# From the Editor

Compliance with law is among the most important continuing themes of research in the law and society field. Theories of compliance with law have begun at some point on a continuum between two extreme views. At one extreme, compliance with law follows from a decision to obey a rule. A decision to comply may be influenced by the likelihood that formal sanctions will follow disobedience, by the existence of other kinds of consequences that flow from obedience or disobedience, by comprehension or interpretation of the legal rule, by the actor's conflicting goals, and possibly by other contingent circumstances. At the other extreme, compliance flows from a nonchoice, from acceptance of limits on what is possible. In this view law is a perspective, often accepted as inevitable, that defines what is possible. While we may argue about the ownership of property, we seldom question the existence of property. Thus, according to this second theory, law constitutes or creates our reality.

Recent work in the law and society field has shown increasing understanding of the importance of blending these views of the role of law in ordering society. By viewing law simultaneously as a terrain of contention over instrumental control of behavior and as a terrain of meaning, important questions can be more fully addressed about the power of those who officially pronounce the law, the significance of new rights, and the role of law in the everyday ordering of society.

The articles in this issue of the *Law & Society Review* concern compliance with law, and they reflect not only the full range of starting points on the continuum of theory but also the importance of blending different theories and different perspectives on compliance.

Daniel Nagin and Raymond Paternoster explore individual propensity and rational actor/situational theories of compliance with criminal law by means of scenario data. The method asks subjects to estimate the probability that they would commit the acts described in a scenario, and by varying the scenario for different groups of subjects, both constitutive or internal propensities and situational factors may be identified that affect decisions to commit crimes. The authors demonstrate that criminal behavior is responsive both to opportunities, sanctions, and other situational factors, and to constitutive qualities, such as moral reservations, that incline or disincline persons to commit crimes. Thus, their research supports both

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theories, and the authors conclude, appropriately, that it will be important to test such theories simultaneously in future research.

Lauren Edelman, Howard Erlanger, and John Lande write about compliance with federal equal employment opportunity law (EEO) within the corporation. A major "constitutive" element influencing compliance is the corporate setting itself, and, specifically, the role assumed by personnel professionals within the corporation. In the corporate setting, the law and the corporate role of the personnel manager interact. The role of the officer is to resolve a conflict in a manner consistent with the personnel/EEO officer's organizational role. While personnel officers perceive fair resolution of EEO complaints as the goal of compliance, control of the conflict is removed from the hands of grievants, the process is not fully two-sided, and the leverage of the employee and the opportunity for change is severely limited. Thus, compliance with EEO law in this setting often achieves the corporate goal of smooth relations with employees rather than equal opportunity.

Bert Kritzer and Frances Zemans, like Edelman et al., explore the possibility that local legal cultures alter the effects of general rules in particular settings. They examine the hypothesis that implementation of Rule 11 of the Federal Rules of Civil Procedure (permitting sanctions for inappropriate lawyer conduct) is subject to variation as a result of the development of local legal cultures in federal district courts. The authors discover, contrary to expectations, that most of the variation in Rule 11 experience is accounted for by structural differences between districts and that there is little left for local legal culture to explain. They suggest that the findings are consistent with what we know about the lack of opportunity for practitioners and judges in civil courts, in contrast to those in criminal courts, to interact to constitute continuing mutual expectations.

Mark Kessler's study of the Supreme Court's foundational First Amendment cases places the Court's early decisions in their historical and cultural setting, exposing a two-way constitutive effect. The cultural and historical context of Court deliberations provides the material on which Supreme Court opinions draw. In turn, the Court feeds back to the society an altered picture that emphasizes a particular interpretation of values and of legitimate politics. Ironically, situational differences between elites who create the law and non-elites who live by it mean that the legal norms which support tolerance among elites equally logically support intolerance among non-elites. Kessler's creative blend of constitutive and situational theory offers a new starting point for a nuanced understanding of theories of compliance.

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