From the Editor

In the last issue of *Law & Society Review*, I mentioned that subsequent issues, to the extent possible, would group articles by their type of approach to current debates over the direction of law and society work. In that issue, most articles were grounded in the rigorous methodologies of quantitative empiricism.

In this issue, no hypotheses are tested, no regressions are run, and no reports of significance levels are offered. Significance has a different meaning here. All of these authors are seeking to identify a larger picture, though in quite different ways. While not entirely divorced from the fine strokes of empiricism (none are devoid of connections with our empirical traditions), the scope of discussion here is accomplished with a broader brush.

In the first three pieces, for example, facts are consolidated from the outset into broad categories of culture and history. For purposes of comparison with phenomena in the United States, these analyses rest on the careful fitting together of a host of observations that also fit the linguistic conventions of cultural analysis. Their strength lies not in their thorough verification of each fact, but rather in the compelling gestalt which emerges from their efforts.

In discussing apology, for example, Hiroshi Wagatsuma and Arthur Rosett illustrate their ideas with a variety of anecdotes. Yet the total effect of the paper strides far beyond those anecdotes as it weaves a brocade of the contrasts between apology in Japan and apology in the United States. The strands of their analysis weave in and out of legal and nonlegal concepts and institutions, making their efforts a welcome addition to the growing gallery of glimpses into the relevance of Japanese experience and institutions for American sociolegal debates. Yet the authors are careful to acknowledge the loose ends and imperfections in the current picture.

Because Wagatsuma and Rosett's kind of analysis leans heavily on the reader's "aha" experience of recognizing fundamental patterns, and also because many *Review* readers will probably not have this kind of experience when reading reports on Japan, I invited John Haley to share his reactions to their paper. Rosett welcomed this procedure because he was reluc-

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tant to make extensive changes to the manuscript, in deference to the memory of his co-author, and also because he recognized the value of adding Haley's comments to the discussion.

In Edwin M. Lemert's paper, we have once again a thesis based on the theme of cultural continuity. He introduces here the idea of a "spurious institution" (juvenile justice in this case, though the implication is that other institutions in other cultures could be spurious). He binds together a discussion of Italian social structure and historical experience to explain the relative weakness of juvenile justice institutions in Italy. While he returns often to the cultural force of familism as an explanatory feature of its history, his rich development of historical detail, combined with his exposition of contending ideologies (such as the criminological positivism of Ferri), reveal a picture of contending forces affected at times by fortuitous circumstances.

While Kirk R. Williams and Richard Hawkins do not present new data in their paper, it is an attempt to make sense of others' data concerning the issue of general deterrence. Their critique addresses one of the most frequently and variously researched questions in criminal justice. They defend their extension of the general deterrence concept by showing how narrower formulations have produced inadequate results. As different as their work is from the first three papers, there is a shared theme in their call for less reverence for the line separating legal from nonlegal ways of thought and action. Williams and Hawkins document a host of methodological dilemmas that deterrence research has faced in both cross-sectional and longitudinal modes, concluding that confusion will continue until the relationship between legal and extralegal effects of punishment are sorted out.

Finally, in an essay sparked by two recent books on Max Weber's sociology, David M. Trubek offers to lead us out of a trap that he says even Weber recognized in the objective social scientific approach he pioneered towards the study of law. Trubek shows how the promise of positivism hits a dead end where the road between fact and value splits. He argues that we cannot even know our destination, much less get there, unless we travel both roads simultaneously; a feat which Weber came to think of as impossible. Just as Weber would have rejected the possibility of a universal theory of general deterrance, such as Williams and Hawkins discuss, so Trubek rejects Weber's pessimistic conclusion that the legacies of positivism and modern law are inevitably aimless. Arguing that much of modern law and society research activity would fit Weber's

worst nightmares, Trubek challenges us to consider breaking the boundaries between regular studies of law and what we have fondly come to call "law and society," not in order to exalt either one of them but to pursue the only meaningful course: social change through research grounded in action.

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