FROM THE EDITOR

In a notable addition to the small number of broad-based cross cultural studies of legal institutions, ("Political and Psychological Correlates of Conflict Management: A Cross Cultural Study"), Klaus-Friedrich Koch and John Sodergren identify conditions associated with the presence of differentiated adjudicatory institutions. In contrast to this hologeistic perspective Allan Shapiro ("Law in the Kibbutz: A Reappraisal") and Richard Schwartz exchange views on the emergence of specialized legal institutions in the specific historic setting of Israel's collective communities. In his reassessment of Schwartz's (1954) classic study of social control in two Israeli communities, Shapiro supplies new data on social control in the kibbutz. Their divergent readings of that data seem implicated in disparate theoretical characterizations of legal institutions, specifically of the relation of specialization to the distinctively legal character of institutions. These papers address the circumstances under which specialized and/or distinctively legal institutions arise; the other papers in this issue cluster around the effects of such institutions on the implementation of public policy and the ways in which people use such institutions in processing disputes.

To a literature which is heavily weighted toward documenting and diagnosing the failures of legal measures, Leon Robertson's "An Instance of Effective Legal Regulation: Motorcyclist Helmet and Daytime Headlamp Laws" adds a straightforward success story. It is a double success: the new rules not only succeed in regulating behavior, but this regulation appears to achieve the goals for which it was enacted. This instance of the "triumph of law"[1] throws into starting relief the difficulties in implementing new legal policy described in the papers by Church and by Ross.

Thomas Church ("Plea Bargains, Concessions and the Courts: Analysis of a Quasi-Experiment") neatly displays the mechanisms by which a pattern of bargained dispositions survived an attempt to proscribe it. Church's account complements the conclusion of Heumann (1975) that plea bargaining is not explainable by caseload pressure, but represents an expression of the fundamental strategic concerns of the actors. Church's

1. "In general legal norms actually determine human behavior in society: the triumph of law is the rule, its defeat in a concrete case an exception." (Timasheff 1937: 226).

study also provides a vivid example of homeostatic adjustment by which a local criminal justice system contains and defeats a policy innovation.

Assessing a variety of attempts to control driver behavior through changes in judicially-imposed penalties, H. Laurence Ross ("The Neutralization of Severe Penalties: Some Traffic Law Studies") suggests that legal institutions harbor a capacity to contain and subvert policy changes. Curiously, then, if specialized legal institutions generate a specialized learning which diverges from popular understanding, they appear intractable to regulation through the very body of specialized authoritative learning which is cultivated within them.

In Austin Sarat's "Alternatives in Dispute Processing: Litigation in a Small Claims Court" we turn to the way in which such specialized adjudicatory institutions are used by disputants. Sarat's study advances the study of litigation (cf. the recent special issues of this *Review* [1975, 1975]) by exploring the nexus between the social relationships of disputants, their varying capacities to use the court, the choices they make in using it, and the outcomes of that use. If the papers by Church and Ross depict legal institutions as opaque and resistant to policy control, Sarat suggests ways in which they are permeable, allowing the capacities, relationships and purposes of the parties to shape the process within the specialized legal setting. Taken together, these papers suggest some of the ways in which policies and interests are refracted through the medium of differentiated legal institutions.

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