardcover (978-0-521-51731-7).

Tamara Relis has crafted a profoundly astute book addressing the central question: How do professional and lay actors understand and experience litigated case processing leading up to and including mediation in legal disputes? Her book offers a wealth of empirical insight to current debates on styles of law practice, formal justice versus informalism, motivations underlying why plaintiffs sue, and dispute transformation debates. Her study also improves our understanding of how litigation-linked dispute resolution works in practice, how it is perceived and directed by lawyers and disputants, and generally what transpires during multilevel interactions of mediation. A central argument advanced by Relis is that both the formal and informal justice systems fail to serve disputants' fundamental needs. Furthermore, Relis challenges the notion that disputants and their representatives broadly understand and want the same things during case processing.

The study is based on a qualitative approach, using a multiple case study design. The primary data derive from 131 semi-structured interviews, questionnaires, and observation files of plaintiffs, defendants, lawyers, and mediators involved in 64 mediations of medical injury disputes. The mediations studied included three institutional frameworks: voluntary (Alternative Dispute Resolution [ADR] Chambers), court-linked mandatory (Mandatory Mediation Program), and those where no financial recompense was sought (College of Physicians and Surgeons). Relis documents her methodology systematically, while acknowledging the difficult obstacles that complicated the task of obtaining access to cases and their mediation participants.

Three recurrent themes are elegantly threaded throughout the book. The first theme is the "parallel worlds" of legal actors and lay disputants. Relis argues that legal and lay actors have "dissimilar and separate" understandings, goals, and experiences during case processing and mediation. Lawyers tended to assume that plaintiffs sued solely or predominantly for money. By contrast, plaintiffs fervently stressed that they sued not for financial reasons, but for a range of extralegal goals of prin-

principle. The overwhelming majority of disputants discussed the psychological importance of being able to recount the impact their experiences had for them and to express emotions in order to gain some measure of relief. Yet, due to disparities in knowledge, aims, and power, plaintiffs (and defendants) were regularly denied opportunities to communicate issues of prime importance to them. The parallel worlds findings challenge dominant understandings of how legal dispute resolution works in practice and the rampant praise of mediation as a vehicle for empowerment and disputant self-determination. More generally, Relis's parallel worlds thesis advocates that litigants' extralegal aims need to be incorporated in the law and conceptions of civil justice must evolve.

A second theme is "reconceptualization," referring to the role of mediation experience in transforming how lawyers conceptualize their cases and their roles in resolution. The book offers perhaps its most valuable insights here with reference to potential dispute transformations. Prior work has examined dispute transformation in various areas of law, including poverty law, divorce, consumer, general injury, small claims, and harassment cases. Relis adds medical disputes to the list, while filling two important gaps in prior research. First, there has been little investigation of how dispute transformation may affect plaintiffs' understandings of their cases and what they seek from the justice system, how they interpret their lawyers' communications, and whether their own goals change through the litigation process. Second, there is little knowledge of defense lawyers' understandings of plaintiffs' aims and of whether dispute transformation plays a role in their interpretations. Relis argues that mediation experience plays an important role in transforming legal discourse. In the context of mediation, extralegal attributes are thrust upon the legal world, compelling lawyers to view their cases on a more human basis. The book repeatedly provides evidence of mediation experiences resulting in lawyers gradually reconceptualizing their cases and their roles within them, with extralegal considerations becoming embedded within lawyers' thinking and discourse. Consistent with arguments that ADR has resulted in a decline in rights discourse, Relis discovers that talk of "rights" was virtually absent from respondents' accounts of mediation. Her findings offer a valuable contribution to the procedural justice literature.

A third theme that runs throughout the book relates to the different gendered understandings of disputes and their resolution. The findings suggest that female lawyers and female disputants comprehend and experience the processing of cases differently from their male counterparts. Relis's study reveals that female attorneys' discourse generally evinced greater sensitivity to disputants' extralegal needs within mediation and

related litigation. A second strand of the gender findings reveals that female plaintiffs regularly expressed unease in disputing the compensatory elements of their claims, something typically absent from male plaintiffs' discourse. Women were also initially less inclined than men to face perceived wrongdoers at mediation, more often expressing feelings of emotional difficulty than their male counterparts. Relis also found that female lawyers more often than males spoke of extralegal mediation aims, planning to use mediation as a venue for objectives other than strategy and monetary negotiations. Only limited empirical data exists to date on how men and women practice law and whether women contribute to an emphasis on needs versus rights. Relis's book is the first systematic empirical field study to examine whether gender affects lawyers' approaches to case processing that includes mediation. It is also the first to explore gender-based differences in lawyers versus parties.

The weaknesses of the book are common to works that strive to ambitiously fill so many immense gaps across several literatures. The three themes are neatly threaded through most chapters, offering coherence and persuasion. Yet, Relis claims to offer a *new theory*, one in which the identities of lawyers and litigants are reinvented to demonstrate this reality and in order to provide a platform for meaningful reform. In need of greater elaboration are the central propositions of this theory, the theory's potential application to diverse legal settings, and its impact for revising conceptions about case processing to better reflect groups' divergent understandings, aspirations, and ultimate aims of dispute processing. Also deserving of further exploration is what Relis terms the "red riding hood syndrome," relating to plaintiffs' strong psychological needs to recount their stories, express emotions, and be heard — a conception that reflects their resistance to conform to the legal world dominated by lawyers.

Perceptions in Litigation and Mediation is a highly readable book, richly textured with extensive interview accounts that give voice to the various actors engaged in mediation, and Relis is relentlessly systematic in her analysis, firmly contextualizing her findings within numerous fields of inquiry. Her work offers an exemplary multiple case study that builds on several classic studies of dispute transformations, critiques of the adversarial paradigm, theorizing regarding gendered styles of legal practice, and analyses of meaning-making through engaging the power of the legal system. This highly innovative scholarship contributes significantly to our understanding of micro-behavioral processes occurring within case processing and mediation.

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