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Abstract

As an interdisciplinary field, law and society has an ambivalent relationship with the notion of a canon: Being a field requires having a recognized set of key texts, even as this particular field's critique of doctrinal legal analysis creates an openness toward alternative perspectives. Within the interdisciplinary field of law and society itself, there is debate about the breadth of disciplines relevant to this domain of inquiry. To explore this tension, we analyze three sources: (*a*) addresses delivered by presidents of the US Law and Society Association (LSA), (*b*) LSA meeting calls, and (*c*) law and society/social science syllabi. Presidential addresses and meeting calls demonstrate how the boundaries of the field are established and contested, and course syllabi suggest a degree of consensus about key works. We conclude by discussing other national and regional research traditions and note that these critique law and society/social sciences canons for being overly United States focused or Eurocentric. We argue that such contestation underscores the health and vibrancy of law and society research.

INTRODUCTION

Determining whether there is a canon of law and society requires first defining the term canon and then specifying the breadth of law and society itself. Originating in Christianity, this concept denotes a fixed body of authoritative works selected through a formal process (Baehr & O'Brien 1994). In the past several decades, however, canon has become a popular buzzword in academic circles (Clawson & Zussman 1998). We begin by exploring how the culture wars[1] and debates over identity politics, among other factors, complicate any attempt to define a canon. We argue that ambivalence over notions of canon has particular resonance for law and society, a field that critiques yet is defined in relation to doctrinal analysis.

After discussing the implications of these broader canon debates for law and society, we explore several ways to identify a law and society canon empirically. We begin by analyzing presidential addresses of the Law and Society Association (LSA) and thematic calls for papers to be presented at LSA annual meetings. Together, these sources are a place where the new and the old guards meet. Presidents typically have had a career of scholarship and service that earns them a national, if not an international, reputation. Their addresses are an opportunity both to extol the field's achievements and to shape future directions. Presidents also select program committee chairs, who by tradition, tend to be scholars beginning to make their mark. Presidential addresses and meeting calls thus reveal law and society boundaries and their contestation.

Guillory (1993, p. 30; see also Clawson & Zussman 1998) has suggested that the question of a canon ultimately comes down to what makes it onto a "syllabus, the list of works one reads in a given class, or the curriculum, the list of works one reads in a program of study." Thus, against the backdrop provided by presidential addresses and meeting themes, we then turn to the "list," that is, we compared 18 syllabi[2] of introductory law and society/social science graduate and law school courses as taught around the United States in order to compile our own list of commonly assigned books and articles. We recognize that when one teaches a course for the first time, he or she might do exactly what we have done here—write to colleagues to get some idea of appropriate readings. Nonetheless, the judgment exercised by these individual instructors reveals that there is some consensus on core readings but that emergent themes take the field in multiple, if sometimes competing, directions.

In the case of law and society/social science, it is not just contemporary intellectual or research boundaries that are up for grabs; rather, it is questionable whether any law and society/social science canon in the United States can encompass the intellectual concerns of what is fast becoming an international community of scholars. Therefore, we conclude by discussing critiques of law and society/social sciences canons for being overly United States focused or Eurocentric. This perspective suggests that centrifugal and centripetal impulses are at work: Any mapping of the field both directs readings to foundational work and invites reconsideration of claims regarding the grounds for centrality. We argue that such contestation underscores the health of the scholarly community committed to studying and theorizing law and society.

Before proceeding, it is important to specify the scope of our inquiry into law and society's interdisciplinary canon. At the time of LSA's founding in the 1960s, its interdisciplinary mission encompassed law and the social sciences, including anthropology, economics, history

[1] On the 1980s and 1990s "culture wars"—controversies between conservatives and progressives over gender, gay rights, multiculturalism, funding for the arts, and other issues—see Hunter (1991).

[2] In addition to syllabi from introductory law and society graduate courses at UC Irvine, we directly solicited 18 law and society syllabi from scholars with a range of disciplinary expertise including sociology, political science, anthropology, law, and history. We also obtained additional syllabi through online research.

(particularly social history), law, political science, psychology, and sociology (Seron & Silbey 2004). Over the course of its history, as we suggest below, LSA scholars have debated whether and to what extent law and society encompasses a wider berth, including humanistic fields of inquiry. Simultaneous with debates within LSA, the scope of law and social science has itself been transformed with the development of multiple, specialized fields of inquiry and related associations.[3] One might argue, with justification, that LSA is, today, one among many specialized professional associations. We develop our analysis with the caveat that we too bring a somewhat specialized lens to this inquiry as we frame our inquiry around the role of LSA in this interdisciplinary endeavor.

CONTEXTUALIZING THE CANON

The notion of a canon speaks to a fixed, timeless, and bounded set of works (Guillory 1993). Why, then, the rather recent use of the term canon in academia?

As others have pointed out, universities in the United States are very much a reflection of liberal, democratic values (Guillory 1993, Takaki 1993). In the post–World War II period, pluralist politics took a particularly robust and tolerant turn, encompassing increasingly diverse voices, including those of women, minorities, the disabled, and LGBT individuals. Beginning in the late 1960s,[4] these newly empowered groups demanded change, including the creation of new fields of study. Despite such broadening, the project of "educational democratization" (Guillory 1993) has been only partially successful. American politics has always exhibited a certain xenophobic impulse [Higham 2002 (1955)], but beginning in the 1990s, reactionary "designs to purge liberalism from political culture" (Guillory 1993, p. 4) and to return to the timeless, Western canon that, it is claimed, is foundational for enlightened citizenship (Berger & Huntington 2002) became particularly virulent.[5] As a result, there has been endless debate around representation in the canon: The canon is "elitist" yet "radical," a reflection of "enlightenment" values yet "reactionary," a commonly shared body of work yet exclusionary, "stultifying" yet "open and discursive" (Baehr & O'Brien 1994, p. 110).[6] Perhaps the ability to encompass such contradictions is one of the features that make the term canon powerful.

The modern field of law and society is itself a product of the liberal, pluralist, and democratic politics of the 1960s (Garth & Sterling 1998, Seron & Silbey 2004, Tomlins 2000). The first issues of the *Law & Society Review* (*LSR*) capture these values. For example, an early issue (vol. 2, no. 1 in 1967) examined the theme "Affirmative Integration: Studies of Efforts to Overcome De Facto Segregation in the Public Schools." Building on social science research deployed in support of civil rights litigation, the *LSR* issue raised new questions about how

[3] For example, the Law and Courts division of the American Political Science Association draws law and social science scholars who focus on courts and judicial behavior; similarly, sociologists of law have a specialized outlet for their work through the Sociology of Law section of the American Sociological Association, and anthropologists of law may turn to a more specialized forum through the Association for Political and Legal Anthropology section of the American Anthropology Association. Economists have their own professional association, the American Law and Economics Association, and specialized journal, as do psychologists of law—the American Psychology-Law Society with its own journal—and legal historians—the American Society for Legal History. Whether there is a canon across the breadth of these fields remains an unexplored question, but one certainly worthy of study.

[4] The first Black Studies department at a four-year college was created at San Francisco State University in 1968 as the result of student protests. The first Women's Studies department was founded at San Diego State College (now San Diego State University) in 1970.

[5] Whether there ever was a timeless canon is hotly contested, as what is assumed to be required knowledge is itself historically situated (Smith & Bender 2008).

[6] At the same time, legal concerns about underrepresentation take different forms in an allegedly postracial society (Harris 1992, Tribe 1988). Discussions of canon therefore cannot be divorced from the theorization of race, gender, and other forms of difference.

federal court decisions matter (for further discussion, see Moran 2010). Law and society was formed precisely to unpack such questions, on the theory that only an interdisciplinary approach could do justice to their complexity (Garth & Sterling 1998, Tomlins 2000). In the fiscally robust years of the field's founding, key institutions coalesced: the founding of LSA and its journal, *LSR*, in 1964; the establishment of the Law and Social Sciences Program at the National Science Foundation in 1971; support from the Russell Sage Foundation to fund research; and, perhaps more importantly, a first generation of law and society scholars who had the opportunity to define a research agenda and to cite and produce potentially canonical texts (Abel 2010, pp. 2–5; Garth & Sterling 1998; Seron & Silbey 2004; Tomlins 2000).

The call for social science research on law and legal institutions and the law and society field emerged in reaction to doctrinal analysis of law, itself a canon of sorts (e.g., Friedman 2005, Galanter 1974, Macaulay 1963). Such reactions viewed the canon of formal law as inadequate to explain law as it is experienced and lived in and through society. Put differently, the field of law and society emerged from a critique of formal law coupled with a commitment to the progressive values of scientific methods and pluralist politics. Social science scholarship regarding law therefore is in some respects an outsider to the legal academy, even as it is also dependent on and in other respects encompassed by law's ascendency (Garth & Sterling 1998, Tomlins 2000). The normative commitment of legal scholarship is also in tension with social science research, which often strives more to advance academic debates than to reform law and is sometimes critical of law's potential to change society (Hunt 1990, Kairys 1998, Scheingold 1974, Williams 1987).

A field cannot, however, survive solely by critique; rather, it must develop its own set of central claims. For law and society scholars, these claims were that the meaning of law is not intrinsic to statutes or cases, but rather is dependent on extralegal factors; that the form, interpretation, enforcement, and impact of law tend to reinforce the extant social structure; and that the sources of law are themselves socially derived (Seron & Silbey 2004). Examining such factors, law and society scholars began to specialize in recognized subfields, including jury decision making (Kalven & Zeisel 1966), disputing (Nader & Todd 1978), the legal profession (Carlin 1962, C. Epstein 1998, Heinz & Laumann 1982, Smigel 1969), judicial impact and decision making (L. Epstein 1998, Peltason 1955, Rosenberg 1991, Schmidhauser 1960, Schubert 1965), and policing (Skolnick 1966). These areas of inquiry expanded the range of what might be considered real law (Calavita 2010) and real lawmaking (Halliday & Carruthers 2007) beyond that of formal legal processes.

These founding commitments to bridging social science and legal scholarship, progressive social change, a pluralist politics, and a critical perspective on law's internal accounts continue to shape the field's discourse and debates. A commitment to conversations that cross disciplinary boundaries continues to anchor the field's conceptual and epistemological lens, but there is contestation over which fields are relevant. Some claim that the divide between social science and humanistic approaches is false (Sarat 2000), whereas others, most notably those affiliated with empirical legal studies (ELS), tend to use a positivist framework and quantitative methods. In reaction to ELS, another group of scholars seek to resurrect a soft, inclusive new legal realism (NLR) that makes more sense to the legal academy and is more open to multiple methods, including qualitative modes of inquiry (Erlanger et al. 2005, Macaulay 2005, Mertz 2007). The role of research is also open to debate. The field encourages broader, diverse voices and backgrounds, yet there has been a long-standing concern that law and society research may be captured by the needs of policy makers (Sarat & Silbey 1988). The field unfolds around a body of work that provides a "foundation for connection and contestation across generations and across subfields, promoting new questions and new research. Any particular work is canonical

or classical to the extent that it is part of the ongoing historically sedimented yet immanently unstable referential process" (Seron & Silbey 2004, p. 31).

(RE)CONSTRUCTING A CANON

Originally, canon referred both to an instrument of measure (Baehr & O'Brien 1994) and to the exercise of judgment about value (Clawson & Zussman 1998, p. 9). In this section, we examine the judgments exercised by LSA presidents, program chairs, and program committees, as they attempted to define the boundaries of the field. Presidential addresses emphasize inclusiveness—which highlights openness, welcomes new perspectives, and rejects exclusionary boundaries—but also institutionalization—which is demonstrated through having key texts, well-defined areas of inquiry, and recognized findings. The latter emphasis supports the creation of a canon, whereas the former works against it. We argue that these tendencies are linked to the overarching orientation toward law that we introduced above. On one hand, the field of law and society is dedicated to broadening the arenas and actors that are considered legal; on the other hand, to have weight as an alternative, law and society must have its own doctrine or canon. LSA presidents speak to these competing tendencies as they position the field, speak to their memberships, and chart new directions. The annual LSA calls for papers push boundaries further, highlighting the field's fluidity, and yet, they also help to define the center whose boundaries they seek to expand.

Several presidential addresses recounted what we take to be something of an origin myth for the field, namely, that LSA was founded by "deviants and misfits—each of them had an academic affiliation in another discipline, but felt marginalized there" (Erlanger 2005, p. 2; see also Munger 2001, Sarat 2000).[7] This origin myth, whether accurate or not, epitomizes both of the tendencies described above. This account institutionalizes LSA members' positions as outsiders, an intrinsically noninstitutionalized location. For example, Marc Galanter (1985, p. 537) contrasted "the professionally-based learning that emphasizes law as an autonomous system of general rules regulating social behavior" with social science research that "seeks explanation rather than justification, emphasizes process rather than rules, and tries to appreciate the dynamics of law as part of more inclusive patterns of social life." He characterized the latter kind of knowledge—produced in law and society—as "second" and as "small and precarious" in relation to the former, produced in law schools (pp. 552, 538). Presidents also celebrated the degree to which the marginalized of other disciplines were able to create community within LSA. The association, they stressed, tolerated difference (Erlanger 2005), welcoming "exploration, experimentation, and diversity of ambition" (Levine 1990, p. 13) to such a degree that LSA had an "inner life" (Greenhouse 1998, p. 6). The sense that everyone was welcome paralleled law and society scholars' theoretical commitment to expanding the set of characters and contexts that can be considered legal (Galanter 1985), to the point that "there is no place far and wide to which we will not go" (Sarat 2000, p. 6) to study law.[8] Yet despite differences, presidents asserted, law and society scholars were united by a common idea, namely, "that law is more than a set of static rules" (Erlanger 2005, p. 8).

This commitment to inclusiveness was linked in presidential addresses to social justice and to interrogation of the politics of law. For example, Howard Erlanger (2005, p. 7) stressed "our shared belief that law is a social and political beast" (see also Handler 1992, Munger 2001), thus challenging law's claim to political neutrality (Hunt 1990, Kairys 1998). The

[7] For a discussion of these addresses with reference to how they reflect changes in American politics, see Abel (2010, p. 8–11).

[8] Interestingly, the notion that law is everywhere could be considered a law and social science alternative to the form of gaplessness (Mertz 2007) associated with traditional doctrinal analysis.

contention that law is a social process was seen as having political implications in and of itself. Thus, Galanter (1985, p. 539) noted that law and society scholars were the "loyal opposition" who critique the otherwise self-satisfied account of law generated by legal elites. Likewise, in urging scholars to study the social organization of law and power, both Sally Merry (1995) and Susan Silbey (1997) implied that merely studying law from a social science perspective was a political act. Early presidential addresses (e.g., Jacob 1983) adopted an optimistic stance about the contributions that social sciences could make to the politics of law, suggesting that deeper knowledge of social context could lead to more effective reforms. But, by the mid-1990s, LSA presidents were more pessimistic about law's ability to live up to its promise. As Merry (1995, p. 12) stated, "It is no longer clear that law can produce a more just society," and more recently, Malcolm Feeley (2007) noted skepticism about the contributions that social science can make to justice. The relationship between law and power has nonetheless remained a core focus within law and society scholarship (Handler 1992, Gómez 2012, Lempert 2010, Merry 1995, Munger 2001).

The tension between viewing law as challenging or reinforcing social hierarchies emerges as well in addresses' discussions of law and society's relevance to broader public debates. For instance, in the first published presidential address, Herbert Jacob (1983) worried that a lack of theoretically integrated frameworks made research on trial courts less useful to policy makers. This concern suggests the need for systematization. In contrast, other LSA presidents questioned the impact that striving for relevance might have on law and society scholarship (Levine 1990, Sarat 2000), stressing instead the need to ask big questions (Calavita 2002) or to conduct engaged research (Munger 2001). Concerns about whether scholarship should address policy makers' interests also distance law and society from legal realism, which was more firmly anchored in an instrumental view of social science (Feeley 2007). The desire to produce impactful but critical knowledge informs the work that presidents chose to highlight in their addresses. Thus, Kitty Calavita (2002, p. 10) cited Galanter's (1974) piece, "Why the 'Haves' Come Out Ahead," as a "durable" contribution, and Frank Munger (2001) deliberately noted work produced through cross-fertilization among scholars of different backgrounds, cultures, and societies. Lauren Edelman (2004) argued for cross-fertilization in a different manner, suggesting that law and society and law and economics have much to learn from each other, even as they rarely see eye to eye. In essence, the desire for public impact pushes law and society scholarship both toward and away from institutionalization in that being heard requires assuming a recognizable form, but being outside of established corridors entails trying to expand the range of voices and work that is considered recognizable.

Some addresses emphasized that such expansion included turning from official legal forums and actors to law in popular culture and everyday practices. For example, Stewart Macaulay (1987, p. 185) argued that individuals' understandings of law derived from popular culture. Quoting anthropologist Clifford Geertz, Macaulay suggested that if law is a way of "imagining the real," then it is important to look beyond behavior at consciousness and culture—and perhaps also at narrative, language, and performance (see also Merry 1995). Other presidential addresses echoed this idea. Austin Sarat (2000) contended that, much like the social forces that have long been a focus of law and society scholarship, mediated images are powerful, and Silbey (1997, p. 219) argued that dominating consciousness and consumption may be more important than controlling the state, land, or formal institutions. Likewise, Munger (2001) advocated examining how legal ideas shape communities and organizations, suggesting that law may do more to promote social justice in these sites than it does in formal institutions (see also Engel 1999). The breadth of material relevant to such explorations may work against the notion that a central canon can be identified.

These concerns about inclusiveness, justice, and power are sometimes directed inward, at the membership of LSA itself, and have focused both on scholarly approaches and on identity. Perhaps it is not surprising that in 1992, during the same decade that a conservative backlash and crisis of representation led to the broader canon debates that we described above, Joel Handler's (1992) published presidential address questioned the value of postmodern approaches for advancing social justice and truth claims. Questions about the value of science and the place of cultural studies have led, as noted above, to some splintering, such as the founding of the *Journal of Empirical Legal Studies* and *Law, Culture and the Humanities*, both in 2004. Addresses also critiqued LSA for being overly United States focused: Mather (2003) urged LSA meeting attendees not to assume that US experiences are universal; Silbey (1997) outlined the contributions that sociolegal scholarship can make to understanding globalization; and Munger (2001) highlighted the value of expanding the scope of the field internationally, a point to which we return below. Regarding identity, the 1990 address by Felice Levine (1990), the Association's first female president, noted that although LSA's first gathering was largely white and male, the membership had broadened to include more junior scholars, international scholars, and women. Five years later, Merry (1995, p. 12) was able to comment that the Association's leadership had become "delightfully multigendered." This gender diversification was not, however, accompanied by an equivalent increase in the proportion of scholars of color. Laura Gómez (2012), the Association's first Latina president, called both for greater progress in this area and for a deeper engagement with research on race (see also Lempert 2010). In particular, she advocated treating race as a process rather than merely a variable, conducting comparative research on race and racism, and adopting nuanced approaches that reflect scholars' claim that race is socially constructed.

In sum, developing a canon in a field committed to interdisciplinarity is tricky. To be interdisciplinary is to be inclusive, but if inclusiveness is without limits, then the field threatens to dissolve.

Turning from presidential addresses to LSA meeting themes, we find that these evocative texts push the field into new realms of contestation. An analysis of all but three of the 1990–2012 LSA meeting themes[9] suggests that through a cacophony of global voices, the themes cross boundaries between humanistic and social science perspectives. But, interspersed through this inclusive, pluralistic, multidisciplinary celebration of diversity are moments of remembering the foundational contributions of law and society. The annual LSA meeting themes thus anchor and update the principle of challenging the canonical through interdisciplinarity.

The 1990–1994 LSA meeting themes echo broader intellectual currents of that period, including feminists' challenge to claims about the objectivity of the researcher in the scientific enterprise (e.g., Haraway 1988, Harding 1986), critical race theorists' use of personal narrative to unpack and explain the experience of racial inequality (e.g., Delgado 1995, Matsuda et al. 1993, Montoya 1997), and postmodernists' critique of the very notion of scientific truth and generalizability (e.g., O'Meara 2001). In contrast, the 1995 theme—"Being, Doing, and Remembering: The Practices and Promises of Sociolegal Research at the Close of the Twentieth Century"—takes pause to reflect. By the late 1990s, LSA embraced an international community of scholars, though many non-US scholars still saw LSA as very much a US project. When more traditional disciplines, such as sociology or political science formed sections in 2000, LSA introduced collaborative research networks (CRNs); in 2005, these were expanded to include international research committees (IRCs). The internationalization of the Association introduced new topics of inquiry, such as human rights, transnational

[9]We are missing the years 1991, 1998, and 1999. Readers may contact Carroll Seron for further information on LSA meeting themes.

justice, and international law (e.g., Dezalay & Garth 1998, Hagan 2003, Merry 2005, Wilson 2011). Against this backdrop of internationalization, however, the fortieth anniversary theme, in 2004, was "Law, Power, and Injustice: Confronting Legacies of Sociolegal Scholarship." Planners noted that LSA's anniversary coincided with passage of the landmark Civil Rights Act of 1964, as well as the Tonkin Resolution, the fiftieth anniversary of *Brown v. Board of Education*, and the sixtieth anniversary of the publication of *An American Dilemma* by Gunnar Myrdal, all United States–focused events.

The meeting themes thus reveal two competing dynamics: On one hand, the calls push the boundary of law and society scholarship, emphasizing the pluralistic and expansive range of this intellectual community, and on the other, this inclusiveness is checked, at fairly regular intervals (particularly anniversaries), by moments for reflecting, remembering, or taking stock of the field. Interestingly, these pauses signal the centrality of social science to interdisciplinarity.

CONSTRUCTING THE SYLLABUS, THE LIST OF WORKS

In many respects, the LSA presidential addresses coupled with the thematic calls instantiate that the field of law and society reflects the breadth and diversity of the disciplines invited to the table. In turning to the "list," the texts that scholar teachers assign in passing knowledge from one generation to the next, we observe that syllabi tend to begin with a common set of canonical readings but then to bifurcate in various ways, no doubt reflecting the intellectual interests of a particular individual.[10] We organize our presentation around themes that emerged from a reading of syllabi, providing a snapshot of exemplary readings for each. There is much variation in the work that colleagues assign to expand on themes. We focus only on the iconic readings, suggesting that these form something of a canon. We conclude by noting emergent themes that may shape the field's future.

Situating Law and Society

To situate the field, instructors typically introduce students to classical sociocultural theory, particularly Weber's (1966) *Law in Economy and Society* or Malinowski's (1926) *Crime and Custom in Savage Society*. Weber argues that the emergence of legal rational law is key to rationalization and bureaucratization more broadly.[11] Malinowski suggests that the functions that formal legal processes perform in US society are accomplished in other ways elsewhere, such that law may actually be diffused throughout society. Drawing on this and other anthropological work, such as Llewellyn & Hoebel's (2002) collaborative study of Cheyenne law, Bohannan's (1968) work on Tiv legal culture, and Gluckman's (1973) study of the Barotse, the notion that law assumes multiple forms, even in advanced industrial societies, became a core law and society idea. American legal realism, including gap studies' iconic distinction between "the law on the books" and the "law in action" (Seron & Silbey 2004, p. 34–35; Gould & Barclay 2012), is also introduced as foundational. Law and society itself is sometimes presented as a social movement, which reflects the decidedly political and progressive intellectual roots of this interdisciplinary field (Garth & Sterling 1998, Seron & Silbey 2004, Tomlins 2000, Treviño 1996, Trubek 1990).

Disputing—Individual and Collective

Macaulay's (1963) classic study of businessmen's avoidance of formal contract is among the top candidates for the law and society canon. This early article challenges legal academics' formalist assumption that contract was key to

[10] Reading law and society as law and social science is generally the focus of articles published in *LSR*, though editors have differed in the degree to which more traditional legal analyses or law and humanities approaches are encouraged.

[11] Although Weber is more typically assigned than Marx or Durkheim, many lists also include these foundational social theorists.

the development of capital; it also reinforces scholars' commitment to the study of law in action. Macaulay shows that businessmen deploy "noncontractual" strategies to cement business relations, relying on informal practices such as treating the "contract" as "boilerplate" and deferring to "a man's word" (Macaulay 1963, p. 58). Though such informal practices might not hold up in court, law is seen as a last resort, so their legality is rarely tested.

Building on Macaulay's qualitative study, the Civil Litigation Research Project (CLRP) brought together scholars who conducted a large-scale systematic survey of citizens' disputing experiences (Trubek 2008). Corroborating Macaulay's findings, the CLRP project demonstrates that citizens typically avoid the law when confronted with a potential dispute. As Felstiner et al. (1980) explain in what is now a classic article, most citizens prefer to "lump it" rather than pursue grievances through formal, legal channels. Disputing may therefore be conceptualized as a pyramid in which only a miniscule proportion of disputes is resolved in court.[12] Bumiller's (1987) article "Victims in the Shadow of the Law" questions a "legal protection model," which, she argues, assumes that those who suffer harm will seek protection from the law (see also Scheingold 1974). Bumiller introduces a feminist perspective to explain why, from victims' standpoint, women and people of color avoid legal redress. Bumiller's in-depth interviews show that such victims adopt an "ethic of survival." Her findings suggest that the "elimination of legal barriers is [in]sufficient to achieve racial [and gender] equality" (Bumiller 1987, p. 438).

Complementing such work, Galanter's (1974) widely cited study "Why the 'Haves' Come Out Ahead" explains why legal strategies to achieve progressive social or institutional change often lead to unintended consequences. Galanter begins with society, or the differential resources that parties bring to dispute resolution, arguing that disputants may be grouped into one-shot players, generally individuals who have limited legal experience, and repeat players, typically organizations with significant resources by way of knowledge, experience, and access to expertise. Galanter hypothesizes that repeat players generally come out ahead of one-shot players because they know how to play the system to their advantage.

Anthropological work on disputing, and particularly on alternative dispute resolution, also contributes to work in this area. Nader's (1991, 2002) study of harmony ideology among the Zapotec in Mexico draws attention to the use of community-level mediation to resolve conflicts. As US courts implemented mediation programs to alleviate crowded dockets and resolve less serious conflicts more swiftly, cheaply, and informally, anthropologists and other social scientists turned to these processes as sites at which legal culture was displayed. Merry's (1990) *Getting Justice and Getting Even* examines how a New England community negotiates the boundaries of law. Merry finds that although courts enable citizens to pursue justice, paradoxically the formalization of disputes requires citizens to relinquish some control to courts.

Law and Social Change

The writings of Stuart Scheingold, particularly *The Myth of Rights: Lawyers, Public Policy and Political Change* (1974), have framed scholars' study of social movements and sociolegal change.[13] Scheingold interrogates the public's faith in legal rights—and courts of law—to deliver on their promises. Scheingold walks the reader through the ways in which rights, Constitutionalism, and courts coalesce as symbolic bulwarks against the messy business of politics, power, and patronage in the eyes of the public. Scheingold succinctly demonstrates the contradictions embedded in realizing meaningful progressive social change.

[12] Both of these studies continue to spawn research projects (see, e.g., Emerson 2008, Levitsky 2008, Michelson 2007).

[13] This work too has inspired continued investigation, particularly into cause lawyering (see, e.g., Sarat & Scheingold 1998).

More recent work has interrogated gaps, hypothesizing that the relationship between law and society is recursive (Hull 2006, Levitsky 2008) or arguing that winning in court is not the measure of success. For example, McCann (1994; also Halton & McCann 2004) has made a significant contribution to filling in the gap between formal legal outcomes and law's indirect effects, demonstrating empirically that the experience of legal mobilization itself shapes activists' legal consciousness, politics, and empowerment. McCann's (1994) research also synthesizes a long-standing law and society commitment to explain the role of social movements in legal and social reform.[14]

Law in Everyday Life

Building on the important discovery that citizens avoid the law by lumping it, two seminal studies bring the theme of law in everyday life into clearer focus. Tyler's (2006) book *Why People Obey the Law* begins with the Weberian question, under what circumstances does the law enjoy legitimacy in the eyes of the public? Tyler demonstrates that when citizens experience the law as procedurally just, that is, fair, evenhanded, with the opportunity to give voice to their claim, they are significantly more likely to trust legal institutions, even when they lose their claims. Tyler and his students have pursued this theme in various environments, including organizations (Tyler & Blader 2000) and policing (Tyler & Huo 2002), among others.

Ewick & Silbey's (1998) book *The Common Place of Law: Stories from Everyday Life* explores the meanings citizens bring to law. The authors' grounded, inductive analysis of legality reveals how ordinary citizens give meaning to law. They argue that people tell three stories. In the first story, analogous to Tyler's notion of procedural justice, the law is "imagined and treated as an objective realm of disinterested action." In the second story, law is "depicted as a game, a terrain for tactical encounters," and in the third story, law is "arbitrary and capricious" (p. 28). Ewick and Silbey demonstrate that law may display the characteristics of one, two, or all three of these stories, depending on time, place, context, and contingency, as "legality is a social structure actively and constantly produced in what people say and in what they do" (p. 223). Like Tyler's work, Ewick and Silbey's project (see also Silbey 2005) has unfolded in dialogue with other similarly situated endeavors to unpack law's meaning in daily encounters (Albiston 2005, Engel 1984, Engel & Munger 2003, Nielsen 2000, Blackstone et al. 2009).

Another approach to legal consciousness that is highlighted in syllabi examines everyday legal actors' understandings of disputes. For "The Oven Bird's Song," Engel (1984) studied attitudes that Sander County, Illinois, residents had toward personal injury cases. He found that longtime residents of this rural county have interpersonal relationships that permit them to resolve disputes informally, whereas newcomers—many of whom were from marginalized groups—lack access to such informal mechanisms and therefore turn to formal law to pursue grievances. Long-standing residents' disparaging comments about resorting to law to address grievances are therefore in part a response to newcomers and to community change (see also Greenhouse et al. 1994).

Law as Institution

A recurring theme of law and society research is the study of law's formal institutional contexts, including courts, juries, lawyers, and law enforcement.[15] These studies either unpack the

[14]Many place McCann's work, particularly *Rights at Work* (1994), in dialogue with Gerald Rosenberg's (1991) book *The Hollow Hope*, which argues that courts are a weak engine of progressive reform; without power to enforce their own decisions, courts, as passive institutions, are dependent on the will of executive and legislative action and enforcement to realize reform.

[15]Each of these fields has itself spawned more specialized bodies of research, a theme discussed in Seron & Silbey (2004).

often-unintended effects of law on the lives of individuals or strive to understand and explain law in action. Feeley's (1992) *The Process Is the Punishment* is typically selected as emblematic of this genre. Feeley demonstrates that the apparently procedurally fair and neutral practices of a local criminal court are in fact fraught with politics and patronage and, further, the action in criminal processing is negotiations and bargaining during pretrial, such that this process becomes the punishment.

Emergent Themes

Here, we point to some themes that emerge across syllabi and that underscore the reworking and reanalysis of canonical topics. In taking this step, we do not mean to present comprehensive updates to the "list," but rather to suggest emergent lines of inquiry. Building on the work of Philip Selznick (1984a,b), a growing body of research examines new institutionalism. Led by Edelman (1990), this line of inquiry examines legal endogeneity, that is, how law becomes embedded in the organizations it seeks to regulate (Edelman & Suchman 1997). In another developing area of neoinstitutional research, Boyle (2005) develops neoinstitutional approaches to analyzing women's human rights in a global context. Work in law and language examines the micropolitics of power and the ways that language constructs social realities (see, e.g., Conley & O'Barr 1990, 2005; Hirsch 1998; Mertz 2010; Ng 2009; Richland 2008). Law and society scholarship has also been shaped by debates within critical race theory (e.g., Carbado 1999, Delgado & Stefancic 2001, Lopez 2006, Williams 1991), feminist legal theory (e.g., MacKinnon 1987, Taub & Schneider 1998), and theories of intersectionality (see, e.g., Best et al. 2011, Crenshaw 1991, Lutz et al. 2011). Other contemporary themes discuss postmodernism, the cultural turn, and the Foucaultian theme of governmentality (Cover 1983, 1986; Fitzpatrick 1992; Rose et al. 2006; Simon 2007, Valverde 2008; White 1989; see also Foucault 1979), as well as Bourdieu's (1987) influence in, for example, the study of a globalizing elite tier of lawyers (Dezalay & Garth 1998). Intersections between sociolegal research and science and technology studies have raised intriguing questions about the production of legal knowledge and the ways that law structures truth claims (Cole 2002, Riles 2001). Finally, and foreshadowing the international composition of the law and society field, the "list" may include work on law and globalization (Coutin 2000, Dezalay & Garth 1998, Hamilton & Sanders 1996, Merry 2005, Yngvesson 2010).

COUNTERMAPPING: CANONS BEYOND BORDERS

Given the internationalization of LSA and some attention to globalization on the "list," how representative is this canon for law and society scholars situated in countries around the globe? With the goal of opening up the debate around a canon, we examine a small subset of a much broader literature reviewing law and society works in particular countries. We take up only a few examples and apologize in advance for glaring omissions (but see Friedman et al. 2011 for a more thorough discussion).

Our reading of this literature suggests that the ambivalent relationship that US law and society scholars have toward law—a relationship that critiques and yet defines itself in relation to doctrinal analysis—is reproduced in the relationship that sociolegal scholars outside of the United States have with US law and society research. Although US law and society scholars may define themselves as the marginalized of different fields, elsewhere their scholarship has been critiqued for its dominant position. For example, in a recent edited volume on the field of law in Latin America, Rodríguez-Garavito (2011) notes that just as maps of the world have tended to place powerful nations in the center, so too has the field of law and society in Latin America focused on the United States and Europe. To correct this tendency, Rodríguez-Garavito and colleagues seek to produce a countermap, a concept that we have borrowed

here.[16] Likewise, Japan has been described as having a weak legal field in comparison to the United States and Europe (Upham 1997). Even in Europe, sociologists of law have been characterized as having a "marginal academic position" in contrast to "the strong *Law & Society* Movement in the United States" (Gessner & Nelken 2007, p. 7). One analyst notes that in Italy, the essential literature for the field is primarily foreign and in English (Ferrari 2006, p. 428), and some scholars wonder whether the United Kingdom "could or should move further to a social science model already dominant in the US" (Siems & Síthigh 2012, p. 651; see also Wincott 2011). Thus, the outsider position that US law and society scholars claim is, from other vantage points, very much inside. As a result, any United States–based version of a law and society canon both has broad influence and is intrinsically destabilized by other national and regional canons. Furthermore, some of LSA's key founders, such as Marc Galanter (1984) and Sally Falk Moore (1986), did research outside of US and European contexts.

This ambivalent relationship between law and society scholarship produced within and beyond the United States cannot be isolated from the export of US and European legal models to other parts of the world (Comaroff & Comaroff 1991, Fitzpatrick 1992). There have been deliberate attempts to "Americanize" (Upham 1997) or "democratize" (Rodríguez-Garavito 2011) the legal systems of other countries, despite vast differences between civil, common, Islamic, and other legal traditions (Hagan et al. 2008). Some countries have emulated US and European legal institutions, both historically (Merry 1999) and more recently, as when Japan instituted United States–style law schools (Saegusa 2009). Scholars have studied these processes, analyzing the adoption or rejection of international legal principles (Merry 2005, Scheppele 2004), the production of fields of expertise (Dezalay & Garth 1998), and regional and global governance mechanisms (Hagan 2003, Milman-Sivan 2009, Trubek & Trubek 2005, Wilson 2011). As legal models have circulated internationally, law and society research has developed differently across national contexts. For example, Ríos-Figueroa (2012, p. 308) points out that in Mexico, studying "law in context" means examining "conditions of high economic inequality, ethnic heterogeneity, state weakness, and feeble public opinion," in sum, the ways that the country has gone from "rule by law to rule of law." Likewise, Wincott (2011) stresses that whereas in the United States, law and society developed as a functional counterpart of the social welfare state, in the United Kingdom, sociolegal research was linked to administrative questions of governance.

These different contexts have given law and society research varied institutional locations and histories. It is important to note that although US and European legal models were exported elsewhere, US law and society scholarship has encountered scholarly traditions that, in some cases, were already well formed in other countries. For example, the Japanese Association of the Sociology of Law (JASL) was founded in 1948 with a "Marxist and antistatist bias" that still existed in 1989 when Upham reviewed several issues of its journal, *Sociology of Law*. At the time of the JASL's founding, "the very word *shakai* (Society/social) was considered dangerously leftist" (Upham 1989, pp. 880–81). In Italy, the field of sociolegal studies can trace its roots back to 1962 when *Centro Nazionale di Prevenzione e Difesa Sociale* sponsored research on the Italian administration of justice (Ferrari 2006, p. 425). This coincided with the establishment of the International Sociological Association's Research Committee on Sociology of Law (p. 425). This research brought together sociologists and jurists to confront the "crisis of justice" precipitated by the perceived inefficiency and "backwardness" of the state judicial system and sought to create small- and large-scale reform (Pitch 1983, p. 120). In the United Kingdom, by the late

[16] Rodríguez-Garavito (2011) defines countermap as "viewing territories from nondominant perspectives" (translation ours).

1960s, the Social Sciences Research Council had been persuaded of the importance of examining the impact of law on society, resulting in initiatives designed to produce the research expertise that would enable such studies to be carried out (Genn et al. 2006). The Centre for Socio-Legal Studies at Oxford was founded in 1972, and the *Journal of Law and Society* was founded in 1974 (Wincott 2011). Empirical legal research has become a focus there, paralleling a trend in the United States (Genn et al. 2006). Importantly, outside the United States, it is not uncommon for law and society scholarship to be produced in law schools rather than by scholars with other disciplinary homes.

Our brief exploration of law and society beyond US borders suggests that the US list we discussed in the previous section is widely read and yet not always considered relevant or analytically inspiring. Generally, sociolegal scholars in different national contexts share both a critique of legal formalism and a commitment to bringing social science research to bear on legal phenomena. Substantive topics of common interest include the legal profession, the relationship between law and violence, human rights, legal pluralism (Rodríguez-Garavito 2007), poverty, gender, the welfare state (Wincott 2011), social movements (Alves Maciel & da Silva Brito Prata 2011), legal consciousness (Upham 1989), the judiciary, security, and legal culture (Ríos-Figueroa 2012).

Important substantive differences emerge across national contexts as well. In Japan, research on law consciousness has examined whether the Japanese lack a commitment to law as an arena in which conflicts can be resolved and, indeed, whether a harmony ideology prevents Japanese citizens from acknowledging disputes in the first place. Scholars have challenged these characterizations on the grounds that Japanese institutions may have prevented disputes from being raised and, as evidence, point to lawsuits filed during the 1970s and 1980s by Japanese consumers and victims of environmental degradation (Hasegawa 2009; Upham 1989, 1997). To give other examples, in Colombia, work on alternative dispute resolution includes an examination of conflict resolution practices within indigenous communities and guerrilla groups, and sociolegal scholars study the impact of civil war on legal institutions (Rodríguez-Garavito 2007) and legal measures to aid displaced persons (Aguilera Torrado 2001). In Mexico, studies of security focus on police corruption, drug cartels, or international collaboration in law enforcement (Ríos-Figueroa 2012). Across Latin America more broadly, topics of interest include zones without law, constitutional reform, impunity, autonomy and sovereignty, and citizen insecurity. A syllabus that we obtained on "Law and Society in Latin America" was organized around the following topics: Eurocentrism, conquest, colonialism, citizenship, nationality, identity, development, exception as norm (dictatorship), terrorism, drug trade, democracy, peace, gender, judicial reform, globalization, and development and rule of law.[17]

Whereas in Latin America, law and society scholarship has a strong focus on social justice and reform, in East Asia, scholars have focused on legal professionalism. In fact, the CRN on East Asian legal professionalism, initiated at the Berlin LSA meeting, has begun hosting its own biannual regional conference in such locations as Hong Kong, Seoul, Shanghai, and Tokyo (see **http://www.crn33-eals.org/Main.htm**).

Given the importance of these research topics, strong connections between research and advocacy emerge as an important international theme. In Latin America, for example, sociolegal scholarship on constitutions and courts has occurred even as new constitutions have been drafted and as constitutional courts are being established (Rodríguez-Garavito 2007, 2011; Schor 2009; see also Klug 2000). New journals are being founded, including, for example, a digital journal dedicated to publishing research on interdisciplinary social science studies of law in Costa Rica (Guevara Arroyo 2012). Calls for overcoming "a worrying poverty of empirical

[17] We thank Farid Samir Benavides Vanegas for sharing this syllabus.

knowledge" in Italy (Ferrari 2006, p. 432) and an anticipated crisis in sociolegal research in the United Kingdom (Genn et al. 2006) may lead to increased investments in studies in this field. Ríos-Figueroa (2012, p. 317–18) characterizes sociolegal studies in Mexico as "young and blooming. . . . Sociolegal studies on Mexico could significantly contribute to producing accurate diagnoses of critical conditions and, eventually, better public policies to ameliorate such conditions." As law and society scholarship grows and diversifies in form and content, regional associations may emerge as important intermediaries between nations and the international community. Rodríguez-Garavito and colleagues suggest that bringing together Latin American scholars who are both known in their own national contexts and conversant in cosmopolitan discussions of theory will produce new countermaps. Ideally, such developments will produce new paradigms and thus leaven law and society scholarship more broadly, making any list of canonical works very much a living document (Lo 2010, p. 25).

CONCLUSION

Clawson & Zussman (1998) ask whether canonical texts are important due to their findings, the examples they set, or the tools that they provide to junior scholars. We suggest that although all of these may be important, exploring the multiple ways that a canon can be identified is a valuable exercise in and of itself. Just as "a single map is but one of an indefinitely large number of maps that might be produced for the same situation or from the same data" (Rodríguez-Garavito 2011, p. 11, quoting Monmonier 1991, p. 2), so too have our own mappings of law and society resulted in somewhat different renderings, depending on whether we rely on presidential addresses, meeting calls, course syllabi, or reviews of the field in multiple national contexts. We view the differences in these accounts as evidence of the vibrancy of a field that is continuing to grow and evolve, though the overarching themes, such as commitments to interdisciplinarity and to looking beyond law's formal claims, suggest that these diverse and geographically distant scholars nonetheless participate in a common conversation and practice. As Siems & Síthigh (2012, p. 664) note in their own mapping of legal research, "Transgressing disciplinary boundaries has been described as a rebellious, or even romantic, activity in the service of a greater truth"; yet, this rebellious act could not occur were the boundaries not there to be transgressed.

In drawing attention to the parallel form in law and society scholars' relationship to doctrinal analysis, and in the proliferation of law and society work internationally, we suggest that moving the field forward will require developing forms of collaboration that do not reproduce the divisions between inside and outside on which this form depends. We have noted that this division shifts, depending on vantage point. For example, those who may perceive themselves as outsiders in relation to the legal academy may be perceived as insiders vis-à-vis those outside of the United States. In short, defining a canon, like defining law itself, requires not only measurement and judgment but imagination. If in fact a canon is something of a "spectral figure" (Mawani 2012), a moving target that new scholarship strives both to join and to displace, then perhaps the religious connotations of the term canon are more apt than one might initially think: Both mapping and countermapping enact a faith that law and society may contribute to the perhaps unreachable ideal of a just society.

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