# LAW& SOCIETY REVIEW

The Journal of the Law and Society Association

Contributors:

**Gunther Teubner** 

Colin Loftin Milton Heumann David McDowall

Mary Holland Baker Barbara C. Nienstedt Ronald S. Everett Richard McCleary

David F. Greenberg

Allan V. Horwitz



### **POLICY**

The Law & Society Review welcomes articles and research notes by lawyers, social scientists, and other scholars that bear on the relationship between society and the legal process. The Review is published by the Law and Society Association, an international group drawn primarily from the legal and social science professions, whose purpose is the stimulation and support of research and teaching on the cultural, economic, political, psychological, and social aspects of law and the legal system.

### **MEMBERSHIPS**

Members of the Law and Society Association receive the *Review* as a perquisite of membership. Dues in the Association are:

Student (nonvoting) \$10.00 Contributing \$50.00 Regular \$25.00 Sustaining \$100.00

Contributions to the Law and Society Association are tax exempt.

## FREQUENCY AND SUBSCRIPTIONS

The Law & Society Review (ISSN 0023-9216) is published quarterly each year; summer, fall, winter, spring by the Law and Society Association, 200 West 14th Avenue, Denver, Colorado 80204. Second class postage is paid at Denver, Colorado, and additional mailing offices.

POSTMASTER: Send address change form 3579 to: Law & Society Review, 200 West 14th Ave., Denver, Colorado 80204.

Subscriptions may be entered on a volume basis. Each volume consists of approximately 640 pages (plus index). Nonmember and institutional rates for a one-year subscription are \$40.00 (\$42.00 outside the U.S.A.). Special two- and three-year rates are available on request. Single copies of the current issue may be obtained from the Association at \$10.00 each. Single copies of back issues are available at \$10.00 each, except for Vol. 3, Nos. 2 and 3 (combined issue), Vol. 7, No. 4, and Vol. 13, No. 2, which are \$15.00 each, Vol. 11, No. 2 (Special Issue), which is \$2.00 (\$3.00 outside U.S.A.), Vol. 14, No. 3 which is \$4.00 (\$5.00 outside U.S.A.), and Vol. 15, No. 3-4 which is \$20.00.

Direct communications to: Executive Office, Law and Society Association, University of Denver College of Law, 200 West 14th Ave., Denver, Colorado 80204.

# **MANUSCRIPTS**

All manuscripts and editorial correspondence should be sent to:

Richard O. Lempert, Editor Law & Society Review University of Michigan Law School Ann Arbor, MI 48109

Manuscripts should be submitted in quadruplicate. Text, including footnotes and references, should be double spaced with ample ( $1\frac{1}{4}$  inch) margins. Footnotes, references, tables, and graphs should follow the main body of the text. Citations that make the author's identity obvious should, to the extent feasible, be deleted from three of the four copies in order to facilitate anonymous reviewing. Each manuscript should contain a short (100 word) abstract and a biographical description of the author(s). A style sheet is available upon request. Manuscripts cannot be returned to authors. Because of the commitment we ask of our outside referees, the *Review* cannot consider for publication manuscripts being considered by other journals, and a submission to the *Review* carries with it the implicit promise that the manuscript will not be submitted elsewhere so long as it is under consideration by the *Review*.

The Law & Society Review gratefully acknowledges the generous assistance of the Cook funds of the University of Michigan Law School in supporting its editorial office.

The Law & Society Review, its editors, editorial board, and publisher, and the Law and Society Association, disclaim responsibility and liability for any statements of fact or opinion made by contributors.

© The Law and Society Association, 1983 All Rights Reserved



**VOLUME 17, NUMBER 2 / 1983** 

# **CONTENTS**

ABOUT THE AUTHORS	231
FROM THE EDITOR	233
UBSTANTIVE AND REFLEXIVE ELEMENTS IN MODERN LAW GUNTHER TEUBNER	
MANDATORY SENTENCING AND FIREARMS VIOLENCE: EVALUATING AN ALTERNATIVE TO GUN CONTROL COLIN LOFTIN, MILTON HEUMANN, and DAVID McDOWALL	287
THE IMPACT OF A CRIME WAVE: PERCEPTIONS, FEAR, AND CONFIDENCE IN THE POLICE MARY HOLLAND BAKER, BARBARA NIENSTEDT, RONALD S. EVERETT, and RICHARD McCLEARY	319
DONALD BLACK'S SOCIOLOGY OF LAW: A CRITIQUE DAVID F. GREENBERG	337
RESISTANCE TO INNOVATION IN THE SOCIOLOGY OF LAW: A RESPONSE TO GREENBERG ALLAN V. HORWITZ	369
RESISTANCE TO CONVENTIONALITY IN THE SOCIOLOGY OF LAW: A REJOINDER TO HORWITZ DAVID F. GREENBERG	385

# LAW SOCIETY REVIEW

Editor: Richard O. Lempert

Associate Editor: Colin Loftin
Editorial Secretary: Joyce E. Reese
Production Editor: Margaret A. Lourie

### EDITORIAL ADVISORY BOARD

Lawrence Baum, Ohio State University Upendra Baxi, University of Delhi

Richard A. Berk, University of California, Irvine

Alfred Blumstein, Carnegie-Mellon University

Masaji Chiba, Tokyo Metropolitan University

Philip J. Cook, Duke University

Brenda Danet, Hebrew University, Jerusalem

Fredric L. DuBow, University of Illinois, Chicago Circle

James Eisenstein, Pennsylvania State University

Phoebe C. Ellsworth, Stanford University

David Engel, State University of New York, Buffalo

Volkmar Gessner, Universitat Bremen, Germany

Robert Gordon, University of Wisconsin, Madison

Thomas A. Green, University of Michigan

Carol J. Greenhouse, Cornell University

Bernard Grofman, University of California, Irvine

Reid Hastie, Northwestern University

Keith Hawkins, Wolfson College, Oxford

Heleen F. P. Ietswaart, France

Judith A. Lachman, University of Wisconsin, Madison

Elizabeth Loftus, University of Washington

Lynn Mather, Dartmouth College

Stewart Macaulay, University of Wisconsin, Madison

Charles McCurdy, University of Virginia

Craig McEwen, Bowdoin College

Neal Milner, University of Hawaii

Martha A. Myers, University of Georgia

Rogelio Perez Perdomo, Universidad Central de Venezuela

Albert J. Reiss, Jr., Yale University

Lawrence Rosen, Princeton University

Daniel Rubinfeld, University of Michigan

Michael J. Saks, Boston College

Kees Schuyt, University of Leiden

Martin Shapiro, University of California, Berkeley

Boaventura de Sousa Santos, Universidade de Coimbra, Portugal

Lee E. Teitelbaum, University of New Mexico

Austin T. Turk, University of Toronto

Neil Vidmar, University of Western Ontario

N. Darlene Walker, University of Houston

Stanton Wheeler, Yale University

Barbara Yngvesson, Hampshire College

Klaus A. Ziegert, University of Sidney