

Hans Zeisel's Contributions to the Administration of Justice and the Sociology of Law

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Dissenting from a decision striking down a state regulation of employment agencies, Justice Brandeis wrote that neither the majority's "assumptions" nor its "*a priori* reasoning" should determine the result. "The judgment should be based upon a consideration of relevant facts, actual or possible—*ex facto jus oritur*. That ancient rule must prevail in order that we may have a system of living law."¹

Revealing the facts about how our legal institutions work so informed people can understand and improve them has been a major theme of Hans Zeisel's work in the law.² He has, through the medium of quantitative social research, provided the law with subtle techniques that give access to its innermost secrets and insights into its most baffling mysteries.

That the administration of justice must be substantially improved is a matter of general agreement. Professor Zeisel's work has been essential in precisely revealing weakness and strength in the American Machinery of Justice and in rigorously demonstrating which proposed remedies will or will not help, and why. He has brought to this task an impressive scholarly and practical background.

Professor Zeisel is widely appreciated as a pioneer in social research³ and in the methodology of social research. His book, *Say It with Figures*, first published in 1947, is now in its fifth edition and has been

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1 *Adams v. Turner*, 244 U.S. 590, 600 (1917) (dissenting opinion), *quoted in* A. BICKEL, *THE SUPREME COURT AND THE IDEA OF PROGRESS* 21 (1970). *See also* *Burns Baking Co. v. Bryan*, 264 U.S. 504, 520 (1924) (Brandeis, J., dissenting): "Knowledge is essential to understanding; and understanding should precede judging."

2 To be sure, Professor Zeisel's interests range far beyond the law. *See, e.g.*, Zeisel, *Karl Polanyi*, in 12 *INTERNATIONAL ENCYCLOPEDIA OF THE SOCIAL SCIENCES* 172 (1968); Zeisel, *In Defense of Shakespeare's Romeo and Juliet*, 6 *SHAKESPEARE STUDIES* 37 (1967-68) (Shakespeare Society of Japan). But we are here concerned with his work and influence in the area of social research and the law.

3 *See, e.g.*, M. JAHODA, P. LAZARSELD & H. ZEISEL, *MARIENTHAL: THE SOCIOGRAPHY OF AN UNEMPLOYED COMMUNITY* (1933, Eng. transl. 1971).

translated into five languages.⁴ This volume is an outgrowth of Professor Zeisel's work with the Bureau of Applied Social Research at Columbia University⁵ and, before that, with the Vienna Institute for Psychological Market Research. In his introduction to the first edition of the book, Professor Paul Lazarsfeld suggested that "[m]odern social life has become much too complicated to be perceived by direct observation. . . . The very complexity of social events requires a language of quantity."⁶

Say It with Figures is rightly relied upon by students in all our graduate schools who wish to do any meaningful quantitative research, whether they study history, sociology, or law. Particularly for those involved in litigation, the ability to use statistical evidence is essential.⁷ Needless to say, private business, whose profits depend upon a sound grasp of reality, has long relied upon Dr. Zeisel's skills.⁸

In *Say It with Figures* Professor Zeisel sought to help define the new "language of quantity" and sought also to make that language more precise. Some twenty years after its publication, Professor Lazarsfeld measured Dr. Zeisel's success:

[This] book [which] deals with ways to study human affairs in a variety of fields . . . is organized around basic methodological ideas. Twenty-five years ago, they had been tentatively laid out, today, they have become classics. Look at the new *Encyclopedia of the Social Sciences*, at the topics that cannot be found in the earlier edition. . . . The authors practically parallel the outline of *Say It with Figures*. . . . So this book has helped in developing a structure that today dominates research and practice.⁹

The classic European approach to the sociology of law was to attempt

4 H. ZEISEL, *SAY IT WITH FIGURES* (5th ed. 1968). The languages are Japanese (1962), Spanish (1962), German (1968), Italian (1968), and Swedish (1968).

5 The Bureau of Applied Social Research, a special division of Columbia University's Department of Sociology, engages in research and training of sociology students.

6 Lazarsfeld, *Introduction* to H. ZEISEL, *supra* note 4, at xv.

7 See cases and authorities collected in J. MAGUIRE, J. WEINSTEIN, J. CHADBOURN & J. MANSFIELD, *CASES AND MATERIALS ON EVIDENCE 871-73* (6th ed. 1973) [hereinafter cited as *CASES ON EVIDENCE*].

8 In addition to his distinguished academic career at the University of Vienna (1932-35), the Bureau of Applied Social Research, Columbia University (1940-43), Rutgers University (1942-43), New School for Social Research (1947-50), and the University of Chicago Law School (1952 to present), he has used his talents at one time or another in the services of Bata International Shoe Company, Market Research Company of America, Benton & Bowles, McCann-Erickson, Inc., and the Tea Council. Much of his time is now spent with the Vera Institute of Justice in New York, which is conducting some of the most promising current work in criminal law.

9 Lazarsfeld, *supra* note 6, at xiii.

to discover fundamental relationships between law and society in varying historical settings. This theoretically oriented, system-building approach has not flourished in the "pragmatic" United States.

[T]he major American contribution to a sociology of law has followed a different course. It is marked by inquiries into the actual working of the legal system, into the effects of the rules upon those immediately involved and upon society in general. Nursed by the spirit of American pragmatism, this notion has borne fruit.¹⁰

Since 1952, when he became Professor of Law and Sociology at the University of Chicago Law School, Hans Zeisel has been in the vanguard of empirically oriented social research in the law. A major contribution of Professor Zeisel to social research in the law has been the institutional studies of the American jury that he conducted with Professor Harry Kalven, Jr. These studies were undertaken as part of the University of Chicago Law School's Jury Project, funded by the Ford Foundation.¹¹ They were important not only for what they taught us about how the jury worked, but because they trained a large group of lawyers, law professors, and sociologists in the benefits and the limits of fact finding. The effect on a whole generation of American law teachers was pervasive. Much of my own teaching was affected by my discussions with Dr. Zeisel and my work with him and others on New York and federal studies.¹²

In 1959 Hans Zeisel, with Harry Kalven, Jr. and Bernard Buchholz, published *Delay in the Court*.¹³ This study of court congestion—primarily in New York—grew out of the Jury Project and, like that project, had "a special emphasis: the partnership of the lawyer with the social scientist in a fact-oriented inquiry."¹⁴ As the authors described it:

Reduced to the simplest terms, the present study involves two steps. First, a careful inventory and measurement of the current delay. Second, an examination of the specific remedies suggested

¹⁰ Zeisel, *Sociology of Law, 1945-55*, in UNESCO, *SOCIOLOGY IN THE UNITED STATES OF AMERICA* 56 (1956).

¹¹ For a brief comment on the development of the Jury Project, see Hazard, *Book Review of DELAY IN THE COURT*, 49 CALIF. L. REV. 360, 364-66 (1960).

¹² Compare Weinstein, *Seminar in Administration of Civil Justice: Exposure of Law Students to Fact-Finding Techniques of the Sociologists*, 15 J. LEGAL ED. 321 (1963) (a seminar in which Dr. Zeisel participated from time to time), with Weinstein, *The Teaching of Fact Skills in Courses Presently in the Curriculum*, 7 J. LEGAL ED. 463 (1955) (taking a much narrower view of the matter before exposure to Zeisel and the work of the legal clinicians who are conducting so many worthwhile experiments in legal teaching).

¹³ H. ZEISEL, H. KALVEN, JR. & B. BUCHHOLZ, *DELAY IN THE COURT* (1959) [hereinafter cited as *DELAY IN THE COURT*].

¹⁴ *Id.* at vii.

for the removal of delay and, whenever possible, a quantitative estimate of how much each can be expected to accomplish. Thus, the chief burden of the study is to clarify the problems involved by reducing them to quantitative terms. But measurement alone, however accurate, does not by itself dictate solutions . . . Nevertheless, this is a book meant for the policy-maker: it aims at aiding his decisions by clarifying the facts.¹⁵

The significance of *Delay in the Court* by no means resides solely in its clarification of the problem of court congestion. One reviewer quite appropriately noted that:

[T]his study deserves praise also as a pioneering venture in interdisciplinary research, inventively planned and thoughtfully developed. The success of this use of quantitative social research tools should encourage new approaches to the analysis and solution of other problems that concern both the legal profession and the public.¹⁶

At the time these studies of delay in the New York courts were published, I must confess to considerable disquiet about what I considered the unreliability and thinness of some of the underlying data. As advisor to Harry Tweed's New York Temporary Commission on the Courts, I was able to help Dr. Zeisel and my own research associate, Bernard Buchholz, obtain access to the courts. The matter was of immediate concern because I considered these studies crucial in my own work as Reporter to the Advisory Committee on New York Practice and Procedure, which was then drafting New York's Civil Practice Law and Rules.¹⁷ Some of the judges resented and feared scrutiny of their work; they resisted efforts to obtain precise data on what they were doing. Even Dr. Zeisel's charm, his delightful stories, his seeming diffidence, did not mislead some of our hard bitten judges and clerks. Shrewd instinct informed them—informs us—that Hans Zeisel is implacable in his search for the truth and merciless in exposure of cant or hypocrisy. There was little doubt that some of the statistics he had to rely upon in *Delay in the Court* were incomplete and misleading.

Yet, in retrospect, I was wrong and Dr. Zeisel was right in insisting on publishing. However imperfect, this study was a landmark in judicial administration. It threw sharp light into dark corners and clearly etched the need for further and more precise data. In the hands of a master like Professor Zeisel—who appreciates the limits of his data—a little knowledge is much less dangerous than total ignorance.

¹⁵ *Id.* at xxvi.

¹⁶ Keeton, Book Review, 27 U. CHI. L. REV. 578 (1960).

¹⁷ See DELAY IN THE COURT, *supra* note 13, at viii.

In a sense, Dr. Zeisel has had to teach some of us to shake off the hangups our generation acquired in seeking—without finding—quantitative precision in college physics laboratories. The need to compromise with perfection where important quantitative data is gathered is constantly driven home in the courtroom. In *Rosado v. Wyman*,¹⁸ for example, inadequate data was infinitely preferable to none at all. As the court there remarked:

Statisticians can tell us with some assurance what the reliability factors and probabilities are. Only the law can decide, as a matter of procedural and substantive policy, what probabilities will be required before the courts will change the status quo by granting a remedy. Thus, in deciding whether a sample is adequate, practical limits to fact finding precision must be considered.¹⁹

So also, in such important areas as school desegregation, even the most extensive and costly studies may—as Mosteller and Moynihan, quoting Veblen, point out in commenting on the Coleman Report—often reveal two questions where only one was seen before.²⁰ In laying out the real questions with precision and putting aside the false issues, social science research may provide its greatest aid to the people in government and elsewhere who must make important decisions affecting the public. Statistics alone do not furnish the answers to such questions as whether split trials are desirable, whether six-member juries should be encouraged, whether a new system for the delivery of medical or legal services should be developed, or even what contemporary standards are as to obscenity.²¹ But, by helping us to ask the correct questions and by furnishing some of the data needed to answer them, they serve a vital function in our increasingly managed society.

In 1966, with Harry Kalven, Jr., Professor Zeisel published *The American Jury*,²² a classic study of an American legal institution. The transcendent significance²³ of *The American Jury*, like that of *Delay in*

¹⁸ 322 F. Supp. 1173 (E.D.N.Y.), *aff'd*, 437 F.2d 619 (2d Cir. 1970), *aff'd*, 402 U.S. 991 (1971).

¹⁹ 322 F. Supp. at 1181.

²⁰ See authorities collected in *Hart v. Community School Bd.*, 72 Civ. 1041 (E.D.N.Y. Jan. 28, 1974).

²¹ Cf., e.g., *Paris Adult Theatre I v. Slaton*, 413 U.S. 49, 56 n.6 (1973); *Smith v. California*, 361 U.S. 147, 160-61, 164-67, 171-72 (1959) (Mr. Justices Frankfurter and Harlan, in separate opinions, on the need for experts, and, presumably, polls); *CASES ON EVIDENCE*, *supra* note 7, at 347-52.

²² H. KALVEN, JR. & H. ZEISEL, *THE AMERICAN JURY* (1966).

²³ The "immanent" significance of *The American Jury*—that is, the question whether this book contributed much to our understanding of the jury—has been seriously questioned. See Kaplan, Book Review, 115 U. PA. L. REV. 475 (1967); Steinberg, Book Review, 80 HARV. L. REV. 477 (1966); Walsh, Book Review, 79 YALE L.J. 142 (1969); cf. Friendly, Book Review, 33 U. CHI. L. REV. 884 (1966); Waltz, Book Review, 62 NW. U.L. REV. 122

the Court, resides mainly in its approach—one that brought together “into a working partnership the lawyer and the social scientist; . . . the hope was to marry the research skills and fresh perspectives of the one to the socially significant problems of the other, and in the end to produce a new scholarship for both.”²⁴ Moreover, *The American Jury* testified to the “special advantage of empirical studies of legal institutions,” namely, “that the law supplies a pre-existing framework of significance and expectation to which the quantitative dimension can be added; that is, it permits measurement with meaning.”²⁵

In addition to his institutional studies of the trial courts and the jury—studies with whose conclusions, I should add, I have not always agreed in every detail²⁶—Professor Zeisel has had a major influence on another area of social research and the law: statistics.²⁷ In “Statistics as Legal Evidence,” an article written for the *International Encyclopedia of the Social Sciences*, Professor Zeisel noted the law’s paradoxical reticence about statistics:

One of the normal functions of a legal trial is to resolve an uncertain factual situation according to some canon of probability: in criminal cases by evidence that establishes guilt “beyond a reasonable doubt,” in civil cases by a “preponderance of the evidence.” In spite of these probabilistic terms, the law “refuses to honor its own formula when the evidence is coldly ‘statistical.’” As a rule, “probabilities are determined in a most subjective and unscientific way.”²⁸

Fortunately, the law is losing some of its reticence about statistics, and much of the credit must go to individuals like Hans Zeisel who have spent their careers demonstrating that technically subtle and mathe-

(1967). It is no sound criticism to suggest that much of the work confirmed what we suspected. Research supporting our suppositions is as valuable to policy makers as that undercutting them.

²⁴ H. KALVEN, JR. & H. ZEISEL, *supra* note 22, at v.

²⁵ *Id.* at 492.

²⁶ Compare Zeisel & Callahan, *Split Trials and Time-Saving: A Statistical Analysis*, 76 HARV. L. REV. 1606 (1963), with Weinstein, *Routine Bifurcation of Jury Negligence Trials: An Example of the Questionable Use of Rule Making Power*, 14 VAND. L. REV. 831, 852 (1961). See also Rosenberg, *Court Congestion: Status, Causes and Proposed Remedies*, in THE COURTS, THE PUBLIC AND THE LAW EXPLOSION 47-48 (H. Jones ed. 1965).

²⁷ See, e.g., Zeisel & Kalven, *Parking Tickets and Missing Women: Statistics and the Law*, in STATISTICS: GUIDE TO THE UNKNOWN 102 (J. Tanur ed. 1972); Zeisel, *Statistics As Legal Evidence*, in 15 INTERNATIONAL ENCYCLOPEDIA OF THE SOCIAL SCIENCES 246 (1968); Zeisel, *The Uniqueness of Survey Evidence*, 45 CORNELL L.Q. 322 (1960).

²⁸ Zeisel, *Statistics As Legal Evidence*, *supra* note 27. Fairley & Mosteller, *A Conversation About Collins*, *infra*, discusses a case in which the California Supreme Court considered a statistical version of “proof beyond a reasonable doubt.”

matically precise measurements are often indispensable to a sound legal fact-finding process.²⁹

In an important article on survey evidence, for example, Professor Zeisel argued that neither the "sample" nature of surveys nor their hearsay character should bar their admission into evidence.³⁰ Acknowledging that the then current state of the law gave little encouragement to his view, Zeisel undertook to develop several safeguards that he believed should satisfy the law's ambivalence about survey evidence.³¹ His basic conclusions were that:

[W]hile the dangers of an uncritically received survey are real enough, they derive not from its hearsay character, but primarily from elements easily opened to expert review. If such expert help is available to the court and the parties to the trial, the dangers arising from the admittance of survey evidence are much smaller than is reflected by the rules which presently govern their admissions.³²

The various ways in which statistics has impinged on contemporary law will be abundantly illustrated in several contributions to this issue of *The University of Chicago Law Review*.³³ Lest we get the impression, however, that of late the law has been "quick to appreciate the power of statistics," let us remember, with Professor Zeisel, that:

[S]tatistics is only just beginning to enter the legal realm at rare and selected points. It finds its most ready acceptance in the trial courts and before the administrative agencies, in litigation in which the issues depend on counting and measurement. In constitutional adjudication and legislative action, however, the law typically states its issues in terms of principles that at least superficially appear to be less accessible to a statistical approach, but even here some progress is being made.³⁴

²⁹ See works cited note 27 *supra*.

³⁰ Zeisel, *The Uniqueness of Survey Evidence*, *supra* note 27. Jerome Robert's article on computer-generated evidence, *infra*, is an interesting addition to this approach.

³¹ *Id.* at 345-46.

³² *Id.* at 345. On the usefulness of experts in this context, see Zeisel & Diamond, "Convincing Empirical Evidence" on the Six-Member Jury, *infra*, at 293 n.52.

³³ See also *Rosado v. Wyman*, 322 F. Supp. 1173, 1180-81 (E.D.N.Y. 1970) *aff'd*, 402 U.S. 991 (1971); *CASES ON EVIDENCE*, *supra* note 7, at 872; Zeisel, *supra* note 28; Zeisel & Kalven, *supra* note 27.

³⁴ Zeisel & Kalven, *supra* note 27, at 110. With regard to the use—or misuse—of statistics in constitutional adjudication, see Zeisel's persuasive critique of the Supreme Court opinion in *Williams v. Florida*, 399 U.S. 78 (1970) (no constitutional right to twelve-person jury), in Zeisel, *The Waning of the American Jury*, 58 A.B.A.J. 367 (1972). See also Zeisel, . . . *And Then There Were None: The Diminution of the Federal Jury*, 38 U. CHI. L. REV. 710 (1971); Zeisel & Diamond, "Convincing Empirical Evidence" on the Six-Member Jury, *infra*.

In reviewing the course of Hans Zeisel's work, the reader is constantly impressed by his keen and subtle mind as well as his rare and remarkable moral sensibility and warmth.³⁵ His insights and conclusions are never superficial or simplistic. Dr. Zeisel is always quick to underline, and to heed, the inherent limits of social research. Two such limits are conspicuous. First, social research is inexact and largely indirect.

[T]he tools [of social research] can almost never be used in their pure form, because natural and social obstacles usually prevent the ideal research approach. Forced to operate against such odds, and limited to data that are never perfect, social science research requires at every turn ingenuity and prudence; ingenuity in overcoming the obstacles and prudence in judging how far the research design can be carried without breaking down—that is, in judging when half a loaf is better than none. The natural sciences are, of course, not free from these difficulties, but the social sciences have more of them. This is so partly because the controlled experiment must always remain the exception rather than the rule, and partly because the theoretical structure of the social sciences is still in its infancy. It provides, therefore, less aid in judging how far a set of imperfect data will go.³⁶

Social science more than natural science is forced to operate at a remove from the reality it studies. It must work, therefore, through a chain of inference. In a formulation which should carry familiar overtones for the lawyer, social science works with quantified circumstantial evidence.³⁷

The second conspicuous limit is especially relevant to social research in the law: social research does not, as I have already noted, in and of itself decide the hard, value-laden, "policy" questions with which courts and legislatures—and even, to some extent, juries³⁸—must grapple every day.

[M]easurement alone, however accurate, does not by itself dictate solutions.³⁹

[N]o additional facts can decide the policy issue; they can only

³⁵ With regard to his moral position, see Zeisel, *Adolf Eichmann*, in [1962] *ENCYCLOPEDIA BRITANNICA BOOK OF THE YEAR* 224; Zeisel, *The Morality Issue*, *BULL. ATOMIC SCIENTISTS*, April 1960 (letter); Zeisel, *Who Are the Guilty?*, *SATURDAY REVIEW*, April 8, 1961, at 19.

³⁶ Zeisel, *Social Research on the Law*, in *LAW AND SOCIOLOGY* 126 (W. Evans ed. 1962).

³⁷ H. KALVEN, JR. & H. ZEISEL, *supra* note 22, at 33.

³⁸ Weinstein, *supra* note 26 (acknowledging the validity of much of Dr. Zeisel's statistical analysis of the saving in time to be expected from split trials, but raising policy questions as to their effect on substantive rights and the limits of rule-making power to affect such rights).

³⁹ *DELAY IN THE COURT*, *supra* note 13, at xxvi.

make it more precise. In the end, evaluation must turn on one's jurisprudence, on how, given the limitations of human foresight, experience, and character one hopes to achieve the ideal of the rule of law.⁴⁰

Professor Zeisel is quick to underscore the misuse and even abuse of social research.⁴¹ In 1969 he was invited by the President's Commission on Federal Statistics to study and report on the state of our crime and law enforcement statistics. As part of his study, he analyzed the Federal Bureau of Investigation's record-keeping practices and discovered that the FBI had been using a biased statistical sample to show that the federal courts were responsible for a high degree of criminal recidivism.⁴² This discovery was in part responsible for Professor Zeisel's conclusion that:

There is one question . . . that transcends all the others in importance and urgency: the question of who should be the custodian of the . . . statistics.⁴³

One of the functions of statistics is to provide performance indicators, and it is never sound policy to let the performer be its own uncontrolled statistician, especially when it is as powerful and spirited an organization as the F.B.I.

But there is also a larger issue. The broader danger lies in the prospect that the police view may exert an inappropriately large influence on our law enforcement philosophy.⁴⁴

On all these grounds it would seem advisable to award the stewardship of law enforcement statistics to independent statistical bureaus both in the states and at the federal center. There is a distinguished precedent for such a move: the Bureau of Labor Statistics in the Department of Labor.⁴⁵

Finally, and in many ways most importantly, Hans Zeisel is ever sensitive to the need to balance against the advantages of social research the possible hazards such research presents to human subjects.

The controlled experiment is an indispensable instrument in our search for knowledge. Yet experimentation with human beings

40 H. KALVEN, JR. & H. ZEISEL, *supra* note 22, at 499.

41 On the possible abuse of social research, see, for example, Kaufman, Book Review, 74 HARV. L. REV. 807 (1961). See also sources cited at note 34 *supra*. Nor have Professor Zeisel's students been slow to follow his lead in critically examining research data. See Zimring, *Measuring the Impact of Pretrial Diversion from the Criminal Justice System*, *infra*.

42 Zeisel, *The FBI's Biased Sampling*, BULL. ATOMIC SCIENTISTS, Jan. 1973, at 38.

43 Zeisel, *The Future of Law Enforcement Statistics: A Summary View*, in 2 THE PRESIDENT'S COMMISSION ON FEDERAL STATISTICS, FEDERAL STATISTICS 527, 531 (1971).

44 *Id.* at 542.

45 *Id.* at 543.

will forever be a precarious enterprise. . . . [C]ontrolled experiments are by definition discriminatory—some people receive the experimental treatment while others are excluded from it, and either the treatment or its withholding may involve the risk of harm. . . .⁴⁶

[Among] the problems that attend experimentation with human subjects [are] the need for weighing the expected results against the harm the treatment may cause; the limits of voluntary consent from subjects whose understanding and freedom of action is limited; and . . . the essential need for the best research design that can (under the circumstances) evaluate the experimental treatment. Without such design all is wasted.⁴⁷

This is a problem the American Civil Liberties Union, medical researchers, and others have found creates excruciating problems and choices. The recent example of a group of known syphilitics allowed to die in an imprecise and cruel experiment is only one striking example of the problem.⁴⁸ The social scientist unrestrained by sympathy for human beings is a menace.

Law and social research, as an interdisciplinary endeavor, has made truly significant strides since 1952 when Hans Zeisel joined the faculty at the University of Chicago. For example, the Columbia University Law School (where Dr. Zeisel has had many friends and admirers) now offers a seminar in "law and social research" and another in "quantitative methods in law." Nonetheless, the legal profession has been slow to recognize the virtues of social research.⁴⁹ No doubt it would have been much slower but for Hans Zeisel's work. In a sense, he has been one of social science's leading apostles to the law. His influence is major and pervasive; his converts are legion.

In quantitative research, as in so many human endeavors, those who succeed in achieving real gains for society rise above mere technique. Recently, in a paper on "Planning and Organizing a Court Study,"⁵⁰ Joseph L. Ebersole, Director of Innovation and Systems Development of the Federal Judicial Center advised future court administrators that:

⁴⁶ See Zeisel, *Reducing the Hazards of Human Experiments through Modifications in Research Design*, 169 ANNALS N.Y. ACAD. SCI. 475 (1970).

⁴⁷ *Id.* at 485.

⁴⁸ See N.Y. Times, June 13, 1973, at 21, col. 3.

⁴⁹ See Hazard, *supra* note 11, at 361.

⁵⁰ Delivered at the Conference on Court Studies, sponsored by the Institute for Court Management, May 6-9, 1973, Denver, Colo. (unpublished, but available from the Federal Judicial Center, Washington, D.C.).

[P]eople who are planning and implementing change have to be artists, not technicians. Musicians, painters, or photographers do not realize their full potential until they get beyond technique. Technique, though important, must become almost unconscious before beauty and truth emerge in a work of art. . . . [S]o a court study can be effective only when it goes beyond technique and places primary emphasis on the goals to be achieved.⁵¹

The perfect example of the artist-sociologist-lawyer is Dr. Hans Zeisel. It is a pleasure to see him honored by this issue of *The University of Chicago Law Review* while he is still so vigorous and there are so many important works ahead for his inquiring mind.⁵²

⁵¹ *Id.* at 4-5.

⁵² In addition to the works already cited, and ignoring repeated editions and translations, the following published works provide some indication of Dr. Zeisel's breadth of scholarship and influence: with Friedman & Herrup, *Saving Police Manpower Through Court Appearance Control*, 1 J. POLICE SCI. & ADM. 131 (1973); *Courts for Methuselah*, 23 U. FLA. L. REV. 224 (1971); *Dr. Spock and the Case of the Vanishing Women Jurors*, 37 U. CHI. L. REV. 1 (1969); *Court Delay and the Bar: A Rejoinder*, 53 JUDIC. III (1969); with Boschan, *The Simple Truth-in-Lending*, 116 U. PA. L. REV. 799 (1968); *L'école Viennoise des Recherches de Motivation*, REVUE FRANÇAISE DE SOCIOLOGIE, Jan. 1968, at 3; *Optional v. Obligatory Pretrial*, 4 TRIAL 11 (1968); *The Law*, in THE USES OF SOCIOLOGY 81 (P. Lazarsfeld ed. 1967); with Kalven, *The American Jury: Notes for an English Controversy*, 48 CHI. BAR ASS'N REC. 195 (1967); with Kalven, *How Just Is the Jury?*, NEW SOCIETY, Aug. 25, 1966, at 290; *Die Rolle der Geschworenen in den U.S.A.*, 21 OESTERREICHISCHE JURISTEN ZEITUNG 121 (1966); *What Determines the Amount of Argument per Juror?*, 28 AM. SOCIOLOGICAL REV. 279 (1963); *Social Research on the Law: The Ideal and the Practical*, in LAW AND SOCIOLOGY 124 (W. Evan ed. 1962); *Delay by the Parties and Delay by the Courts*, 15 J. LEGAL ED. 27 (1962); with Towers & Goodman, *A Method of Measuring the Effects of Television Through Controlled Field Experiments*, STUDIES IN PUB. COMM., Autumn 1962, at 87; with Kalven, *Law, Science and Humanism*, in THE HUMANIST FRAME 329 (J. Huxley ed. 1961); *The Significance of Insignificant Differences*, 19 PUB. OP. Q. 319 (1955); *The New York Expert Testimony Project: Some Reflections on Legal Experiments*, 8 STAN. L. REV. 730 (1956); with I. Zeisel, *Forecasting the Influence of Television on Radio Ratings*, PRINTER'S INK, Jan. 18, 1952, at 44; with Canter, *Regional Allocation of Marketing Investments*, 19 ECONOMETRICA 335 (1951); *A Note on the Effect of a Motion Picture on Public Opinion*, 14 AM. SOCIOLOGICAL REV. 550 (1949); *How to Standardize Income Classifications in Media Studies*, PRINTER'S INK, Sept. 16, 1949, at 34; *The Race Question in American Immigration Statistics*, 16 SOCIAL RESEARCH 222 (1949); with Harper, *The Advertising Value of Different Magazines*, J. MARKETING, July, 1948, at 56; *Are U.S. Hooperatings Projectable?*, PRINTER'S INK, July 9, 1948, at 52; *Coordinating the Measurements of Radio Listening*, 42 J. AM. STAT. ASS'N 512 (1947); *The Coincidental Audience Measurement*, 16 EDUCATION ON THE AIR 387 (1946); with Heizog, *Radio Broadcasting*, in [1945] FUNK & WAGNALLS ANNUAL YEAR BOOK 515; with White, *Reading Indices*, [1941] J. MARKETING 103; *Some Principles of the Bata-Organization*, ZEITSCHRIFT F. WIRTSCHAFT AND BETRIEB (Vienna, 1936); *An Argument Against the Labour Theory of Value*, DER KAMPF (Vienna, 1934); *Towards a Sociography of Unemployment*, 69 ARCHIV F. SOZIALWISSENSCHAFTEN 96 (Tuebingen, 1933); *Problem of the British Economy*, DER KAMPF (Vienna, 1929); *The British Electrification Law*, ARBEIT & WIRTSCHAFT (1927); *Loss in Industry: An American Survey*, ARBEIT & WIRTSCHAFT (1926).