From the Editor

The *Law & Society Review* receives a variety of manuscripts and most of them are sent to several reviewers for evaluation before an editorial decision is made. Some manuscripts, however, are rejected by the editor without the advice of external reviewers. These solo rejections are not common—roughly 15 percent during the past two years—but readers and authors (and the *Review's* cadre of patient reviewers) are entitled to know that they do occur and how the editor's discretion is exercised in making those decisions.

While a few submitted manuscripts do not appear to relate to sociolegal studies at all, the majority that have led to solo rejections during my editorship have fallen primarily in two categories. Manuscripts in the first category are what I call the "There ought to be a law" pieces, in which the author argues solely on normative grounds that a legal rule should be changed (or preserved), drawing little or no support for this position either from scientific theory or empirical evidence about the consequences that flow either from the preferred rule or its alternatives. I typically recommend that authors of these manuscripts try submitting them to law reviews or, depending on their style, to less scholarly publications.

Authors submitting manuscripts in the second category often address their cover letter "Dear Articles Editor" and include only one copy of the manuscript. A telephone call to the author usually reveals that the manuscript has been submitted simultaneously to a variety of other journals and law reviews. Because the *Law & Society Review*, like most social science journals, has a policy of requiring single submissions, I then ask the author to decide whether he or she will withdraw the piece from consideration elsewhere until our review process is complete, or else withdraw the manuscript from consideration by the *Review*. Often, of course, a lack of theoretical or empirical grounding and a proliferation of footnotes indicate that the manuscript is a better candidate for a law review than for the *Law & Society Review*. Occasionally a manuscript looks more promising, and I have discussed the benefits of the peer review process in persuading the author to withdraw the piece from consideration elsewhere. In my early days as editor I worried that the single submission policy might prevent the *Review* from having access to some good pieces of work.

Gradually, however, I have come to the belief that the policy of single submissions is both justified and efficient. First, the peer review process makes crucial contributions not only in the selection of which manuscripts to publish but also in the content of the

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articles that are selected for publication. This contribution occurs because reviewers are extraordinarily generous in providing thoughtful and thorough analyses of the manuscripts they are asked to evaluate. Since law reviews generally do not solicit outside reviews, a policy at the *Law & Society Review* of permitting multiple submissions would on occasion lead our reviewers to engage in a wasted effort, reviewing manuscripts on their way to being published by a nonrefereed law journal that can, because of the absence of the review process, accept the article more swiftly. Of course, it might be worth the extra effort if the *Review* thereby obtained some first-rate manuscripts that it would otherwise lose. I have looked carefully, however, at the manuscripts of authors who decide not to go along with the single submission rule. In this small group of manuscripts I have found only one that seemed a likely prospect for publication in the *Review*.

Perhaps scholars recognize the benefits of external review and therefore accept as a price the policy of sole submission. Some authors have suggested as much. Still, it is hard to know whether some manuscripts are not submitted to the *Review* in the first instance because the authors know about and wish to avoid the policy of single submissions. I therefore invite your observations as members of the community of readers of the *Law & Society Review*, as authors and as reviewers: Is there any reason to reconsider the traditional policy of the single submission rule?

THE CONTENTS OF THIS ISSUE

Sometimes, whether by design or happenstance, the articles in an issue share a common theme, suggesting a picture of coherence in sociolegal activity. At other times, the articles appear to have little in common. The current issue falls largely in the second category. In it you will find a cross-cultural analysis of legal ideology (Kidder and Hostetler), longitudinal case studies that trace the transformation of disputes (Canan *et al.*), a survey of litigant perceptions of various dispute resolution procedures (Lind *et al.*), an econometric analysis of malpractice claims (Sloan and Hsieh), and a study of legal implementation (Calavita). The range is clearly almost as broad as the field of sociolegal studies itself.

But in an athematic sense, the articles in this issue do have something in common. They share the newness and signs of growth that make them all unmistakably products of the 1990s. They each build on what has preceded them; each of the articles reshapes our understanding of sociolegal matters and forces us to reexamine what we think we know.

Recent work on ideology and law draws attention to the fact that "attributions and interpretations . . . influence the organization of social interaction in specific contexts" (*Law & Society Review*, 1988: 634). Robert Kidder and John Hostetler show the

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power of an informalist ideology in two apparently disparate cultural settings, among the Amish and the Japanese. Their work suggests that preservation of an informalist ideology is not the result of simple traditional conformity but rather is the product of significant efforts to maintain control.

The second article in this issue, by Penelope Canan, Gloria Satterfield, Laurie Larson, and Martin Kretzmann, acknowledges the importance of context in understanding the life of a dispute, and goes beyond earlier studies of dispute transformation to identify patterns in the evolution of disputes. While earlier research often treated disputes as unitary, this article builds on the work of Mather and Yngvesson (1980–81) to carefully trace the complex claims-transformation process through its various sequences and cycles. Studying the emergence and influence of strategic lawsuits on the life of a claim, they show how such lawsuits can successfully derail narrow claims not rooted in a larger social context.

Another new approach to dispute resolution appears in the article by Allan Lind, Robert MacCoun, Patricia Ebener, William Felstiner, Deborah Hensler, Judith Resnik, and Tom Tyler. Many claims have been made for dispute resolution procedures that reduce cost and delay. In this study of litigant reactions to tort litigation, the authors compare responses to trial, court-annexed arbitration, judicial settlement conferences, and bilateral settlement. In the wake of claims that settlement-oriented procedures are more satisfying to parties than are traditional adjudicatory procedures, this research finds considerable support for traditional adjudication. These results are consistent with suggestions from procedural justice research (e.g., Lind and Tyler, 1988) about the importance of procedural fairness. Moreover, these and other subjective impressions appeared to drive litigant perceived justice and outcome satisfaction more than did objective measures of outcome, cost, and delay.

Dispute resolution of malpractice allegations is currently the focus of much debate and limited empirical investigation. Frank Sloan and Chee Ruey Hsieh tackle this sea of claims and counterclaims using a law and economics framework to test for order in the system of compensation. Adding to the usual set of case characteristics, they use ratings of the extent to which the injury appeared to have been avoidable with good medical care. These ratings were made by physicians blind to the actual legal outcome of the case. Incorporating this innovative measure of injury in their model, Sloan and Hsieh show substantial vertical equity in the allocation of compensation (e.g., more avoidable and more severe injuries are more likely to be compensated). While some of their other findings indicate problems of horizontal inequity, the results of this research call into question the charges of haphazardness recently leveled at this part of the tort system. As Sloan and Hsieh recognize, if equity is to be evaluated throughout the entire tort

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system, it will require further work that models the determinants of compensation for the population of injured persons who do or do not file a malpractice claim.

The final article in this issue, an examination of employer sanctions violations by Kitty Calavita, looks on the surface like a traditional study of legal impact. Like many other studies of legal impact, it purports to show that the letter of the law (introduction of sanctions for employers who hire illegal aliens) has been circumvented and the change of behavior contemplated in the legislation (requiring employers to screen employees for illegal aliens) has not occurred. But this article goes beyond the more traditional failure-of-implementation analysis. Calavita's analysis suggests that both structural and symbolic values explain the design of the legislation and the forms of compliance that have undermined any reduction in the flow of illegal aliens into the U.S. work force.

Shari S. Diamond
November 1990

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