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EDITORIAL

From the editors

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Troubling times, generative responses: 60 years of Law & Society Review.

Sitting down to write this Editorial introduction, we must admit to feeling a bit daunted. This is our first as the new team of Co-Editors-in-Chief of the *Law & Society Review* (*LSR*), long now the world's premiere interdisciplinary journal for sociolegal scholarship, and deftly helmed and handed to us by our esteemed predecessors in just that state. So, obviously, we don't want to be the ones to mess up all the good we have inherited.

Additionally, the start of our term corresponds with the 60th anniversary of the journal's founding in 1966 – it's "Diamond Jubilee." And so, we also want to make sure we adequately honor this important milestone in *LSR*'s history and the remarkable contributions it has made over that time. These contributions are not only to the specific contours of sociolegal scholarship but also in demonstrating what lasting excellence in interdisciplinary academic engagement can and should consist of more generally.

Yeah, no pressure.

So what did we do? Well, after crawling out from under our desks, we three anthropologists turned to our training. Using our ethnographic fieldwork sensibilities we considered the journey this journal has taken over the past 60 years. Of course, we knew there were several versions of this history that have already been told over the years, many by our friends, colleagues, and mentors (Friedman 1986; Garth and Sarat 1998; Garth and Sterling 1998; Trubek 1990). But knowing first-hand the intellectual alchemy that comes from researchers' own engagement with their fields of inquiry, we decided to look for ourselves at the first Editorial Note published in *LSR*.

And what we saw there … well, it was somewhat underwhelming. After characterizing the "growing need" for a forum that could host the interdisciplinary dialog between social scientists and lawyers, then-editor Richard ("Red") Schwartz (1966) detailed how each of the contributing disciplines – political science, sociology, and anthropology – was increasingly turning its analytic lenses and scholarly commitments to "legal policy issues of highest relevance" (6). Political scientists were

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interested in judicial and bureaucratic decision-making and its intersections with politics. Sociologists were concerned with how legal processes were impacting social life through questions of civil rights, poverty, and crime. And they joined the anthropologists in wondering about the relationship between legal institutions and matters of culture and society writ large. All of this sounds generally familiar, but also so general as to be almost obvious.

This sense, too, was not entirely novel to us. Nor is it, we suspect, to many of you. Each of us can recall a moment in our research when a rising panic came over us because we had spent so much effort (not to mention other people's money) to "enter" a field of inquiry (whether physically or conceptually) we were sure would yield novel insight, only to find that it was so terribly, achingly predictable. Not only was nothing in the field unique enough to generate any analytic value from discovering its familiarity(to paraphrase an old anthropological adage), but it was as if even its familiarity was so expected as to be banal.

We also knew that the first panic often subsides. If we could stick around long enough, change our questions some, and start to train our lenses on the particularities of what we were encountering anew, something interesting usually starts to arise. This is what happened here as well.

First, we realized that it was rather anachronistic of us to expect near-oracular insight to reveal itself in what Schwartz would have written back in 1966. It is probably more interesting to ask why we thought that we would find evidence of some critical awareness (or even some "exogenous shock") that triggered in our sociolegal foremothers and fathers the impulse to invest their professional time and energy into the birth of a new interdisciplinary outlet. More than just a lack of appreciation for how social movements operate, or how institutions kick off, maybe we were guilty of that hoary risk of reading into the past the preoccupations of the present.

Either way, we then recognized that what Schwartz was describing in his note was, in fact, the culmination of a roiling set of scholarly fomentations happening in disparate corners of the academy, over an extended period. Through his concise summaries, Schwartz's descriptions of the abiding concerns that different social science disciplines were having with law, and that legal professionals and scholars were having with social scientific inquiry, were guideposts pointing to several watershed moments in the theorizing, realizing, and professionalizing of the thing that we now call Law & Society. In this, Schwartz's introduction gets a hand from a companion piece (Yegge 1966), authored by Robert B. Yegge, founding president of the Law & Society Association (LSA). Both essays recount the events that contributed to the formalization of the LSA and *LSR*. As Yegge and Schwartz relate, these were varied and manifold. There were several different publications presenting original sociolegal research findings in the pages of several different circulars and journals, including, famously, a special issue of the journal *Social Problems*, a dedicated "Law & Society" section of the Wisconsin Law Review, and a law and social sciences *Newsletter*, all of which first appeared in 1964 and 1965. At the same time, there was a growing number of subdisciplinary convenings taking place within or proximate to the annual gatherings of the American Anthropological Association, the American Political Science Association, and the American Sociological Association. And these gatherings and publications were themselves preceded by major initiatives underwritten by funding agencies such as the Social Science Research Council, the Russell Sage Foundation, and the Walter E.

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Meyer Research Institute of Law, which supported interdisciplinary scholarly teams at UC Berkeley, Harvard, Wisconsin, and Yale, among others.

For a couple of us, these "if they come, you can build it" efforts (with apologies to W.P. Kinsella) bore a striking resemblance to a similar endeavor undertaken by another sociolegal forebear, Karl N. Llewellyn. As a towering figure in American Legal Realism and the Anthropology of Law, Llewellyn holds a special place in our own scholarly trajectories. The origins of the LSA remind us of his role as Chief Reporter of the Uniform Commercial Code (UCC). For it was in that capacity, and Llewellyn's particular commitment to devising a code that would direct jural attention away from its own text and toward the actual commercial activities of the communities it was designed to order, that would require him to organize the professional convenings necessary to support its adoption (Twining 2012). Indeed, standing on its own, the language of the UCC was baffling to the legal deans and doyennes of code drafting at the time. Scholars like David Mellinkoff (1967) were confused by its seemingly circular logics, complaining acidly, "[i]t wallows in definition it does not define, and definition that misleads.... It includes many ways of saying the same thing, and many ways of saying nothing" (185). We suspect that Llewellyn (and later his successor, Soia Mentschikoff), anticipated these complaints and strove to head them off by hosting a number of convenings of the leading legal professional societies, including the American Law Institute, and the National Conference of Commissioners on Uniform State Laws in which they invited both the participation in and the endorsement of their drafts of the UCC. Doing so allowed the UCC's proponents to counter that its provisions, while seemingly empty when read in contextual isolation, were nothing of the sort. Rather, they pointed past their own terms to the unfolding practices of communities of merchants and their legal representatives whose norms would constitute the real basis for their grounding over time. Perhaps Llewellyn's genius lay precisely in this forethought; namely, that his commitments to a realist-inspired legislative fix to commercial law involved expending energy not only (or even primarily) in wordsmithing the text of a model statute but also in convening the leaders and practitioners whose consensus as to the dynamics of *their* practices, and adequacy of the UCC's indexing of them, could be said to have given the model code its content and effect (Twining 2012).

This, too, might be said to be the genius of Schwartz, Yegge, and others breaking ground with the nascent Law and Society movement, whose early reports seem, at least on paper, underwhelming at first blush. Building a movement to intervene in the scholarship and practice of law spurred many of our forebears, with names now familiar to us (e.g. Ball, Friedman, Hurst, Jacob, Kadish, Kalven, Macaulay, Messinger, Nader, Nonet, Selznick, and Skolnick, to name only a few), not just to pursue their individual programs of research, but to invest their energies in convening the gatherings – both in person and in print – that would ultimately sustain the effort through deed as much as in word. And this often meant looking past their own disciplinary limits. We notice in the earliest writings, for example, the specific *kinds* of social–scientific inquiry that they felt were of paramount importance to pass along to those dedicated to various aspects of the field science traditions in sociology, political science, and anthropology. Yegge and Schwartz spend precious space in their introductions championing the various training opportunities the early convenors were hosting – the workshops and summer institutes in which leading social scientists worked in and with law, and especially on how this was "to afford solid grounding in the methodology of field research

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on law in action ... the program will include attention to ... participant observation; interview and questionnaire surveys; sampling operations; and forms of quantitative and non-quantitative empirical investigation" (Schwartz 1967, 5).

Thus, many of the best elements we see thriving in Law & Society today are those that have their roots in the very earliest impulses of its founding. These elements include not just our interdisciplinarity and methodological diversity but also our openness to theoretical innovation, critical reflection, and the lessons to be learned from sociolegal traditions and colleagues from beyond our Euro-American borders. And it most certainly includes the encouragement, training, and support of junior scholars and their professional development, insofar as it is not just in the establishment of a community of inquiry but in its reinvigoration and reproduction through those who will follow us that turns an impulse into an institution for over 60 years and, we hope, 60 years more.

On this last point, we do also wish to strike an additional note. For there were exogenous forces motivating the emergence of a new, interdisciplinary organization for the study of law's relationship to sociality. It wasn't one event or one thing that did it. No "tipping point," per se. But rather something more like a rising awareness among the LSA and *LSR*'s earliest architects that the 1950s and 1960s were undergoing a steady sociocultural reordering, and that both the law and social sciences were informing and being informed by those changes. The era was, of course, a time of great social upheaval, from the ethnoracial tensions boiling over in the US and Europe, to the technological and economic displacements spurred by nuclear proliferation and the Green Revolution in Asia, Africa, and Latin America, and the global restructurings wrought by decolonization, international wars, assassinations, and other forms of political shake-up. Schwartz's note speaks to this, if somewhat obliquely, when he writes that "[d]uring the past decade, each of the social sciences has found it necessary to face legal policy issues of highest relevance to the disciplines ... and to the society as a whole." Concomitantly, he continues, "the legal profession has moved from a position of reluctant consumer of [sociolegal] information to an active participant in the research process" (Schwartz 1967, 6).

At the same time, the headwinds facing the Law and Society Movement from within the academy were also strong. As both Trubek (1990) and Garth and Sterling (1998) note, reticence among certain "mainstream" law faculty to embrace the utility of empirical approaches for studying what they held to be a doctrinal discipline and practice met a concomitant sentiment among social scientists skeptical of the value of law as an object of social scientific inquiry in general. This resulted in a dampening of the original optimism with which the LSA's founders championed the possibilities of interdisciplinary sociolegal inquiry and a retrenchment of disciplinary divisions.

And so, the road to the present we find ourselves following has never been straightforward nor smooth, and we do not wish to make it seem that way in hindsight. There has always been tumult. And, in fact, it may be precisely this "unsettling" that we find to be most relevant today. For we understand that our current moment is similarly tumultuous. Democracy and the Rule of Law seem to be in retreat. The National Science Foundation, long a source of funding for law and social science research, is being dismantled. Some argue that this turn of events may finally dispel fantasies of Euro-American exceptionalism. Even this view admits that our times require exploring anew, and in new ways, how law acts on and is understood in our social worlds.

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We thus take some small measure of solace in knowing that LSA and *LSR* were founded in the crucible of considerable social change and were forged from the trials and tribulations of how to respond to them rigorously. Indeed, as Garth and Sterling (1998) explain in their retrospective, "the 1960s ... were a good time for an alliance between law and social science," in part because "of what was happening in the streets" (412). They continue that "[s]ocial science provided a new professionalizing expertise that offered ways to manage the new social agenda ... [as well as] to challenge the postwar complacency of law schools and the training and expertise of lawyers for governing the state" (412). And despite the disillusionment with interdisciplinary sociolegal studies that would come in the late 1970s and 1980s, we three find similar inspiration in the generative upset of Law and Society's earliest days and believe ours to be a moment ripe for its revisiting. Rather than returning to our respective academic corners, ours is precisely the kind of unsettling context that called our predecessors to the boisterous interdisciplinary endeavor that would become Law & Society, and thus which makes it so urgent now.

We admit that we may be disciplinarily primed for this view. For insofar as anthropology is the discipline that grew from the study of the sociocultural lives of peoples at the so-called "frontiers" of Euro-American colonial orders (and often in service to those orders), it took up consideration of times and places where the matter of law's hold was understood as never entirely settled (Richland and Mertz 2026). Today, our present moment is unsettled because normative commitments we presumed to be foundational (e.g. republicanism, constitutionalism, the Rule of Law) have become objects of contestation anew, in ways that have shaken our understanding of our sociolegal worlds, troubling the lives that shape and are shaped by them.

And so, we return to Llewellyn, this time in his work with the Boasian legal anthropologist, E. Adamson Hoebel, another ancestral figure in Law & Society (see Schwartz 1973). We invoke Llewellyn and Hoebel's "trouble case method" from their landmark, *The Cheyenne Way* (Llewellyn and Hoebel (1967 [1941]), and by which they view law as existing "for the event of breach and ... in the doing of something about that breach" (39). They explain that it is "the case of hitch or trouble that dramatizes a 'norm' or 'conflict of norms' which may have been latent. It forces conscious attention.... [and] solution in a fashion to be remembered" (40). "Trouble" makes accessible for reflection the competing presumptions that structure understanding and action among peoples caught up in normative conflicts. This makes them available to those of us who would inquire after them and their resolution. Thus, while our tumultuous times are understandably worrying, we can perhaps be heartened by the possibility that the troubles we find in them are grist for the generative scholarship to be found in the pages of *LSR*.

Insofar as we are living now through some sort of upsetting of the received juridical and political order of things, we believe we are called not just to acknowledge the uncertainty but to try to come to grips with what law and its relations to society are becoming, without assuming we already know the answer. For us, this means being ready to ask, and to ask of *LSR* manuscripts, to what extent they and we are speaking to the question, "How does law matter *now*?" Riffing off Bryant Garth and Austin Sarat's (1998) edited volume, as well as our own commitments (Cabatingan 2024; Maurer 2018; Richland and Mertz 2026), we want to bring an intentionally polyvalent understanding of "matter" as both a question of its ideological significance and its empirically observable impact. We want to open space for law as practice, law as discourse, law

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as object, law as text, law as material technologies and their own affordances, law as durable and fragile institutions. We hope to spark, with the appropriate mix of urgency and deliberation, conversations about law and its place in our world, and how *LSR* can and should position itself as the premier venue for curating these vital discussions. If we are indeed living in a time of the sundering of the links between law, its rule, and the many spheres of social normativity – what Robert Cover (1983) called *nomoi* (*nomos*, sg.) – that our laws were presumed to point to and (re)produce for their legitimacy, it behooves sociolegal scholars, and the venues in which they publish, to pursue inquiry into what finding nomos looks like now (see Richland and Mertz 2026).

This, it seems, is particularly appropriate for our moment, not just as a tribute in honor of the 60th anniversary of the association and the journal's creation, but also out of recognition of the similarly turbulent times in which we find ourselves. And while ours is perhaps additionally troubling for the ways in which the social sciences seem as much under threat as the legal orders we study – indeed increasingly by those who claim to act in the name of those orders – we are heartened by the legacies of action, association, and critical expression that we have inherited in taking up this role. We look forward to working with all of you in making as much "good" out of this "trouble" that we can as Editors of *LSR*. And we are excited to see what novel approaches, keen insights, and critical interventions we can collectively bring to what we hope will be a future as generative as our past has been.

In this Issue.

With this issue, the inaugural one under our editorship, we have a collection of papers that we believe gets us going in exactly the right direction. We would be remiss if we did not thank again the outgoing editorial team – Katharina Heyer, Ashley Rubin, and Shauhin Talesh – who set us up for success by leaving a solid pipeline of articles in various stages of review and teaching us the ropes.

In these articles, we see how people learn the law, its benefits and its risks, sometimes furthering but sometimes scuttling their own interests. They do so in online forums, when having their criminal records expunged, and by being funneled into interactions outside the courtroom. We also see how people are making the law matter in the historical circumstances in which we find ourselves today, with swirling misinformation, digital media remaking our social lives and experiences, algorithmic processes in more of our encounters with the state, and economic relations that strain under our efforts to describe them or afford them explanatory power.

In line with our gesture toward the history of law and society, most of the articles in this issue take a classic concept from our field and push it forward. From Marc Galanter's haves and have-nots, to Mnookin and Kornhauser's bargaining in the shadow of law, Edelman and Suchman's legal environments and Menjivar's liminal legality, Felstiner's lumping it, Felstiner, Abel, and Sarat's naming, blaming, and claiming, and, of course, Silbey's good old legal consciousness, these articles take a core concept and stretch it. Some do so with new kinds of data, such as digital social media and the results of automated decision-making. Others do so by pointedly asking how we can approach shifts in how the law is made to matter, or not, in sites that are as conceptual as they are material, such as the border or the economy. This type of empirical and conceptual work stretches these classic questions and helps drive the field forward.

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And sometimes that conceptual extension pops a joint, so to speak. Justin Sola argues that sociolegal scholars have stretched the concept of neoliberalism to the breaking point (something, he points out, we seem to have a tendency of doing with our concepts). In becoming a catch-all for things we don't like, or as simply a placeholder for political economy, it lost its analytical and referential power. Running through the history and the use and misuse of the concept through specific domains, Sola returns us to the basics of querying causation and the role of counterfactuals in how we frame our questions.

Sarah Lageson, Erika Adams, and Elsa Chen look at the shift – or not – of administrative burden in automated criminal record expungement. The administrative burdens people face ultimately affect whether they have access to the tools they need to exercise their rights. Comparing traditional petition-based expungements (which pose a heavy burden) with automated ones (which are supposed to relieve it) they find that automated systems do not provide the sense of closure people obtain in the petition process, their ability to understand and narrativize the process they have just undergone is similarly attenuated, and the psychological benefit of clear, formal recognition of their new status is minimized. When expungement is turned into a data management problem instead of service provision, it falls behind a veil of technified bureaucracy.

If Lageson et al. show how automated expungement has not lived up to its promise and instead seems to create a new kind of "have-not," Timothy O'Brein and Stephen L. Hawkin's essay dives right into the question of how the haves and have-nots fare in terms of which and whose expert knowledge can enter the courtroom, and what happens once it does. Higher-status litigants begin with a structural advantage over lower-status ones, but the ideological differences among judges grant further benefit to those higher-status litigants.

Higher-status litigants in cases with conservative judges are more successful at excluding evidence from opposing experts. Lower-status litigants have more success in cases with liberal judges.

N. Hardaway and Matthew Clair show how, in the context of eviction settlements, tenants are funneled by courthouse organizational and workgroup norms, quite literally, into the hallways, where they learn to bargain, even as their bargaining – to accept the settlement – does nothing to resolve their housing insecurity. They learn to prefer settlement, sometimes under duress, in interactions outside the courtroom that have the ring of being in primary school, of being called for attendance, and of the playground, as overlapping conversations and invitations to chat permitted landlords' attorneys and mediators to cajole tenants into settlements. Tenants learn the risks of a trial and also the small degree of leverage they possess if they settle. So if they do settle, they still perceive the outcome as fair because the alternatives might be worse.

Mary Nell Trautner and Margaret Rex's article explores how parents of children with a relatively rare birth injury learn from their peers online to treat medical problems as legal problems. These parents initially discover social media forums for emotional support, but these online spaces quickly became for them a source of information, individual transformation, sociolegal mobilization and ... litigation! The online forums in which parents shared their stories initiated a naming-blaming-claiming process and socialized parents in the ways of the law. They do so not through local,

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place-based community norms but through a digitally-enabled, geographically dispersed "networked public." In other words, their willingness to pursue legal claims came about not from consulting with legal authorities, or from participation in face-to-face neighborhood or school groups, but from the online social spaces that perhaps increasingly shape legal consciousness.

Pauline White Meeusen picks up another kind of transformation: from pro bono lawyer to social change activist. While pro bono service providers are not generally understood to be engaged in social justice work – except insofar as providing legal services to those who can't pay for them furthers social justice – this article shows how practicing in the liminal legal environments of the US–Mexico border and immigration detention shifts the nature of advocates' volunteering. Rather than merely providing services, they are bearing witness, truth-telling in the face of disinformation about immigration, bringing in others to the cause, and documenting and sharing the experience of asylum seeking and immigration detention. Ultimately, the article is a powerful study in how change agents can make the law matter again.

Altogether, the articles in this first issue underscore the importance of approaches to sociolegal studies that have been the dynamic engine of *LSR* since its inception. As it was in the 1960s, so too are we now in a moment of rather demonstrative social and juridical uncertainty. In the face of such change, it behooves all of us to pursue and amplify inquiries that not only reveal how our enduring analytic frameworks continue to matter but also how the question of law's mattering now ought to impel us to rethink and reconsider even the most foundational questions of law and society.

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