

# LAW AND COURTS *NEWSLETTER*

Fall, 1992

The Law and Courts Section of the American Political Science Association

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Announcements and section news will be included in the *Newsletter* as well as information regarding upcoming and past conferences. Organizers of panels focusing on law, courts, and professional meetings are encouraged to inform the *Newsletter* so that papers and participants may be reported. Developments in the field such as fellowships, grants, and awards also will be announced if there is sufficient time for submission of materials to the granting or awarding body. Finally, authors of judicial books should inform the *Newsletter* of their manuscript's publication. Announcements and correspondence dealing with these matters should be sent to:

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The *Newsletter* publishes articles, news items, announcements, commentaries, and features of interest to members of the Law, Courts, and Judicial Process Section. The *Newsletter* is published three times each year in Fall, Spring, and Summer issues. **Deadlines for submission of materials for each issue are as follows: Fall (October 15), Spring, (February 15), and Summer (June, 15).** Contributions to the *Newsletter* should be sent to the appropriate editor listed below.

**ARTICLES AND COMMENTARY**

Brief articles and notes describing matters of interest to the field will be published subject to review by *Newsletter* editors. Authors are encouraged to share research findings, teaching innovations, or commentary on developments in the field which would interest members of the section. Footnote and reference style should follow that of the *American Political Science Review*. Please send two copies of prospective articles and commentary dealing with **constitutional law and jurisprudence** to:

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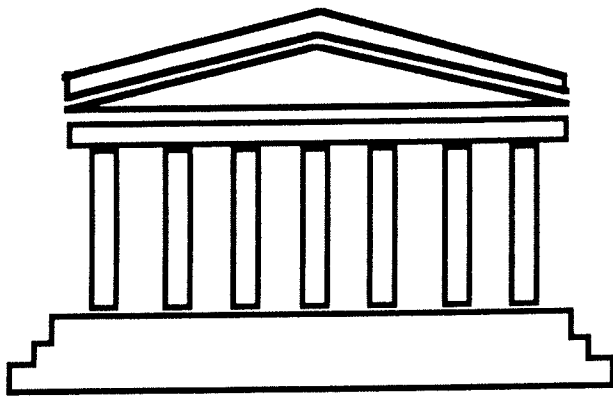
Prospective articles and commentary focusing on **empirical research and quantitative analyses** of law, courts and judicial process should be sent to:

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**DATA AND ANALYSIS INFORMATION**

The *Newsletter* wishes to keep the Section informed regarding availability of data sets of interest to the field. This includes newly archived data sets held by the Consortium as well as non-archived ones which individual researchers would like to share with colleagues. Special analysis and data problems or queries of interest to the field will also be published. Suggestions and information should be sent to:

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## LAW AND COURTS

# NEWSLETTER

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The Law and Courts Section of the American Political Science Association

### An Introduction to Feminism and Law \*

Sally J. Kenney  
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**B**ecause I do feminist research in the subfield of public law, I am increasingly concerned about both the marginal status of women and of feminist theory in political science. Recent writings on the inevitably exclusionary nature of canons combined with my ability to claim expertise in only part of the burgeoning literature tempers any inclination to pronounce definitively on a topic as broad as feminism and law.<sup>1</sup> Thus, this essay notes some of the works I have found most useful, discusses three distinctive trends in feminist legal scholarship, and raises some concerns about marginalizing gender in the discipline.

In the intersection of political theory and public law, feminist scholars have explored gender, justice, and equality (Eisenstein 1988, Okin 1989, Pateman 1988, Wolgast 1980). Those in judicial process have deployed sex as a variable to analyze sex discrimination cases and the impact of women judges and lawyers on legal decisionmaking (Cook 1988, O'Connor and Epstein 1981, Gruhl 1981, O'Connor 1983.) Those in law and public policy have written on parental leave, abortion (Petchesky 1990), childcare, pregnancy, and the feminist movement more generally (McGlen and O'Connor 1983, Mezey 1992). Specialists in constitutional law have assessed the significance on the changes in constitutional interpretation on feminist issues (Goldstein 1988) and analyzed the failure to pass an Equal Rights Amendment (Mansbridge 1986). Others examined feminists' ability to use the law for social change

(Baer 1978, O'Connor 1980). Those with "Law and Society" leanings examine gender and the criminal law, divorce and custody, juries, and the like.<sup>2</sup>

Since this newsletter has documented the decrease in those of us in public law, it will come as no surprise that the subsubfield of women and the law is even smaller. Alas, so few of us work in each of these subdivisions that we must look to other disciplines for intellectual community. In fact, the interdisciplinary nature of feminist theory and gender studies is its greatest strength. Feminist scholars in law schools are an obvious connection. They are numerous, they are usually well versed in feminist theory, they have many publishing outlets, and they regularly attend conferences such as Law and Society and Women and the Law.<sup>3</sup> Another important group are feminist theorists, frequently philosophers, but represented in every discipline. I also benefit intellectually from those on campus interested in legal issues in disciplines such as history as well as those social scientists interested in gender. It is my impression that those interested in feminism and law are only just beginning to coalesce as an intellectual community within political science and the subfield of public law.<sup>4</sup> In publications, citations, and multidisciplinary conferences we are often overshadowed by feminist law faculty. While well versed in doctrine and legal theory, feminist legal academics could benefit from social scientific and comparative approaches to law.

No one feminist theory exists which can be imported neatly into legal research any more than political theory gives us one position on human nature, autonomy, or the ideal society.<sup>5</sup> Instead, feminist theory offers a debate around a shared set of questions such as the causes of women's oppression, the social construction of gender, the strategies that will work to reduce oppression, the relation of women's oppression to other forms of oppression, the relationship between gender and sexuality, and even whether theorizing itself is gendered. No one person articulates THE feminist position, neither Carol Gilligan nor Catharine MacKinnon. Rather than plucking a theory out of context, using feminist theory in a responsible way requires acknowledging the debates surrounding the theory and its evolution. When a researcher who is not sufficiently familiar with debates within feminist theory uses the tools of social science to study questions of gender within public law, the questions are often improperly framed, the project poorly designed, and as a result, the findings do not advance our understanding. When I read such a conference paper or a journal submission, I cannot help wondering whether the person is just a poor scholar, unaware of the important writings on the topic (which is partially understandable given the scarcity of offerings in feminist theory in most political science graduate programs and the difficulty in finding research on women) or if, at some level, the author believes that what feminist theorists have had to say on the matter is not worth the time to explore.

Feminist theorists share more than just a common set of questions. Most feminist theorists accept as a matter of epistemology that feminist theory comes from women's experience, although they differ over whether women share a common experience or standpoint, how to explain ideological differences among women (i.e. non- or anti-feminist women), and the extent to which gender, race, class, and sexual orientation are mutually constituting categories of oppression. Placing women at the center of analysis challenges legal categories based on men's experiences and exposes women's exclusion from legal categories and legal life. British

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sociologist Carol Smart labels this first phase of feminist interaction with the law "Law is Sexist" (Smart 1991). This position, associated with liberal feminism, parallels what Sandra Harding calls feminist empiricism (Harding 1986). This approach denounces exclusion and bias without fundamentally challenging aspirations to objectivity and neutrality or legal hierarchy. This position assumes that the system can be made fair by opening the doors to women, passing laws to include women and to prohibit differential treatment, and educating those who manifest "gender bias."

Demonstrating that judges did not view women as persons (Sachs 1978), recounting women's exclusion from juries, and exposing "judicial bias" is not only illuminating (and downright shocking for undergraduates steeped in the rhetoric of the "post-feminist era") but this first moment of critique forms the basis of the more radical position that evolved from it.

Smart labels the second phase "Law is Male." This body of work attacks the foundations of law and liberal epistemology and is associated with radical feminist theories and critical theory. The bias and the sexism in the law these theories identify cannot be easily fixed if the very purpose of law is to legitimate power and domination and to maintain women's subordination effectively by making legal categories appear neutral, natural, inevitable, and therefore reasonable. These theories see law as a tool of patriarchy. This body of work exposes not only how women are the victims of discrimination,

but how notions of equality and discrimination contain within them a male norm or comparator. For example, Catharine MacKinnon illustrates how the law on rape incorporates the male point of view (MacKinnon 1983). A man may feel that the woman consented to sex by "asking for it" while the woman experienced the sexual encounter as coerced. How the law determines consent, the element distinguishing rape from "normal sex," and whose account is credible will determine whose experience the law validates (Bumiller 1987). Susan Estrich (1987) argues that the way rape law is written, interpreted, and enforced privileges men's view

of social and sexual relations over women's: the law incorporates, validates, and enforces men's view of the world.

The "Law is Male" approach offers a powerful critique of discrimination law. For discrimination to occur, women must be able to compare their situation with men: they must argue an employer treated them less favorably than male employees. For example, if an employer promotes men on the basis of their billable hours and for bringing in business but denies promotion to women who meet this standard but fail to exhibit stereotypically feminine behavior, such a woman might claim to be the victim of sex discrimination (Chamallas 1990). Under the comparative approach, women win rights and privileges only when they can draw parallels between their circumstances and those of male workers. Women gain pregnancy leave, for example, by comparing themselves to disabled men. They gain access and accommodation in the workplace only to the extent that they can conform to a male norm. As Minow (1987) points out, men are the baseline for comparison. This vision of equality neglects to question why it is justifiable to exclude from the workplace or from positions of power and privilege those who do not share the characteristics of the dominant group. The very notion of equality conceals male privilege: men's experience, occupational characteristics, and life cycles make up the standards by which women will be measured.

The third phase or type of feminist critique of law coincides with the emergence of postmodern feminist theory; Smart calls it "Law is Gendered." Drawing on Michel Foucault's understanding of power, this body eschews characterizing patriarchy as the ahistorical, conspiratorial, monolithic force that perpetuates the subordination of women through law. Instead, the "Law is Gendered" approach sees gender as socially constructed, deployed to subordinate women, yet occasionally resisted through law. Under this view, power is not simply repressive but constitutive (Bordo 1989); it is never totally effective. Legal discourse creates and reinforces gender relations at many points. Law is neither the tool for women's liberation nor irretrievably patriarchal; instead it is inconsistent, partial, self-contradictory, and complex. This body of work not only posits a more complex relation between legal discourse, gender, and women's oppression, it transforms either/or debates within feminism about ideology to considerations of strategy. For example, rather than arguing about so-called special versus equal treatment in law (particularly with respect to pregnancy leave), it may be that treating women differently than men in some contexts may help eradicate women's oppression while in other contexts it reinforces it (Scott 1988). No single strategy may be appropriate in all contexts. The construction of alternatives may itself reveal how gender is reinscribed through legal discourse.<sup>6</sup>

The "Law is Gendered" approach enables us to differentiate the category gender from women. Initially, feminist theorists drew a distinction between sex and gender to expose the socially constructed nature of gender characteristics and gender roles. Sex was the biologically given, fixed, knowable, physical truths about sex difference while gender consisted of the attributes a given culture or class assigned to each sex that changed over time. Rather than flowing naturally from sex differences, gender

*Feminism cont. pg. 4*

### MINUTES OF THE EXECUTIVE COMMITTEE MEETING

Lee Epstein made a report on behalf of the awards committee. The executive committee approved the following changes:

1. Award winners must have a Ph.D. or have a primary appointment in a political science department.

2. The Pritchett award for best book will be given every year. I believe the committee accepted the notion that there should be a retroactive award for 1991 as well as one for 1992.

3. The conference paper award shall be limited to presentations at APSA.

4. Decision on a journal article award was postponed.

5. The lifetime achievement award shall be given every 3 years. Again, the Ph.D. or primary appointment shall be in political science. The award winner will be honored at the section's reception and will have a panel at the APSA devoted to his/her achievements.

6. Prizes are as follows:

Pritchett award: \$250

Conference paper award: \$100

Grad student award: \$100

7. We are accepting CQ sponsorship for one of the awards. Greg Caldira was to try to see if AJS would sponsor another of them.

The Committee approved Roy Flemming's request to shift the newsletter from mimeo to xerox.

The Committee approved giving the short course again next year prior to the APSA.

The Committee approved the motion that the section president should ask the president of the APSA to consult with him/her about the committee to select the Corwin award.

Jeffrey A. Segal  
Secretary/Treasurer

characteristics were socially constructed. Indeed, the perspective that sex differences are natural is itself a social construction. After recognizing that gender was socially constructed, many feminist theorists began to question the "givenness" of the category sex, leading them to question the sex/gender dichotomy itself.

Poststructuralist theory posited gender to be a "discursively produced set of categories whose meanings are continually contested rather than fixed."<sup>7</sup> To apply this insight to the field of public law, studying how law is gendered is much more disruptive to legal discourse than merely studying women. Feminist scholars in this camp do not only study women judges, attorneys, or litigants to see if they are different from men, but examine how legal discourse constitutes gender and how that discourse itself is gendered.

If the language of postmodernism gave us the tools to better articulate and theorize the problematic sex/gender dichotomy, it also amplified voices criticizing the construction of the monolithic category woman. Women of color, lesbians, working class women, and those with the experience of colonialism, to name a few, argued that the category woman most often contained the characteristics of privileged women in a way that erased differences among women, silenced those less privileged, and skewed feminist politics to favor white, western, middle class women. What remains of the category women either for political struggle or academic analysis remains a highly contested topic within feminist theory and feminist politics, but the debate merely reinforces my point that just as one cannot import any one feminist thinker to stand for "feminist thought" nor can one speak simply of a "woman's position" or of the views of women without being charged with essentialism, racism, insensitivity, and even bad scholarship.

I hope that this brief summary illuminates some of the most important debates and directs readers to valuable sources. My perspective is partial and evolving, reflecting my own recent entry into the discipline. I invite others in the area to criticize, refine, and offer their own perspectives. I encourage all public law schol-

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ars to participate more actively in debates about feminism and the law. Because I have a joint appointment in political science and women's studies, feeling schizophrenic is my baseline, yet my sense of living a double life intensifies at conferences where I leave feeling like I have

attended two conferences rather than one. As I sprint between the "women's panels" and the public law panels (stopping occasionally at a comparative one) it appears that the traditional subfields are exploring gender issues with little awareness of or

interaction with specialists on gender and feminist theory. That they are taking up these questions at all is an advance. The women's panels, usually organized by the Women and Politics Organized Section or the Women's Caucus, are attended largely, though not exclusively, by women, and by those who concentrate in gender studies across subfields. These panels, occasionally on legal matters, often fail to attract even those "mainstream" scholars who have just presented work on gender in a conventional public law panel. The public law panels, even if they include papers addressing gender, draw few members from the women and politics crowd. The audience, not surprisingly, usually wants to address the public law (read non-gender, often methodological) dimensions of their papers leaving the gender analysis untouched. With so much to gain from the intersection, why has it not occurred?

Are my expectations for scholarly exchange the naive hopes of a novice?<sup>8</sup> Could not most subfields benefit from more fruitful interaction with other subfields and even disciplines? The costs of marginalizing gender are not merely intellectual. Conference papers turn into journal articles and books. One's sense of what work is new and important often stems from which panels one attends and from whether one

talks to a publisher, editor, researcher, or teacher. Staying in the ghetto or moving into the mainstream of the subfield is not independent of the power relations that affect the production of knowledge in our discipline.<sup>9</sup> While defining oneself as a feminist scholar no longer leads to the death of a career, (thanks to the

efforts of women and men in the discipline who cleared the narrow, if still rocky path), survival and even success depend on the quality of links to the mainstream. Section heads, discussants, journal editors, tenure review committees, readers for publishers, and department chairs will have difficulty evaluating work on gender if they have not been exposed to it.<sup>10</sup> Does one seek review and validation from those in gender studies who know little about law or those in public law who know nothing about the analysis of gender? While interacting with those few feminist scholars in the subfield may be intellectually more rewarding than interacting with colleagues uninformed about gender, success in the discipline is contingent upon speaking to a more general audience. I would like to see more people interested in gender undertake questions of importance to public law. I would like to see "mainstream" public law folks become more conversant on how gender studies and feminist theory have influenced our field. I strongly urge those who do not work in the field to inch away from mere toleration of panels at conferences and the occasional publication to inform themselves about and engage this body of work. I find it curious that scholars who pride themselves on their breadth of knowledge and on keeping up with intellectual trends boldly declare their total ignorance of scholarship on gender. Rather than a source of embarrassment, being uninformed about feminist research seems to be a badge of honor. Some who know nothing about it are also mysteriously convinced they are missing nothing of value. Lest their prejudices be confirmed, I would urge those beginning to introduce gender into their research connect with those knowledgeable about feminist theory and gender studies within and across disciplines. Most would admit that widening of our scope of inquiry and engaging others within the subfield enhances our work. I would advocate extending this proposition to the study of gender.

#### ENDNOTES

\* Thanks to Judy Baer, Pat Cain, Martha Chamallas, Tim Hagle, Christine Harrington, Susan Lawrence, Karen O'Connor, and Teresa Mangum for their helpful comments.

1 Two excellent textbooks which contain excerpts of essays as well as cases are Lindgren and Taub 1988 and Frug 1992.

2 Volume 25 of the *Law and Society Review* is a special issue devoted entirely to Gender and Sociolegal Studies. See especially the review essays by Lynne Henderson ("Law's Patriarchy") and Gayle Binion ("On Women, Marriage, Family, and the Traditions of Political Thought"). In addition to articles about gender in traditional law reviews, several journals are devoted exclusively to feminism and the law. See the *Women's Rights Law Reporter*, the *Berkeley Women's Law Journal*, the *Harvard Women's Law Journal*, the *Canadian Women's Law Journal*, the *Yale Journal of Law and Feminism*, the *Wisconsin Women's Law Journal*, and the *Texas Journal of Women and the Law*.

3 For the canon of feminist legal thought, readers are advised to begin with Bartlett and Kennedy 1991.

4 One of the barriers to developing intellectual community is the lack of publishing outlets. Law reviews and interdisciplinary journals such as *Signs* have often given a warmer reception to the work of political scientists in public law whose work is on gender than have mainstream political science journals. *Women and Politics* has led the way by publishing a number of important papers on women and the law.

5 For a broad overview see Collins 1990, Eisenstein, 1984, and Tong, 1989.

6 For an excellent illustration of how law is gendered in the context of women's imprisonment, see Carlen, 1983.

7 Thanks to Catherine Rymph for this definition.

8 It seems to me that there is less ghettoization of gender issues in other disciplines. The Modern Languages Association and the Association of American Law Schools' conferences seem to reflect greater interaction. Are there ways we structure our conferences which exacerbate fragmentation? One feature of the Law and Society Conference that brings participants together is the use of plenary sessions.

9 For an interesting discussion of who gets cited for which proposition see Cain 1991, Delgado 1984, and Delgado forthcoming 1992.

10 This claim should not be mistaken for an essentialist claim that only women can do or evaluate research on gender. Quite the contrary. This essay is founded on the premise that gender studies and public law will both be enhanced by the engagement of greater numbers of men and women scholars.

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### OUTSTANDING PAPER BY A GRADUATE STUDENT AWARD

The winners of the section competition for the Outstanding Paper by a Graduate Student Award:

#### Honorable Mention:

Ian Brodie, University of Calgary, "Interest Groups in Court: Beyond the 'Political Disadvantage Theory.'" Nominated by Professor F. L. Morton.

Susan Haire, University of South Carolina, "Judges on the U.S. Courts of Appeals: National Agents Tied to Local Interests?" Nominated by Professor Donald Songer.

Noga Morag Levine, University of California/Berkeley, "Chasing the Wind: Administrative Neutrality and Environmental Equity in Air Pollution Enforcement." Nominated by Professor Malcolm M. Feeley.

#### Award Winner:

Richard John Timpone, SUNY/Stoney Brook, "The Road to Empowerment: Blacks in the South." Nominated by Professor Jeffrey A. Segal.

## Do Courts Matter?

Gerald N. Rosenberg  
University of Chicago

Since mid-century, American political and social reformers have increasingly and often turned to the courts to further their goals. Starting with the famous cases brought by the civil rights movement, and spreading to issues raised by women's groups, environmentalists, those seeking to reform the legislative process, and others, reformers have increasingly looked to courts as potent producers of political and social change.

According to just about every commentator, both scholarly and lay, they have met with great success. Cases such as *Brown* and *Roe* are heralded as having produced major change. Pragmatic and result-oriented, these reformers have

invested enormous resources in a court-based strategy for change. My research asks whether this strategy makes sense. To what extent and in what ways can courts be consequential in affecting such liberal political and social change? To what degree, and under what conditions, can judicial processes be used to produce liberal political and social change? What are the constraints that operate on them? What factors are important and why? Since much of politics is about who gets what, when, and how, and how that distribution is maintained, or changed, understanding to what extent, and under what conditions, courts can produce political and social change is of key importance.

In order to determine whether and under what conditions courts can produce such liberal change, what I call significant social reform, I focused my research on two key areas of significant social reform litigation, civil rights and women's rights. These two movements and their leading, symbolic cases (*Brown* and *Roe*), are generally considered the prime examples of the successful use of a court-based strategy to produce significant social reform. *Brown* is generally credited with having revolutionized American race relations while *Roe* is understood as having guaranteed legal abortions for all. In addition, I have examined reformers, use of the courts to protect the environment, break the grip of conservative interests on legislative bodies, and reform criminal procedure. In this short piece I summarize the main argument

**. . . reformers have invested enormous resources in a court-based strategy for change. My research asks whether this strategy makes sense.**

and illustrate it with some of the findings from civil rights and abortion. Readers wishing a more complete treatment can examine my recent book, *The Hollow Hope: Can Courts Bring About Social Change?* (University of Chicago Press, 1991).

Such a project raises the question of how to deal with complicated issues of causation. Because it is difficult to isolate the effects of court

decisions from other events in producing significant social reform, special care is needed in specifying how courts can be effective. On a general level, one can distinguish two types of influence courts could exercise. Court decisions might pro-

duce significant social reform through a *judicial* path that relies on the authority of the court. Alternatively, court influence could follow an *extra-judicial* path that invokes court powers of persuasion, legitimacy, and the ability to give salience to issues. Each of these possible paths of influence is different and requires separate analysis.

The *judicial* path of causal influence is straight-forward. It focuses on the direct outcome of court decisions and examines whether the change required by the courts was made. In civil rights, for example, if a Supreme Court decision ordering an end to public segregation was the cause of segregation ending, then one should see lower courts ordering local officials to end segregation, those officials acting to end it, the community at large supporting it, and, most important, segregation actually ending. Similarly, with abortion, if the Court's invalidation of state laws restricting or prohibiting abortion produced direct change, it should be seen in the removal of barriers to abortion and the provision of abortion services where requested. Many, if not most students of courts, believe that the courts have powerful direct effects.

Separate and distinct from judicial effects is the more subtle and complex causal claim of *extra-judicial* or indirect effects. Under this conception of causation, courts do more than simply change behavior in the short run. Court decisions may produce significant social reform

by inspiring individuals to act or persuading them to examine and change their opinions. Court decisions, particularly Supreme Court decisions, may be powerful symbols, resources for change. They may affect the intellectual climate, the kinds of ideas that are discussed. The mere bringing of legal claims and the hearing of cases may influence ideas. Courts may produce significant social reform by giving salience to issues, in effect placing them on the political agenda. Courts may bring issues to light and keep them in the public eye when other political institutions wish to bury them. Thus, courts may make it difficult for legislators to avoid deciding controversial issues. Evidence for extra-judicial effects might be found in public-opinion data, media coverage, and in public and elite action supporting significant social reform. Both *Brown* and *Roe* are universally credited with producing important extra-judicial effects, from bringing attention to civil rights and sparking the civil rights and women's rights movement to persuading Americans that abortion is acceptable.

In addition, one must explore alternative explanations of change, whether reform could possibly have occurred without court action. These include a host of social, political, and economic changes that could plausibly have led to significant social reform independent of court action.

What are the findings? In a nutshell, I argue that courts are constrained in producing significant social reform by three crucial aspects of the American political system and the judicial structure: the limited nature of constitutional rights and the precedent-bound procedures of courts; the generally precarious political position of a non-electorally accountable institution in a democracy; and, the judiciary's lack of implementation powers. In order for courts to produce change, these constraints need to be overcome. This can occur through the development of precedent, the garnering of political support, and the existence of one of four conditions allowing courts to overcome their lack of implementation powers. These conditions exist when incentives for compliance are provided by non-court actors, when costs for non-compliance are imposed by non-court actors, when court decisions allow for

**... one must explore alternative explanations of change, whether reform could possibly have occurred without court action.**

**While it is impossible to understand precisely why people do and say the things they do, claims about the real world require testing. Otherwise, they are merely statements of faith.**

market implementation, or when individuals crucial for implementation are willing to use court decisions for leverage or political cover.

Applying this theoretical framework to civil rights demonstrates its analytic power. A decade after *Brown*, barely one in 100 African-American school children in the 11 Southern states that legally mandated segregation before *Brown* attended an integrated school. The

Court's decision was widely and openly flouted. This occurred because political and social forces at both the local and national level did not support the Court, providing no pressure for compliance.

The lower courts, both state and federal, tended to reflect local white beliefs, and did not push for an end to segregation. When they did, as in Little Rock, their orders were for the most part ignored.<sup>1</sup> Lacking social and political support, the Court's decisions were left to be praised and ignored.

Change came to Southern school systems in the wake of congressional and executive branch action. Title VI of the 1964 Civil Rights Act permitted the cut-off of federal funds where racial discrimination was practiced and the 1965 Elementary & Secondary Education Act provided a great deal of federal money to generally poor Southern school districts. By 1969, for example, federal funds comprised from between 11% and 21% of Southern state school budgets, up from between 4.6% and 11.1% in 1963. This combination of federal funding and Title VI gave the executive branch a tool to induce desegregation.

When HEW began to threaten fund cut-offs to school districts that refused to desegregate, dramatic change occurred. Here, courts could play a role, working with tools provided by non-court actors. Also, where Southern school administrators wished to desegregate in order to preserve federal funding, court decisions gave them cover to desegregate, keep the federal funding, and publicly complain about tyrannical federal pressure. By the 1972 school year, over 91% of African-American school children in the 11 Southern states were in integrated schools. Congressional and executive branch action, not court decisions, made the difference.

But what about indirect effects? Didn't the

Court through *Brown* put civil rights on the national agenda, setting the stage for both the activist phase of the civil rights movement and the congressional and executive action that produced change? This argument appears to be both universally believed, and never tested. While it is impossible to understand precisely why people do and say the things they do, claims about the real world require testing. Otherwise, they are merely statements of faith. Examining press coverage, public opinion data, legislative histories, and intensively studying biographical, autobiographical, and scholarly studies of the civil rights movement, I found no evidence that *Brown* had important indirect effects. The data suggest that *Brown* was essentially irrelevant to whatever progress has been made in ending race-based discrimination. Claims of indirect effects lack evidence.

The analysis of *Roe* provides an illuminating comparison. While it is the case that there were nearly 600,000 legal abortions in 1972, the year before *Roe*, the number of legal abortions continued to rise after the decision, albeit at a slower pace, both numerically and proportionately. In terms of direct effects, how is it that there was essentially no desegregation in the wake of *Brown* but an increase in the number of legal abortions after *Roe*? The answer is that one of the conditions necessary for court efficacy was present with *Roe* but missing in *Brown* — market implementation. In general, in the wake of *Roe*, hospitals, the existing institutions that provide medical care, refused to implement the decision. Indeed, fewer than one-third of private, short-term, non-Catholic hospitals have performed abortions and no more than one-fifth of public hospitals have. Like *Brown*, the existing institutions ignored the law. Unlike *Brown*, there was a market mechanism for getting around this unwillingness to act. In *Doe v. Bolton*,<sup>2</sup> the Georgia case that was argued with *Roe*, the Court allowed clinics to perform abortions. The decision provided a way around the refusal of existing institutions to follow the law.

This is important because there was public support for the substance of *Roe*, access to abortion. While it is true that *Brown* did not prohibit individuals from opening integrated private schools, the reality was that no whites would have attended them. With abortion, however, there was a demand for the services. Pro-choice activists, feminists, doctors who wanted to expand their practice, and so forth, were relatively free to respond to the demand. Clinics could and did open to implement the decision.

While the availability of a market mechanism for implementation led to an increase in the number of legal abortions, it did not do so evenly. The difficulty with market mechanisms is that they are dependent on local political beliefs and culture. In places where political leaders or large segments of the population oppose abortion, it is less likely that clinics will open. Thus, the availability of abortion services varies widely across the country. Each year, hundreds of thousands of women must travel considerable distances to obtain abortion services. Considering that the Court has held that women have a fundamental constitutional right to obtain abortions, and that abortion is the most common surgical procedure performed on American women today, the drawbacks to the market mechanism as a way around the courts' structural constraints are important. The availability of a market mechanism can help implement Court decisions, but

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## THE UNITED NATIONS CRIMINAL JUSTICE INFORMATION NETWORK

### An Invitation to Join UNCJIN on INTERNET

The United Nations Criminal Justice Information Network, is now available as a list server over INTERNET.

UNCJIN provides latest reports of research and activities from the main United Nations Institutes around the world, an international calendar of events and meetings, legislative and court activities updates, plus United Nations World Crime Survey data. Directories of criminal justice institutes around the world are available, as well as lists of other criminal justice bulletin boards. We also publish electronically a selection of U.S. Bureau of Justice reports and statistics before they become available in hard copy. The accession lists of leading criminal justice libraries will also be published from time to time. We also offer a service of the table of contents of forthcoming issues of criminal justice journals, before they are published in hard copy.

At this time (October 1, 1992) the files with the above information have not yet been loaded into the listserver. Over the next few weeks, this will be accomplished. UNCJIN-L will inform subscribers when the files are available, how to access them, and will provide an index file describing the contents of available files. However, you may join immediately, and send messages to the listserver. However, remember that if you do, the message is automatically sent out to all subscribers to the list.

Here's how to join UNCJIN-L. Send an e-mail message to:

**LISTSERV@ALBNYVM1.BITNET**

The first line of the message should state the following command:

**SUBSCRIBE UNCJIN-L Your  
Firstname Lastname**

after you have entered this command, send the message in the way you usually do.

The SYSOPS for UNCJIN-L are Adam Bouloukos and Debbie Cohen. The may be reached by e-mail at: **GRN92@ALBNYVM1.**

can not guarantee it.

Roe fares no better than *Brown* in its indirect effects. Press and magazine coverage of abortion is actually lower in 1973, the year of *Roe*, than in previous years, including 1970, 1971, and 1972! Public opinion shows little change to the pro-choice side in the wake of the decision. Indeed, the pro-choice movement, a movement that had reformed laws in 18 states prior to *Roe*, disintegrated in the wake of the decision. Rather than pushing to guarantee availability and access to abortion services for all women, the movement complacently sat back as anti-abortionists commanded increasing media attention and won restrictive legislative enactments at both the state and national level. The evidence doesn't support claims that *Roe* had important indirect effects for pro-choice forces.

My research suggests that when the constraints that limit judicial efficacy are overcome, and one of the four conditions is present, courts can help produce significant social reform. However, this means, by definition, that institutional, structural, and ideological barriers to change are weak. A court's contribution, then, is akin to officially recognizing the evolving state of affairs, more like the cutting of the ribbon on a new project than its construction. Without such change, the constraints reign. When Justice Jackson commented during oral argument in *Brown*, "I suppose that realistically this case is here for the reason that action couldn't be obtained from Congress,"<sup>3</sup> he identified a fundamental reason why the Court's action in the case would have little effect.

If this is the case, then there is another important way in which courts affect social change. It is, to put it bluntly, that courts act as "fly-paper" for social reformers who succumb to the "lure of litigation." If the findings are correct, then courts can seldom produce significant social reform. Yet if groups advocating such reform continue to look to the courts for aid, and spend precious resources in litigation, then the courts also limit change by deflecting claims from substantive political battles, where success is possible, to harmless legal ones where it is not. Even when major cases are won, the achievement is often more symbolic than real. Thus, courts may serve an ideological function of luring movements for social reform to an institution that is structurally constrained from serving their needs, providing only an illusion of change.<sup>4</sup>

The findings of this study also suggest that a great deal of writing about courts is fundamentally flawed. Treating courts and judges as either philosophers on high or as existing solely within a self-contained legal community ignores what they actually do. This does not mean that philosophical thinking and legal analysis should be abandoned. It emphatically does mean that the broad and untested generalizations offered by constitutional scholars about the role, impact, importance, and legitimacy of courts and court opinions that fill the legal literature must be rejected. When asking those sorts of questions about courts, they must be treated as political institutions and studied as such. To ignore social science literature and eschew empirical evidence, as much court writing does, makes it impossible to understand what courts actually do.

American courts are not all-powerful institutions. They were designed with severe limitations and placed in a political system of divided powers. To ask them to produce significant social reform is to forget their history and ignore their constraints. It is to cloud our vision with a naive and romantic belief in the triumph of rights over politics. And while romance and even naivete have their charms, they are not best exhibited in courtrooms, or scholarly research.

#### ENDNOTES

1 By 1963, 9 years after *Brown* and 5 years after *Cooper v. Aaron* and the confrontation at Little Rock's Central High School, only 69 of 7,700 students (1%) at Little Rock's formerly all-white junior and senior high schools were African-American.

2 410 U.S. 179 (1973).

3 On this point, John Hart Ely's legislative-failure defense of judicial activism frees the Court to act in precisely those instances where it is least likely to be of any help.

4 This point was not lost on the nineteenth century founders of the Legal Aid Society. Their aim was not merely to help the poor but, paraphrasing Arthur Von Briesen, an early force in the legal aid movement, to "deflect them from anarchy, socialism, and bolshevism." Legal aid was also popular with Vice-President Teddy Roosevelt, who saw it as a "necessary bulwark against 'chaos' and 'violent revolution'" (quotes from Jerold S. Auerbach, *Unequal Justice* 1976, 53-55).

## Computer-Assisted Educational Materials for Judicial Courses: A Preliminary Assessment

Robert C. Bradley  
Illinois State University

Because I feel scholars should have hands-on experience with data management and analysis, I try to remain abreast of developments in educational software that could be utilized in my judicial politics classes. Recently, three educational software programs have been developed that either in part or in their entirety could assist instruction in the judicial system. These programs are: *Judicial Process*<sup>1</sup> by Stephen Frantzich; *American Government: An Introduction Through Microcase*<sup>2</sup> by David Schultz; and, *Introducing Criminology through the Computer* by Rodney Stark. The first program is produced through the APSA's POLIWARE project, and the others are produced by MicroCase Corporation.

The three programs are interactive and designed to make students use their analytical skills, although in quite different ways. The *Judicial Process* program is a role-playing simulation while the other two are data analysis programs used in conjunction with the data sets provided. In the *Judicial Process* program, the student is put in the role of a defendant charged with a felony. The computer initially selects certain socioeconomic variables for the student, such as social class, employment situation, race, and place of residence relative to the crime location. Students are taken through various stages of the felony process, and are asked to make a decision at these stages from a fixed set of options. The key decisional stages are initial reaction to arresting police officer, type of plea, plea bargaining, selection of a bench or jury trial, jury selection and appeals. For each stage, textual material is present which explains the situation and available choices. Due to the large amount of textual material contained in the program an initial run of the simulation usually takes about twenty minutes. Subsequent runs take five minutes or less because as one learns to ignore the accompanying text.

I found the program to be somewhat interesting but to have limited usefulness for the classroom. The accompanying user's manual is quite short and almost devoid of guidance as to how to use the program in a class. The options available for each decisional stage are limited,

and the decisional stages are not constant for each run of the simulation. The number of choices available at each decision point appear to be dependent on the assigned social class of the user. As such, generalizations about the judicial process are difficult to develop from multiple runs of the program. The primary lesson of the simulation is that money dictates determinations of guilt or innocence in the judicial system. This is an important lesson, but instructors may not want to purchase the program to illustrate via a computer a relationship between money and criminal dispositions which is discussed extensively in the judicial literature. On the other hand, the active student involvement-in-learning aspect of the simulation program may foster a livelier classroom environment.

There are three data sets included with the *American Government* program. The data sets include: SURVEY, which contains 1,372 cases and 78 variables from the 1990 General Social Survey; STATES, which consists of 104 variables for the 50 states; and, CONGRESS, which consists of 42 variables for the 435 members of the House of Representatives for the 102nd Congress (1991 term).<sup>3</sup> The analytic procedures included in the program are: bar charts, pie charts and mapping graphics, univariate and crosstabular statistics, and scatterplots. Students are limited to these procedures and data sets as new data or different procedures cannot be added to the program. However, the available data and procedures should be more than enough for effective use in the classroom.

The data set most applicable in judicial courses is SURVEY, which contains data on public confidence in the Supreme Court. As possible class exercises, students can examine the impact of certain socioeconomic and political variables on public confidence in the Court. Also, students can examine the effect of the general public's approval of particular Court decisions on public confidence levels. There are also a number of variables related to civil liberties and segregation that could be examined to see what variables effect on public beliefs in regard to these areas of law. Certain variables in the STATES data set are derived from the Uni-

form Crime Reports. Students can compare the crime rates for the fifty states, and examine possible social and economic explanations for the amount of crime at the state level. This program is the most user-friendly software that I have ever encountered. Regardless of his or her level of computer literacy, any student can learn to run this program and do fairly sophisticated analysis in a single class period. The menus are quite simple and easy to understand. For the student's version of the program, the commands available to students are highlighted making them easier to identify. Also, students don't have to keep referring to a codebook for a list of the variables. With a single keystroke, you can display and page through list of the variables on the monitor screen until you find those variables that you are interested in. When you select an independent variable, a single keystroke informs the computer of your choice, and another keystroke will do the same for the dependent variable and any control variables.

The analytical procedures are also very easy to use and have a number of attractive features. For instance, the scatterplot function for the states data set will display a scatter array for the fifty states for any combination of variables. With single keystrokes, you can draw the regression line through the plots, identify and delete outliers, display the full labels of the independent and dependent variables, and highlight the location of a particular state on the scatterplot. For a crosstabular display, you can display either the column, row, or total percentages with a single keystroke, and you display the relevant statistics displayed on the screen. To print any of the statistics or graphics, just press the P key.

The primary advantage of this program over the SPSS-PC student-version package is that it is completely menu-driven and students can operate the program simply from options that appear on the monitor screen. Thus, the amount of instructional time spent on the mechanics of computer operation is significantly decreased. Further, users of the *American Government* program don't have to worry about the availability of either SPSS or ICPSR data files at their institutions.

The *Introducing Criminology* program is also quite easy to use and operates quite similarly to the *American Government* program. There are, however, some significant differences between the programs. Two data sets are included in the *Introducing Criminology* program: STATES,

which consists of 73 variables for the 50 states and includes official crime statistics from the Uniform Crime Report; and SURVEY, which consists of 38 variables for 2,977 cases from the 1973 and 1984 General Social Surveys. Also, the *Introducing Criminology* program includes some analytical procedures not in the *American Government* program, such as Pearson correlation matrices and regression analysis. Unlike the *American Government* program, the *Introducing Criminology* program is designed specifically for presentation purposes. Thus, no way exists for printing any of statistics or graphic displays, not even with the "print screen" command. In addition, the program does not have the capacity to list variables in a data set on the screen. You have to refer to a codebook to get a list of variables. In the near future, a revised version of the program will be available, which will operate almost exactly like the *American Government* program and include print and variable list features.

For judicial process and criminal justice courses, the *Introducing Criminology* program would be a convenient tool for demonstrating to students via a computer the amount and nature of crime in this nation, and allow them to assess the explanatory power of various theories on the causation of crime. Both the *American Government* and *Introducing Criminology* programs are relatively inexpensive (suggested retail price for a student version of either program is less than \$20) and include extensive data sets, powerful analytical software, and well-written workbooks, which have plenty of student exercises. Although neither program includes data that are directly relevant for explaining judicial decision-making, they do contain data related to topics discussed in typical judicial process courses.

The system requirements vary for each program. Each is designed to be used on IBM or IBM-compatible personal computers and is available either on 5 1/4" or 3 1/2" diskettes. The *American Government* program is available on one 3 1/2" diskette or two 5 1/4" diskettes. The other programs come on only one diskette of either size. The 3 1/2" diskettes are less subject to damage and have more storage capacity. Of course, the choice of diskette size will be dictated primarily by the available personal computers at a particular institution.

The *Judicial Process* program is compatible with the most minimal operating environment, requiring only 128K of memory and one floppy drive. However, the program must be run with

an advanced basic programming language. According to the manual, the program will operate only after the file BASICA.COM is copied on the program disk. Unfortunately, finding a copy of the advanced basic programming language could prove to be difficult since it is not as regularly included on DOS diskettes as it used to be. Also, the manual is not completely accurate. To make the program operate correctly, you have to copy not only a BASICA.COM file but also a GWBASIC.EXE file on the program disk.

The system requirements for the other two programs are more extensive. The *American Government* program requires at least 512K of memory, a graphics card (preferably color), and one floppy drive. The *Introducing Criminology* program requires 128K of memory and a color graphics card. On a computer system with a color graphics card and a monochrome monitor, however, the color distinctions for some of the analytic procedures in the programs appear as different shades of gray which can be quite difficult to discern. A color coded feature built into the data analysis procedures, such as cross tabulations, does not appear on a monochrome monitor, but this does not detract much from reading the contingency tables.

For each of the programs, the optimal instructional environment would be a micro-computer classroom which has sufficient workstations to accommodate all the students in a particular class and either a large monitor or a projection system that could be used to display a clear image of the instructor's computer monitor screen. If instructors don't have access either to a computer classroom or a projection

system, the programs can still be used to assist instruction. If a computer classroom is not available, then a large monitor or projection system can be used with the programs to illustrate points made in the lecture. If a projection system or large monitor are not available, students can still use the programs at their workstations, and an instructor can give operational tips and guidance perhaps with the aid of overhead transparencies. Printouts generated from two of the programs, *Judicial Process* and *American Government*, could be used as supplemental class handouts or even homework assignments.

For instructors interested in invigorating student and exposing them to valuable analytical and computer skills, these programs might just be the ticket. They are certainly worth the time and effort to assess their suitability for your courses.

### ENDNOTES

1 This program is available from PoliWare, which is an educational software development project of the American Political Science Association. To receive information about the program write to: PoliWare/APSA, 1527 New Hampshire Avenue, N.W., Washington, DC 20036.

2 This program is available from MicroCase Corporation. To receive information about the program write to: MicroCase Corporation, P.O. Box 2180, West Lafayette, IN 47906.

3 This program is also available from MicroCase Corporation.

### SOCIOLOGY OF LAW SECTION INVITATION TO NEW MEMBERS

You are invited to join the new section-in-formation on the Sociology of Law within the American Sociological Association. If 200 dues-paying member join by **December 31, 1992**, they will become an official section of the ASA.

To join the new section, you must be a member of the American Sociological Association. To join the ASA, write to the American Sociological Association, 1722 N. Street, NW, Washington DC 20036-2931, and indicate that you are interested in joining the sociology of law section. If you are already a member of the ASA, you need only check the "Sociology of Law, Section in Formation" box on the annual membership renewal form. Dues are \$8 for regular members and \$6 for students annually.

For more information on the section-in-formation, please contact the Convenor, **Kim Lane Scheppelle**, IPPS, 466 Lorch Hall, University of Michigan Ann Arbor, MI 48109. (303) 764-7507; FAX: (313) 763-9181. Bitnet: USERLBK1@umich. Internet: USERLBK1@um.cc.umich.edu.

**Steering Committee:** Donald Black (Virginia); Lauren (Wisconsin); Terry Halide (American Bar Foundation/University of Chicago); Richard Lempert (Michigan); Setsuo Miyasaw (Kobe); Albert Reiss (Yale); Joachim Savelsberg (Minnesota); Kim Shceppele (Michigan); Stanton Wheeler (Yale).

**PUBLIC LAW COURSE SYLLABI COLLECTION\***

**Lief H. Carter**  
**University of Georgia**

The canvass for this syllabus project used general advertisements and solicitations plus personal letters to those members of the American Political Science Association's Law, Courts, and Judicial Politics section who listed a specific teaching affiliation. We received 180 syllabi; many respondents submitted syllabi for more than one course.

The field, defined by these responses, includes:

- bread and butter courses in constitutional law/civil rights and judicial politics and policy-making
- familiar but less commonly offered courses in such areas as jurisprudence and comparative and international law
- specific legal issues courses, e.g., "Government Tort Liability"
- courses analyzing discrete institutions such as trial courts or state court policymaking
- courses describing specific political arenas in which law operates, e.g., "Women and the Law," "Science, Technology, and Law," and "The Politics of Housing."

I divided the submissions into two parts. The first part contains ten complete syllabi, representing ten different course types. For this section I did not necessarily select that syllabus which struck me as the most creative or insightful syllabus submitted for each of these course types. Given that the likeliest payoffs from this part of the package will benefit relatively new teachers who seek equally to improve their presentation skills and to expand their knowledge of the literature, I instead chose primarily those syllabi that expressed basic approaches clearly and comprehensively. I also tended to tilt away from professors who are legendary teachers and writers in a particular field. While readers may be curious to know how a Henry Abraham "does it," Abrahams' writings "do it" for us so thoroughly that this space is better spent communicating less visible approaches.

In the second part I assembled much shorter excerpts from other submissions. I hope seasoned as well as fresh colleagues will find food for thought in these vignettes. Some of these excerpted materials do not come strictly from syllabi but from supplementary materials respondents sent.

Since good clichés — in this case the old advice to take teachers and not courses — are deeply true, I shall let these teachers speak largely for themselves. However, the exemplary syllabi merit brief comments because each illustrates a secondary virtue of a good syllabus that readers will not discover by reading the table of contents.

Brisbin's "Civil Liberties in the United States" packages a great amount of skill-building information in one place.

Muir's "Constitutional Law" weaves conceptual and ethical questions directly into the assigned reading so that students, rather than reading blind, read toward goals.

Finn's "American Constitutional Interpretation" is an ideal interdisciplinary course, meshing political science literature with legal historical and philosophical sources smoothly.

O'Neill's "Law and Politics" succeeds in doing all of the above.

Haltom's "Law and Society" practices its title with an amazing range of materials, with very specific suggestions on how to learn about law at every stage of the course. His long annotated law and society film bibliography will instruct and entertain us all.

Christenson's "Jurisprudence" includes comparative materials on Chinese and Islamic legal systems.

Kritzer's "Research on Trial Courts," and O'Brien's "Judicial Policymaking" select and organize the literature in these challenging research seminars in especially useful way for beginners.

Flemming's "State Legal Systems" models how undergraduate courses can profitably break away from traditional conceptions of what makes law political and worth studying.

Scheppele's "Abortion and Public Policy," though a law school seminar, presents an exceptionally thorough bibliography that extends the abortion question to touch many major issues in feminist law and politics.

### PUBLIC LAW COURSE SYLLABI COLLECTION

Contents

Editor's Introduction

Syllabi:

*Civil Liberties in the United States*, Richard Brisbin  
*Constitutional Law: The Federal System*, William K. Muir  
*American Constitutional Interpretation*, John E. Finn  
*Jurisprudence*, Ron Christenson  
*Law and Politics*, Timothy O'Neill  
*Law and Society*, William Haltom  
*Judicial Policy-making*, David M. O'Brien  
*Research Seminar on Trial Courts*, Herbert Kritzer  
*State Legal Systems*, Roy B. Flemming  
*Abortion and Public Policy*, Kim Lane Scheppele

Excerpts:

*Objectives for the Study of Constitutional Law*

Walter Murphy

Leslie Goldstein

*Special Topics and Perspectives*

Albert R. Matheny

David Barnum

Larry Baum

Nancy Kassop

James Forst

Dalmas H. Nelson

*Exercises*

Grier Stephenson

Tom Hensley

Stephen L. Washby

Burton Atkins

Gerald Rosenberg

Diane E. Wall

Susan Olson

John Moeller

Francis Graham Lee

Nancy Kassop

Mark Kessler

\* This is an edited excerpt from Lief Carter's introduction to the collection of public law syllabi. Copies of the collection are available from the APSA for a nominal fee.

### ANNOUNCEMENT OF NEW AWARDS

The Organized Section on Law and Courts wishes to announce the creation of two new awards to honor meritorious scholarship within the field of Law and Courts. These newly created awards are (1) The Lifetime Achievement Award for a distinguished career of significant contributions to knowledge in the field and (2) an award for the best faculty paper presented at the annual APSA meeting.

The **Lifetime Achievement Award** is to be conferred only every three years, beginning with the annual meeting in 1993. In order to be eligible, a nominee must be a political scientist (i.e., hold a Ph.D. in Political Science/Government or have a primary appointment in a Political Science/Government department) and must have been professionally active for at least twenty-five years or be at least sixty-five years old. Anyone in the Law and Courts Section may nominate someone for this award. Please send the nominee's CV with your nomination no later than **June 1, 1993**, to the chair of this year's selection committee, **Leslie Friedman Goldstein**, Political Science Department, University of Delaware, Newark, DE 19716. (The other two members of the selection committee are Greg Caldeira and John Brigham, the chairs of our section for 91-92 and 90-91, respectively). The winner of this award will be honored by a reception and a commemorative panel at the annual APSA meeting.

The **best faculty paper award** nominations must come either from a panel chair or program chair, and any paper authored (or co-authored) by a political scientist is eligible. The winner will receive a \$200 prize (to be provided by the sponsor of this award, American Judicature Society) and will be announced at the following year's APSA meeting. Nominations should be sent by **December 1, 1992**, to **Prof. Lynn Mather**, Political Science,

Awards cont. pg. 17

## REACHING THOSE WHO TEACH TEACHERS: DEFINING THE CORE OF CONSTITUTIONALISM, CITIZENSHIP, AND CIVIC EDUCATION

An NEH Summer Institute for College and University Faculty  
June 13-July 15, 1993  
University of Tulsa

This summer institute, a project of the American Political Science Association and the University of Tulsa, is supported by a major grant from the National Endowment for the Humanities.

The institute will tackle the problem of how to enhance the quality of teaching about constitutionalism, constitutional history, civic education, and citizenship of college students who will enter the ranks of the teaching profession. Seminar topics include: "The Nature of American constitutionalism," "The Colonial and Early American Background of the Constitution and the Bills of Rights," "The Scope of Individual Rights," "The Guarantees of Equal Rights and Liberties to All Americans," and such other topics as freedom of expression and separation of church and state. The institute addresses these topics by concentrating on both content and pedagogy, exploring the various ways in which the central messages of the history of the Constitution and constitutionalism can be most effectively presented in order to heighten understanding about citizenship.

### The Faculty

*Institute Director:* Kermit L. Hall  
Dean, Henry Kendall College  
University of Tulsa

*Guest Faculty:* Herman Belz, University of Maryland  
Lief H. Carter, University of Georgia  
Donald S. Lutz, University of Houston  
Sandra F. VanBurklee, Wayne State University

The institute seeks applications from teams of college faculty drawn from history, political science, and social studies education. Each team should include two persons, one of whom must be a social studies education professor accompanied either by a historian or political scientist from the same institution. The faculty teams will be responsible for developing and coordinating the content and methodology of courses designed in their institutions to prepare pre-collegiate teachers to teach American history, civics, and government.

Participants will receive funds for travel to and from the institute, for room and board, and a stipend of \$1,125.

Faculty applying should do so as a team by sending a joint letter of application accompanied by each applicant's resume. The letter should indicate which courses offered by the faculty are required or recommend to students who will be teachers and how the faculty believe the institute can contribute to the design of courses and to coordinating teacher training.

Application deadline is **March 1, 1993**. Applications and inquiries should be directed to: **Summer Institute/Constitutionalism**, APSA, 1527 New Hampshire Ave., NW, Washington, DC 20036. (202) 483-2512; FAX: (202) 483-2657.

### Awards cont.

Dartmouth College. (Other members of the committee are Ronald Kahn, Kim Scheppele, and Rogers Smith.)

The creation of these new awards brings to a total of four the awards now being offered by the Law and Courts Section. The other two are the C. Herman Pritchett Award for the best book authored by political scientists in the field of Law and Courts, and the award for best paper written (for a course) by a graduate student.

Any book published in 1991 or 1992 is eligible for this year's **Pritchett Award**. A copy of any book being nominated should be sent to **EACH** of this year's selection committee members: **Prof. Lief Carter**, Political Science Department, University of Georgia (committee chair); **Prof. Sue Davis**, Political Science Department, University of Delaware; and **Prof. Don Songer**, Political Science Department, University of South Carolina. Nominations should arrive no later than **January 15, 1993**. This award carries a prize of \$250. Casebooks and edited books are not eligible. After 1992, this will become an annual award.

The award for **best graduate student paper** permits nominations by any professor. The deadline for nominations for this award is **July 1, 1993**. It carries a cash prize of \$200 (provided by the sponsor, CQ Press) and the winner will be announced at the annual APSA meeting. Any paper written between July 1992 and June 1993 is eligible. Please send three copies of nominated papers to **Prof. Dean Alfange**, Political Science Department, University of Massachusetts at Amherst. (The other two members of the committee are Gary Jacobsohn, Williams College; and Jim Magee, University of Delaware.)

Leslie F. Goldstein  
Chair of Organized Section on  
Law and Courts

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S**LAW AND SOCIETY ASSOCIATION****Annual Meeting****May 27-30, 1993*****Culture and Inequality******Call for Participation***

The 1993 Annual Meeting of the Law and Society Association will be held in Chicago, Illinois at the Stouffer Riviere Hotel, Thursday, **May 27th** through Sunday, **May 30th**. The Program Committee invites proposals for presentation and discussion of all aspects of research on topics that link law and society, in the broadest sense of these terms.

The theme of this year's meeting is *Culture and Inequality*. The theme encourages a wide-ranging exploration of the intersections of law, culture and inequality, and, at the same time, encourages reflection on the role of sociolegal scholarship in changing these realities. Examples of applications to the theme include (but are not limited to) the following topics. These are no restrictions as to world area or historical period:

- the role of law in constructing cultural identities and social hierarchies
- the role of law in facilitating or impeding empowerment and reform in specific social contexts
- legal structures for protecting and accommodating the rights and cultures of groups
- the impact of culture, class, race, ethnicity, gender, sexuality, religion, health, physical condition, and other aspects of identity on law and law use
- culture and inequality in post-colonial states
- experiencing culture and inequality in different legal arenas
- law and culture in the organization of sexuality, reproduction and family life
- cities, workplaces, schools and other institutions as contexts for the management of cultural diversity and inequality
- cultural influences on beliefs about entitlements and justice
- the role of sociolegal research in strengthening lawyering for social change
- the relationship between sociolegal research and other forms of commitment — for example, in the practice of law, the law clinic, or classroom
- the uses and meanings of the terms "culture" and "inequality" in policy and popular culture
- the culture of the law and society movement

For further information, including the "Call for Papers," contact:

**Law and Society Association**

Attn: Program Committee

Hampshire House

University of Massachusetts

Amherst, MA 01003

(413) 545-4617

FAX: (413) 545-1640

Proposals for roundtables, panels, or individual papers should be sent to be received by **December 20, 1992**.

## IPSA RESEARCH COMMITTEE ON COMPARATIVE JUDICIAL STUDIES

The 1993 Interim Meeting of the Research Committee on Comparative Judicial Studies of the International Political Science Association will be held on **August 1-4, 1993** at St. John's College, Santa Fe, New Mexico, USA. Its first theme will be **The Judiciary in Transitional Societies**. Panels will be organized around such topics as Regime Stability; Human Rights and Constitutions and Constitutionalism. Its second theme will have panels on **Judicial Empowerment of Powerless People** and will focus on the impact of Western law on indigenous people. Those interested in organizing panels, presenting papers or otherwise participating in or attending the 1993 Santa Fe conference should contact the convenor as soon as possible:

### Martin Edelman

Department of Political Science  
Rockefeller College of Public Affairs and Policy  
The University at Albany  
135 Western Avenue  
Albany, NY 12222 USA  
FAX: (518) 442-5298  
Bitnet: EJL19@ALBNYVM1.BITNET

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## CONFERENCE ON ENVIRONMENTAL POLICY AND POLITICS IN FEDERAL STATES

**Ken Holland** (Memphis State), **Brian Galligan** (ANU Australia) and **Ted Morton** (University of Calgary) are planning a pair of conferences on "Environmental Policy and Politics in Federal States."

One of the principal subthemes is the role of courts in environmental politics. The first conference is set for May 12-14, 1993 in Canberra; the second for May, 1994 in Calgary. Ted Morton also plans to organize panels on this subject for the IPSA Research Committee on Comparative Judicial Studies at the 1993 (August 1-4 in Santa Fe) and 1994 (August 16-18 in Florence) interim meetings. The organizers would be interested in receiving proposals from scholars doing work in this field, including some indication of what they have done in the past. Please contact:

### F. L. (Ted) MORTON

Political Science  
University of Calgary  
Calgary, AB T2N 1N4  
(403) 220-6514  
FAX: (403) 282-4773  
E-mail: MORTON@ACS.UCALGARY.CA

## NEW YORK STATE POLITICAL SCIENCE ASSOCIATION

The 47th Annual New York State Political Science Association meeting is scheduled for Friday and Saturday, **April 23-24, 1993** in New York City. Those interested in participating—presenting papers, chairing panels, or serving as discussants—should contact **Robert Heineman, President**; **David Johnston, Vice-President and Program Chair**; Peter Galle, the Judicial Process and Law section chair. The deadline for submitting proposals is **November 20, 1992**. Prizes will be awarded for the best professional (academic or practitioner) and graduate student papers.

### President

Robert Heineman  
Division of Social Science  
Box 545  
Alfred University  
Alfred, NY 14802  
(607) 871-2870

### Vice-President

David Johnston  
Department of Political Science  
420 West 118th Street  
Columbia University  
New York, NY 10027  
(212) 854-3955

### Judicial Process and Law

Peter Galle  
Department of Political Science  
Canisius College  
Buffalo, NY 14208  
(716) 888-2699

**NSF ANNOUNCEMENTS****NEW DIRECTOR FOR NSF LAW AND SOCIAL SCIENCE PROGRAM**

**Susan O. White** has joined the National Science Foundation as a visiting scientist and Director of the Law and Social Sciences Program. She succeeds Michael C. Musheno, who returns to the School of Justice Studies at Arizona State University.

White is a Professor of Political Science at the University of New Hampshire where she is Coordinator of its Justice Studies Program. She was the first Study Director of the Committee on Research on Law Enforcement and Criminal Justice at the National Academy of Sciences, which evaluated the research program of the National Institute of Justice. She was also Study Director of the NAS panels on Deterrence and on Rehabilitation of Criminal Offenders. Her research has focused on socialization processes in both formal and informal settings of rule enforcement. Her publications range from studies of police socialization to the recent co-authored *Legal Socialization: A Study of Norms and Rules*. She is currently planning cross-national research on legal socialization in conjunction with the international working group on Orientations Toward Law and Normative Ordering.

Susan White is a former Trustee of the Law and Society Association and was Program Chair for the 1989 annual meeting of the American Society of Criminology. She is currently on the Editorial Advisory Board of the *Law and Society Review*. White looks forward to talking with law and social science colleagues about their research interests. The next target date for submission of proposals to NSF is **January 15, 1993** for regular proposals and **February 1, 1993** for the special competition on Global Perspectives on Sociolegal Studies.

**GLOBAL PERSPECTIVES ON SOCIOLEGAL STUDIES****LAW AND SOCIAL SCIENCE PROGRAM  
NATIONAL SCIENCE FOUNDATION**

**Proposal Submission Deadline: February 1, 1993**

The Law and Social Science Program at the National Science Foundation is continuing its special competition for research dealing with global perspectives on sociolegal studies. The aim of this initiative is to support research on law and law-related processes and behaviors in light of the growing interdependence and interconnectedness of the world. The competition seeks to encourage examination of both global dimensions of sociolegal phenomena (e.g., disputing, law and social change, legal pluralism, social control, crime causation) and socilegal dimensions of global phenomena (e.g., economic and commercial transactions, immigration and population shifts, social and ethnic conflict, regulation of the environment, public and private governance). Proposals are welcome that advance fundamental knowledge about legal interactions, processes, relations, and diffusions that extend beyond any single nation as well as about how local and national legal institutions, systems, and cultures affect or are affected by transnational or international phe-

nomena. Thus, proposals may locate the research within a single nation or between or across legal systems or regimes as long as they illuminate or are informed by global perspectives.

Proposals submitted to this initiative must be received at NSF by **February 1, 1992**. In addition to standard proposals, planning grant proposals, travel support requests to lay the foundation for research, and proposals for improving doctoral dissertation research are welcome. Funding decisions will be announced approximately four-six months after the deadline. Proposals should be prepared in accordance with the guidelines in *Grants for Research and Education in Science and Engineering* (NSF 90-77). For more information on the types of activities eligible for support, contact **Susan O. White**, Program Director, Law and Social Science, National Science Foundation, 1800 "G" Street, NW, Washington, DC 20550. (202) 357-9567; FAX: (202) 357-0357; e-mail: SOWHITE@NSF.BITNET.

## LAW AND SOCIAL SCIENCE PROGRAM NATIONAL SCIENCE FOUNDATION

**Proposal Submission Target Dates: January 15 and August 15**

The Law and Social Science Program at the National Science Foundation supports social scientific studies of law and law-like systems of rules. These can include, but are not limited to, research designed to enhance the scientific understanding of the impact of law; human behavior and interaction as these relate to law; the dynamics of legal decisionmaking; and the nature, sources, and consequences of variations and changes in legal institutions. The primary consideration is that the research shows promise of advancing a scientific understanding of law and legal process. Within this framework, the Program has an "open window" for diverse theoretical perspectives, methods, and contexts for study. For example, research on social control, crime causation, violence, victimization, legal and social change, patterns of discretion, procedural justice, compliance and

deterrence, and regulatory enforcement are among the many areas that have recently received program support.

The review process for the Law and Social Science Program approximately six months. It includes appraisal of proposals by *ad hoc* reviewers selected for their expertise from throughout the social scientific community and by an advisory panel that meets twice a year. The target dates for the submission of proposals are **January 15** for proposals to be funded as early as July and **August 15** for proposals to be funded in or after January. For further information on application procedures write or call: **Susan O. White**, Program Director, Law and Social Science, National Science Foundation, Washington, DC 20550. (202) 357-9567; FAX: (202) 357-0357. E-mail: SOWHITE@NSF.BITNET.

