

EDITED BY

AUSTIN SARAT



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The Blackwell Companion to Law and Society

Edited by

Austin Sarat



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Preface

The invitation to put together a one volume “companion” to a field as diverse as “law and society” was, as one could readily imagine, both exciting and daunting. Taking up this invitation provided a wonderful opportunity to survey the field, and to renew my acquaintance with the range of work being done in it and the wonderful scholars doing that work. Editing this volume was a re-education in itself. But the very range and diversity of scholarship posed a substantial challenge. What to include? What not to include? How to represent the breadth of theories, methods, and perspectives found in the law and society community?

These were formidable challenges. Despite the hard choices, inevitable omissions, and shades of emphasis, I am satisfied that *The Blackwell Companion to Law and Society* does a reasonable job in providing a guide to the field. Indeed the more than 30 essays in this volume may well constitute the best introduction to the field currently available. While working from a common template, all the authors interpreted their directions in their own ways. Readers will recognize a common format while also appreciating the various ways that format has been adapted. Taken together the essays collected here trace the evolution and history of the field, chart the present state of knowledge produced in law and society, and point to fruitful directions for further inquiry.

As surely as it highlights the diversity and fragmentation of the field of law and society scholarship, a compilation of research such as this inevitably tends toward “canonization” of a particular map of knowledge, a particular set of problems, and a particular set of texts. That is unavoidable and, to some extent, beneficial. Canonization helps us recognize what we share. It also provides a fruitful terrain of conflict and contestation. While having one’s work canonized means having the pleasure of seeing one’s name in lights, it carries with it the need to endure slings and arrows slung and shot by those seeking to advance new paradigms or just prove their academic mettle. A canon also might be thought of as a staple of shared knowledge, the things all of us must know if we are to be literate as law and society scholars,

the things we need to read regardless of our particular subfield or research specialization.

While canons are about quality, they are also about work that defines who we are by identifying common concerns, concerns that go to the heart of problems and issues that recur in many, if not all, of the subfields that comprise law and society scholarship. Canons make demands on us as readers, requiring us to read beyond the limits of our most narrowly defined expertise, requiring us to remain familiar with theories and methods beyond those with which we are most comfortable.

As an advocate for disciplinization (a truly ugly word), I am drawn to Jack Balkin and Sanford Levinson's claim that "Every discipline, because it is a discipline, has a canon, a set of standard texts, approaches, problems, examples, or stories that its members repeatedly employ or invoke, and which help define the discipline as a discipline. If the study of law," they say, "is a discipline, it too must have its canons and its own sense of the canonical" (see ch. 3, p.31). For me a discipline is less a set of shared methods or theories (by that definition there would indeed be very few disciplines) than a set of shared conversations, or shared communities of readers. For each of us the canon establishes the minimum grammar with which we must be familiar if we are to talk law and society and to have our talk recognized by others. In this sense the canon provides one of the sets of horizontal linkages that define a discipline, setting off one set of intellectual inquiries from another. While the boundaries of the canon, like the boundaries of a grammar, are shifting, fluid, and contested, without a canon there can be little intelligible conversation.

But canons also provide a vertical or historical connection, a way for one generation to speak to another. Like the good parent who must – or so the books say – provide ways of being in the world for their children, both as a source of stability but also as the fuel of rebellion, so too a discipline that wants to take seriously its obligations to younger scholars must not shy away from the complex task of canonization. While having a hollow core may look like a way of being open, it is, I think, really a way of avoiding one generation's responsibility to another. If we cannot identify the faces that adorn our own Mount Rushmore, we cannot hope to earn the loyalties of those who will come after us, those who we would like to speak to us and about us in an unnamed future. Indeed, as Balkin and Levinson argue, "there is no better way to understand a discipline – its underlying assumptions, its current concerns and anxieties – than to study what its members think is canonical... The study of canons and canonicity is the key to the secrets of the culture and its characteristic modes of thought."

Of course, canons and canonization also generate arguments about what is in and who is out. Listing the canon or candidates for canonization is always perilous, not only because it hurts the feelings of those not named and leads to blaming of the list makers, but because canons cannot be legislated or brought into being merely through naming and claiming. They exist as social facts, as empirical documentable phenomena in our syllabi, our footnotes, our stock of stories, the shared consciousness and taken-for-granted sense of who we are. But so too do the disagreements about the canon. Those disagreements are often healthy even when they are unpleasant.

What is honored by canonization may make us feel marginal if it seems distant from what we do or know. What is criticized as being unworthy of canonization may make us angry if it seems to embody the theories or methods that we deploy in our

work. But contests over the canon keep the canon fresh; they renew it by requiring those who would defend this or that set of inclusions and exclusions to make explicit the questions or insights they see as defining the field. In so doing history becomes memory, the past becomes present. The taken-for-granted is renewed and reinvigorated as it is made explicit.

The Blackwell Companion to Law and Society represents one document in the continuing articulation and contestation of the field called law and society. Because it is produced at a time of both a great vitality and great fragmentation in the field, what it canonizes will for some seem just right and, for others, will seem unduly tilted in this direction or that. However any reader receives it, I hope this book provides a way station, a temporary touchstone, honoring the contributions of law and society scholarship and fueling its further development.

I am grateful to the contributors for taking on the challenging work of field assessment. I am also grateful to Susan Rabinowitz, who proposed that I undertake this project and was very helpful in its earliest stages of development, and to Ken Provencher who saw it through to production. Thanks to Greg Call, Dean of the Faculty at Amherst College for his generous financial support and my colleagues in Amherst College's Department of Law, Jurisprudence, and Social Thought for providing a rich intellectual environment in which to work. Thanks especially to Stephanie, Lauren, Emily, and Benjamin for being the best of all companions.

Austin Sarat
July, 2003

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