

Disaster and Sociolegal Studies. Oñati Legal Studies Series, Volume 3, Number 2. By Susan Sterret, ed. New Orleans: Quid Pro, 2013. 251 pp. \$71.60 hardback.

Reviewed by Sheila Jasanoff, John F. Kennedy School of Government, Harvard University

Disasters historically came in two well-demarcated categories: the natural and the anthropogenic, or human-made. Uncontrollable nature gave rise to disastrous wildfires, floods, droughts, earthquakes, tsunamis, landslides, sinkholes, and lightning strikes. These were seen as acts of god, regular yet unpredictable, often occasioning huge losses of life and property and subjecting survivors to the costs and stresses of relocation and rebuilding. Out-of-control technologies also failed and sometimes caused catastrophic damage: chemical leaks, explosions, food poisoning, adverse drug reactions, train wrecks, collapsed bridges, and oil tankers run aground. Although tested for safety, and often officially certified as such, technological systems and artifacts proved to have weaknesses that designers had not foreseen, and hence excluded from their calculus of acceptable risk. Both kinds of disasters intersected with law, but the law's involvement seemed for decades to be largely reactive, restricted mainly to adjudicating compensation claims.

This edited volume, the product of a 2011 international workshop held in Oñati, Spain, sets out to complicate that traditional picture. Following much recent literature on risk and disaster (Hutter and Power 2005; Klinenberg 2002; Lakoff 2009), the contributing authors blur the boundary between natural and social causes. They note that most disasters involve a complex interplay between natural phenomena and human institutions, decisions, and behaviors that are together responsible for the nature and severity of the harms caused. More specifically, the authors illustrate the many ways in which law is implicated in disaster scenarios not only after injury has occurred but as a part of the infrastructure that shapes the trajectory of a disastrous event and its aftermath. This revelation of the ubiquity of law provides a springboard for asking sociolegal scholars to take disasters seriously as a site of analysis, with the hope that such research will lead to improved response capabilities and mitigation of injury and injustice in disaster's wake.

The contributors all agree that the nature–culture boundary makes little sense in disaster analysis but they converge on very little else. The chapters display an almost bewildering variety in their approaches to examining the law's actual and potential role in the unfolding of disasters. Examples range across countries, causes,

scales of intervention, questions asked, and literatures invoked. Some authors, such as O'Malley on resilient subjects, Izo on the politics of catastrophes, and Burton on wildfire management, reach into foundational political and social thought to demonstrate how ideas of the state's power and responsibility have influenced disparate responses to risk. Other contributors appear more concerned with the administrative minutiae of disaster management, as in Sapat and Esnard's account of the resettlement of refugees after the 2010 Haiti earthquake or Flatt and Stys's review of the role of non-profit organizations in long-term relief efforts following four large-scale disasters in the Gulf of Mexico.

Sterett's introduction valiantly attempts to draw general themes from this surfeit of case studies, while Birkland's bookending chapter sets out possible intersections between sociolegal scholarship and disaster studies more broadly. Neither attempt, however, succeeds in deriving a compelling research agenda, let alone a coherent theoretical framing, from the heterogeneity of the individual contributions. Sterett underscores the law's contradictory roles—as problem solver but also causal agent for the very sorts of problems it is called on to solve, and as promoter of risk-taking but also provider of social services after injury has occurred. Birkland adds specificity to this analysis, but he does so through the formal strategy of summarizing a handful of articles by sociolegal scholars on disasters, not connecting these works to that of his coauthors in this volume.

A discerning reader will nonetheless find scattered through the chapters the ingredients for a deeper, more synthetic treatment of the connections between law and disaster. To begin, post-disaster encounters with law, as most of the chapters suggest, are what Izzo calls "epiphanies of injustice." These are moments when fundamental elements in the construction of inequality by law are laid bare, and potentially made available for correction, although the forces that created the unequal settlements in the first place cannot be set aside unless the dominant structures of power are themselves subverted—as they rarely are in the stories told in this volume. Thus, Meyer's demonstration that failures of the U.S. welfare state exacerbated the problems of displaced persons after Hurricane Katrina renders implausible the hope that the same state will rectify the conditions that partitioned its citizens into vastly different categories of vulnerability and resilience.

Related to its fundamental power to shape the landscape of justice is the law's capacity to divide the denizens of disaster-stricken worlds into subjects who can and will be cared for and those who are deemed unworthy of legal attention. The victims of Hurricane Katrina who were, in Sun's telling, wrongly mythologized by reporters as looters and murderers offer a poignant example. Even mundane legal rules of the kind that specify how long or for what

kinds of injuries victims can be compensated often perpetuate structures of inclusion and exclusion that operate with merciless logic in the aftermath of catastrophic events. Ironically, in “engineered disasters” of the kind McEvoy describes, law may encourage risk-taking behavior by the rich, only to step in again to award compensation to those very same agents when activities such as overfishing or building on fragile lands have led to predictable losses of life or property.

Importantly, too, the law draws and redraws the lines between public and private obligation both before and after disasters. Flatt and Stys take such a distribution of labor for granted in their treatment of nonprofit agencies’ role in disaster management. A more important task for sociolegal scholars would be to query the basis of such divisions in the first place. Even granting that the state cannot be in all places at once when disaster strikes, and that bureaucracies are often slower to mobilize than private organizations, still the question which public responsibilities may or may not be delegated to private bodies demands critical sociolegal analysis. For example, it may be efficient for the United States to allow a private attorney, Kenneth Feinberg, to become the nation’s “master of disasters” (Barkan 2016). Other states, based on different understandings of collective responsibility, however, might find it reprehensible to delegate the task of putting values on human life to a person who is not accountable to any public authority (Feinberg 2005).

Lastly, an underdeveloped theme, but one superficially encountered in chapters such as Ponce’s on Spanish land-use planning, Sun’s on disaster mythology, and Hiller’s on multilevel governance, is the role of law in enabling the fact-finding and knowledge production that disaster managers need to function reasonably. Neither the chapters nor the volume as a whole make reference to the literature in science and technology studies on the role of law in constructing not merely the facts of the matter in adversarial settings but a society’s deeper ideas of reason and rationality (Jasanoff 1995, 2012). That absence is particularly noticeable in Sun’s piece, which uncritically presumes that authorities occupy a position of superior knowledge and expertise from which they can educate managers on the right way to know the facts in disaster contexts. But a certain naiveté about the politics of knowledge marks, and mars, the volume more pervasively.

A book explicitly attending to these four dimensions of law’s involvement in disasters—making justice, making subjects, making the public–private divide, and making knowledge and expertise—could have usefully expanded the agenda of sociolegal analysis. Very likely, such a work would also have dealt more frontally with law’s role in the North-South dynamics of disaster causation and management, a dimension that receives only glancing treatment in

this book, although some transboundary issues affecting the global North are included. Nevertheless, despite its gaps and analytic unevenness, the book raises awareness about the central place of law in creating and maintaining the environments within which modern disasters inflict their hurt and injury.

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