

LAW & SOCIETY Review

The Journal of the Law and Society Association

Articles

Constitutional Interpretation and Institutional Analysis

The Political Significance of Legal Ambiguity: The Case of Affirmative Action - *Keith J. Bybee*

The Supreme Court and the Protection of Minority Rights: An Empirical Examination of Racial Discrimination Cases - *Francine Sanders Romero*

Slavery as an Interpretive Issue in the Reconstruction Congresses - *Pamela Brandwein*

The Structural Context of Novel Rights Claims: Southern Civil Rights Organizing, 1961–1966 - *Francesca Polletta*

Research on Legal Services

Exploring the Costs of Administrative Legalization: City Expenditures on Legal Services, 1960–1995 - *Charles R. Epp*

Pre-Trial Bargaining and Litigation: The Search for Fairness and Efficiency - *Robert M. Howard, Richard E. Chard, Joel T. Kaji, & Jeffrey Davis*

Cops, Counsel, and Entrepreneurs: Constructing the Role of Inside Counsel in Large Corporations - *Robert L. Nelson & Laura Beth Nielsen*

Review Essay

Thresholds: Sovereignty and the Sacred - *Nasser Hussain & Melissa Ptacek*

LAW & SOCIETY

Review

Policy

The *Law & Society Review* is a peer-reviewed publication for work bearing on the relationship between society and the legal process, including articles or notes of interest to the research community in general, new theoretical developments, results of empirical studies, and comments on the field or its methods of inquiry. The *Review* is broadly interdisciplinary and welcomes work from any tradition of scholarship concerned with the cultural, economic, political, psychological, or social aspects of law and legal systems.

Manuscript Submission

What to submit: Five copies of the manuscript and an abstract of about 100 words, together with a brief biographical description of the author(s). Manuscripts submitted to the *Review* must not be under consideration by another publication. Manuscripts cannot be returned to authors.

Manuscript format: Delete all identifying references from four of the five copies of your manuscript. Text, including footnotes and references, should be double spaced with 1-inch margins. Footnotes, references, tables, and figures should be placed at the end. An abridged style sheet is published regularly in the *Review*; a full style sheet is available on request.

Send manuscripts to:

Joseph Sanders
Incoming Editor, *Law & Society Review*
University of Houston Law Center
Houston TX 77204
e-mail: sanders@uh.edu

Direct inquiries about book reviews and review essays to:

Helena Silverstein, Government and Law Department
Lafayette College, 111 Quad Drive
Easton, PA 18042-1780

2000 Frequency and Subscriptions

The *Law & Society Review* (ISSN 0023-9216) is published four times a year: April, June, October, and December by the Law and Society Association, Hampshire House, University of Massachusetts at Amherst, Amherst, MA 01003-3615. Periodicals postage is paid at Amherst, MA, and additional mailing offices.

POSTMASTER: Send address change form 3579 to: *Law & Society Review*, Hampshire House, Box 33615, University of Massachusetts at Amherst, Amherst, MA 01003-3615.

Subscriptions are entered on a volume/calendar year basis. Each volume consists of about 1,000 pages (plus index). Nonmember and institutional rates for 2000 one-year subscriptions are \$129.00 (\$146.00 outside USA). For two- and three-year subscription rates or prices of *single copies* of the current and back issues, call or write the Executive Office.

2000 Law and Society Association Membership

Membership in the Association is open to individuals and includes a subscription to the *Review*. Members have the right to reprint articles from the *Review* without charge for classroom use. Annual dues for 2000 (*Review* Volume 34) are:

Under \$15,000	\$ 30.00	\$60,001–\$80,000	\$ 90.00
\$15,000–\$30,000	\$ 50.00	Above \$80,000	\$110.00
\$30,001–\$60,000	\$ 70.00	Student	\$ 25.00

Contributions to the Law and Society Association are tax exempt.

Direct communications about membership, subscription, back issues, reprint permission, or advertising to: Executive Office, Hampshire House, Box 33615, University of Massachusetts at Amherst, Amherst, MA 01003-3615. Telephone (413) 545-4617; FAX (413) 545-1640; E-mail exec_office@lawandsociety.org. Website: <http://www.lawandsociety.org>

The *Law & Society Review* gratefully acknowledges the generous assistance of Wellesley College for support of 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, 2000. All Rights Reserved

LAW & SOCIETY

Review

Volume 34
Number 2
2000

Contents

About the Authors 259

Articles

Constitutional Interpretation and Institutional Analysis

The Political Significance of Legal Ambiguity: The Case of Affirmative Action *Keith J. Bybee* 263

The Supreme Court and the Protection of Minority Rights: An Empirical Examination of Racial Discrimination Cases *Francine Sanders Romero* 291

Slavery as an Interpretive Issue in the Reconstruction Congresses *Pamela Brandwein* 315

The Structural Context of Novel Rights Claims: Southern Civil Rights Organizing, 1961–1966 *Francesca Polletta* 367

Research on Legal Services

Exploring the Costs of Administrative Legalization: City Expenditures on Legal Services, 1960–1995 *Charles R. Epp* 407

Pre-Trial Bargaining and Litigation: The Search for Fairness and Efficiency *Robert M. Howard, Richard E. Chard, Joel T. Kaji, & Jeffrey Davis* 431

Cops, Counsel, and Entrepreneurs: Constructing the Role of Inside Counsel in Large Corporations *Robert L. Nelson & Laura Beth Nielsen* 457

Review Essay

Thresholds: Sovereignty and the Sacred *Nasser Hussain & Melissa Ptacek* 495

LAW & SOCIETY

Review

Editor:	Susan S. Silbey
Associate Editors:	Marianne Constable, Robert Dingwall, Lee Epstein, Jonathan Simon
Review Essays Editor:	Helena Silverstein
Editorial Assistant:	Ida Rothschild
Production Editor:	P.M. Gordon Associates, Inc.

Editorial Advisory Board

- Elizabeth Chambliss, Harvard University
Nahum Chandler, Duke University
Mark Cooney, University of Georgia,
Athens
Eve Darian-Smith, University of
California, Santa Barbara
Yves Dezalay, Paris, France
Theodore Eisenberg, Cornell University
Robert Ellickson, Yale University
Phoebe Ellsworth, University of Michigan
Eric A. Feldman, Institute for Law and
Society, New York University
Lisa Frohmann, University of
Illinois–Chicago
Angela Garcia, University of Cincinnati
John Gilliom, Ohio University
Thomas Green, University of Michigan
David Greenberg, New York University
Joel Grossman, Johns Hopkins University
Alice Hearst, Smith College
Stuart Henry, Valparaiso University
Alan Hunt, Carleton University
David Kairys, Temple University
Duncan Kennedy, Harvard University
John Kilwein, University of West Virginia
Chantal Kourilsky, I.R.C.I.D., Ivry-Cedex,
France
Richard Lempert, University of Michigan
Richard Leo, University of California,
Irvine
Robert MacCoun, University of
California, Berkeley
- Martha McCluskey, State University of
New York, Buffalo
Brinkley Messick, Columbia University
Michael Meurer, State University of New
York, Buffalo
Leslie Moran, Birkbeck College,
University of London
Richard Moran, Mount Holyoke College
Calvin Morrill, University of
Arizona–Tucson
Pat O'Malley, La Trobe University,
Australia
Karen Orren, University of California,
Los Angeles
Gerald Rosenberg, University of Chicago
Thomas Russell, University of Texas
Robert Sampson, University of Chicago
John Henry Schlegel, State University of
New York, Buffalo
Carroll Seron, City University of New
York
Ronnie Steinberg, Vanderbilt University
David Sugarman, University of Lancaster,
United Kingdom
Thomas Streeter, University of Vermont
Takao Tanase, Kyoto University, Japan
David Trubek, University of
Wisconsin–Madison
David Weisburd, Hebrew University
Stanton Wheeler, Yale University
James Boyd White, University of Michigan