

Contents

About the Contributors	vii
Introduction <i>David Silverman and Jaber F. Gubrium</i>	1
PART ONE: POLITICS OF THE FIELD	
1 Deconstructing the Field <i>Roy Turner</i>	13
2 The Impossible Dreams of Reformism and Romanticism <i>David Silverman</i>	30
3 Romantics and Stoics <i>Phil Strong and Robert Dingwall</i>	49
4 The Construction of a Sociological Consumer <i>Peter R. Grahame</i>	70
PART TWO: POLITICS IN THE FIELD	
5 Local Cultures and Service Policy <i>Jaber F. Gubrium</i>	94
6 Corridors of Power <i>Don Slater</i>	113
7 Evaluation Research and Quality Assurance <i>Lindsay Prior</i>	132
8 Reconstituting the Sociology of Law <i>Susan Silbey and Austin Sarat</i>	150
PART THREE: POLITICS FROM THE FIELD	
9 Social Research and the Rationalization of Care <i>Mary Simms</i>	173

vi *Contents*

10	Ethnography addressing the Practitioner <i>Michael Bloor and Neil McKeganey</i>	197
11	Studying Policies in the Field <i>Peter K. Manning</i>	213
12	Interventions in New Social Movements <i>Elim Papadakis</i>	236
	Author Index	258
	Subject Index	261

Reconstituting the Sociology of Law

Susan Silbey and Austin Sarat

The sociology of law begins with a broad but simple claim that legal institutions cannot be understood without seeing the entire social environment. Nonetheless, scholars exhaust most of their attention studying the implementation of law, especially the ways in which non-legal, social factors intrude upon and undo legality. By looking at hard cases – at places where the law seeks to change behaviour and circumstances – scholars have been drawn to instances where legality fails and have described, much to their chagrin, the ineffectiveness of the law in the gap between law on the books and the law in action.

Law in its daily life is most often not studied. Sociologists look at the ways in which consumer protection laws are enforced, but rarely look at the ways in which the buying and selling of goods takes account of and accounts for its legal regulation. Researchers study the ways in which organizational constraints and professional interests influence the practice of law, but less often look to the ways in which lawyer–client interactions are constructed by, as they themselves constitute, the law. In general, sociologists of law have looked at violations of law but not at instances of law-abidingness.

Thus, the modern sociology of law is, for the most part, a sociology of state law. It studies the ways in which law disciplines state power or, more often, the ways in which legality fails to effectively control that power. It is, moreover, a sociology that speaks to and for the state apparatus as often as it speaks about the state apparatus. In this way the sociology of law has developed close ties and affinities to policy studies and the institutions of policy making and implementation. A typical research project in the sociology of law will begin with a policy problem, locate it in a general theoretical context, present an empirical study derived from the theory to speak to that problem, and conclude with recommendations, suggestions or cautions.

In Foucauldian terms the sociology of law has yet to join in cutting off the head of the king (Foucault, 1980); it legitimates state power even as it ignores the ways in which power has escaped the

state. Paradoxically, the excessive emphasis on the juridical form of state law means that, again from a Foucauldian point of view, it is more archaic than dangerous. In important ways, this fixation on the juridical form seems to remove the sociology of law from the modern disciplinary apparatus and, at the same time, distances it from efforts to resist the controlling gaze of the institutions and practices of the human sciences. Yet it is precisely in this ironically archaic concern with state law that the sociology of law contributes to the empowerment of the disciplinary apparatus of modern society. It is precisely in its focus on and legitimation of state law that sociolegal research helps to blunt resistance. In its focus on the state, the sociology of law diverts attention, channels energies and focuses scholarship on the most visible and least penetrating aspect of the disciplinary apparatus.

In its attention to state law, the sociology of law is not unlike other subdisciplines of the social sciences which also, too often, focus research on a subject institution's own definitions and models of accepted practice. For example, Robert Strauss (1957) describes the role of sociology in medicine as a research practice which takes the events and processes medical practitioners define as problems as subjects to inquire about, to understand, and possibly to remedy. In contrast, Strauss defines a sociology of medicine as the study of how medical practitioners identify and construct those events and processes as problems. Thus sociological research in medicine might and often does study patient compliance with therapeutic regimes, while a sociology of medicine might study why doctors consider patient compliance a problem.

This chapter describes the preoccupation of sociolegal scholars with state law and roots that preoccupation in an Enlightenment conception of science, policy and progress. It argues that the sociology of law has been part of the modernization of state law and of the effort to turn law to the task of steering society. It calls for a revision of the epistemological and political assumptions of the sociology of law, for new understandings of what counts as knowledge and a broader view of what counts as law. In so doing, the effort is to make the sociology of law less archaic. But, a less archaic sociology of law might very well be a more dangerous sociology of law, one more closely tied with the modern constitution of the human subject. For us, however, resistance requires a clarity of vision which is incompatible with the more archaic and less threatening sociology of law (Fitzpatrick, 1986). We want to contribute to the demystification of state law, to a clearer vision of its power and its limits so that the sociology of law itself no longer stands as a barrier to a sociology of discipline and resistance.

The sociology of law and State law

The origins of the sociology of law can be traced to the eighteenth century when a distinction between law and society was postulated as part of a series of political struggles the object of which was to limit the power of the state (see Locke, 1690). The congruence of law and society had long been associated with forms of hierarchical oppression; thus, the effort to distinguish law and society was part of an effort to end, or at least to discipline, political control by the few.

Two themes from these early conceptions of the relationships among state, law, and society, can be detected in the modern sociology of law: a distinction between policy and politics and a vision of an unproblematic relationship between knowledge, science and power. The distinction between politics and policy is claimed on the grounds that policy analysis is value free and apolitical, a technical inquiry concerning the relationship of possible means to predetermined ends. This perspective reflects, while it propagates, a vision of knowledge and science independent of and removed from the sources of social power which it helps generate and support. This allows sociolegal scholarship to disclaim an advocacy role in the collective struggle over community values while it simultaneously rationalizes the outputs of that collective struggle.

By maintaining a distinction between policy and politics, socio-legal scholars align themselves with and reproduce the premises of liberal legalism which also rests upon a divorce of Politics, with a capital 'P', from policy, or politics with a small 'p'. In the classic formulations of liberal social theory, the larger questions of Politics, that is, how we shall live together and what is the good and just society – are resolved in favour of the free play of self-interested ambition; the messy, open-ended questions concerning the meaning of justice, the distribution of property and the definition of the public welfare are settled through the adoption of the institutional arrangements of liberalism – that is separation of powers, checks and balances, republican forms of government. These institutional arrangements define the tasks of government and of law as limited and instrumental: to monitor, and possibly to mediate, the largely self-regulating processes of competitive private ambition. Governance becomes a more circumscribed, and mechanical problem concerning the useful and effective adjustments within a fundamentally just, if flawed, arrangement. In this system, the tasks of government are not simply narrow but are removed from Politics. In the terms in which the American progressive reformers reinterpreted this ethos in the early part of the twentieth century, good government is a matter of technically proficient administration.

Thus, by attending primarily to the technical means of achieving legitimately established goals or policies, by studying the consequences and effectiveness of state law, sociolegal scholars reproduce the problematic distinction between the ends and means of political life characteristic of liberal social thought. Mainstream scholarship participates in the common political vision of an imperfect but just legal order in which approximate solutions to the larger questions of justice, equity, security and liberty are built into the framework of political institutions and need not be subject to the sort of probing examination which would reduce discourse to unresolvable debate and incommensurate arguments. By thus aligning themselves with the dominant conception of state and law, sociolegal scholars can do their work and imagine that they are speaking to benign, well-intended, and rational decision makers who also share fundamental assumptions about justice and legality, the primacy of rights, and the necessity of due process for balancing the interests of individuals and communities. By addressing this audience, scholars can do research and believe that they are doing good.

Sociological inquiry about law is, however, not only fuelled by the liberal distinction between politics and policy but also by Enlightenment views of the relation of reason and knowledge and the further location of both reason and knowledge in the scientific study of nature. The project of such Enlightenment thinkers as Locke and Descartes was to expose the fallacious idealism of Aristotelian metaphysics and epistemology, to substitute a view of knowledge based upon empirical observation and neutral reason. The reasoning person, stripped of sentimentality and prejudice, approached a world accessible to disciplined inquiry. Such inquiry produces valid observations, that is, observations which, when subject to the discipline of method, could be repeated and would produce essentially similar results. Those observations provide the raw material for the mental operations of judgement. Given that such observations and operations could be performed by anyone trained in proper methods of investigation, Enlightenment epistemology promised that men could be freed from the authority of tradition and traditional religion. Thus as Engels (1959: 68) would later write, in the Enlightenment, everything had to 'justify its existence before the judgement seat of reason . . . Reason became the sole measure of everything'.

The Enlightenment's equation of knowledge and reason, and the assimilation of both to the methods of science, was, of course, part of, and associated with, a political revolution.¹ Reason was a political force. As Hobbes put it (1839: Vol. I, 7), 'The end of knowledge is power'. The emergence of and alliance between liberalism and science was itself a challenge to traditional political

élites and modes of knowledge; empirical science provided the means for contesting both aristocratic and ecclesiastical power in the name of democracy and publicly demonstrable truths.

Reason, knowledge and science had to be useful to men in coming to terms with and managing the threats of nature,² and in developing a new political order. For Enlightenment thinkers the errors of political life were largely a result of distortions in man's understanding of himself and his world. Reason, knowledge and science applied to the task of producing a realistic picture of the social world would, it was hoped, produce a political life which would be rational and, as a result, more clearly subject to human adjustment and control.

Thus, from the Enlightenment onwards, political authority systematically shifted its claim to legitimacy from tradition, emotion and religion to increasingly rational and professional sources. By chasing away the Gods, as Weber claimed, the Enlightenment equation of reason and science seemed to make calculable and predictable what in earlier ages had seemed governed by chance. In a rather direct way, contemporary sociolegal scholars share the inheritance of the Enlightenment faith in the ability of science to further progress and human perfectability. Their authority rests upon specialized knowledge and skill which is not depleted or impaired when it is applied in the service of policy goals, but is rather enhanced by the deference reflected when expert advice is followed.

The address to power and the claim of authority, joining with the denial of politics, encourages the use of science as a source of legitimation (Lasch, 1977; Chomsky, 1967), and helps silence both political and moral challenges as well as voices which do not share its assumptions or speak its language. The prestige and organization of professional knowledge carries the risk that 'expertise is more and more in danger of being used as a mask for privilege and power rather than, as it claims, as a mode of enhancing the public interest' (Freidson, 1972: 337). The desire to be useful and speak authoritatively on public policies not only limits the kinds of arguments and perspectives that researchers offer, and the kinds of knowledge that are sanctioned, but it also fosters naïve and uncritical conceptions of progress and effectiveness.

Noting the emergence of scientific authority generally in political life does not mean, however, that state officials have been, or are, especially eager for, or attentive to, the results of social scientific studies of law. Those officials are, in one view, more interested in results than method, and are impatient with the tentative or cautious conclusions of much social science. In this view, policy makers eager

for clarity, or at least certainty, about the consequences of particular courses of action care less about science than about the capacity of social scientists to recommend solutions for immediate problems. This understanding has much to commend it, and it certainly helps to illuminate the dilemmas faced by those who seek legal reform and address a policy audience.

Focusing on the impatience of policy makers with scientific method and nuance offers, however, too narrow an understanding of the relation of knowledge and politics. While policy makers may articulate their demands and discomforts in utilitarian and instrumental terms, state officials seek to use social science to legitimate, not merely to direct, policy choices. Reason is turned into a justification for, rather than a guide to, action. This turns the Enlightenment project on its head. The mere association of policy choice and scientific inquiry is politically useful in suggesting that those choices are deliberate, rational and guided by reasonable predictions of consequences as well as concerns for the public interest.

The ties of the sociology of law to state law, its complicity in advancing a distinction between politics and policy, and its legitimation of legal policy through the language of science, can be seen clearly in the work of the American legal realists and in the rhetoric and aspirations of much of the contemporary Law and Society movement in the United States. Both have tried to use social science scholarship on law to help produce more effective legal policy. Both have embraced, endorsed and advanced the reform aspirations of state law, and have portrayed state law as a valuable tool of social change and human liberation.

American legal realism, by no means a unified or singular intellectual movement, emerged as part of the progressive response to the collapse of the nineteenth-century *laissez-faire* political economy. By attacking the classical conception of law with its assumptions about the independent and objective movement from pre-existing rights to decisions in specific cases (Cohen, 1935; Llewellyn, 1931 and 1960), realists opened the way for a vision of law as policy, a vision in which law could and should be guided by pragmatic and/or utilitarian considerations (Llewellyn, 1940). By exposing the difference between law on the books and law in action realists established the need to approach law making and adjudication strategically with an eye towards difficulties in implementation.

Realists saw the start of the twentieth century as a period of knowledge explosion and knowledge transformation (Reisman, 1941). Some saw in both the natural and the emerging social

sciences the triumph of rationality over tradition, inquiry over faith, and the human mind over its environment (McDougal, 1941). Some realists argued that the law's rationality and efficacy were ultimately dependent upon an alliance with science (see Schlegel, 1980). By using the questions and methods of science to assess the consequences of legal decisions, realists claimed that an understanding of what law *could* do would help in establishing what law *should* do (Llewellyn, 1931).

Social science could aid decision making by distinguishing empirical inquiry from normative debate and by thus providing the technical mastery necessary for effective legal regulation. By identifying the factors that limited the choices available to officials and, more importantly, by identifying the determinants of responses to those decisions, social scientists could help informed decision makers to adopt decisions on the basis of what was or was not possible in a given situation (Lasswell and McDougal, 1943). Rather than challenge basic norms or attempt to revise the legal structure, this brand of realism ultimately worked to increase confidence in state law and to foster the belief that legal thinking informed by social knowledge could be enlisted to aid the pressing project of state intervention. For social science, the unmasking of legal formalism and the opening of legal institutions to empirical inquiry offered, at one and the same time, fertile ground for research and the opportunity to be part of a fundamental remaking of legal thought. The possibility of influencing legal decisions and policies may have also suggested grounds for establishing social science's relevance and legitimacy.

The emergence of the modern Law and Society movement began with this legacy: it developed in partial reaction to the political retrenchment of the 1950s and in partial support of the political reformism of the sixties. Its emergence coincides with one of those recurrent episodes in American legal history in which law is regarded as a beneficial tool for social improvement, in which social problems appear susceptible to legal solutions, and in which there is, or appears to be, a rather unproblematic relationship between legal justice and social justice (Trubek and Galanter, 1974). By the mid-1960s liberal reformers seemed once again to be winning the battle to rebuild a troubled democracy; the political forces working, albeit modestly, to expand rights and redistribute wealth and power were in ascendancy. The national government was devoting itself to the use of State power and legal reform for the purpose of building a 'Great Society'. The courts, especially the Supreme Court, were out front in expanding the definition and reach of legal rights. Because law was seen as an important vehicle for social change, those legal

scholars who were critical of existing social practices believed they had an ally in the legal order. Pragmatic social change was an explicit agenda of the state and an equally explicit part of the agenda of law and society research. Legality seemed a cure rather than a disease (Scheingold, 1974); the aspirations and purposes of law seemed unquestionably correct.

Thus, the modern law and society movement, like the realist movement before it, grew up in, and allied itself with, a period of optimism about state law. The period was one in which, 'the welfare regulatory state program of liberal capitalism was once again in the ascendancy' and in which,

liberal legal scholars and their social science allies could identify with national administrations which seemed to be carrying out progressive welfare-regulatory programs, expanding protection for basic constitutional rights and employing law for a wide range of goals that were widely shared in the liberal community and could even be read as inscribed in the legal tradition itself. (Trubek and Esser, 1987: 23)

This period was, of course, also a period of extraordinary optimism in the social sciences, a period of triumph for the behavioural revolution, a period of growing sophistication in the application of quantitative methods in social inquiry.

In American legal realism and the Law and Society movement research on law is empirical, that is, it is based on the assumptions of normal science, and focused on the state. Both of these movements use knowledge to serve power,³ to legitimate and rationalize state law. Both imply, although they don't argue, that the production of knowledge can be objective and value free and that law can and should be responsive to objective knowledge. State law is portrayed as struggling for effectiveness; state law is, nonetheless, portrayed as a central apparatus of control. By linking a scientific methodology with a preoccupation with state law the modern sociology of law legitimates law even as it misdescribes or neglects to locate law in the network of power which constitutes social life.

Beyond normal science

To the extent that sociologists of law continue to seek influence over state policy they are likely to be encouraged to adhere to a posture of 'deliberate detachment' (Friedman, 1986: 780). This is not to say that state officials are the only force encouraging sociologists of law to adhere to, or to adopt, the posture and canons of normal science; there are certainly others. Nonetheless, the policy audience offers a powerful invitation to sociologists of law to characterize their

empirical work in the language of science (see Dror, 1975). That audience encourages sociologists of law to operate as if social behaviour could be understood in terms of a tangible and determinate world of facts (see White and Reim, 1977; see also Rich, 1977), to treat data as if they were an undistorted window on the social world, to treat the ambiguity of what we observe in an unambiguous way. Sociologists of law are invited to act as if there is a clear congruence between our representations of things and things themselves, and to accept the model of value-free, detached, objective inquiry in which empirical research seeks generally valid propositional knowledge about 'reality'. This attitude towards scholarship and presentation of research is one of the prices of attempting to speak convincingly to the powerful.

There are, we think, at least two related ways in which policy makers encourage or support those attitudes and tendencies. First, state officials seek and/or demand authoritativeness in the inquiries they commission, support or attend to (Lindblom and Cohen, 1979). As the reach of the regulatory state expands, and more public regulation is made at farther remove from democratic processes, policy makers seek and require new forms of authority and legitimation. Neither electoral mandates, nor public stature is sufficient to underwrite the expanding universe of contemporary public policy. The claim of scientific expertise seems, however, to offer a particularly useful form of legitimacy for the modern state.

It is rarely satisfactory for the purposes of the policy audience, however, to be told that research is partial, expresses the values of the researchers or that it is itself a relatively self-contained representational system. If sociolegal research is to be influential it must claim to have something that policy makers do not themselves have, that is, it must claim to have something which is different, and presumably better, than the ordinary understandings that policy makers themselves routinely acquire (Lindblom and Cohen, 1979: 22). Opinions are ubiquitous but knowledge is rare; state officials want knowledge, that is, advice that has a greater probability of predicting accurately the outcomes of alternative courses of action. Some of the realists understood, however, that social science could be a valuable tool for policy makers by providing its own kind of quality control and its own set of assurances about the truth value of its research products. Science then and now purports to be able to guarantee the reliability and validity of research results, to assure that research results can be replicated, and are therefore not the idiosyncratic product of a particular investigation. It provides both an assurance of quality and a hope that an objective realm of

knowable conditions can be managed, or coped with, if not altered and changed.

Secondly, state officials require not only legitimation but also demand what Herbert Gans described as 'programmatically rationality'. Policy makers attempt 'to achieve substantive goals through instrumental action . . . that can be proven, logically or empirically, to achieve those goals' (1975: 4; compare Bok, 1983). State officials look to social research, not simply to supply justification through better or more reliable information but, in particular, to supply technical advice in the form of precise, conditional propositions about the relationships between specific social and legal variables. Only when scholars produce seemingly reliable estimates of the probable relations between means to ends – the elements of technical rationality – can scientific authority satisfy the demand for an allegedly apolitical justification for political choice.

While there is much sociolegal work that works hard to distance itself from the assumptions of normal science either in the choice of so-called soft methods or in its focus on particular cases (see, for example, Engel, 1980 and Yngvesson, 1985), the influence of science is not simply a choice of hard over soft or extensiveness over intensiveness. It is seen as much in attitudes towards data as it is in the choice of data itself. It is seen as much in the removal of the observer and the process of observation from the analysis of the things observed as in the choice of quantitative over qualitative methods, as much in a refusal to be as explicit about political commitments as in the choice of research methods.

The normal-science strategy of exempting the observer from the process of observation, writing as if the social scientist was exempt from, or outside, the social processes he describes and denying the politics of academic activity is, however, challenged by recent work in philosophy, epistemology and social theory which offers alternative accounts of what constitutes knowledge of the social world and its relationship to social power (Foucault, 1972; Unger, 1975; Derrida, 1978; Rorty, 1979, 1982; see Rajchman and West, 1985). This work challenges the premises of the Enlightenment, and the liberal alliance between scholarship and political power which appropriates and uses science in the name of an unquestioned pursuit of progress (Spragens, 1981). It builds upon traditions of philosophical scepticism in denying that any known mental activity is able to have unmediated access to a world of facts. What we call fact, it is argued, does not exist outside, or prior to, the categories of thought we construct to guide and make possible our inquiries. This argument puts the observer, and the process of observation,

directly within the thing observed and collapses the distinction between subject and object.

Much contemporary philosophy has abandoned the traditional quest for congruence between appearance and reality. Instead some philosophers are now concerned with 'the quotidian, with the *Lebenswelt*', what Husserl called the life-world, or lived world, and with a 'philosophy free of the search for a "true world"' (Putnam, 1985: 29). Because, as Rorty writes, 'the notion of "logical analysis" turned upon itself and committed slow suicide' (1982: 227), contemporary philosophy is characteristically pluralistic, conventionalist, and historicist, as well as antireductionist. While there are differences of view within the philosophical community about how far to depart from the search for a 'sub-basement of conceptualization, or language' (Quine, 1960: 3), nonetheless, there seems to be a general consensus challenging the paradigm of normal science and the claims of positivism in sociolegal studies to be able to identify, through rigorous scientific methods, determinate responses to legal interventions. Moreover, this challenge suggests that the search for the kind of objectivity and clarity demanded by state officials may be ultimately self-deceptive. This challenge requires, or invites, sociologists of law to implicate themselves in their analyses and their scholarship. It requires, or invites, an effort to overcome the subject/object distinction and to consider the way sociolegal research constitutes its subject of study. Paying attention to these challenges threatens the alliance between the sociology of law and policy élites in the liberal state. It means returning to, and exploring the implications for empirical practices of, those deconstructivist strands in legal realism which have, to this point, played a small role in sociolegal studies (see Silbey and Sarat, 1987; Trubek, 1984).

Beyond state legality

The concentration of sociolegal research on state legality works to both overestimate and underestimate the importance and efficacy of state law. It overestimates by suggesting that state law is a, if not the, central mechanism of social control and social order. It does so by conceiving of the modern subject as a juridical subject, a possessor of legal rights and interests. Yet, at the same time that the sociology of law suggests that state law is central it implies that state law is not dangerous. The sociology of law concentrates on areas of state law where implementation and impact are most problematic (see Feeley, 1983; Robertson and Teitelbaum, 1973; Loftin et al., 1983; Lefstein et al., 1969; Casper and Brereton, 1984; Ross, 1973; Skolnick, 1966; Zeisel, 1982), on decisions or situations, where law

is least likely to be effective. It produces pictures of a legal system struggling to retain what seems like a tenuous grasp on the social order (Abel, 1980; Sarat, 1985), and portray legal officials as vainly struggling against great odds to do law's bidding.

State law is by no means as weak as this picture would present it. Law in the realms in which it operates plays an important part in the reproduction and maintenance of social relations, yet as Foucault has shown, juridical power is only one among many sources of power in contemporary society. Power is decentralized; power has escaped the state. Thus the sociology of law, if it is not to mystify the nature of power in modern society, must itself cut free from its almost exclusive focus on state power. Attention needs to be paid to social processes themselves to identify the ways in which law in its daily life constitutes social relations, and conversely, the ways in which ordinary social processes, and the various forms of power there, help constitute law. We need to study the vast interstices of state law in which ordinary social processes and law are mutually constitutive.

Instead of studying the problematic enforcement of law, we might study the practices which make law unproblematic in social life, the normalcy of law which helps constitute ordinary daily life. For example, one might study the conventional and non-professional aspects of law that exist in many untroubled, non-conflicting social transactions. We might study the behaviours which lay behind the screen of legislation and decision but actually govern social relations, although only periodically become enacted in formal rules (compare Ehrlich, 1936). These norms define the taken-for-granted world of legal practices and legitimacy, and illustrate the power of law, rather than its inefficacy. Because legal forms are constitutive of the very forms which social relations and practices take, they are so embedded in the ways in which individuals act that they are virtually invisible to those involved. It is this invisibility, this taken-for-grantedness that makes legality and legal forms powerful.

From this perspective, one might study the ways in which law is routinely mobilized in constructing images of 'acceptable' human behaviour and 'normal' social relations. For example, Sarat and Felstiner (1986, 1988) have studied negotiations between lawyers and clients during the process of divorce. Through these discussions, lawyers and clients work out the means of dissolving a marriage. In the process, clients are instructed about how the legal system works and why it does not work in ways the client desires and expects. The discussions about how the legal system works, what strategies can be more or less successfully pursued, how to negotiate or whether to settle, are also a negotiation about who the

client is, what kind of self is legally relevant, and what kind of person succeeds or fails in particular kinds of social transactions. What is at stake in these discussions is more than the dissolution of a marriage, the division of property, and the custody of children. The conversations involve a legitimation of some parts of human experience and personality and a denial of the relevance of others; they privilege financial considerations and denigrate emotional, normative and symbolic aspects of relationships. Rather than being ineffectual, here the law is powerful. It becomes a means by which those undergoing divorce are instructed about what it means to be a successful and effectual person.

In another study, Silbey (1987) observed the ways in which young adolescents begin to articulate their understandings of themselves as juridical subjects, and the social world as legally constituted. Again, in contrast to research which focuses upon state law, and persistently describes the ineffectiveness of law to change and control behaviour, Silbey describes the power of law to constitute social identity. She describes the ways in which 13-year-old students in a relatively affluent suburb use the American Constitution to support their belief that all forms of social deviance, other than specifically criminal actions, are permissible and ought to be protected by law; they assert their desire to be different by claiming a legal and constitutional right which, they say, authorizes resistance to convention, and by implication resistance to adult norms. These adolescents mobilize their conceptions of law, and law's authority, in their struggle to forge independent personal identities. The children's conception of the rights they claim bears little resemblance to the constitutional doctrine they study; it collapses the delicate distinctions among religious affiliation, sexual preference, and political belief which mark professional constitutional discourse. Nonetheless, the children find support for the difficult experiential and emotional voyage towards adulthood by asserting a universal juridical personhood protected by their conceptions of the American constitution. For these children, law is empowering.

Of course, there is a danger here that the effort to trace the powers of law in places outside the state will simply produce a new alliance, this time an alliance between the sociology of law and the surveilling, normalizing agencies of the psy-complex (Smart, 1987). Yet a sociology of law liberated from the state might through its identification of alternative legalities serve to legitimate such alternatives and, in so doing, ally itself with the multiple centres of resistance engendered by the multiple loci of power in modern society.

A sociology of law dominated by state law, however, ignores or

misstates the role and importance of alternative legalities or legal pluralism (Griffiths, 1981). Where gaps are identified between the substance of state law and the governing pattern of social behaviour, they are, in one view, assumed to be normatively empty, indicative of nothing but technical problems in the clarity or communication of legal rules (see Wasby, 1970; Casper and Brereton, 1984; Pressman and Wildavsky, 1973; Heumann and Loftin, 1979). Another view recognizes that such gaps are often indicative of the existence of norms at variance with state legality. Some seek to legitimate such normative life (see Macaulay, 1963 and Moore, 1973), while others associate themselves more fully with the normative agenda of the state and lend sociological expertise to the task of overcoming that resistance (Blumberg, 1967; Wald, 1967; Muir, 1973; Dolbeare and Hammond, 1970).

For some sociologists of law, however, legal pluralism is more than a source of idiosyncratic evasion; instead, it is a potential source of political resistance to the hegemonic project of state legality. Deploying the concept of legal pluralism in its classical sense, under colonial conditions, these scholars recognize and valorize the indigenous cultures and normative orders of colonized peoples (e.g. Malinowski, 1926; Kuper and Smith, 1969; Hooker, 1975; Chanock, 1985; Comoroff, 1985). For them, legal pluralism suggests a way of acknowledging the particular character and important role of law in stateless societies. Here, legal pluralism challenges ethnocentric perspectives that define law in terms of the complex, segmented and institutionalized legal systems of modern Europe, and which while celebrating themselves also denigrate tribal, local or communal normative ordering as non-law. This Eurocentric vision had been used to legitimate the imposition of colonial law upon peoples for whom any law could be viewed in this way as a gift. The concept of legal pluralism deployed in this classical sense seems to sensitize observers to the varieties of forms of legal ordering and the varieties of forms of law. At the same time, it also sensitizes observers to the domination and subordination attached to the gift of European law.

Merry (1988) describes a more general and contemporary use of legal pluralism which refers to situations of diverse normative ordering and the interconnectedness of social orders. Here, researchers move away from colonial empires, describing plural legal orders within state systems. Legal pluralism is used to refer to ethnic separatism, or situations where groups within the same polity are bound, or claim to be bound, by different laws, or situations where different groups are affected differently by the same laws. Legal pluralism in this usage emphasizes the interaction of state and

non-state normative orders, describing the ways in which 'state law penetrates and restructures other normative orders through symbols and through direct coercion and, at the same time, the way non-state normative orders resist and circumvent penetration' (Merry, 1988: 16). Thus Stuart Henry (1983) describes the way in which cooperatives compete and battle with state law in Britain; and Robert Cover (1983) analyses cases of religious objection to federal regulation of school systems, and colleges as situations of competing legal orders.

In these latter uses, legal pluralism denotes not only the intersection of colonial and customary law, but also the interaction of diverse, competing and resistant normative orders. As in the colonial context, the effort seems to challenge the notion of dominant or state law as the only law, to challenge the state's monopoly of justice claims and, at the same time, to dissociate justice claims and normative discourse from the coercion and violence of the state. An attention to legal pluralism seems to valorize law at the margins while highlighting the role of law in domination by accentuating the resistance organized at the periphery.

As Peter Fitzpatrick states,

Legal pluralism, in sustaining the idea of a persistent plurality of legal orders has proved an enduring . . . affront to unitary state-centered theories of law. Yet its own relation to the state, and to state law, has been distinctively ambivalent. Some of its adherents attribute no special pre-eminence to the state or even see it as subordinate to other forms. . . . Other adherents prematurely reduce or subordinate plurality to some putative totality, usually the state or state law. I want to argue that both these stands are 'right' . . . state law does take identity in deriving support from other social forms . . . but in the constitution and maintenance of its identity, state law stands in opposition to and in asserted domination over social forms that support it. What is involved overall is a contradictory process of mutual support and opposition. (1984: 2)

The hegemonic reach of state legality, while it frames all social relations, does not constitute their totality. The paradox of liberalism is that its ideology limits its own hegemonic project and thus gives some deference to those places and spaces in the vast interstices of social and legal life where competing normative orders may generate or encourage resistance to state legality (Fitzpatrick, 1984, 1986).

While both law and norms work to produce order, to relegate relations and practices to the realm of the taken for granted, neither

is, nor can be, completely successful. Indeed the way dominant power and policy élites work in a liberal state, through the legitimating forms of law, provides points of resistance and opposition (Thompson, 1975; Hay et al., 1975). Moreover, even in conceptions of power which seek to trace its operations beyond the boundaries of the state resistance is arguably always present. As Foucault (1978: 95-6) puts it, 'where there is power there is resistance . . . power relationships . . . depend on a multiplicity of points of resistance. These play the role of adversary, target, support or handle . . .'. Although contained within power, resistances are 'inscribed . . . as an irreducible opposite' (Foucault, 1978: 96). The 'tool kit' of habits, skills, cultures and roles from which people construct patterns of action provides room for challenge and opposition even as it imposes constraints (Swidler, 1986).

Recent work by Kristin Bumiller (1987) exemplifies the way sociologists of law can give voice and credibility to those who question, in a fundamental way, state legality and existing practices and institutions. She provides an example of how it is possible to talk about state legality without adopting the perspective of state officials. Bumiller studied persons who reported that they had suffered some form of insidious discrimination based on age, sex, or race. She reports that they refuse to turn to law in order to avoid the tendency of legal processes to individualize grievances and to require them to speak through a professional, a lawyer. She argues that these tendencies and requisites rob victims of a sense of being in control of their own lives and isolate them from their communities and cultures at a time when they are most in need of support. Her respondents resist a double victimization: first in becoming 'an object' of discrimination and, secondly, in becoming 'a case' in law.

Bumiller argues that the source of this double victimization is deeply embedded in the values and assumptions of liberal legalism. She seeks to call into question the idea of legal intervention itself rather than to recommend one or another particular instance of such intervention. She calls upon her readers to identify with the victims rather than the powerful and to imagine new ways of organizing social life to avoid discrimination and new responses to it. But, most of all, she makes sense of the refusal of victims to give in and to take what the law makes available. She finds in their narratives a powerful, alternative vision of persons and society. In so doing, she questions the capacity of liberal legalism to do much more than inflict further damage upon persons already victimized.

In another study, Carol Greenhouse (1986) describes the resist-

ance to law by an entire community. Greenhouse studied a community of Southern Baptists and showed how their religious beliefs provide a basis for ideas about how conflict or potential conflicts should be overcome or avoided entirely. For the Baptists of Hopewell, Georgia, a white, moderately affluent, newly suburban town, conflict, or its absence, is an indicator of conformity to a Christian life. Ideas about conflict and Christianity are intimately connected with ideas about justice and law. Hopewell's Baptists avoid conflict; they also avoid the law. They do so because to invoke the law, to litigate, to seek the law's dispute-resolving, remedial, or retributive mechanisms necessarily requires invocation of, and by implication deference to, its authority. But such authority is exactly what this community seeks to avoid. 'The people in Hopewell', Greenhouse writes, 'do not consider order to be a matter of complying with rules, nor do they consider that human intervention can accomplish any constructive purpose' (1986: 25). Instead, they believe that social order rests upon a vital individualism that denies any forms of human authority, which is considered inappropriate and illegitimate. Social order depends upon voluntary acts of association and cooperation which challenge and cancel efforts to be unequal. Harmony and equality, the antitheses of conflict and authority, mark the ideal society for Hopewell Baptists. Quarrels, conflict, and resort to authority are sinful, evidence of a fall from grace. Thus while the state is not unimportant in the life of this community, it is anathema to its moral life.

Greenhouse provides a rich description of a community which not only resists the law, and not only imagines another way of living, but demonstrates in its daily life the terms of an alternative social order without the authority of state law as the foundation for that order. It is a community in which 'the cultural conception of order does not consist first or only of rules but . . . of social classifications understood in normative terms'. 'The norms', which form the basis of social order, 'are not commands, or requirements, but explanations and justifications' (Greenhouse, 1986: 25; see also 1982). Hopewell Baptists do not comply or fail to comply with normative rules, as law would suggest; rather they mobilize moral discourses, and embody those discourses in their social roles and conventions. Thus, elite status in the community is marked by the ability to avoid or resolve conflict, 'to stand outside competition, and to symbolize the common desire for communal harmony' (Bailey, 1971: 21; quoted in Greenhouse, 1986: 26). Greenhouse, like Bumiller, illustrates the way sociologists of law can help to notice social practices which question in important ways the naturalness or necessity of state law and its institutions.

Conclusion

Some might ask, what would empirical scholarship on law look like if it resisted scientific attitudes and went beyond state law? We have noted, first and foremost, that we think that sociolegal research would be enriched by more critical attitudes toward one's own data and greater consciousness about the process of constructing accounts of the narratives which constitute and comprise our experience of social relations. This is an argument for greater 'self-consciousness about values and contested social visions' (Trubek, 1986: 33). This means being willing to articulate and examine one's own values as part of one's research activities. Perhaps more importantly it means social research which seeks not only to identify and examine rival hypotheses and multiple narratives, but also attempts to keep multiplicity alive, rather than to test and reject – to silence – all but one interpretation and then to present it as *the* interpretation.

Scientism invites arrogance in interpretation (if not in policy recommendations) in which the observer allegedly stands outside the systems of meanings presented. We seek to implicate the observer. This means an even more complicated, subtle investigation of the malleability of fact and control of information in which observers are engaged in, or victimized by, the processes they observe. It means that one displaces the aspiration for truth and for an epistemological conquest of the social world with an aspiration for participation, albeit participation at a distance, in the construction of narratives about social life. Finally, it means that the distinction between policy and politics is fundamentally untenable; it is no longer possible to speak to policy élites by claiming the authority of a disinterested science. One cannot speak apolitically about politics.

Secondly, we have noted that sociolegal research needs to explore legality beyond the state, to notice the ways in which control and authority are constructed in a multiplicity of social relations. The focus upon state law assumes and participates in a conception of the social order as a closed system, which imputes to existing social practices a spurious inevitability. Opening the space of law to a terrain not fully colonized by the state not only provides a more subtle and elaborate picture of legality and its connections to power, but it also suggests the possibilities of more varied and abundant locations of resistance. If, as Foucault suggests, there is no central institutional location of social power, if power 'comes from below' through acquiescence in its exercise and through the multiplicity of force relations, then there are no closed systems, no inevitable

necessities except as are created through that acquiescence. Each act of consent is potentially an act of resistance, reformation or liberation. Sociolegal research needs to look beyond state law for the ways in which law manufactures consent and generates resistance.

The break from scientism will enable and legitimate research which is intensive and self-conscious, which sees things in their singularity rather than assimilating them to general categories. This turn to the particular will celebrate the varying forms of law instead of regarding variety as itself antithetical to the commitments of the rule of law. A social research which uses multiple lenses will itself more likely observe a more richly textured legality, the spaces as well as the thread, and more likely imagine an alternative legal fabric.

If we take as our subject the constitutive effect of law and the oppositions nurtured by legal pluralism, we cannot be content with literary theory applied to legal doctrine. We must instead study families, schools, workplaces and social movements to present a broad picture in which law may seem at first glance virtually invisible. We will find in these efforts instances which both confirm and contradict the dominant political and legal discourse; we will also find instances which will require us to re-imagine that discourse in a different way. We would then understand law not as something removed from social life, occasionally operating upon social forms, struggling to regulate and shape them, but as inseparable from, and fused with, all social relations and social practices.

To avoid overestimating the effectiveness and stability of legal forms, as we have heretofore overstated the ineffectiveness of law, it is necessary to look neither solely at the efforts at legal instrumentality and change, nor solely at the hegemonic realm of conformity, but at the ways in which issues, people, problems move from one domain to the other. With renewed attention to the role of intellectual resources, the stock of established expertise and symbols (Block and Burns, 1986; Swidler, 1986) available not only to agents of the state but to citizens as well, we can observe and participate in struggles to break from the hegemonic realm and to precipitate fundamental legal change.

Notes

Research for this chapter was supported, in part, by the Overacker Fund of Wellesley College.

1 As Kant (1949: 132) put it, 'Enlightenment is man's exodus from his self-incurred tutelage. Tutelage is the inability to use one's understanding without the

guidance of another person. This tutelage is self-incurred if its cause lies not in any weakness of understanding, but in indecision and lack of courage to use the mind without the guidance of another. Dare to know.'

2 Descartes (1958: 130–1), often thought to be an exponent of abstract, pure reason, saw the Enlightenment as making possible 'A practical philosophy, by means of which, knowing the force and the action of fire, water, of the stars, of the heavens . . . we may . . . employ them in all the uses for which they are suited, thus rendering ourselves the masters and possessors of nature.'

3 Not everyone who does sociological research seeks as an audience those who make or administer the law; there are several prominent examples and arguments to the contrary. (See Black, 1976; Friedman, 1986.)

References

- Abel, Richard (1980) 'Redirecting Social Studies of Law', *Law and Society Review*, 14: 805.
- Bailey, F.G. (1971) *Gifts and Poison: The Politics of Reputation*. Oxford: Basil Blackwell.
- Black, Donald (1976) *The Behavior of Law*. New York: Academic Press.
- Block, F. and Burns, G.A. (1986) 'Productivity as a Social Problem', *American Sociological Review*, 51: 767.
- Blumberg, Abraham (1967) 'The Practice of Law as a Confidence Game', *Law and Society Review*, 1: 15.
- Bok, Derek (1983) 'A Flawed System', *Harvard Magazine*, 38.
- Bumiller, Kristin (1987) 'Victims in the Shadow of the Law', *Signs*, 12: 421.
- Casper, Jonathan and Brereton, David (1984) 'Evaluating Criminal Justice Reforms', *Law and Society Review*, 18: 121.
- Chanock, Martin (1985) *Law, Custom and Social Order: The Colonial Experience in Malawi and Zambia*. Cambridge: Cambridge University Press.
- Chomsky, Noam (1967) *American Power and the New Mandarins*. New York: Pantheon Books.
- Cohen, Felix (1935) 'Transcendental Nonsense and the Functional Approach', *Columbia Law Review*, 34: 809.
- Comoroff, Jean (1985) *Body of Power: Spirit of Resistance: Culture and History of a South African People*. Chicago: University of Chicago Press.
- Cover, Robert (1983) 'The Supreme Court 1982 Term. Foreword: Nomos and Narrative', *Harvard Law Review*, 97: 4.
- Derrida, Jacques (1978) 'Structure, Sign and Play in the Discourse of the Human Sciences', in *Writing and Difference*. Chicago: University of Chicago Press.
- Descartes, Rene (1637, 1958), *Discourse on Method*, in *Philosophical Writings*, ed. and tr. Norman Kemp Smith. New York: Modern Library.
- Dolbear, Kenneth and Hammond, Philip (1970) *The School Prayer Decisions*. Chicago: University of Chicago Press.
- Dror, Yehezkel (1975) 'Applied Social Science and Systems Analysis', in Irving Louis Horowitz (ed.), *The Use and Abuse of Social Science*, 2nd ed. New Brunswick: Transaction Books.
- Ehrlich, Eugen (1936) *Fundamental Principles of the Sociology of Law*. Cambridge, MA: Harvard University Press.
- Engel, David (1980) 'Legal Pluralism in an American Community', *American Bar Foundation Research Journal*, 1980: 425.

- Engels, Friedrich (1959), 'Socialism: Utopian and Scientific', in *Marx and Engels*, ed. Lewis Feuer. Garden City: Doubleday.
- Feeley, Malcolm (1983) *Court Reform on Trial*. New York: Basic Books.
- Fitzpatrick, Peter (1984) 'Law and Societies', *Osgoode Hall Law Journal*, 22: 115.
- Fitzpatrick, Peter (1986) 'Law, Power and Resistance', unpublished manuscript.
- Foucault, Michel (1972) *The Archeology of Knowledge*. New York: Pantheon Books.
- Foucault, Michel (1978) *The History of Sexuality*, Vol I. New York: Random House.
- Foucault, Michel (1980) *Power/Knowledge*. New York: Pantheon Books.
- Freidson, Elliott (1972) *Profession of Medicine*. New York: Dodd, Mead.
- Friedman, Lawrence (1986) 'The Law and Society Movement', *Stanford Law Review*, 38: 763.
- Gans, Herbert (1975) 'Social Science For Social Policy' in Irving Louis Horowitz (ed.), *The Use and Abuse of Social Science*, 2nd edn. New Brunswick: Transaction Books.
- Greenhouse, Carol (1982) 'Looking at Culture, Looking for Rules', *Man*, 17: 58.
- Greenhouse, Carol (1986) *Praying For Justice*. Ithaca: Cornell University Press.
- Griffiths, John (1981) 'What is Legal Pluralism?', unpublished manuscript.
- Hay, Douglas, Linebaugh, Peter, Rule, John, Thompson, E.P. and Winslow, Carl (1975) *Albion's Fatal Tree*. Harmondsworth: Penguin.
- Henry, Stuart (1983) *Private Justice*. London: Routledge and Kegan Paul.
- Heumann, Milton and Loftin, Colin (1979) 'Mandatory Sentencing and the Abolition of Plea Bargaining', *Law and Society Review*, 13: 393.
- Hobbes, Thomas (1839) *English Works*, ed. William Molesworth. London: John Brown.
- Hooker, M.B. (1975) *Legal Pluralism: An Introduction to Colonial and Neo-Colonial Laws*. Oxford: Clarendon Press.
- Kant, Immanuel (1949) 'What is Enlightenment', in *The Philosophy of Kant*, ed. and tr. Carl Friedrich. New York: Random House.
- Kuper, Leo and Smith, M.G. (1969) *Pluralism in Africa*. Berkeley: University of California Press.
- Lasch, Christopher (1977) *Haven in a Heartless World*. New York: Basic Books.
- Lasswell, Harold and McDougal, Myres (1943) 'Legal Education and Public Policy', *Yale Law Journal*, 52: 203.
- Lefstein, Norman, Stapleton, Vaughn and Teitelbaum, Lee (1969) 'In Search of Juvenile Justice', *Law and Society Review*, 3: 491.
- Lindblom, Charles and Cohen, David (1979) *Usable Knowledge*. New Haven: Yale University Press.
- Llewellyn, Karl (1930), 'A Realistic Jurisprudence – The Next Step', *Columbia Law Review*, 30: 432.
- Llewellyn, Karl (1931), 'Some Realism about Realism', *Harvard Law Review*, 44: 1222.
- Llewellyn, Karl (1940) 'On Reading and Using the Newer Jurisprudence', *Columbia Law Review*, 40: 581.
- Llewellyn, Karl (1960) *The Common Law Tradition – Deciding Appeals*. Boston: Little, Brown & Co.
- Llewellyn, Karl (1962) *Jurisprudence: Realism in Theory and Practice*. Chicago: University of Chicago Press.
- Locke, John (1890) *Essay concerning Human Understanding*. London.

- Loftin, Colin, Heumann, Milton and McDowell, David (1983) 'Mandatory Sentencing of Firearms Violence', *Law and Society Review*, 17: 287.
- Macaulay, Stewart (1963) 'Non-contractual Relations in Business', *American Sociological Review*, 28: 55.
- Malinowski, Bronislaw (1926) *Crime and Custom in a Savage Society*. Patterson, NJ: Littlefield Adams.
- McDougal, Myres (1941) 'Fuller v. The American Legal Realists', *Yale Law Journal*, 50: 827.
- Merry, Sally (1988) 'Legal Pluralism: A Review Essay', *Law and Society Review*, 22: 689.
- Moore, Sally Falk (1973) 'Law and Social Change: The Semi-autonomous Field as an Appropriate Subject of Study', *Law and Society Review*, 7: 719.
- Muir, William (1973) *Law and Attitude Change*. Chicago: University of Chicago Press.
- Pressman, Jeffrey and Wildavsky, Aaron (1973) *Implementation*. Berkeley: University of California Press.
- Putnam, Hilary (1985) *Realism and Reason*. New York: Cambridge University Press.
- Quine, W.V.O. (1960) *Word and Object*. Cambridge, MA: MIT Press.
- Rajchman, John and West, Cornell (eds) (1985) *Post-analytical Philosophy*. New York: Columbia University Press.
- Reisman, David (1941) 'Law and Social Science', *Yale Law Journal*, 50: 636.
- Rich, Robert (1977) 'Uses of Social Science Information by Federal Bureaucrats', in Carol Weiss (ed.), *Using Social Research for Policy Making*. Lexington: D.C. Heath.
- Robertson, John and Teitelbaum, Paul (1973) 'Optimizing Legal Impact', *Wisconsin Law Review*, 1973: 665.
- Rorty, Richard (1979) *Philosophy and the Mirror of Nature*. Princeton: Princeton University Press.
- Rorty, Richard (1982) *The Consequences of Pragmatism*. Minneapolis: University of Minnesota Press.
- Ross, H. Laurence (1973), 'Law, Science and Accidents', *Law and Society Review*, 2: 3.
- Sarat, Austin (1985) 'Legal Effectiveness and Social Studies of Law', *Legal Studies Forum*, 9: 23.
- Sarat, Austin and Felstiner, William (1986) 'Law and Strategy in the Divorce Lawyer's Office', *Law and Society Review*, 20: 93.
- Sarat, Austin and Felstiner, William (1988) 'Law and Social Relations: Vocabularies of Motive in Lawyer/Client Interaction', *Law and Society Review*, 22: 737.
- Scheingold, Stuart (1974) *The Politics of Rights*. New Haven: Yale University Press.
- Schlegel, John (1980) 'American Legal Realism and Empirical Social Science-II', *Buffalo Law Review*, 29: 195.
- Silbey, Susan S. (1987) 'Children Studying Law', Paper presented at the 1987 Annual Meeting Law and Society Association, Washington, DC.
- Silbey, Susan S. and Sarat, Austin (1987) 'Critical Traditions in Law and Society Research', *Law and Society Review*, 21: 165.
- Skolnick, Jerome (1966) *Justice without Trial*. New York: John Wiley & Sons.
- Smart, Carol (1987) 'Articulating Law: Family Law and the Exercise of Power'. Unpublished manuscript.
- Spragens, Thomas (1981) *The Irony of Liberal Reason*. Chicago: University of Chicago Press.

- Strauss, Robert (1957) 'Nature and Status of Medical Sociology', *American Sociological Review*, 22: 200.
- Swidler, Ann (1986), 'Culture in Action: Symbols and Strategies', *American Sociological Review*, 51: 273.
- Thompson, E.P. (1975) *Whigs and Hunters*. New York: Pantheon.
- Trubek, David (1984) 'Where the Action is: Critical Legal Studies and Empiricism', *Stanford Law Review*, 36: 575.
- Trubek, David (1986) 'Max Weber's Tragic Modernism and the Study of Law in Society', *Law and Society Review*, 20: 573.
- Trubek, David and Esser, John (1987) "'Critical Empiricism" in American Legal Studies'. Unpublished paper.
- Trubek, David and Galanter, Marc (1974) 'Scholars in Self-estrangement', *Wisconsin Law Review*, 1974: 1062.
- Unger, Roberto (1975) *Knowledge and Politics*. New York: Free Press.
- Wald, Michael (1967) 'Interrogations in New Haven', *Yale Law Journal*, 76: 1519.
- Wasby, Stephen (1970) *The Impact of the United States Supreme Court*. Homewood: Dorsey Press.
- White, Stephen and Reim, Michael (1977) 'Can Research Help Policy?', *The Public Interest*, 134.
- Yngvesson, Barbara (1985) 'Legal Ideology: Community Justice in the Clerk's Office', *Legal Studies Forum*, 9: 71.
- Zeisel, Hans (1982) *The Limits of Law Enforcement*. Chicago: University of Chicago Press.