

BOOK REVIEW

Sociology and Law

***Law and Society: A Sociological View.* By Edwin M. Schur. New York: Random House, 1968. 239 pp., \$2.95.**

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This publication is one more concrete manifestation of a marked revival of interest in the sociology of law. If only because it could serve effectively as a text, Schur's book is a most welcome contribution to the literature.

Given the focus of sociology on social relations, the general lack of attention in the field to law is paradoxical. Schur analyzes the paradox in detail, and he does a commendable job in showing the relevance of law for sociology in general, which is much preferred to merely promoting the sociology of law as a specialty or concentrating on crime and deviant behavior. In that spirit, Schur considers law in relation to and as a *component* of aspects of social order such as power, class, and stratification. The range of subjects surveyed is, unfortunately, very narrow; and Schur's treatment of each is all too brief. Extensive references are made to the literature, with an emphasis on empirical studies, but I fear that the novice will acquire very little feeling for the techniques and problems of research. All of these complaints reflect only one consideration—that Schur and/or his publisher imposed most unrealistic limits on the length of this book.

In addition to providing excellent summaries of the major theories or ideas in the sociology of law (*e.g.*, Durkheim and Weber's work), Schur devotes one part of his book to jurisprudence. The inclusion of the latter subject is desirable if only to remind the reader that the "behaviorism" so predominant in the American version of the sociology of law is not the only perspective. Further (unlike a recent book of readings on the sociology of law), Schur gives due recognition to schools of jurisprudence other than natural law, sociological jurisprudence,

and legal realism. In particular, it is refreshing to see that at least one sociologist knows of Austin and Kelsen.

Schur does not attempt to formulate a theory or even a conceptual scheme, but, given the state of the field, it would be grossly unrealistic to expect one. The field lacks a sense of direction, which is to say that the appropriate central questions remain most debatable. Accordingly, the formulation of a significant theory or even a constructive reaction to a theory seems remote at this stage. Schur is sensitive to the present condition of the sociology of law and opts for eclecticism. As such, the issue of the appropriate central questions is slighted in the book. That issue entails the debate over the relation between the sociology of law and jurisprudence, and it extends even to the perennial controversy in jurisprudence over the definition of law, but Schur's eclecticism leads him to dismiss the concern over the definition of law. I do not see how the problem disappears by ignoring it, and certainly one does not solve it by merely assuming that law or "a law" can be identified without a definition.

To be sure, the author does tackle some significant and controversial questions, especially in his treatment of social change (the Soviet experience; recent trends in American law; the limits of law; law as an instrument of change; order, conflict, and law) and in a later part on "scientific" justice and legality (evidence from the social sciences, specialized tribunals, the juvenile court, psychiatric commitment, the legality issue). But those subjects are not salient considerations in the debate over the appropriate central questions for the sociology of law. True, it could be argued that the debate is not fit fodder for the general reader, students in particular; but, after all, the issue is part of the field and will not go away. In any case, Schur's eclecticism does not escape the issue entirely. If only by emphasis he implies that the subject matter of the field is or should be "law in action." Under that rubric he analyzes studies of courts, judges, and juries; the administration of criminal justice; deviance and societal reaction; enforcement discretion; styles of legal work; individual practice of law; legal ethics and role strain; and the public and the law. Neither the list of topics nor the generic designation "law in action" reveals the perspective. What one finds, especially in the literature cited by Schur, is a virtually exclusive concern with the legal profession and the *actual behavior* of legal officials in Anglo-American jurisdictions. That focus may be consistent with the principles of legal realism, but the atheoretical, purely descriptive character of the research limits the sociology of law to "fact-finding" and the study

of the particular. Exploratory and descriptive research is, of course, a necessary step toward theory construction, but there is no suggestion in the typical "law in action" study that generalization is even the ultimate goal. Schur can defend his emphasis on "law in action" by pointing out that it is consistent with the predominant trend in the sociology of law, especially the American version. Nonetheless, the emphasis excludes the *normative* character of law and the truly comparative study of law in the tradition of Durkheim and Weber. Schur knows that tradition, and he may well not be hostile to it, but he avoids the issue by focusing on the predominant trend in the sociology of law. So my only complaint is that the author did not devote more attention to an assessment of contending schools of thought in the history of the field.