

Law & Social Inquiry

Journal of the American Bar Foundation
Volume 27, Number 2, Spring 2002

The University of Chicago Press

Law & Social Inquiry

Journal of the American Bar Foundation
*Dedicated to the Study of Law,
Legal Institutions, and Legal Processes*
Published by The University of Chicago Press

<i>Editors</i>	John Hagan (on leave, 2001-2002) Laura Beth Nielsen Victoria Saker Woeste
<i>Review Editor</i>	Howard S. Erlanger
<i>Associate Editors</i>	Ronit Dinovitzer John P. Heinz Mary R. Rose
<i>Manuscript Editors</i>	Susan F. Messer Sandy L. Pittman
<i>Editorial Coordinator</i>	Lucinda Underwood

Editorial Board

Richard L. Abel, Law, University of California, Los Angeles
Richard Bernstein, Law, New York Law School
John Braithwaite, Law and Sociology, The Australian National University
Tom Burke, Political Science, Wellesley College
Marianne Constable, Rhetoric, University of California
Susan Coutin, Criminology, Law and Society, University of California, Irvine
Eve Darian-Smith, Law and Society Program, University of California, Santa Barbara
John J. Donohue, Law, Stanford Law School
Lee Epstein, Political Science and Law, Washington University
Sarah Gatson, Sociology, Texas A&M University
Carol J. Greenhouse, Anthropology, Princeton University
Sally Hadden, History, Florida State University
Valerie P. Hans, Criminal Justice, University of Delaware
Mona Lynch, Administration of Justice, San Jose State University
Jennifer Mnookin, Law and History, University of Virginia Law School
Frank Munger, Law, SUNY Buffalo Law School
Joseph Rees, Public Administration and Policy, Virginia Polytechnic Institute and State University
Judith Resnik, Law, Yale University
Daniel Rubinfeld, Economics, University of California at Berkeley School of Law
Michael Saks, Law, Arizona State University
Peter Siegelman, Law, Fordham University Law School
Susan Sterett, Political Science, University of Denver
Joyce Sterling, Law, University of Denver College of Law
Mark Suchman, Sociology, University of Wisconsin, Madison
John Sutton, Sociology, University of California, Santa Barbara
Neil Vidmar, Law, Duke University

Law & Social Inquiry

Volume 27, Number 2, Spring 2002

SYMPOSIUM: Eighth Circuit Gender Fairness Study

- Symposium Introduction: The Study of Gender in the Courts:
Keeping Bias at Bay** 199
Lilia M. Cortina
- Understanding the Judicial Role in Addressing Gender Bias: A View
from the Eighth Circuit Federal Court System** 205
Kimberly A. Lonsway, Leslie V. Freeman, Lilia M. Cortina,
Vicki J. Magley, and Louise F. Fitzgerald
- What's Gender Got to Do with It? Incivility in the Federal Courts** 235
Lilia M. Cortina, Kimberly A. Lonsway, Vicki J. Magley,
Leslie V. Freeman, Linda L. Collinsworth, Mary Hunter,
and Louise F. Fitzgerald

ARTICLE

- Tender Ties: Husbands' Rights and Racial Exclusion in Chinese
Marriage Cases, 1882–1924** 271
Todd Stevens

REVIEW ESSAYS

- Constitutional Politics and Constitutional Theory: A Misunderstood
and Neglected Relationship** 309
Mark A. Graber
- Reimagining Rights** 339
Neal Milner and Jonathan Goldberg-Hiller
- Obscenity Law and the Conditions of Freedom in the Nineteenth-
Century United States** 369
Donna I. Dennis
- The Myth of the Main Bank: Japan and Comparative Corporate
Governance** 401
Yoshiro Miwa and J. Mark Ramseyer
- Commentary*
**On the (Fleeting) Existence of the Main Bank System and Other
Japanese Economic Institutions** 425
Curtis J. Milhaupt

BOOK NOTES

439

Publication Policy

The American Bar Foundation (ABF) is an independent research institute committed to sociolegal research. Consistent with its mandate to create and disseminate knowledge about law, the legal profession, and legal institutions, and individuals' interactions with legal systems, *Law & Social Inquiry: Journal of the American Bar Foundation* invites the submission of manuscripts that make original contributions to the understanding of sociolegal processes. *Law & Social Inquiry* publishes both empirical analyses and theoretical studies from a variety of disciplinary perspectives. The analyses, conclusions, and opinions presented in *Law & Social Inquiry* are those of the authors alone.

Manuscript Evaluation: *Law & Social Inquiry* is a refereed journal. Manuscripts that the Editors deem appropriate for the journal are evaluated by two or more reviewers with expertise in the relevant subject matter and methodology. Manuscripts produced by ABF research fellows are evaluated by the same process as outside manuscripts and are not accorded priority in publication.

Submission of Manuscripts: *Law & Social Inquiry* uses the author/date citation system, as described in *The Chicago Manual of Style, 14th Edition*. You may obtain our style guidelines via surface mail by writing to us at: Editorial Coordinator, Law & Social Inquiry, American Bar Foundation, 750 N. Lake Shore Drive, Chicago, Illinois 60611; or from our Web site at: <http://www.journals.uchicago.edu/LSI/>. Manuscripts submitted to *Law & Social Inquiry* should be typed double-spaced and be accompanied by an abstract of not more than 150 words. The review process is anonymous; all identifying information should appear only on a separate cover sheet and not in the body of the manuscript.

Law & Social Inquiry does not accept multiply submitted articles. The Editors endeavor to make decisions promptly, usually about three months after submission.

Editing of Manuscripts: All manuscripts accepted for publication are edited for style by professional copy editors in consultation with the author. Copy editors do not check citations. Authors see edited manuscripts and/or proofs.

Off-Prints to Authors: Without charge, we provide authors with 25 off-prints of their articles, essays, or exchanges (but not symposia) that appear in *Law & Social Inquiry*. Additional off-prints may be ordered at the author's expense. Authors receive 1 copy of the issue in which their contributions appear.

Republication Rights: The Foundation normally permits authors to republish their manuscripts in books or use their manuscripts after publication, but *Law & Social Inquiry* has the right to first publication of edited manuscripts. The journal retains the right to republish manuscripts as reprints or as part of any reproduction of the issue or volume in which they appear, by any means, including without limit electronic means or microfilm.

Copying Beyond Fair Use: The code on the first page of a contribution in this journal indicates the copyright owner's consent that copies of the contribution may be made beyond those permitted by Sections 107 or 108 of the U.S. Copyright Law provided that copies are made only for personal or internal use, or for the personal or internal use of specific clients and provided that the copier pay the stated per-copy fee through the Copyright Clearance Center, Inc., 222 Rosewood Drive, Danvers, MA 01923. To request permission for other kinds of copying, such as copying for classroom use without charge, copying for general distribution, for advertising or promotional purposes, for creating new collective works, or for resale, kindly write to the Permissions Department, University of Chicago Press, 1427 S. 60th Street, Chicago, IL 60637-2954.

Comments and Responses: Comments on or responses to articles or review essays in the form of brief, scholarly statements will be published at the discretion of the Editors or Review Section Editor.

Send article manuscripts to:
The Editors
Law & Social Inquiry
American Bar Foundation
750 N. Lake Shore Drive
Chicago, IL 60611
(312) 988-6517

Send inquiries regarding
review essays to:
Howard S. Erlanger
Review Editor
Law & Social Inquiry
Institute for Legal Studies
Law School
University of Wisconsin
Madison, WI 53706
(608) 263-7405

For further information via the Internet—

Web site: <http://www.journals.uchicago.edu/LSI/>

E-mail: lsi-abf@abfn.org

Law & Social Inquiry is available for full-text search on the LEXIS™/
NEXIS™ and WESTLAW™ on-line services.

Annual U.S. subscription rates:

	1 yr.	2 yr.	3 yr.
Individual	\$39	\$71.75	\$99.45
Academic	\$36	\$66.25	\$91.80
Institution	\$68	\$125.10	\$173.40
Student	\$29	\$53.35	\$73.95

Outside U.S. please add a postage charge of \$6.00 per year to the U.S. rates. **Canadians please add** 7% GST tax to above rates as follows: One-year rates: Individuals \$2.73; Academic \$2.52; Institutions \$4.76. Two-year rates: Individuals \$5.03; Academic \$4.64; Institutions \$8.76. Three-year rates: Individuals \$6.97; Academic \$6.43; Institutions \$12.14.

Single copies: \$21.00 for institutions, \$13.75 for individuals. Checks should be made payable to *Law & Social Inquiry*, University of Chicago Press, Journals Division, P.O. Box 37005, Chicago, Illinois 60637. (Fax: 773-753-0811; E-mail: subscriptions@press.uchicago.edu) Volumes 1-12 available from William S. Hein & Co., Inc., 1285 Main Street, Buffalo, New York 14209. (800) 828-7571.

Volumes available in microfilm from University Microfilms International, 300 North Zeeb Road, Ann Arbor, Michigan 48106.

© 2002 American Bar Foundation. All rights reserved.

Law & Social Inquiry: Journal of the American Bar Foundation (ISSN: 0897-6546) is published quarterly—winter, spring, summer, and fall—by The University of Chicago Press, 1427 S. 60th Street, Chicago, Illinois 60637-2954. Subscription agent for Japan: Kinokuniya Company, Ltd. Periodicals postage paid at Chicago, Illinois and at additional mailing office.

POSTMASTER: Send address changes to: *Law & Social Inquiry*, P.O. Box 37005, Chicago, IL 60637.
