

What Has Law to Offer Social Science?

In the last issue of this journal I asked, “What has social science to offer law?” When asking the converse (what has law to offer social science?), there is a repeated need for definition and translation: What social science? What law?

Somewhat different from the art of law practice and teaching, social sciences come in distinct disciplinary packages. Indeed, the subject matter components of the broad and sometimes meaningless label “social sciences” are separate disciplines, sometimes with distinct subdisciplines, each of which disciplines has developed methodologies, theories—in general, identifiable clusters of concern with specific knowledge content. While the law is the law . . . it is not also true that sociology is political science is psychology. . . .

The individual disciplinarians may have specific and different appetites for the knowledge of lawyers.

In the conduct of research, the individual social investigator may need legal advice: Am I violating the right of privacy of informants? Will my research report contain information which might be actionable as libel? In these matters resembling attorney-client problems, there is an observable need for some basic legal knowledge by all social scientists: What are the bounds within which the researcher may operate without subjecting himself to the sanctions of civil and criminal law? With the increase in sensitivity to individual rights in American society, the social scientist needs to know when to seek professional counsel about the propriety of social science inquiry, which, though “legitimate,” may be prohibited under law. This problem of identifying potential, formal legal involvement has occurred infrequently to the social scientist, yet it promises to face him in increasing and dramatic frequency in future years.

To the substantive intellectual concern of the various social scientists, there is a more challenging and stimulating interface between law and the social sciences. Both lawyers and social scientists are interested in the systematic observation of social phenomena. The difference between lawyers and social scientists is the emphasis of that interest. For example, the lawyer may be interested in the specific results of William Glaser's study of pretrial discovery, while the sociologist finds more fascination in the methods used in gaining the information and the larger theoretical context in which the problem is cast. Yet, lawyers and sociologists did collaborate on the study: lawyers posed the general problem; sociologists proposed the theoretical framework for examination and the methods for the investigation; both gathered the data; each has a research report containing information of interest to his concern. The main problem in the report is which language—early Norman/fractured Latin, or statistical jargon—predominates in the report? In sum, lawyers, constantly dealing with atypical social behavior, can raise questions of intense interest to social scientists, but, thereafter, social scientists must do their “thing” with the question, which may not necessarily be the lawyers’ “bag.”

Social scientists are concerned with nominative behavior. The gatekeepers of the social order have been lawyers. Thus, social scientists may be quite interested in observing the gatekeepers, and their relationships with each other, with others, and with other institutions, as well as the nominative rules and arrangements they preserve. And, from time to time, the lawyers may provide the parameters of constraint on behavior within which the social scientist must work, and beyond which the social scientist might be restrained to aggressively inquire—a challenge and stimulant in itself to the imaginative social scientist. In sum, lawyers are data; lawyers are generators of data; lawyers are keepers of data, in a unique juxtaposition.

Social scientists might also learn from the work habits of law people. First, lawyers are action-oriented—their goals are active, frequently practical. If law, and legal process, provides any model to a social scientist, it might provide the action model—the quest for using knowledge to resolve problems, to reconstruct institutions—a task sometimes neglected by social scientists. On another level, lawyers might teach social scientists, in a curious sort of way, the importance of specificity in describing and defining the mutual expectations among people—provide a model for rigor in language and precision in definition. Social scientists might gain from specificity—a lawyerly insistence—while lawyers might profit by greater concern for the generalizability of their work product.

It is important to remember that lawyers are involved in value questions and their orderly resolution; social scientists are concerned with value

questions and their description and interrelation. These goals are different. Any attempt to merge, beyond a common interest in the subject matter, might be disastrous; collaboration is desirable and possible, but pervasive collegueship may be undesirable and impossible in the present state of the art (legal) and the science (social).

—ROBERT B. YEGGE
PRESIDENT

In the next issue, the President's Message will concern "Caveats to the Interface of Law and Social Science."