

## **GETTING A PARADIGM TOGETHER**

As empirical work in law and society proliferates, it becomes increasingly apparent that a parallel development of broad theory is also needed. We will ultimately have to achieve a comprehensive theory, drawing on a range of disciplines, to account for the basic interrelations between society and the legal order. To this end, we currently need a set of systematically interrelated questions, described by T. S. Kuhn as a paradigm, which will organize and direct detailed work in this field. As social scientists, we might reasonably ask whether the conditions exist which seem likely to maximize the chances for creation of such a paradigm.

We have a group of people drawn from a range of disciplines who specialize in applying their knowledge to legal phenomena. Their work is sufficient to sustain at least three refereed journals of high quality. Training is provided in a variety of ways for scholars and students interested in the relationship between law and the social sciences. Four years ago, H. Lawrence Ross found such programs concentrated in political science and sociology. We now have new programs concerned with legal anthropology (Berkeley), law and psychology (Stanford), law and economics (Pennsylvania), and legal history (Virginia and Harvard), while the established programs continue to flourish.

Thus, all of the traditional social science disciplines have taken a look at law, and people are emerging who define themselves as specialists in the relation between law and the subject matter of each of these disciplines. In these circumstances one might predict that these specialists would be working together toward an integrated approach to legal phenomena. At this juncture, however, there appears to be very little interchange, and almost no hard work aimed at the development of a comprehensive paradigm.

Several explanations for this subdisciplinary separateness merit consideration. First, it should be noted that the full area of law and society may not lend itself to distinctive, integrated approach. Despite the assumption made above, some might argue that the interests of these several disciplines are sufficiently diverse so that they can never be brought into one model covering the relation of the legal system to other institutions, social structures, culture, and behavior. Rather, this view might

hold that the guiding questions and mode of analysis of the various social disciplines are sufficiently diverse so that they cannot in principle be integrated at a general level.

Even assuming the possibility of such integration, one might ask whether there is anything sufficiently distinctive about the legal system to merit a special paradigm. My own feeling is that the latter point is better taken, in that legal systems must be conceptualized as a sub-type of social control process embodied in a particular organizational form. Nevertheless, within these broader boundaries, an effective model of the legal process might be appropriately situated.

At all events, we will not know the possibility of a paradigm, nor its potential value, until more concentrated efforts are made to create one. Sociology of science cannot give us much guidance as to the subject matter for which paradigms can emerge; it is more helpful in describing the conditions out of which they come. My point is that we seem to lack some of these conditions and that, for those of us who believe that the need and possibility exist, it would be sensible to begin asking what these conditions are and how they can be provided.

Of prime importance, in my view, is a milieu in which new models can be developed and tested. In the sociolegal field, it is particularly important that such a milieu bring together social scientists interested in law with academic lawyers, if not legal practitioners as well. Part of the problem with social science treatments of law arises from insufficient knowledge of what law professors know. The closest law school students of sociolegal work — such as Harry Jones, Lon Fuller, and Geoff Hazard — find social scientists usually working on problems which, from the perspective of legal scholarship and jurisprudence, are trivial. In terms of an emergent paradigm, they may be right or wrong. But even if they are wrong, I cannot believe that a satisfactory paradigm will ultimately emerge without synthesis of the best traditional legal thinking with comparably high-quality knowledge from the social sciences.

Can such a milieu develop within a law school setting? One would think so, but it has been a long time coming. Unlike all the other professional schools, law schools have not integrated social scientists. We need to ask the reasons for the difficulty, to see whether it can be overcome without weakening classical legal training, and to explore other milieus in which the work of theoretical synthesis might better proceed.

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