



REVIEW OF:
Halliday Terence, Karpik, Lucien, y Feeley, Malcolm (2007) *Fighting for Political Freedom: Comparative Studies of the Legal Complex for Political Liberalism*. Hart publishing: Oñati

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During the 1990s Terence Halliday and Lucien Karpik launched a project on the role of lawyers in the “rise of western political liberalism.”¹ In the intervening years, Malcolm Feeley has been added to its directorate and the project has become much more ambitious—increasingly well theorized and ever more global in its reach. The result is *Fighting for Political Freedom: Comparative Studies of the Legal Complex for Political Liberalism*, an outstanding collection of essays written expressly for this volume and nurtured by conferences at which initial drafts were presented, critiqued, and revised.

The volume gets off to a very strong start with an introductory chapter that is scrupulously rooted in the relevant literatures, clearly written, and cogently argued. Here we learn that the foundation of the enhanced project is “the legal complex.” This innovative conception of legality as “a collective political actor” has been crafted specifically for the project but is likely to play a prominent role in socio-legal studies in the years to come.

We stipulate that the legal complex comprises the system of relations among judicial institutions, legal occupations and legal academics in a given society. . . . The legal complex, through its conflicts and coalitions . . . produce[s] and maintain[s] political liberalism.

The goal of the volume is to explain when and under what circumstances the legal complex mobilizes on “behalf of political liberalism” and how “over the *longue durée* [they] mutually transform each other.”

¹ Terence C. Halliday and Lucien Karpik, eds., *Lawyers and the Rise of Western Political Liberalism*. Oxford: Clarendon Press, 1997.

It is important to underscore that the focus is on *political liberalism*, rather than on *liberal democracy*, because political liberalism is viewed as the natural partner of the legal complex.

- “We distinguish between political liberalism, which we define narrowly in terms of legal institutions, the legal rights inherent in civil citizenship, and the engagement of lawyers in civil society, and democracy, with its emphasis on political rights of suffrage, the contest of political parties, and representation. While we would argue that the legal dimensions of political liberalism are significant for contested democracies, studies of the latter often underplay the former.”
- “It is not surprising that legally trained occupations—the various segments of the legal complex—often choose to mobilize for or against basic legal freedoms on grounds that are most proximate to their vocation and with weapons that they have acquired in training and practice.”

Thus, the introductory chapter provides a complex and revealing framework for a coherent volume that systematically addresses the proposition that there is a mutually constitutive relationship between legality and political liberalism.

The individual essays take up where the introduction lets off, deploying the legal complex in a wide variety of settings around the world—with three essays on Latin America, two on the middle east, four on East Asia, and one each on the U.S., Spain, and Italy. Just as important as this geographic variation is the inclusion of states at various stages in the development of, or resistance to, political liberalism. The editors are to be commended for assembling so wide a range of case studies and, thus, providing an imposing array of empirical data that reveals the explanatory power, the contingent character, and the multiple variations of the legal-liberal connection.

The findings of the project are so rich and diverse that they can not be adequately summarized in a short review. Suffice to say that increasingly intricate patterns develop as the constituent elements of the legal complex—“judicial institutions, legal occupations and legal academics” mobilize, and/or resist mobilization, on behalf of political liberalism. Depending on the circumstances, it turns out the legal complex may:

- Unite on behalf of political liberalism. Such was the case, for example, in Uruguay in the 1990s and in Korea in the 1980s and 1990s.
- Divide between the lawyers who mobilize and the judiciary which resists mobilization. This occurred in both the United States and China after 2002 as well as in Japan from the 1980s into the new millennium.
- Mobilize selectively on some matters but not on others. Such was the case in Israel in these initial years of the 21st century and Brazil and Argentina in the 1990s.

- Exhibit hostility to political liberalism. This was true of Japan in the 1930s and Chile during the Pinochet era.

This brief précis of the intricate patterns of mobilization reported in this volume provides only a glimpse of what this volume has to offer.

One transcendent generalization does emerge from my account of the research findings. For both the legal complex and “more surprisingly” for the state itself, “the legal arena recurs again and again as a domain of struggle.” Accordingly, it might be more accurate to think of this project as an inquiry into the affinities binding political liberalism and *political* legality. But however characterized, this research does not simply demonstrate the validity of, and the multiple variations in, this linkage. More importantly, it provides both reliable data and a replicable research strategy for continuing to pursue these cornerstone issues of socio-legal inquiry.

One such avenue for further inquiry would be to look beyond political liberalism to political democracy. It would seem reasonable to conclude from both the specific findings and the tone of this project that political liberalism can be seen as a necessary but not a sufficient condition of political democracy. It follows that the legal complex is inextricably enmeshed in political democracy, and in particular in liberal democracy, as well as in political liberalism.² Thinking in these terms takes one towards de Tocqueville’s classic 19th Century commentary on the consonance and/or dissonance which links lawyers, legality and democracy. Halliday, Karpik and Feeley take us to the threshold of, and provide a research strategy for, empirical inquiry into the contested affinities between legality and democracy. Perhaps it is time for socio-legal scholarship to take de Tocqueville seriously.

² See, for example, Stuart Scheingold, “Cause Lawyering and Democracy in Transnational Perspective: A Postscript” in *Cause Lawyering and the State in a Global Era*, ed. Austin Sarat and Stuart Scheingold. New York: Oxford University Press, 2001.