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Globalization of Law and Society Research

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From the Editor

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The new American awareness of global change and interconnectedness during the past decade has brought increasing interest in cross-cultural and transnational research. The number of published cross-cultural and transnational law and society studies is still small, but this will soon change. Scholars are at work examining law in relation to political, economic, and cultural changes within and among societies in North, Central, and South America, Europe, Asia, Africa, and elsewhere and among cultures within these regions. Their interests extend from the emergence of transnational institutions and professions engaged with law to the global influences on legal change within societies.

Although change in the world is not new, the nature of recent changes has brought into especially sharp focus the conditions under which political and economic order are created, maintained, and changed, and has suggested to some that lessons may be learned about the relative importance or value of particular legal, political, or economic institutions.

A great deal of attention is being given to what members of Congress, in their latest mandate to the National Science Foundation, have termed "strategic" research issues, including, in particular, the role of law in democratization and the development of free markets in developing countries. These emerging research interests, reminiscent of the American mission to encourage legal modernization in developing countries two decades ago, raise old questions about the value of cross-cultural research that is guided by North American or Western European experience. "Law," "democracy," and "market" are linked to the unique history of North American or Western European industrialized nations. The relationships that are said to exist among these institutions in Western societies may not hold in other societies. Of course, such differences are important and appropriate subjects for empirical research. Our concern should be that such concepts not become the exclusive vocabulary for research focused on the "gap" between Western models for law, democracy, and market and the institutions of non-Western societies. In our domestic law and society research we have become increasingly sensitive to the normative implications of "gap" research and

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should not forget that lesson as we focus our attention on other cultures and other societies.

Several contributions in this issue are about legal cultures that differ substantially from those in North America and Western Europe. The authors are particularly sensitive to creating a meaningful conceptual framework and selecting an appropriate method of inquiry.

Cross-cultural interpretation and comparison play an important role in the first two articles—on the informal economy in Taiwan and on the legal consciousness of Middle Eastern immigrants in Germany. In a comment on the first article, Frank Upham examines the cultural convergence that is assumed to be taking place between Western and non-Western societies.

Methods of inquiry and the importance of interpretation in cross-cultural research are the subject of an exchange between a critic and two authors whose article on the Philippine supreme court recently appeared in the *Review*. A review essay on Islamic law also takes up issues relating to non-Western cultures.

In This Issue . . .

Jane Winn describes law and informal financial practices among small businesses in Taiwan, combining extensive knowledge of the local terrain with a sophisticated cultural translation of an important paradigm in North American law and society studies, the concept of "relational contracting." Winn examines and rejects as inappropriate to Taiwan a number of Western conceptualizations of the relationship between law and society, choosing instead a concept developed by a Chinese scholar describing more precisely the role of law in relational practices in China. She reports in detail on the manner in which the presence and meaning of law in business relationships is thoroughly dependent on informal relationships specific to Taiwanese (and perhaps more generally to Chinese) culture. As she concludes at the end of her article, her research calls into question the applicability to Taiwan of not only the concept of relational contracting but also other important Western paradigms for political and economic relationships.

Frank Upham's comment on Winn's article examines an influential assumption—that a convergence of Western and non-Western paths to economic development is desirable and is occurring. Upham explains why not only Winn's research but also a growing body of knowledge about other non-Western societies, including Upham's own research, suggest that we should be skeptical about this claim. He notes that the law-society relationship often employed in making such claims has limited empirical support even in Western societies and argues that scholars

should continue to appreciate the range of paths that societies have taken to economic development.

Günter Bierbrauer explores the importance of cultural difference in his study of the legal cultures of native Germans and of Lebanese and Kurdish immigrants. Arguing that there is a fundamental distinction between individualistic and collectivistic cultures, Bierbrauer examines a broad range of beliefs about the legitimacy of law, sources of authority, and preferred means of conflict resolution. His conceptual framework suggests that differences will emerge not only in general orientations to law and authority but also in beliefs about appropriate and fair procedures, judicial discretion, and other seemingly technical legal concerns. As Bierbrauer notes in his conclusion, his discovery of significant differences on all these dimensions has great importance for understanding law in modern societies in which pluralism is an increasing source of conflict.

In an essay of major significance, Patricia Gwartney-Gibbs and Denise Lach undertake an interdisciplinary review of empirical and theoretical literature about the effects of gender on workplace conflict. Building on the literature review, the authors propose a synthesis of theory to explain how the origins, processes, and outcomes of workplace conflict are shaped by the institutionalization of gendered patterns of workplace interaction. A particularly important insight derived from their theory suggests that gender-influenced patterns of workplace conflict contribute to the preservation of some observed gender inequalities, such as earnings differentials, not adequately explained by previous theories.

Symbolic and institutional determinants of crime control are explored in two articles on law reform. The studies examine the sources and effects of reform in contrasting institutional settings—federal regulation of savings and loan institutions and local policing—yet discover analogous connections between interests of proponents and the manipulation of symbols and processes of reform. Kitty Calavita and Henry Pontell examine the unprecedented responses of federal regulators to the recent revelations about savings and loan fraud. They use material drawn from extensive interviews with officials to explore the relevance of a number of theories of state response to the public outcry for action as well as the needs of dominant economic interests and state managers. Although they find that theory of the state provides a useful starting point, the evolution of regulators' responses as the revelations of fraud intensified suggests that "the state" responds to different priorities under differing circumstances. The authors conclude that their findings underscore the importance of "de-reifying the state" to take account of the interdependence of both organizational and personal priorities and external pressures.

John Crank's article on the move toward community-based policing in contemporary police reform examines "institutionalization [as] a process of myth construction." Two powerful myths—the myth of the guardian watchman and the myth of the close-knit community—have provided a basis for both liberal and conservative police reform rhetoric. Crank examines the origins and functions of these myths in legitimating reform outcomes. Both liberal and conservative rhetorics rely on this mythology to legitimate an expanded role for police. He finds that the mythology is deployed in quite different ways to emphasize, on the liberal side, themes of community self-help, and, on the conservative side, themes of police revitalization to suppress harmful elements in the community.

In an exchange, Howard Gillman raises questions about the quantitative approach used by C. Neal Tate and Stacia L. Haynie in their report (*Law & Society Review* 27:4) on the Philippine supreme court under the Marcos regime. Tate and Haynie point out that quantitative research can add much to what is gained from other research methodology.

In her review essay, Jane Collier continues the theme of cross-national study in her discussion of four books about developments in Islamic law as nations emerge from Western domination.

—Frank Munger