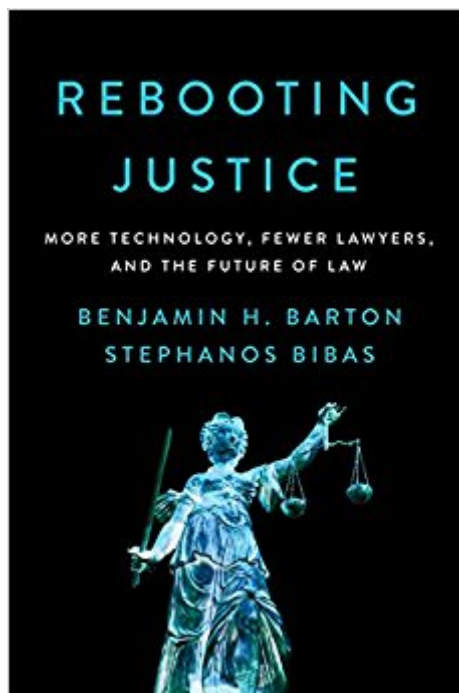




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Rebooting Justice: More Technology, Fewer Lawyers, And The Future Of Law



Synopsis

America is a nation founded on justice and the rule of law. But our laws are too complex, and legal advice too expensive, for poor and even middle-class Americans to get help and vindicate their rights. Criminal defendants facing jail time may receive an appointed lawyer who is juggling hundreds of cases and immediately urges them to plead guilty. Civil litigants are even worse off; usually, they get no help at all navigating the maze of technical procedures and rules. The same is true of those seeking legal advice, like planning a will or negotiating an employment contract. *Rebooting Justice* presents a novel response to longstanding problems. The answer is to use technology and procedural innovation to simplify and change the process itself. In the civil and criminal courts where ordinary Americans appear the most, we should streamline complex procedures and assume that parties will not have a lawyer, rather than the other way around. We need a cheaper, simpler, faster justice system to control costs. We cannot untie the Gordian knot by adding more strands of rope; we need to cut it, to simplify it.

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Customer Reviews

“*Rebooting Justice* is a crucial book on a crucial topic. It offers a sobering indictment of what passes for justice for poor and middle-class Americans, and the need for structural reform. These gifted scholars bring a wealth of pathbreaking research, critical insight, and innovative proposals to bear on one of the nation’s most pressing problems: how to provide cost effective legal assistance for those who need it most.”
—Deborah L. Rhode, Stanford University
“America’s legal establishment is right that our legal system is suffering an access-to-justice

crisis, but dead wrong about how to fix things. In clear, energetic, skillful prose, Bibas and Barton first give the misguided crusade for Civil Gideon a decent burial. Then they go on to propose ideas that are much better—better in moving with the times on technology, better at lowering rather than heightening the problems of cost and delay, and better at focusing the scarce talents of skilled courtroom counsel where they can make the most difference, specifically on felony charges.

Walter Olson, senior fellow at the Cato Institute and author of *The Litigation Explosion* “Too much procedure means too little justice. With vivid stories, *Rebooting Justice* describes how fairness got lost in the modern legal maze. The test of justice is how it actually works. Barton and Bibas prove, beyond doubt, that it’s time to reboot American justice.”

Philip K. Howard, author of *The Rule of Nobody* and *The Death of Common Sense* “America’s legal system is bloated, inefficient—and almost completely inaccessible to a huge part of America. Bibas and Barton offer highly persuasive proposals for putting it on a diet, and making law as accessible to ordinary Americans as it was in Lincoln’s time.”

Glenn Reynolds, Beauchamp Brogan Distinguished Professor of Law and author of *Instapundit.com* and *The New School*

Benjamin H. Barton is the Helen and Charles Lockett Distinguished Professor of Law at the University of Tennessee. His scholarship has been discussed or reviewed in *Time Magazine*, the *New York Times*, *Wall Street Journal*, *Washington Post*, *The Washington Examiner*, *The Sydney Morning Herald*, and *The ABA Journal*. Barton also worked as a clinical professor of law for thirteen years representing indigent clients in criminal and civil courts.

Stephanos Bibas is a Professor of Law and Criminology and the Director of the Supreme Court Clinic at the University of Pennsylvania. He is also a founding faculty member of the Quattrone Center for the Fair Administration of Justice, which seeks to study and fix flaws in the criminal justice system that cause innocent defendants to be wrongfully convicted. A graduate of Columbia, Oxford, and Yale Law School, he clerked for Justice Anthony Kennedy on the U.S. Supreme Court. As a federal prosecutor in New York City, he successfully investigated, prosecuted, and convicted the world’s leading expert in Tiffany stained glass, who had hired a grave robber to steal priceless Tiffany stained-glass windows from tombs in cemeteries. Winner of the Best Speaker award at the World Debate Championships, Bibas has argued six cases before the United States Supreme Court and been cited by that Court six times. He is an internationally recognized expert on criminal procedure and has lectured on and debated these issues across the country. His critically acclaimed yet lucidly written book, *The Machinery of Criminal Justice*, was published by Oxford

University Press in 2012, excerpted serially at The Volokh Conspiracy and Sentencing Law and Policy blogs, and featured on C-SPAN and Book TV. He has been interviewed and quoted by the New York Times, Wall Street Journal, Washington Post, Los Angeles Times, Chicago Tribune, USA Today, Philadelphia Inquirer, and many other media outlets.

There is broad consensus in the judicial system that a vast number of us cannot afford even basic legal services despite there being a superabundance of lawyers. Further, many people who can afford lawyers choose not to hire them because they cannot identify a return on investment. The result is that courts are seeing dramatically increasing numbers of parties unrepresented by lawyers. What professors Barton and Bibas have expertly accomplished is distilling into one very readable book the many factors that contribute to a largely inaccessible justice system. Whereas many “access to justice” efforts in the past three decades have focused on identifying means of providing more lawyers to more people, the authors persuasively argue that “lawyering up” has not been an effective strategy. Instead, they propose simplifying processes that may not require lawyers, such as having special dockets for unrepresented parties in low value claims, having judges become more active in eliciting important facts from parties, ensuring that simple forms are available, and piloting the use of technology to help people resolve typical disputes through online dispute resolution, to name just a few. The suggestions for reforming America’s archaic and inexplicably expensive system of legal education are particularly insightful. Having served on innumerable “access to justice” committees over three decades where addressing the root of the problem is largely avoided, this candid assessment of legal representation, together with its array of potential solutions, is both timely and welcomed.

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