

Social Science Social Policy and the Law

Patricia Ewick, Robert A. Kagan, Austin Sarat,
editors

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Jay Feinman



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Social Science, Social Policy, and the Law Patricia Ewick, Robert A. Kagan, Austin Sarat, 1999-06-10 Social science has been an important influence on legal thought since the legal realists of the 1930s began to argue that laws should be socially workable as well as legally valid. With the expansion of legal rights in the 1960s, the law and social science were bound together by an optimistic belief that legal interventions, if fully informed by social science, could become an effective instrument of social improvement. Legal justice, it was hoped, could translate directly into social justice. Though this optimism has receded in both disciplines, social science and the law have remained intimately connected. *Social Science Social Policy and the Law* maps out this new relationship, applying social science to particular legal issues and reflecting upon the role of social science in legal thought. Several case studies illustrate the way that the law is embedded within the tangled interests and incentives that drive the social world. One study examines the entrepreneurialism that has shaped our systems of punishment from the colonial practice of deportation to today's privatized jails. Another case shows how many of those who do not qualify for legal aid cannot afford an effective legal defense, with the consequence that economic inequality leads to inequality before the law. Two other studies look at the mixed results of legal regulation: the failure of legal safeguards to stop NASA's fatal 1986 Challenger launch decision and the complicated effects of regulations to curb conflicts of interest in law firms. These two cases demonstrate that the law's effectiveness can depend not only on how it is drafted but also on how well it harmonizes with pre-existing social norms and patterns of self-regulation. The contributors to this volume share the belief that social science can and should influence legal policymaking. Empirical research is necessary to offset anecdotal evidence and untested assertions. But research that is acceptable to the academy may not stand up in court, and as a result, social science does not always get a sympathetic hearing from legal decision makers. The relationship between social science and the law will always be complex; this volume takes a lead in showing how it can nonetheless be productive.

Negotiating Justice Corey S. Shdaimah, 2011-04-22 While many young people become lawyers for the big bucks, others are motivated by the pursuit of social justice, seeking to help people for whom legal services are financially, socially, or politically inaccessible. These progressive lawyers often bring a considerable degree of idealism to their work, and many leave the field due to insurmountable red tape and spiraling disillusionment. But what about those who stay? And what do their clients think? *Negotiating Justice* explores how progressive lawyers and their clients negotiate the dissonance between personal idealism and the realities of a system that doesn't often champion the rights of the poor. Corey S. Shdaimah draws on over fifty interviews with urban legal service lawyers and their clients to provide readers with a compelling behind-the-scenes look at how different notions of practice can present significant barriers for both clients and lawyers working with limited resources, often within a legal system that many view as fundamentally unequal or hostile. Through consideration of the central themes of progressive lawyering—autonomy, collaboration, transformation, and social change—Shdaimah presents a subtle and complex

tableau of the concessions both lawyers and clients often have to make as they navigate the murky and resistant terrains of the legal system and their wider pursuits of justice and power The Powers of Law Mauricio García-Villegas,2018-05-03 Comparative studies can reveal much about how law is formed out of social reality and political power by exploring these interactions in different national contexts In this work Mauricio García-Villegas compares ideas about law and society in France and the United States demonstrating different approaches to sociopolitical legal studies Using the interdisciplinary tools of the sociology of law critical legal theory and sociolegal studies García-Villegas builds up an insightful overview of what constitutes law and society theory and practice in France and the United States He brings together diverse perspectives and practices that generally do not communicate well with one another as is often the case between the critical theory of law of jurists and the legal sociology of sociologists This study will allow readers to understand the sociology of law in a comparative perspective and sets out a new research agenda for the field of sociopolitical legal studies **Lawyering an Uncertain Cause** Michele Statz,2018-09-04 Each year a number of youth who migrate alone and clandestinely from China to the United States are apprehended placed in removal proceedings and designated as unaccompanied minors These young migrants represent only a fraction of all unaccompanied minors in the US yet they are in many ways depicted as a preeminent professional and moral cause by immigration advocates In and beyond the legal realm the figure of the vulnerable Chinese child powerfully legitimates legal claims and attorneys efforts At the same time the transnational ambitions and obligations of Chinese youth implicitly unsettle this figure Youths maneuvers not only belie attorneys reliance on racialized discourses of childhood and the Chinese family but they also reveal more broad uncertainties around legal frameworks institutional practices health and labor rights and cause lawyering itself Based on three years of fieldwork across the United States *Lawyering an Uncertain Cause* is a novel study of the complex and often contradictory rights responsibilities and expectations that motivate global youth and the American attorneys who work on their behalf

Adversarial Legalism Robert A. Kagan,2019-10-08 American dispute resolution is more adversarial compared with systems of other economically advanced countries Americans more often rely on legal threats and lawsuits American laws are generally more complicated and prescriptive adjudication more costly penalties more severe Here Kagan examines the origins and consequences of this system *Disrupting Science* Kelly Moore,2013-12-15 Drawing extensively from archival sources and in depth interviews Kelly Moore examines the features of American science that made it an attractive target for protesters in the early cold war and Vietnam eras including scientists work in military research and activities perceived as environmentally harmful She describes the intellectual traditions that protesters drew from liberalism moral individualism and the New Left and traces the rise and influence of scientist led protest organizations such as Science for the People and the Union of Concerned Scientists Moore shows how scientist protest activities disrupted basic assumptions about science and the ways scientific knowledge should be produced and recast scientists relationships to political and military institutions

Jacket *Just Silences* Marianne Constable, 2009-01-10 Is the Miranda warning which lets an accused know of the right to remain silent more about procedural fairness or about the conventions of speech acts and silences Do U S laws about Native Americans violate the preferred or traditional silence of the peoples whose religions and languages they aim to protect and preserve In *Just Silences* Marianne Constable draws on such examples to explore what is at stake in modern law a potentially new silence as to justice Grounding her claims about modern law in rhetorical analyses of U S law and legal texts and locating those claims within the tradition of Nietzsche Heidegger and Foucault Constable asks what we are to make of silences in modern law and justice She shows how what she calls sociolegal positivism is more important than the natural law positive law distinction for understanding modern law Modern law is a social and sociological phenomenon whose instrumental power oriented sometimes violent nature raises serious doubts about the continued possibility of justice She shows how particular views of language and speech are implicated in such law But law like language has not always been positivist empirical or sociological nor need it be Constable examines possibilities of silence and proposes an alternative understanding of law one that emerges in the calling however silently of words to justice Profoundly insightful and fluently written *Just Silences* suggests that justice today lies precariously in the silences of modern positive law **Law and the Humanities** Austin Sarat, Matthew Anderson, Cathrine O. Frank, 2009-10-30 *Law and the Humanities* An Introduction brings together a distinguished group of scholars from law schools and an array of the disciplines in the humanities Contributors come from the United States and abroad in recognition of the global reach of this field This book is at one and the same time a stock taking both of different national traditions and of the various modes and subjects of law and humanities scholarship It is also an effort to chart future directions for the field By reviewing and analyzing existing scholarship and providing thematic content and distinctive arguments it offers to its readers both a resource and a provocation Thus *Law and the Humanities* marks the maturation of this law and enterprise and will spur its further development **Distorting the Law** William Haltom, Michael McCann, 2009-11-15 In recent years stories of reckless lawyers and greedy citizens have given the legal system and victims in general a bad name Many Americans have come to believe that we live in the land of the litigious where frivolous lawsuits and absurdly high settlements reign Scholars have argued for years that this common view of the depraved ruin of our civil legal system is a myth but their research and statistics rarely make the news William Haltom and Michael McCann here persuasively show how popularized distorted understandings of tort litigation or tort tales have been perpetuated by the mass media and reform proponents *Distorting the Law* lays bare how media coverage has sensationalized lawsuits and sympathetically portrayed corporate interests supporting big business and reinforcing negative stereotypes of law practices Based on extensive interviews nearly two decades of newspaper coverage and in depth studies of the McDonald s coffee case and tobacco litigation *Distorting the Law* offers a compelling analysis of the presumed litigation crisis the campaign for tort law reform and the crucial role the media play in this process *Fault Lines* David M. Engel, Michael

McCann,2009-04-24 Tort law a fundamental building block of every legal system features prominently in mass culture and political debates As this pioneering anthology reveals tort law is not simply a collection of legal rules and procedures but a set of cultural responses to the broader problems of risk injury assignment of responsibility compensation valuation and obligation Examining tort law as a cultural phenomenon and a form of cultural practice this work makes explicit comparisons of tort law across space and time looking at the United States Europe and Asia in the nineteenth twentieth and twenty first centuries It draws on theories and methods from law sociology political science and anthropology to offer a truly interdisciplinary pathbreaking view Ultimately tort law the authors show nests within a larger web of relationships and shared discursive conventions that organize social life Law in the Liberal Arts Austin Sarat,2004 An ideal approach to legal education in Austin Sarat s view would open up law and legal knowledge by making them the proper objects of inquiry in the liberal arts **Crime, Law and Society** MalcolmM. Feeley,2017-07-05 Malcolm Feeley s work is well known to scholars around the world and has influenced two generations of criminologists and legal scholars He has written extensively on crime and the legal process and has published numerous articles in law history social science and philosophy journals two of his books The Process is the Punishment and Court Reform on Trials have won awards This volume brings together many of his better known articles and essays as well as some of his lesser known but nevertheless important contributions all of which share the common theme of the value of the rule of law albeit a more sophisticated concept than is commonly embraced The selections also reveal the full range of his interests and the way in which his research interests have developed Un-Making Law Jay Feinman,2005-10-12 There is an undercover war going on in America that impacts everyone s life far more than the legal issues that typically grab the headlines The conservative movement has been systematically turning back a century s worth of the evolving gains and protections found in the common law the areas of law that affect the everyday activities of ordinary people Throughout the twentieth century contract property and personal injury law evolved to take more account of social conditions and the needs of consumers workers and less powerful members of American society Contracts were interpreted in light of common sense property ownership was subjected to reasonable use provisions to protect the environment and consumers were protected against dangerous products But all that is changing Conservatives have a clear agenda to turn back the clock on the common law to maximize the profits of big business Some significant inroads have already been made to protect gun manufacturers from lawsuits enforce form contracts that prevent employees from suing for discrimination and hamper the government s protection of the environment against aggressive development for example More rollbacks are on the horizon Although this aspect of the conservative agenda is not as visible as assaults on abortion rights and civil liberties it may ultimately have even greater impact on our society Jay M Feinman s book is an accessible eye opening primer full of vivid examples and case histories from victims of medical malpractice who cannot recover damages to people who relinquish their right to sue by applying for a job If you subscribe to any of these

common myths of twenty first century America you will find surprising facts and illuminating analysis in *Un Making Law The All American Blame Game* has corrupted our moral fiber everyone is looking for a scapegoat to sue whenever anything goes wrong Malpractice lawsuits have gone sky high in recent years forcing insurance companies reluctantly to raise rates and forcing doctors out of practice Consumers and employees agree to arbitration because it is a much simpler less expensive and fairer way to resolve contract disputes The government invades the rights of private property owners when it protects endangered species and regulates land development *State Crime* Dawn Rothe, Christopher W. Mullins, 2011 Through a collection of essays by leading scholars in the field *State Crime* offers a set of cases exemplifying state criminality along with various methods for controlling governmental transgressions **Image-Based Evidence in International Criminal Prosecutions** Jonathan W. Hak, 2024 In this pioneering book Jonathan W Hak offers insightful commentary on the authentication and interpretation of image based evidence setting out how it can be effectively used in international criminal prosecutions **On the Frontlines of the Welfare State** Barry Goetz, 2017-02-17 Although public safety agencies protect our well being they also shape social problems and community inequities Public safety protections promote what T H Marshall called social rights of equitable citizenship *Frontlines of Welfare State* shows how public safety agencies function as welfare state agencies responsible for a range of essential public functions including emergency service criminal investigation regulatory oversight and social service outreach Furthermore this volume shows how public safety agencies are being asked to absorb more social welfare functions amidst cut backs in other areas of the welfare state Two areas of public safety are examined arson control and fire prevention especially within the contexts of urban change and gentrification and community policing especially as a mechanism of expanding drug treatment service and prevention programs Facilitating a greater understanding of institutional biases within the state built around organizational structures procedures and cultures and their impact on social outcomes this original and exciting book will be of interest to researchers practitioners and undergraduate and postgraduate students in the fields of Policing and Fire Control Public Policy and Administration Drugs and Substance Abuse and White Collar Crime **Policy & Practice** , 1998 *Policy & Practice of Public Human Services* , 1998 *Ethnography and Law* Eve Darian-Smith, 2017-11-30 Ethnographies of law are historically associated with anthropology and the study of far away places and people In contrast this volume underscores the importance of ethnographic research in analyzing law in all societies particularly complex developed nations By exploring recent ethnographic research by socio legal scholars across a range of disciplines the volume highlights how an ethnographic approach helps in appreciating the realities of legal pluralism the subtle contradictions in any legal system and how legal meaning is constantly reproduced on the ground through the cultural frames and practices of peoples everyday lives *The Blackwell Companion to Law and Society* Austin Sarat, 2008-04-15 *The Blackwell Companion to Law and Society* is an authoritative study of the relationship between law and social interaction Thirty two original essays by an international group

of expert scholars examine a wide range of critical questions Authors represent various theoretical methodological and political commitments creating the first truly global overview of the field Examines the relationship between law and social interactions in thirty three original essay by international experts in the field Reflects the world wide significance of North American law and society scholarship Addresses classical areas and new themes in law and society research including the gap between law on the books and law in action the complexity of institutional processes the significance of new media and the intersections of law and identity Engages the exciting work now being done in England Europe Australia and New Zealand South Africa Israel as well as Third World scholarship

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