# Law & Social Inquiry

Journal of the American Bar Foundation Volume 38, Number 4, Fall 2013

WILEY Blackwell

## Law & Social Inquiry

Journal of the American Bar Foundation Expanding Knowledge, Advancing Justice Published by Wiley Blackwell

Editor Christopher W. Schmidt

Review Section Editor Howard S. Erlanger

Associate Editors Bernadette Atuahene

Janice Nadler
Jill D. Weinberg
Victoria Saker Woeste

Editorial Coordinator Amanda Ehrhardt

### **Editorial Board**

#### 2011-2013

Ana Aparicio, Anthropology, Northwestern University
Anthony Chen, Sociology, Northwestern University
Eric A. Feldman, Law, University of Pennsylvania
Michele B. Goodwin, Law, University of Minnesota
Lynne Haney, Sociology, New York University
Bernard E. Harcourt, Law & Political Science, University of Chicago
Jerry Kang, Law, University of California
Kenneth Mack, Law, Harvard University
Michael Leo Owens, Political Science, Emory University
Tom Tyler, Psychology, New York University

### 2012-2014

Mario Barnes, Law, University of Califronia-Irvine
Katharine Beckett, Law, Societies & Justice, University of Washington
Sarah Biddulph, Law, University of Melbourne
Tomiko Brown-Nagin, Law, Harvard University
Laura E. Gómez, Law, University of California, Los Angeles
Joanna Grisinger, Legal Studies, Northwestern University
Anne Morrison Piehl, Economics, Rutgers University
Justin B. Richland, Anthropology, University of Chicago
Francis Shen, Law, University of Minnesota
Sarah Song, Law & Political Science, University of California at Berkeley

### 2013-2015

Kenworthey Bilz, Law, University of Illinois
Robert Crutchfield, Sociology, University of Washington
Zev Eigen, Law, Northwestern University
Marie Gottschalk, Political Science, University of Pennsylvania
Amalia Kessler, Law, Stanford University
Doris Marie Provine, Justice & Social Inquiry, Arizona State University
Kimberly Richman, Legal Studies & Sociology, University of San Francisco
Jennifer Robbennolt, Law & Psychology, University of Illinois
Heather Schoenfeld, Sociology, Ohio State University
Stewart Schwab, Law, Cornell University
Jonathan Simon, Law, University of California at Berkeley
David Tanenhaus, Law & History, University of Nevada, Las Vegas
Anders Walker, Law, Saint Louis University
Keith Whittington, Politics, Princeton University

## Law & Social Inquiry

### Volume 38, Number 4, Fall 2013

ARTICLES	
Juror Perceptions of the Legitimacy of Legal Authorities and Decision Making in Criminal Cases	
Amy Farrell, Liana Pennington, and Shea Cronin	773
Compliance: Conceptualizing, Measuring, and Explaining Adherence to Judicial Rulings	
Diana Kapiszewski and Matthew M. Taylor	803
Underclaiming and Overclaiming Sachin S. Pandya and Peter Siegelman	836
Trying Something Old: The Impact of Shame Sanctioning on Drunk Driving and Alcohol-Related Traffic Safety  Lauren C. Porter	863
Anxiety Governance Brenda Cossman	892
The New Trial by Ordeal: Rape Kits, Police Practices, and the Unintended Effects of Policy Innovation	920
Rose Corrigan  Enforcing Regulation: Robert Kagan's Contribution—And Some Questions Keith Hawkins	920
"Native Courts" and the Limits of the Law in Colonial Sudan: Ambiguity as Strategy  Jeffrey Adam Sachs	973
Claiming Citizenship: The Political Dimension of Welfare Fraud Shiri Regev-Messalem	993
REVIEW ESSAYS	1019
Antinomies and the Automobile: A New Approach to Criminal Justice Histories Sarah A. Seo	1020
Islamic Law in Action: A Historical Discussion Boğaç A. Ergene	1041
BOOK NOTES	1058
REVIEW SECTION INDEX, VOLUME 38	1065

### **Publication Policy**

Law & Social Inquiry is published quarterly for the American Bar Foundation by Wiley Periodicals, Inc., Commerce Place, 350 Main St., Malden, MA 02148-5020; Tel: 781 388 8200; Fax: 781 388 8210.

The purpose of Law & Social Inquiry is to promote research and writing dedicated to the study of law, legal institutions, legal processes and individuals' interactions with legal systems, undertaken from a socio-legal perspective. The editors invite the submission of manuscripts that make original contributions to the understanding of sociolegal processes. Law & Social Inquiry considers both empirical analyses and theoretical studies without restriction as to time or place. Law & Social Inquiry embraces the broad range of perspectives and methodologies current in contemporary social science and humanities disciplines.

Law & Social Inquiry is a refereed journal that practices double-blind peer review. Manuscripts deemed appropriate for the journal are evaluated by two or more referees with expertise in the relevant subject matter and methodology. Manuscripts are rendered anonymous prior to review; referees are not identified to authors.

The American Bar Foundation (ABF) is an independent, nonprofit national research institute committed to objective empirical research on law and legal institutions. The Foundation's program of sociolegal research is conducted by an interdisciplinary staff of Research Fellows trained in such diverse fields as law, sociology, psychology, political science, economics, history, and anthropology. The American Bar Foundation is the preeminent resource for lawyers, scholars, and policy makers seeking analyses of the theory and functioning of law, legal institutions, and the legal profession. The Foundation's work is supported by the American Bar Endowment, by The Fellows of the American Bar Foundation, and by grants for particular research projects from private foundations and government agencies. The Foundation (Director Robert L. Nelson) is located at 750 North Lake Shore Drive, 4th floor, Chicago, Illinois 60611. Further information about Foundation programs and activities can be found at: www.americanbarfoundation.org. For information specific to Law & Social Inquiry choose the publications menu on the ABF website, go directly to www.abfn.org/lawsoc.html, or go to www.wileyonlinelibrary.com.

Manuscripts submitted to Law & Social Inquiry by ABF Research Fellows are evaluated in the same fashion as all other manuscripts received, and are accorded no special privilege or priority in publication.

ARTICLES: To submit an article manuscript, please go to the Journal's ScholarOne Manuscripts homepage (http://mc.manuscriptcentral.com/lsi). Log in, or click the "Create Account" option at the top-right corner of the log-in page if you are a first-time user of ScholarOne Manuscripts. After submitting your manuscript, you will receive a confirmation e-mail. You can also access ScholarOne Manuscripts any time to check the status of your manuscript. The Journal will inform you once a decision has been made.

Send general queries to: Isi-abf@abfn.org. The mailing address: Law and Social Inquiry, The American Bar Foundation, 750 North Lake Shore Drive, Suite 400, Chicago, Illinois 60611. Telephone: 312-988-6517. Fax: 312-988-6611.

REVIEW ESSAYS: Review Essays do not undergo traditional peer review, so please do not use ScholarOne Manuscripts to submit your essay.

Send books for review and inquiries regarding review essays to: Howard S. Erlanger, Review Section Editor, Law & Social Inquiry, Institute for Legal Studies, Law School, University of Wisconsin, Madison, WI 53706.

Telephone: 608-263-7405. Fax: 608-238-8003. E-mail: erlanger@ssc.wisc.edu. Please note that Law & Social Inquiry publishes review essays and short book notes but not traditional book reviews.

Law & Social Inquiry will not consider any manuscript concurrently submitted for publication elsewhere. Submission of a manuscript commits the author to publish the manuscript in Law & Social Inquiry if accepted for publication by the Editors.

Manuscript Preparation and Submission Guidelines: Article manuscripts submitted to Law & Social Inquiry should be prepared using MS Word. Please use Times New Roman 12pt font for text, notes, and references. Article manuscripts must be double-spaced throughout, including notes and references. Article manuscripts must be accompanied by an abstract of no more than 150 words. LSI strongly prefers submissions to adhere to a 15,000 word limit. If your manuscript is over 15,000 words, please submit a letter with the submission explaining the length. We will allow up to 17,500 words for papers using qualitative, historical, narrative, or multiple methodologies. For complete submissions instructions, please see www.wileyonlinelibrary.com.

Accepted Manuscripts: Manuscripts that are accepted for publication must be brought into full conformity with Law & Social Inquiry style. Detailed instructions can be found at www.wileyonlinelibrary.com.

Accepted manuscripts are copy edited for style but not substance; authors remain responsible for citation accuracy and for all statements of fact or opinion. Authors are given an opportunity to review edited manuscripts and/or proofs.

Off-Prints to Authors: Free access to the final PDF offprint of articles will be available via Author Services only, an automated system. Please sign up for Author Services if you would like to access your article PDF offprint and to access the other benefits the service offers. Authors are encouraged to sign up for Author Services when their article enters production in order to receive a clear explanation of the benefits, including the ability to access their final article. To sign up, visit http://authorservices.wiley.com/bauthor/.

Republication Rights: It is a condition of publication that authors assign copyright in their articles to the American Bar Foundation. Authors retain rights of re-use, as long as re-use does not include sale or reproduction of the article or any part of it for commercial purposes. These rights apply without needing to seek permission from the Foundation or Wiley Blackwell. In addition, provided that authors give appropriate acknowledgement to the Journal, the American Bar Foundation and Wiley Blackwell, and full bibliographic reference for the Article when it is published, they may use all or part of the article and abstract, without revision or modification, in personal compilations or other publications of their own work.

All requests by third parties to re-use the Article in whole or in part will be handled by Wiley Blackwell. Any permission fees will be retained by the Journal. All requests to adapt substantial parts of the Article in another publication (including publication by Wiley Blackwell) will be subject to the author's approval.

Law & Social Inquiry (ISSN 0897-6546[print], ISSN 1747-4469[online]) is published quarterly on behalf of the American Bar Foundation by Wiley Subscription Services, Inc., a Wiley Company, 111 River St., Hoboken, NJ 07030-5774.

Information for subscribers: Law & Social Inquiry is published in four issues per year. Institutional subscription prices for 2013 are: Print & Online: U\$\$270 (US), U\$\$311 (Rest of World), €203 (Europe), £159 (UK). Prices are exclusive of tax. Asia-Pacific GST, Canadian GST and European VAT will be applied at the appropriate rates. For more information on current tax rates, please go to www.wileyonlinelibrary.com/tax-vat. The price includes online access to the current and all online back files to January 1st 2009, where available. For other pricing options, including access information and terms and conditions, please visit www.wileyonlinelibrary.com/access.

Journal Customer Services: For ordering information, claims and any inquiry concerning your journal subscription please go to www.wileycustomerhelp.com/ask or contact your nearest office.

Americas: Email: cs-journals@wiley.com; Tel: +1 781 388 8598 or +1 800 835 6770 (toll free in the USA & Canada). Europe, Middle East and Africa: Email: cs-journals@wiley.com; Tel: +44 (0) 1865 778315.

Asia Pacific: Email: cs-journals@wiley.com; Tel: +65 6511 8000.

Japan: For Japanese speaking support, Email: cs-japan@wiley.com; Tel: +65 6511 8010 or Tel (toll-free): 005 316 50 480. Visit our Online Customer Get-Help available in 6 languages at www.wileycustomerhelp.com

**Electronic Access:** This journal is available online at Wiley Online Library. Visit www.wileyonlinelibrary.com to search the articles and register for table of contents e-mail alerts.

Access to this journal is available free online within institutions in the developing world through the AGORA initiative with the FAO, the HINARI initiative with the WHO and the OARE initiative with UNEPFor information, visit www.aginternetwork.org, www.healthinternetwork.org, www.oarescience.org

Back Issues: Single issues from current and recent volumes are available at the current single issue price from cs-journals@ wiley.com. Earlier issues may be obtained from Periodicals Service Company, 11 Main Street, Germantown, NY 12526, USA. Tel: +1 518 537 4700, Fax: +1 518 537 5899, Email: psc@periodicals.com

Production Editor: Muhammad Haider Md Sahle (email: LSI@wiley.com)

Mailing: Periodical Postage Paid at Hoboken, NJ and additional offices.

**Postmaster:** Send all address changes to LAW & SOCIAL INQUIRY, Journal Customer Services, John Wiley & Sons Inc., 350 Main St., Malden, MA 02148-5020.

Abstracting and Indexing Services: Academic Search (EBSCO), Academic Search Premier (EBSCO), Arts & Humanities Citation Index® (Thomson ISI), Criminal Justice Abstracts (Sage), Current Abstracts (EBSCO), Current Contents® (Thomson ISI), Current Contents®/Social & Behavioral Sciences (Thomson ISI), Current Law Index (Thomson Gale), EBSCO Legal Collection (EBSCO), EBSCO Sociological Collection (EBSCO), Expanded Academic ASAP (Thomson Gale), Family Index (), Index to Legal Periodicals & Books (HW Wilson), InfoTrac (), Journal Citation Reports/Social Science Edition (Thomson ISI), LegalTrac (), Proquest 5000 (ProQuest), Proquest Discovery (ProQuest), Proquest Research Library (ProQuest), Social Sciences Citation Index® (Thomson ISI), Social Sciences (CSA/CIG), SocINDEX (EBSCO), Sociological Abstracts (CSA/CIG), Student Resource Center College (w/ Academic ASAP), Worldwide Political Sciences Abstracts (CSA/CIG).

Copyright and Photocopying: © 2013 American Bar Foundation. All rights reserved. No part of this publication may be reproduced, stored or transmitted in any form or by any means without the prior permission in writing from the copyright holder. Authorization to photocopy items for internal and personal use is granted by the copyright holder for libraries and other users registered with their local Reproduction Rights Organization (RRO), e.g. Copyright Clearance Center (CCC), 222 Rosewood Drive, Danvers, MA 01923, USA (www.copyright.com), provided the appropriate fee is paid directly to the RRO. This consent does not extend to other kinds of copying such as copying for general distribution, for advertising or promotional purposes, for creating new collective works or for resale. Special requests should be addressed to: PermissionsUK@wiley.com

ISSN 0897-6546 (Print)

ISSN 1747-4469 (Online)

For submission instructions, subscription and all other information visit: www.wileyonlinelibrary.com.

Wiley's Corporate Citizenship initiative seeks to address the environmental, social, economic, and ethical challenges faced in our business and which are important to our diverse stakeholder groups. We have made a long-term commitment to standardize and improve our efforts around the world to reduce our carbon footprint. Follow our progress at www.wiley.com/go/citizenship

**Disclaimer:** The Publisher, the American Bar Foundation, and the Editors cannot be held responsible for errors or any consequences arising from the use of information contained in this journal; the views and opinions expressed do not necessarily reflect those of the Publisher, the American Bar Foundation, and the Editors, neither does the publication of advertisements constitute any endorsement by the Publisher, American Bar Foundation, and Editors of the products advertised.

Printed in the USA by Sheridan Press

### 2014 Law & Social Inquiry Graduate Student Paper Competition

The editors of Law & Social Inquiry are pleased to announce our annual competition for the best journal-length paper in the field of sociolegal studies written by a graduate or law student. Law & Social Inquiry publishes empirical and theoretical studies of sociolegal processes from a variety of disciplinary perspectives. Entries will be accepted starting January 1, 2014 and must be received by March 1, 2014.

LSI invites direct submissions from graduate and law students and nominations of student work from faculty. The author must be a graduate student or law student at the time the paper was written and when submitted. Faculty nominations should include a short description along with the paper and contact details for the student. The winning paper will be published in Law & Social Inquiry and the author(s) will receive a total cash prize of \$500 (US). Submissions will be judged by the editors. The winning submission will be sent to selected scholars for advisory reviews to aid with revisions prior to publication.

Please send your best work in Microsoft Word or as a PDF to: <a href="lsi-abf@abfn.org">lsi-abf@abfn.org</a>. Please indicate (1) your intention is to be considered for the prize competition; (2) confirm your graduate student status; and (3) that the paper is a sole submission to Law & Social Inquiry, meaning that you have not submitted it to other journals for potential publication. Submission is limited to one paper per student; articles may not be altered or resubmitted with corrections once it has been received by our office.

Submissions must include a title page with a *complete* mailing address, e-mail address, and phone number(s). The second page should include a 100-150 (maximum) word abstract. Beginning on the third page, all pages should be paginated. Text, footnotes, endnotes, and references should be double-spaced, in Times New Roman 12 font, with 1.5" margins on all sides with no headers or footers. Properly formatted submissions must be no more than 60 manuscript pages.

For additional information go to <a href="http://blackwellpublishing.com/LSI">http://blackwellpublishing.com/LSI</a>, or <a href="http://abfn.org/LSI">http://abfn.org/LSI</a>, email us at <a href="http://abfn.org">lsi-abf@abfn.org</a>, or call our office directly at (312) 988-6517.

### Acknowledgments to Reviewers

The Editors wish to thank the following reviewers whose careful evaluations and helpful recommendations have greatly assisted us during the past year. We are grateful for their willing contributions of expertise and judgment, which help to maintain Law & Social Inquiry's high standards for scholarly work in sociolegal studies.

Aas, Katja Franko	Berd
Adelman,	Berg
Madelaine	Bern
Alexandre, Michele	Bern
Alter, Karen	Bign
Ancheta, Angelo	Bilz,
Anderson, Elisabeth	Bix,
Anderson, Matthew	Blac
Aparicio, Ana	Blac
Arewa, Funmi	Blun
Ashley, Louise	Blun
Asimow, Michael	Bodo
Austin, Regina	Boed
Aviram, Hadar	Brad
Badgett, Lee	Brin
Baker, Katharine	Brin
Balan, Manuel	Bron
Balasubramanian,	Brop
Savina	Bros
Banner, Francine	Brov
Baranetsky, Victoria	Brye
Barnes, Jeb	Buga
Barnes, Mario	Bush
Baron, Janes	Buth
Belge, Ceren	M
Benesch, Susan	Bybe
•	•

la, Yael er, Susan nan, Douglas nstein, Lisa ami, Francesca Kenworthy Brian k, Derek kburn, Carole n, Binyamin ne, John omo, Adams d, Roman iley, Stephanie ig, Margaret ks, Daniel nley, Ray ohy, Alfred cheid, Andreas wn, Steven en, Ari aric, Bojan nway, Shawn helezi, 1bongiseni ee, Keith

Calavita, Kitty Caldwell, Peter Campbell, Kristina Carle, Susan Carpenter, Dan Carrano, Julia Cavender, Gray Chambers, Peter Chan, Gary Chan, Linus Chau, Peter Chen, Anthony Chen, Iim Chiarello, Elizabeth Cho, Joonmo Chowdhry, Prem Clarke, Jessica Cohen, I. Glenn Cole, Simon Collier, Richard Collins, Paul Conant, Lisa Conley, John Corinaldi, Michael Cortina, Lilia Costello, Cary

Coutin, Susan Cummings, Scott Cunningham, Mark Czarnota, Adam Dailey, Anne Dale, Elizabeth Daniels, Stephen De Giorgi, Alessandro Degenshein, Anya den Dulk, Kevin Diamond, Stephen Dinovitzer, Ronit Dixon, Rosalind Dolin, Gregory Donohue, John Drahozel, Christopher du Plessis, Willemein Dyevre, Arthur Eagly, Ingrid Egan, Patrick Erie, Matthew Evas, Tatjana Ewald, Alec

© 2013 American Bar Foundation.

Farhang, Sean Fernando, Mayanthi Hinkle, Rachael Fetner, Tina Figueroa, Julio Fishman, Gideon Fitz-Gibbon, Kate Forest, Benjamin Frankenberg, Erika Frohman, Lisa Frye, Margaret Frye, Timothy Fu, Hualing Garth, Bryant Ghachem, Malick Gill, Rebecca Ginsburg, Tom Goldring, Luin Goluboff, Risa Goodman, Philip Goodrum, Sarah Goodwin, Michele Gordon, Gregory Green, Stuart Grembi, Veronica Grote, Kent Gulati, Mitu Hadfield, Gillian Haltom, William Hamo, Michal Han, Hahrie Han, Sora Handmaker, Jeff Haney, Lynne Hannaford-Agor, Paula Hans, Valerie Hansford, Thomas Hanssen, F. Andrew Harding, Richard Harel, Alon Hartley, Richard Hartley, Roger Hartog, Hendrik Hazeldean, Susan Headworth, Spencer

Hendley, Kathryn Ho, Christina Hofnung, Menachem Holland, Alisha Hossain, Sara Huang, Kuo-Chang Hussin, Iza Ingram, Matthew Jackson, Jean Jacobs, James Johnson, Rebecca Jones, Carol Jones, Martha Kahlenberg, Richard Kalhan, Anil Kappelhoff, Mark Kaufman, Sarah Keaton, Trica Danielle Keck, Thomas Kelly, Erin Kerniel, Yuval Klug, Heinz Kramberger Kerl, **Jerca** Kritzer, Herbert Krygier, Martin Kuyucu, Tuna Lakhani, Sarah Landsman, Stephan LaPiana, William Lautmann, Ruediger Mikos, Robert Lazos, Sylvia Le Bail, Helene Ledeneva, Alena Lee, Bun Song Leo, Richard Levin, Leslie Li, Zhigang Lindsay, Matthew Linos, Katerina Liu, Sida Lo, Carlos

Lom, Stacy Long, Yan Loughnan, Claire Loughran, Thomas Loury, Glenn Macias-Rojas, Patrisia Mack, Kathy Magliocca, Gerard Marciarille, Ann Marie Marder, Nancy Margulies, Joseph Margulies, Peter Marouf, Fatma Marshall. Anna-Maria Martin Rountree. Meredith Martin, John Levi Martin, Patricia Massoud, Mark Matravers, Matt McElrath, Suzy McGuinness, Sheelagh McMillan, L. Jane Meili, Stephen Melton, Gary Menjivar, Cecilia Mertz, Beth Michaels, Ralf Michener, Jamile Miller, Robert Mitsilegas, Valsamis Monahan, John Moore, Dawn Morales, Daniel Morales, Maria Cristina Morrill, Calvin Munger, Frank Murray, Gregg Musheno, Michael

Mutcherson, Kimberly, Myrick, Amy Nadler, Janice Nevins, Joseph Ng, Kwai Hang Nielsen, Laura Beth Novak, Marko Nuwer, Hank O'Brien, Barbara O'Brien, Kevin Obasogie, Obsagie Olley, Gregory Oppenheimer, Melanie Pacelle, Richard Page, Joshua Paik, Leslie Pakes, Francis Pandya, Sachin Park, John Park, Kyung Sin Parmar, Pooja Paschel, Tianna Patton, Paul Pedersen, David Peerenboom, Randall Pena, Sergio Penalver, Eduardo Pereira, Faustina Perlin, Michael Pettit, Becky Popova, Maria Prabhat, Devyani Prasad, Monica Purcell, Edward Puri, Jyoti Rajak, Dinah Ravid, Itay Ray, Brian Rebecca Sandefur Redding, Jeffrey Reiss, Dorit Reynolds, Jennifer Rodriguez-Franco, Diana Romero, Mary Rose-Ackerman, Susan Rosenberg, Gerald Rosenbury, Laura Ross, Richard Rostain, Tanina Said, Zahr Salaymeh, Lena Schlegel, John Schmidt, Christopher Schoenfeld, Heather Schumann, Karl Seron, Carroll Shahani, Nishant Shamir, Hila Shankar, Shylashri Shapiro, Susan Sharafi, Mitra

Shaw, Victor Shen, Francis Sherwin, Richard Short, Jodi Sibanda, Eliakim Sieja, James Simon, Jonathan Singer, Simon Slobogin, Christopher Somin, Ilya Southworth, Ann Spalding, Andrew Spalek, Basia Spender, Lynne Sponger, Donald Staton, Jeffrey Stenning, Philip Sterling, Joyce Stern, Rachel Stilt, Kristen Stimson, James Stryker, Robin

Suk, Julie Taylor, LaShanda Theidon, Kimberly Tiger, Rebecca Tomassetti, Julia Tomlins, Christopher Tonry, Michael Tourkochoriti, Ioanna Tyler, Tom Unah, Isaac Upham, Frank Valverde, Mariana Van Caeneghem, Jozefien Van Cleve, Nicole van der Woude, Maartje Varsanyi, Monica Wahlbeck, Paul Walker, Anders Wallace, Jude

Ward, Artemus Weinberg, Jill Weise, Julie Welch, Kim Wendel, Bradley Wexler, David Whitman, James Whytock, Christopher Wiener, Richard Williams, Rebecca Wilson, John Woo, Margaret Woodward, Jennifer Yildirim, Seval Young, Alison Yu, Wei-Hsin Yung, Corey Ziegler, Mary Ziv, Neta

\*\*\*