

What is Law and Society?

Definitional Disputes

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Introduction: Law as Authority, Law as Field

Jerome Frank, the legal realist lawyer who worked for the Roosevelt administration in the United States in the 1930s, wrote *Law and the Modern Mind* (Frank 2009 [1930]) just before the United States New Deal. In it he scrutinized the longing for law as a clear, final, authoritative statement. Frank acknowledged that laypeople found the law “uncertain, indefinite and subject to incalculable changes,” and the uncertainty contributed to most people’s disenchantment with law. He wondered why people would expect anything different. Why was finding uncertainty even a criticism of law and lawyers? Frank scrutinized the longing for finality through a psychoanalytic lens, and argued that it was a longing for a father who acted as a final authority against the “reasonless, limitless and indeterminate aspects of life.” He argued that the belief in authority persisted despite our repeatedly finding that there was seldom a stopping point in legal argument. Legal judgments may stop a story, but they are not the end of law. The stopping points can have dramatic consequences for people, whether in deportations, dissolution of marriages, formation of companies, or imprisonment and death. Actors recontextualize legal orders, giving them new meanings. The futility of the search for clear authority or an end to legal argument that Frank found ordinary took on a more ominous tone with the rise of fascism.

An alternative to the longing for authority Frank analyzed is law as a semi-autonomous field intertwined with all the other ways that people and institutions constitute meaning. The legal anthropologist Sally Falk Moore led us to think of a field as a site of research that allows us to see both the presence and the absence of law; entering a “semi-autonomous field” allowed one to analyze how laws were produced and gained authority through relationships (Moore 1978). She acknowledged

that analyzing law as relational meant that law was not necessarily sharply distinguished from everything else, a point she presciently noted was one that required discovering “again and again.” The fixed point necessary to enter a field can be a court, or an organizational field, or a workplace. Fixed points are sites for tracing legal fields of power, however, rather than final authority. Mapping connections is both the task that law and society scholars set for themselves and a source of frustration. It does not demarcate a sharply defined legal field and calls into question how such a field gets created when it does. It follows the decentered approach to law that Morrill and Mayo next argue is a distinctive contribution of law and society scholarship.

The rest of this chapter will rely upon the tension of *law as authority* and *law as a field* across other tensions in representing law. Law is what all of us do with what we see is the law, and law is the word of officials in a hierarchy. Law is both general and law is a way of entering particular policy fields. Law is punitive and productive. Law tells stories about texts, creating itself as a field of professional expertise by taking away the particular identities of those who come before the law, and law tells stories about lives with multiple particularities. Law promises justice, a promise often disappointed, and yet supranational forums and claims to justice beyond the state increasingly play a part in governing. People claim justice to hold power accountable; states organize appeals both to enforce rights and serve central states’ own purposes by checking that lower level bureaucratic officials are adhering to central state policies. Throughout, the significance of a decentered and globalized approach to law that Morrill and Mayo find in the next chapter will color descriptions of alternative perspectives.

Frank’s reflections are part of the heritage that law and society scholars claim in the United States, reaching back through sociological jurisprudence and legal realism in the early twentieth century and forward through reformist political claims for domestic politics. The approach both critiques and recognizes domination and pluralism cross-nationally. That origins story for law and society scholarship has a particular United States cast; the constitutionalism of the United States, in which law is an instrument of the state and high-level judicial officials have long been charged with engaging elite political issues, has framed law and society for the United States. The insight that, whatever it is, law is not a final order from a solitary father is central across multiple fields within law and society scholarship. In other countries, the story law has told itself is more self-referential, with high-level legal officials divorced from the other apparatus of the state. Integrating lawyers and legal officials into the apparatus of the state demotes lawyers from people trained in the law who were responsible for articulating right principles, itself worth mourning. The belief in law as order that controls the world is itself a claim to analyze. The image of an authority is an effect that the images, stories and sounds of justice produce. Our image of law can still rest in “the form of the modern state” and “disembodied rationality,” despite the pluralism of law experienced across communities and international institutions (Buchanan 2010).

Calvin Morrill and Kelsey Mayo’s chapter in this collection delineates iconic work by citation counts. They recognize that citation counts result in an emphasis on

work by white male scholars at elite universities in the United States. That counters the decentered approach to law, which has had a history of undermining authoritative claims when gathering information about what law does can be a matter of life and death. For example, the anti-lynching activist Ida B. Wells-Barnett, discussed further below, painstakingly gathered information about the circumstances of lynching to counter the dominant narrative blaming it on African-American men themselves (Sterett 1994). Therefore, this chapter will complement Morrill and Mayo's practice by focusing on newer work and work that falls outside the iconic status marked by citation counts. In relying on exemplars, it is easy to miss what the biologist, baseball fan and popular science writer Stephen Jay Gould called "the spread of excellence," a concept that will inform the examples and citations used in the rest of this essay. In baseball, Gould argued, all players got better as they stopped drinking and trained more. Gould argued that when we use exemplars to represent a class, we miss the variance. All the members of a group can shift over time toward excellence, and the rich diversity is not evident when we focus on an individual. People learn from each other, particularly if we try to teach good practice. Improving inclusion changes practice; in baseball, more people learned to play well, and including players who weren't white made for better players and a better game. That's the end of the baseball metaphor in this chapter: the point is that we can learn through recognizing widespread excellence. Feminist and critical race scholarship has demonstrated that institutions look different from the standpoints of people with different life experiences (see for example Delgado and Stefancic 2013). That insight has illuminated the decentered approach that is at the heart of much law and society scholarship, giving all the more reason to illuminate central concepts with examples from multiple supranational and domestic institutions, from colonial state/societies, and from a variety of fields. Turning to a wide range of imaginative scholarship transforms what we know. This chapter attempts to recognize the rich variety of scholarship, complementing other chapters by leaving many iconic works to the next chapter and to the exemplary scholars who themselves follow in this collection. A sometimes globalized and sometimes decentered socio-legal approach to law and legality can what law does in a world that enacts law through both networked, dispersed power and central appellate courts, through production of family, and through brutal force. The knowledge the scholars in the subsequent chapters have developed informs this chapter even if not cited.

The next two sections will contrast analyses of law as what people do with analyses that focus on officials who claim professional expertise and responsibilities. Law circulates at multiple levels, and multiple perspectives bring meanings into focus.

What We Do with Law

Race, class and the bureaucratic state have been at the heart of law and society scholarship. In nineteenth-century England, what we might think of as legal claims were often governed by special jurisdiction courts, charged with settling claims 'without

the law' because the law itself was so impossible and hostile to labor claims (Arthurs 1985). Specialized tribunals gave some hope that labor law would favor working men's claims; the ordinary courts never would. Jerome Frank had been educated and then practiced in Chicago, home of intellectual ferment concerning what law could do in the world, particularly for immigrants, low-wage workers and women, and home of the philosophy of pragmatism so central to reform in the United States. Women including Grace Abbott, Florence Kelley and Sophonisba Breckinridge had all known Roscoe Pound, the once-midwestern founder of sociological jurisprudence and later intellectual enemy of Jerome Frank. The women who had been excluded from legal practice had an orientation to law that came from their work in communities: Florence Kelley wanted to see that the garbage was picked up in poor neighborhoods in Chicago. In the same era, Ida B. Wells-Barnett denounced the legal accounts of why African-American men were lynched: far from the rape that provided the standard account, Wells argued that African-American men were murdered for competing economically with white people, or for consensual sexual affairs with white women. The problems and promise of constitutions in political reform and accountability in the early twentieth century were the subject of fertile global exchange. The lay legal knowledge of those excluded from the majestic pronouncements of the law is central to socio-legal perspectives on law. The claim to rights that people make who have been excluded depends on the official stories that law tells about justice, a central insight from critical race theory and long a part of feminist theorizing. The tie between socio-legal scholarship, the administrative state and race and gender reaches well beyond the United States; women's work often engaged local administrative states and well-being (Sevnhuijsen 1998).

Elite law from appellate courts always invited questions that would decenter law as well as turn scrutiny upon what the law claims for itself. The United States Supreme Court could say that racial segregation was wrong; that told us little about what the Court changed, and in the United States *Brown v. Board of Education* (1954, 1955) made the impact of law a center of attention in the United States. Impact questions what happened after the Court decided, and it immediately leads to asking what happens *before* an appellate court decision. However judges might vote, they can only vote on the cases that come before them, and differential resources shape what is there. People mobilize claims, and the law organizes those claims. A constitutive approach to law embeds the law within the world in which it works. Most people's concerns do not make it before the courts, and in turn the reach of law is both limited and extended through informalism, or establishing institutions such as mediation and neighborhood courts to handle what the official legal system often treats as unimportant.

What do we do with law when there is no sovereign, and the state-centered model does not capture law? What do we do in a post-professional world, where the multiple requirements of law are the responsibility of many laypeople to implement, not limited to professionals? The central places that do claim to authoritatively issue the law – the Supreme Courts, the supranational courts, the treatises synthesizing the law – themselves are subject to contextualization, the process a dialogue that

happens at a particular place and time, and the institutions' claims to truth making themselves subject to inquiry concerning what makes a claim true.

Skepticism that courts or final orders captured all that there was to know about law and what people do with it moved us into disputes, or generators of legal orders. Where it's personally or organizationally costly to make legal claims, people don't. In regulatory politics, legal claims have been built into the ordinary practice of regulation in the United States, contributing to the adversarial legalism, or reliance on rules and the threat of litigation that Robert Kagan and his colleagues have found in the American regulatory system. Worries that a focus on rules detracts from achieving goals have led to a corporatist resolution, which would require state officials to negotiate practices with businesses, leaving rule enforcement in the background.

Taking law to be a circulating set of arguments, as Frank argued, is a flexible framework particularly suited to a world where rule-of-law claims have moved outward and across levels of governance. Aspiration to law persists alongside skepticism concerning what it can accomplish. In 2013, it was a rallying cry in states from Ukraine to Egypt, with multiple legal orders deployed even in the most troubled territories, picking up the claim for the rule of law that has organized political claims in countries from England to Argentina since World War II. The rule-of-law claims are housed in street politics and in arguments for an independent judiciary, and in the part courts have played in the disruption and affirmation of regimes around the world. Legal processes and claims to due process provided a framework for management of justice claims in the early twentieth century, and they do in the early twenty-first century as minors claim statutory rights to due process on the border between the United States and Mexico. The very flexibility of rule-of-law aspirations and meanings allows analysis of how a legal field works in a country and transnationally. Authoritarian regimes claim to govern by law, playing on and distinguishing what they do from Western rule of law while also laying themselves open to critiques for punishing lawyers and ignoring their own constitutions.

Across regimes, legal complexity has grown. Law circulates as claims to authority rather than emerging from one institution. First, the documents claiming legal authority proliferate: any one case can be governed by laws on immigration, on family, on privacy, on social welfare benefits. Legal documents claiming authority include bureaucratic orders, court decisions, rules, and comments on potential rules, all of which have proliferated since Jerome Frank wrote. An immigration official at an airport or on a border can have the final word, or a case can make its way to an administrative tribunal, a domestic court, and a supranational court. In claims to hold military officials accountable after human rights abuses, advocates can try to figure out whether the best place to take a case is domestically, abroad or in a supranational venue, or whether to avoid the law and find other methods of accountability. Second, the multiple legal venues and documents produced are matched by the multiplicity of the legal frameworks to which the official orders and documents refer. Finally, learning what the law requires and how to accomplish it circulates in electronic media accessible to organizations and people who would never have had access to a law library at the height of the modern claim that law was professional knowledge

housed in written tomes available to professionals. Together, the complexity in early twenty-first century law, the availability alongside the frequent incomprehensibility of legal systems, and the declining availability of legal professionals to ordinary citizens' claims make law and society scholarship's decentered approach crucial for illuminating changes in governing through law.

What we all do with law illuminates complexity, because it enters not via how law demarcates the world but via how we do. Officials may be charged with a particular area to administer, but can also find themselves caught in cross-cutting mandates.

Tracing what officials do with law

Tracking officials generally agreed upon to be legal officials when they are working in their legal capacity delimits law. The circularity of delimiting law by saying it's what an official does when being official is evident, and it brings home Sally Falk Moore's point that mapping a field will quickly bring law into conversation with everything else. The judges, the jurors, the lawyers, the prison guards, and the parole officers are all part of the legal apparatus (Kenney 2013). Entering law and society through them sheds light on aspirations to legality, on its institutionalization, on the organization of work, which, after all, is what guarding in prisons or making legal arguments is. What that means for the lawyers, the guards, the parole officers, and not just for those who stand before the law, brings law and society scholarship to the sociology of work.

Legal work claims a distinctive knowledge with an uncertain link to justice; it is also work. Sociology of lawyering has answered who holds the jobs, what that means for incomes, whether they like their work, and what they do (Seron 1996). How we learn is gendered and raced, both through formal legal training and through inclusion and exclusion in legal work. Women and men of color experience an education in which their points of view are much less likely to be recognized. Once in practice, people drop out and are excluded from practices by gender and race. Exclusion means that the profession does not descriptively represent citizenry, nor does the profession offer the social mobility it claims.

If lawyers are the agents of justice, doing work for the public good is central to the profession's self-understanding. That responsibility was once taken to mean lawyering for those who could not otherwise get access to law, and the contests over what pro bono meant included how service blended case-level work, work for rule change, and publicity. The sites of pro bono work were offices and courtrooms, and publicity about what was happening in both. The rise of neoliberalism in law, or the idea that markets enact justice without the work of regulatory agencies or state benefit programs for less well-off people, accompanied a belief that advocacy under rules before courts or in law offices should not be the settled meaning of justice work. More than litigating cases, neoliberal advocates took the legal game of advocacy to law schools, think tanks and advocacy groups. Institutionalizing common sense regarding what's right shapes the range of possibilities long before

anything goes to court. Processes establish the common sense of law, and tracing those processes is crucial to understanding what law does, and the knowledge legal professionals create.

Judges draw public admiration or disapprobation as public officials, not just for what they decide. The visibility of judges as individual public officials is itself variable over time and across legal systems. Even within the United States, which has made individual judges more personally significant than many systems do, justices have not often captured the public imagination. Where votes and opinions are not attributed to individuals as they are in the United States, it is even difficult to track opinions. What they decide is often obscure and seemingly too technical to be very interesting, allowing everyone to shrug and believe claims that the judges decide as the law mandates, particularly within the many systems where courts issue judgments not designed to highlight the distinctive personality of a judge. Judges are appointed under public scrutiny or to public acclaim or in obscurity; some speak on issues of the day and they write memoirs. In all they might do beyond deciding cases, they can demonstrate something about how we govern. The commitment to the rule of law that justified what judges in both civil and common law jurisdictions did allowed their identity to be obscured and treated in legal commentary as irrelevant, although elite judges have been men and belonged to dominant social groups. Treating law as one part of the state in which it works rather than something only accessible to elite men has put identity on the table, and just as the career paths of lawyers by race and gender are under scrutiny, so are the identities of judges. When governing elites want to do something about legitimacy with regard to race and gender, they have used any steps toward demographic representation in the judiciary to demonstrate that progress is (or is not) being made on gender or racial equality. In the European Court of Justice, the first woman justice didn't just decide cases. She also demonstrated that women are represented in elite governing institutions (Kenney 2013).

The predominant image of the law in much of the West is the trial, and the actors in the trial. Demonstrably legal officials and specialized legal processes and the decisions made under each constitute a small part of the law. The legal rules concerning evidence, witnesses and procedure that lawyers use to construct stories for the courtroom are the foundation of a claim to professional expertise, yet are not what make legal stories most persuasive. Trials have been disappearing in the common law world (Macfarlane 2008); if they remain the focus of our analysis, it is not because they decide most complaints that could have been made under rules. Many disputes go to binding arbitration where the terms of any agreement are not announced and it is unknowable how they do or do not comport with, for example, employment discrimination law or consumer rights law. Getting legal help from licensed lawyers in civil matters is unaffordable and frightening for many people, and in the common law world funding for legal assistance has been declining. Countries vary in the support they offer for gaining legal advice and making either individual or collective claims before legal institutions; that variation contributes to the success or failure of limiting police misconduct, or violence against women, or

rights for people with disabilities (Heyer 2002). Law and legal advice circulate through listservs, blogs, friends and family, online forms, and smartphone apps, probably changing the knowledge law claims; if we wish to understand how law works, we need to understand its circulations.

We can learn about law generally or about what it does in specific fields. From one approach, law is an institution that cuts across specific areas: there are trials, for example, and administrative processes. From another, law is one set of meanings embedded within a policy area: we have legal constructions in family law, in criminal law, and in regulatory processes. The next section will explore contrasts across these perspectives.

Law as General, Law as a Policy

Judges and lawyers claim both a specific professional body of knowledge and cultural common sense. They know something about law, and people know something about law, not only about environmental policy making or criminal trials or imprisonment or immigration. The rule of law as a political claim has a force that means something about corruption, something about fairness, and something about the independence of courts from particular orders by political officials. It is not tied to one field of law. Beliefs and practices about law are multiple and flexible, which contributes to ideas' enduring power. Patricia Ewick and Susan Silbey, whose work is discussed in more detail in the next chapter, argue that persistent ideas about law circulate and are revealed in action; they may not be distinctive to particular areas of law, nor can they be revealed by individual expressions of attitudes about law. The approaches to law are seldom fixed points in our lives. People need to evoke law at different times: when a child needs supportive services at school, a parent may learn what she has to do to make the law work, even if at other times law is a distant authority. Cultural stories about law thread through the stories we tell in novels, news reports and film about who we are (Heyer 2002).

In the United States, stories about law are often ways of telling stories about culture, and what is wrong with it. People condemn each other for their willingness to sue, for unwillingness to hold themselves or others responsible and for the brake that lawsuits and the impossibility of law purportedly place on freeing businesses to act and, conversely, on holding individuals accountable for their actions. Those stories color other countries' perceptions of the United States, providing an object lesson in how they might not want to organize constitutions or legal accountability. Yet suits *between* businesses have long been a significant portion of the business of courts, rather than individual claims against a business's wrongdoing. Individual people can often be reluctant to go to law as a solution to their own problems in employment or injury. Why? Law means claiming victimization, or it can mean getting entangled in rules and processes that misunderstand us, take all our money, and take far too much time to work through. Even without the concern that everyone sues rather than finding resolution another way, any individual story often affirms

that only difficult people claim rights, and rights claiming can drive one mad (Backhouse and Backhouse 2005). We tell ourselves that we learn the wrong lessons about the legal process from popular culture, and those wrong lessons lead us to continue to refuse to hold people accountable in criminal law. We tell each other that the legal proof of criminal responsibility we see on television leads us to expect wildly unrealistic levels of proof from the criminal justice system. When there is no evidence that the criminal justice system reflects changing demands in proof, those stories tell us that we are not yet tough enough on crime, and that we get in our own way in punishing (Cole and Dioso-Villa 2009).

General ideas about what law does or what it is for still leave open what women's rights or becoming legally recognized as a citizen means, or how meanings vary over time or cross-nationally. Citizens who claim access to social insurance as a matter of a right of citizenship (Young, Boyd, Brodsky, and Day 2011) become clients of welfare states who learn about how state payments work, and maneuver to argue against the rules and for need. Law is not something general, but something particular to a field. In Indonesia, people believe Islam makes women subordinate to men, in contrast with what authoritative texts argue (Moustafa 2012). Analyzing law in a field at multiple levels by drawing together authoritative texts, lay ideas, and stories told in official forums allows us to see tensions that reading law as the final decree of an authority does not.

Law as Punitive, Law as Productive

The violence that law does through imprisoning and executing people is compelling. Punishment is the quintessential power of the state: it claims a monopoly on the legitimate use of force. The vast extent of imprisonment in the United States, and the detention of people who are not imprisoned but held pursuant to immigration cases, promote an image of street crime as rampant when it has declined, and color the remainder of the legal system in the expectations it sets for the public. In the United States, the carceral state absorbs social spending, ruins communities, and affirms an image of law as being nothing but punitive and its subjects as wrongdoers. The carceral state's reach extends transnationally, most notably in accusations concerning terrorism and pursuit in international crimes. Relying upon the promise of trials evokes the rule of law. However, using sites outside American legal jurisdiction for interrogations avoids American due process claims. The late-2014 exposure of torture by the CIA and the dilemma of where to release people from Guantanamo Bay – who would never be charged with crimes or tried yet had long been imprisoned – demonstrated failures in claims to due process or the rule of law.

Law produces as well as punishes. Law produces legal subjects who are recognized as rights-bearing citizens. Citizens include people with disabilities (Heyer 2002), and families legally recognized as parents, spouses and children. Law can make kin legal strangers to each other, a flashpoint in postcolonial societies concerning children of aboriginal peoples (Marchetti and Ransley 2005). People claim public space

via law (Cooper 2014). People enact law's promise to change the world by claiming a legal status (Barclay, Bernstein, and Marshall 2009). Legal officials operating in the routines of deciding individual cases make the everyday state that constructs inclusion and exclusion by sexual orientation, race, and nationality.

Goal-setting and legalism

In capitalist economies where the state does not own enterprises, law claims authority to regulate business activity. In the United States, mistrust of governing officials and their dependence on the businesses they regulate for information and cooperation has led to reliance on rules that proscribe behavior. Relying on rules and their enforcement through officials and courts rather than aspiring to achieving goals is a pathology scholars of regulation have analyzed. Organizations transform legality, or the aspiration to reduce arbitrariness in the application of rules, by divorcing purposes from legal processes. The courts are available to enforce rules, and a race to the courthouse is a part of the policy-making process, worth the money and effort to businesses that know they can play for rule change. Rules and the behavior they require can be loosely coupled with the outcomes that serve the broader public, whether it is lessened auto emissions or safer workplaces. People and officials cite petty rules against each other to avoid being held to account for their actions. New scholarship on regulation that recognizes the problems of legalism argues for collectively and flexibly setting goals and negotiating achievement of those goals (Parker and Nielsen 2011). The cure for legalism might be capitulation to regulatory practices outside any public accountability, particularly concerning in countries without well-established trust and ways of aggregating preferences across citizens' groups. Global markets separate the harms of production from the site of consumption, making the stories of regulation, liability and their failures transnational (Haines 2005).

The forms of law in an era of surveillance, mass migration across juridical borders, mass incarceration, and fear of both disaster and terrorism bear little resemblance either to command from a solitary authority, or to expression of community claims to justice. The technologies of governing less express the majestic force of law and more demonstrate dispersed governance, with authorities often imagining and creating the subjects to be governed.

New technologies, new definitional disputes

Following law as a field keeps the study of law off-balance enough to make it possible to adapt to displacement of legal forms. Entering law through a field – the garment trade (Moore 1978), family, zoos – allows explaining presence and absence of law and legal claims, rather than what those officials we all agree are legal officials do. It is particularly apt when *avoiding* legal encounters marks law's presence. New practices enabled by interactions on electronic media reshape governance, making

law and society's decentered approach and inquiry into when law is present or absent crucial to understanding transformations. The capacities of the Internet and electronic mapping allow one to slap a pink moustache on one's car and become a part-time taxi in the United States via the service Lyft, and skip the moustache with Uber. One can rent a room in a castle or on someone's floor through Airbnb, the online service that relies on no governmental regulation concerning standards for rooms. These services avoid regulation; they also allow people to piece together an income from part-time work as wages have remained flat. Rather than embodying the rule of law, public governance, and public trust, law performs as complexity and obstruction. One can make consumer complaints through Twitter, share stories of legal wrongs or righting them in blogs, and share expertise via Wikis. Automating legal enforcement makes it less visible. Speed limits become self-enforcing by way of flashing lights that announce how quickly one is going, leading many people to slow down. More effective enforcement leaves little trace in metrics of officers' enforcement such as tickets issued. The surveillance state consolidates information, allowing some people to pass state borders and security checks quickly while others do not; the mass of data that electronic systems collect make governing private, quiet and, perhaps, without law.

How do legal forms represent what the law is? What does it mean that people can talk back via blogs, or rapidly accumulate legal knowledge as evidence of what the law is, where it goes wrong and where it goes right, without depending upon professionals? New media and technologies for governance enable analyses of law, legal stories, and what they do, themes central to law and society scholarship and necessary for understanding transformations in governance and the implications for who legal subjects are, how legal subjects know and make legal claims, and what legal institutions and officials do. People have long talked back to the law, reframing officials' rules to make claims for justice. The proliferation of forums for talking back or offering advice alongside the collapse in the availability of affordable legal assistance together make it crucial to understand the circulation of advice, information, and claims.

Law's stories: Lives and texts

Cases lend themselves to narrative with villains, heroes and plots rather than the formal rules of trial procedure that are central to legal training. We watch the spectacular trials to discern what they might tell us about our world. Courts' stories pit one party against another, cutting off more complicated tales one could tell about causation and responsibility. The story of a case provides an entry point into a world. Courts individuate: one person and organization is held accountable under rules and each case is separable from the next, lending the work of the courts to storytelling. In Canada, the story of a woman's stand for her inheritance against her uncle illuminates claims of professional knowledge and who has it as well as claims concerning injustice within a family (Backhouse and Backhouse 2005). Law as the story of a case makes the production of doctrine co-constitutive with people's loves

and hatreds, our strengths and foibles: the industrialist Henry Ford in the early twentieth century had the money to invest in an anti-Semitic campaign that in turn led to hate speech doctrine as lawyers fought his newspaper (Woeste 2013). Law's stories allow entry into a world, often culturally and historically specific, countering claims to the timelessness of principles embedded in the recontextualized cross-citation of texts central to legal reasoning.

Once a story is told in an appellate court, its context is one of other texts, outside of time and place, without the particular characters who were parties to a case, and outside the identities that people share. In common law reasoning, a lawyer's and judge's job is to explain how cases fit with one another to make a rule. Stylized fact patterns allow analogies across contexts; in civil law traditions, the human stories are even less evident in appellate court cases. Rather than a case being about the story of how one person hurt another and who might be responsible and why, for example, in legal reasoning a case becomes part of a chain of what makes someone a tortfeasor and someone else a wronged person. The texts together make up or illustrate general principles, recontextualized as law and not people's stories.

Stories told as they first appear before a court, as parties against each other, invite us to cut off causation before the court starts its story. Reasoning through stories refutes systematic evidence legal decision makers often find less compelling. An individual story of a greedy claimant against a company stands for all of law concerning corporate wrongdoing and those who claim against businesses. One example of a woman who succeeded in a corporation refutes systematic evidence concerning inequality by gender in employment.

Internationalizing the Juridical Field

Despite the disappointment claiming rights often brings, the language of rights has proliferated transnationally. What once were tragedies are now also potentially violations of international law; acts of war are crimes. Perpetrators are held to account in criminal courts. Legalizing politics by relying on juridical forms has been a rallying cry in reorganizing accountability and in claims for justice (Blichner and Molander 2008), including in transitional justice. Court cases have been a remedy for war crimes or for corruption. Courts seldom strike down central government policies, especially when policies concern economic inequality rather than rights that are readily extended without diminishing what someone else has. In the United States, the United States Supreme Court has traditionally sided with already institutionalized power, with the possible exception of a period during the 1960s and 1970s when it would police the states as against the federal government and thereby articulate some principles for individual rights. In recent years around the world, courts have been more eager to affirm rights of equality for gay and lesbian people than they have been to accede to demands to extend welfare states in the face of rollbacks. The force of law as a touchstone for governing pervades national and supranational institutions; looking only to whether the outcomes vindicate the denunciation of

dictators or claims of rights to religious freedom misses reorganization of politics around rules and decisions under rules, and claims to the forms of legality.

Post-World War II legal documents including the European Convention on Human Rights and the Canadian Charter of Rights and Freedoms promise accountability for wrongs that will hold states and private actors to account for rights violations. Supranational courts including the European Court of Human Rights, the European Court of Justice, the Inter-American Court of Human Rights and the International Criminal Court have all framed critiques of national states and what they have done about legality in immigration, in regulation, and in employment discrimination. With domestic allies, these courts have sometimes contributed to changing what states do. States aspire to governance by the rule of law. If the haves come out ahead, what do aspirations to legality mean? How do legal forms of accountability compare with other forms of political accountability?

The field of law is organized to continue to mobilize hope that legal processes can vindicate rights against power. The Center for Constitutional Rights in the United States gathered attorneys who would take cases against the United States government concerning indefinite detention of prisoners at Guantanamo Bay. Indictments of state officials in courts far from home have the effect of publicizing wrongdoing as illegal and keeping officials from traveling outside their home jurisdictions to avoid the trials that could await them. The stories that law tells in these transnational injustices include that it can battle tyranny. Upholding a right to habeas corpus affirms in the public stories of law that law is indeed just, with officials who can uphold ideals and not capitulate to public power.

Rule-of-law claims have at least two dimensions: ensuring reliable agreements and practices, and claiming aspirations to enforcing human rights. Resolution of disputes among businesses is the daily work of the law, and the proliferation of legal agreements and rules makes work for lawyers who have the money and time to play sophisticated games far from claims to justice among individuals. Resolution of disputes among neighbors or between a citizen and a local official can play the double role of vindicating rights while affirming the power of the central state or supranational institutions and providing information upwards, whether in China, in the United States, or within the European Union.

Legal pluralism, or the claims that multiple authorities make to govern authoritatively, directly counters the claim law makes to be one final authority, the claim that Frank found so puzzling. Globalizing law through supranational courts and rights claims made via supranational agreements make a single authority beyond legal critique unimaginable. Legal pluralism manifests in settler states and in multicultural encounters. Claiming one recognizes another's law can misrecognize it. Justin Richland argues that the very act in of treating Hopi elders in Hopi Court as authorities who are to speak about law undermines the native claims to control over their disputes. The constitution of authority is that the elders decide, not that they speak of their traditions to another who can interpret what law means (Richland, 2005). Indigenous peoples have had interpretations of space, authority, family, race and property adjudicated by colonial legal authorities that flattened and simplified

histories and claims to both family and property, embedding them in postcolonial governance (Marchetti and Ransley, 2005; Mawani, 2009). Contests over authority in colonial regimes have made the law of the sovereign self-evident while systematically enacting legal subjugation (Hussin, 2007).

Conclusion: Globalized Claims, Centrifugal and Centripetal Law

The hope to transform politics with rights and legal accountability contrasts with the world of lawyers who jet around making transnational deals. Capital flows around the world escape legal regulation. The international financial crisis and the World Trade Organization work in a world where people still take to the streets (and even more to Facebook) to call for fairness, equity and the rule of law, yet the haves come out ahead in the World Trade Organization too. Everything we know about the appeal of rights, the need for allies to make rights work, and the hope the late modern world puts into legal institutions can illuminate the distribution of wealth upwards and the expansion of the global tournament of lawyers and the histories and practices of mass surveillance in new forms. Law and society scholars' willingness to live with tensions – law as authoritative, law as a field of claims – opens possibilities for understanding multiple deployments of law, illuminating the worlds in which we've lived in a way that analyzing only central legal institutions cannot. The essays in this collection demonstrate the strength that law and society scholarship continues to bring to central problems in justice.

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