

Sitting in Judgment : the working lives of judges (Hart, 2011) The story of the research project

Penny Darbyshire, Kingston Law School, London p.darbyshire@kingston.ac.uk

Aim

- To find out what judges did and what they were like.
- Why? Very little was known about judges' work. The public stereotype is based on news reporting and stats on diversity (or the lack of).
- No-one watches courts; no-one realises they've met a judge - judges keep it a secret!
- Previous lack of research caused by judicial hostility and academic reluctance.

Prep

- 3 pilot studies: district judge, circuit judge, HC judge, funded by Kingston Univ.
- Applied to Nuffield Foundation.
- Getting a foot in the door: was puzzled over who to ask. Funders wanted departmental permission: inappropriate because of independence of the judiciary.
- Luckily, the senior judiciary knew who I was, because of jury research.
- The Senior Presiding Judge and judges' organisations helped fix the sample and approach the judges.

Sample

- 40 judges, from district judges to UKSC Justices, throughout England & Wales, in crime, family and civil. As big a variety as possible, in age, court and work-type etc.
- 37 further interviewees, chosen serendipitously.
- Talking to hundreds more who I met on my travels, e.g. at lunch and in lodgings.

Methods (2002- 2010)

- Work-shadowing: whole day with the judge (usually 4 days in a variety of work). Observing all work, *including* Court of Appeal deliberations and appeals committee of top court.
- Getting judge to talk though work, show me all documentation; sitting with her in court, encouraging her to think out loud. Taped interviews.
- Observing judicial training; attending court user conferences; going out.
- 1.5 hour interview about their background, prior jobs, recruitment experiences, training, attitudes to work, other judges, court users, the ELS.
- Access to all info; no censorship; emailed chapters to relevant judges to check. Judges as subjects not objects of research. Book in plain English.

Findings – judges' working personality (chapter 7)

“I think I am nicer as a judge than I am as a human”.

- Working personality was affected by childhood experiences, education, practice – watching nice and nasty role-models, being a solicitor or barrister, image-awareness (fear of catching judgitis), domestic circumstances, experiences in court, working environment.
- Recruitment criteria: no skeletons in the cupboard, understanding of people and society.
- Bringing the rookie into line: the resident, faced with a new judge “being a pompous idiot” said “we’ll all take the piss out of him mercilessly”. Gossip round the circuits.
- Keeping old judges in line: the Court of Appeal over your shoulder.
- Working personality: patience, courtesy, good humour, lack of judgmentalism, listening skills, ability to absorb, analyse and apply written info, (workaholia).
- Becoming a judge: some gained confidence; legal practice had taught them not to be judgmental; most had become more “appalled” by the system, or left-wing, or critical of government policy, and/or aware of social problems.
- 60 had changed behaviour – took care not to break the law, stopped going clubbing or to El Vinos, going to parties where drugs were taken, expressing “political” views, dressing up in musicals, charity work. Others ramped up charity work.
- No impact on family relationships, except that they took the piss. Judges often mentioned family life: happily marrieds were over-represented.
- Biggest impact was distancing themselves from lawyers, former colleagues: “I never went back to the office”. *Isolation*, in the limelight, was a stark contrast to camaraderie at the bar.
- Judges’ characteristics: old, white, male; not party political but politically aware; happy, funny, middle class, IT literate.
- Generally tolerant of courtroom behaviour that magistrates would not have tolerated in the 1970s: answering back, challenging authority, wearing caps, carrying cans. 53 said there had been a change in public attitude since they commenced legal practice; 32 reported this in neutral terms – “a sign of the times”, 13 thought less deference was a good thing. No judge cared about mobile phones ringing.
- Match the descriptions of real judges in the book (judges as ordinary workers), in chapters 8-15, against the stereotype: old, white, male, pompous, privileged, Toff, out-of touch, sexist, racist, homophobic, prone to insensitive comments.

Chapters 8-15 portray all types of work: “judges as ordinary workers”

- All but three loved their work.
- High Court and Court of Appeal judges worked really hard and long hours. A district judge said “they work them to death”. Family judges also worked very long hours.
- Various findings: magistrates’ courts and family courts as law-free zones, the fragility of the Crown Court trial; judges waiting for everyone; litigants in person; lawyers – some naughty; “macho” HC work; judges on circuit; the sweatshop admin court; camaraderie and relentless hard work in the CA; CA judges deciding appeals pre-hearing; UKSC Justices wish they could organise themselves into single judgments.
- Rubbish working conditions – buildings, IT support, staffing. No limos now!