

Law & Social Inquiry

Journal of the American Bar Foundation
Volume 43, Number 1, Winter 2018

WILEY Blackwell

Law & Social Inquiry

Journal of the American Bar Foundation
Expanding Knowledge, Advancing Justice
Published by Wiley Blackwell

<i>Editor</i>	Christopher W. Schmidt
<i>Review Section Editor</i>	Howard S. Erlanger
<i>Associate Editors</i>	Stephen Daniels Ayobami Laniyonu Janice Nadler Jeffrey Omari Victoria Woeste
<i>Editorial Coordinator</i>	Willa Sachs

Editorial Board

2016–2018

Katherine Barnes, University of Arizona
Nick Cheesman, Australian National University
Ben Crewe, University of Cambridge
Catherine Fisk, University of California, Irvine
Craig W. Haney, University of California, Santa Cruz
Eric C. Ip, Chinese University of Hong Kong
Leslie C. Levin, University of Connecticut
Mona Lynch, University of California, Irvine
Julie Novkov, University at Albany, SUNY
Emily Ryo, University of Southern California
Mitra Sharafi, University of Wisconsin, Madison
Mark Sidel, University of Wisconsin, Madison
Rachel Stern, University of California, Berkeley

2017–2019

Mary Gallagher, University of Michigan
Mitu Gulati, Duke University
Alexandra Huneus, University of Wisconsin, Madison
Thomas M. Keck, Syracuse University
Darryl Li, University of Chicago
Calvin Morrill, University of California, Berkeley
César F. Rosado Marzán, IIT Chicago-Kent College of Law
Justine Tinkler, University of Georgia
Mila Versteeg, University of Virginia
Kevin Woodson, Drexel University

2018–2020

Shahla Ali, University of Hong Kong
Amada Armenta, University of Pennsylvania
Vanessa Baird, University of Colorado, Boulder
Rohit De, Yale University
Peter C. DiCola, Northwestern University
Aziz Huq, University of Chicago
Anna-Maria Marshall, University of Illinois, Urbana-Champaign
Mark Fathi Massoud, University of California, Santa Cruz
Ashley T. Rubin, University of Toronto
Kristen A. Stilt, Harvard University
Shahin Taleh, University of California, Irvine

American Bar Foundation

BOARD OF DIRECTORS

President, Ellen J. Flannery, Covington & Burling LLP • *Vice President*, David S. Houghton, Houghton Bradford Whitted PC, LLO • *Secretary*, E. Thomas Sullivan, University of Vermont • *Treasurer*, Jimmy K. Goodman, Crowe & Dunlevy PC

Michael H. Byowitz, Wachtell, Lipton, Rosen & Katz • Jennifer Chacón, University of California, Irvine • Doreen D. Dodson, St. Louis MO • George S. Frazza, Patterson Belknap Webb & Tyler LLP • Hon. Sophia H. Hall, Circuit Court of Cook County • Kay H. Hodge, Stoneman Chandler & Miller, LLP • Judy Perry Martinez, Of Counsel, Simon, Peragine, Smith & Redfearn LLP • Harold D. Pope, Dykema Gossett PLLC • Lauren Robel, Indiana University Bloomington • Andrew M. Schpak, Barran Liebman LLP • Walter L. Sutton, Jr., Sutton Consulting

ex officio:

Hilarie Bass, President, American Bar Association • Robert M. Carlson, President-Elect, American Bar Association • Deborah Enix-Ross, Chair, House of Delegates, American Bar Association • Michelle A. Behnke, Treasurer, American Bar Association • J. A. (Tony) Patterson, Jr., President, American Bar Endowment • Robert A. Clifford, Chair of the Council of the Fund for Justice and Education • Daniel B. Rodriguez, Dean, Northwestern University School of Law

The Fellows:

Rew R. Goodenow, Chair • Reginald Turner, Chair-Elect • Ellen M. Jakovic, Secretary

Special Advisor:

Kathleen J. Hopkins, Real Property Law Group PLLC

Administration:

Ajay K. Mehrotra, Director • Kathleen D. Pace, Director of the Fellows • Angelo Barone, Director of Finance • Lucinda C. Underwood, Director of Communications, Development, and Operations • Holly Gitlin, Assistant to the Director

RESEARCH FACULTY

Bernadette Atuahene, J.D., Yale Law School; M.P.A., Harvard University

Traci Burch, Ph.D., Harvard University

John Comaroff, Ph.D., University of London

Stephen Daniels, Ph.D., University of Wisconsin

Shari Seidman Diamond, Ph.D., Northwestern University; J.D., University of Chicago

Ronit Dinovitzer, Ph.D., University of Toronto

Bryant G. Garth, Ph.D., European University Institute; J.D., Stanford Law School

Tom Ginsburg, J.D., Ph.D., University of California, Berkeley

John Hagan, Ph.D., University of Alberta

Terence Halliday, Ph.D., University of Chicago

James J. Heckman, Ph.D., Princeton University

Carol A. Heimer, Ph.D., University of Chicago

John P. Heinz, LL.B., Yale University

Bonnie Honig, Ph.D., Johns Hopkins University; M.Sc., London School of Economics

Steven D. Levitt, Ph.D., Massachusetts Institute of Technology

Sida Liu, Ph.D., University of Chicago; LL.B., Peking University Law School

Ajay K. Mehrotra, B.A., University of Michigan; J.D., Georgetown University Law Center; Ph.D., University of Chicago

Elizabeth Mertz, Ph.D., Duke University; J.D., Northwestern University School of Law

Rachel F. Moran, A.B. Stanford; J.D. Yale

Janice Nadler, Ph.D., University of Illinois; J.D., University of California, Berkeley

Robert L. Nelson, Ph.D., Northwestern University; J.D., Northwestern University School of Law

Laura Beth Nielsen, Ph.D., University of California, Berkeley; J.D., University of California, Berkeley

Dylan C. Penningroth, B.A., Yale University; Ph.D., Johns Hopkins University

Jothie Rajah, Ph.D., University of Melbourne; LL.B., National University of Singapore

Justin B. Richland, Ph.D., UCLA, J.D. UC Berkeley

Rebecca Sandefur, Ph.D., University of Chicago

Christopher Schmidt, Ph.D., Harvard University; J.D., Harvard Law School

Susan P. Shapiro, Ph.D., Yale University

Victoria Saker Woeste, Ph.D., University of California, Berkeley; B.A., University of Virginia

Christopher L. Tomlins, Ph.D., Johns Hopkins University

Law & Social Inquiry

Volume 43, Number 1, Winter 2018

ARTICLES

- Summoning Criminal Desistance: Convicted Felons' Perspectives on Jury Service**
James M. Binnall 4
- "Kind of Natural, Kind of Wrong": Young People's Beliefs about the Morality, Legality, and Normalcy of Sexual Aggression in Public Drinking Settings**
Justine E. Tinkler, Sarah Becker, and Kristen A. Clayton 28
- Understanding China's Court Mediation Surge: Insights from a Local Court**
Yedan Li, Joris Kocken, and Benjamin van Rooij 58
- Parenting without Protection: How Legal Status Ambiguity Affects Lesbian and Gay Parenthood**
Alison Gash and Judith Raikin 82
- Human Rights Trials in an Era of Democratic Stagnation: The Case of Turkey**
Jessica G. Mecellem 119
- International Prosecution and National Bureaucracy: The Contest to Define International Practices Within the Danish Prosecution Service**
Mikkel Jarle Christensen 152
- Professionalizing Prison: Primitive Professionalization and the Administrative Defense of Eastern State Penitentiary, 1829–1879**
Ashley T. Rubin 182
- Legitimacy in a Postcolonial Legal System: Public Perception of Procedural Justice and Moral Alignment Toward the Courts in Hong Kong**
Kevin Kwok-yin Cheng 212

REVIEW ESSAYS 229

- SYMPOSIUM: Why Is There No Political Demand for New American Social Welfare Rights?**
- The Multiple Meanings of Familialism**
Francesca Polletta 230
- Medical and Familial Claims to Long-Term Care: Institutional Gaps and Shifting Jurisdictions**
Elizabeth Chiarello 238
- Unsettled Times for American Families**
Calvin Morrill 249
- Law and the Building Blocks of the Familiar**
Sandra R. Levitsky 258
- A Faction of One: Revisiting Madison's *Notes* on the Constitutional Convention**
Gerard N. Magliocca 267

BOOK NOTES 282

Publication Policy

The purpose of *Law & Social Inquiry* is to promote research and writing dedicated to the study of law, legal institutions, legal processes and individuals' interactions with legal systems, undertaken from a socio-legal perspective. The editors invite the submission of manuscripts that make original contributions to the understanding of sociolegal processes. *Law & Social Inquiry* considers both empirical analyses and theoretical studies without restriction as to time or place. *Law & Social Inquiry* embraces the broad range of perspectives and methodologies current in contemporary social science and humanities disciplines.

Law & Social Inquiry is a refereed journal that practices double-blind peer review. Manuscripts deemed appropriate for the journal are evaluated by two or more referees with expertise in the relevant subject matter and methodology. Manuscripts are rendered anonymous prior to review; referees are not identified to authors.

The American Bar Foundation (ABF) is an independent, nonprofit national research institute committed to objective empirical research on law and legal institutions. The Foundation's program of sociolegal research is conducted by an interdisciplinary staff of Research Faculty trained in such diverse fields as law, sociology, psychology, political science, economics, history, and anthropology. The American Bar Foundation is the preeminent resource for lawyers, scholars, and policy makers seeking analyses of the theory and functioning of law, legal institutions, and the legal profession. The Foundation's work is supported by the American Bar Endowment, by The Fellows of the American Bar Foundation, and by grants for particular research projects from private foundations and government agencies. The Foundation (Director Ajay K. Mehrotra) is located at 750 North Lake Shore Drive, 4th floor, Chicago, Illinois 60611. Further information about Foundation programs and activities can be found at: www.americanbarfoundation.org. For information specific to *Law & Social Inquiry* choose the publications menu on the ABF website, go directly to www.abfn.org/lawsoc.html, or go to www.wileyonlinelibrary.com.

Manuscripts submitted to *Law & Social Inquiry* by ABF Research Faculty are evaluated in the same fashion as all other manuscripts received, and are accorded no special privilege or priority in publication.

ARTICLES: To submit an article manuscript, please go to the Journal's ScholarOne Manuscripts homepage (<http://mc.manuscriptcentral.com/lsi>). Log in, or click the "Create Account" option at the top-right corner of the log-in page if you are a first-time user of ScholarOne Manuscripts. After submitting your manuscript, you will receive a confirmation e-mail. You can also access ScholarOne Manuscripts any time to check the status of your manuscript. The Journal will inform you once a decision has been made.

Send general queries to: lsi-abf@abfn.org. The mailing address: Law and Social Inquiry, The American Bar Foundation, 750 North Lake Shore Drive, Suite 400, Chicago, Illinois 60611. Telephone: 312-988-6517. Fax: 312-988-6611.

REVIEW ESSAYS: Review Essays do not undergo traditional peer review, so please do not use ScholarOne Manuscripts to submit your essay.

Send books for review and inquiries regarding review essays to: Howard S. Erlanger, Review Section Editor, Law & Social Inquiry, Institute for Legal Studies, Law School, University of Wisconsin, Madison, WI 53706.

Telephone: 608-263-7405. Fax: 608-238-8003. E-mail: erlanger@ssc.wisc.edu. Please note that *Law & Social Inquiry* publishes review essays and short book notes but not traditional book reviews.

Law & Social Inquiry will not consider any manuscript concurrently submitted for publication elsewhere. Submission of a manuscript commits the author to publish the manuscript in Law & Social Inquiry if accepted for publication by the Editors.

Manuscript Preparation and Submission Guidelines: Article manuscripts submitted to *Law & Social Inquiry* should be prepared using MS Word. Please use Times New Roman 12pt font for text, notes, and references. Article manuscripts must be double-spaced throughout, including notes and references. Article manuscripts must be accompanied by an abstract of no more than 150 words. LSI strongly prefers submissions to adhere to a 15,000 word limit. If your manuscript is over 15,000 words, please submit a letter with the submission explaining the length. We will allow up to 17,500 words for papers using qualitative, historical, narrative, or multiple methodologies. For complete submissions instructions, please see www.wileyonlinelibrary.com.

Accepted Manuscripts: Manuscripts that are accepted for publication must be brought into full conformity with *Law & Social Inquiry* style. Detailed instructions can be found at www.wileyonlinelibrary.com.

Accepted manuscripts are copy edited for style but not substance; authors remain responsible for citation accuracy and for all statements of fact or opinion. Authors are given an opportunity to review edited manuscripts and/or proofs.

Off-Prints to Authors: Free access to the final PDF offprint of articles will be available via Author Services only, an automated system. Please sign up for Author Services if you would like to access your article PDF offprint and to access the other benefits the service offers. Authors are encouraged to sign up for Author Services when their article enters production in order to receive a clear explanation of the benefits, including the ability to access their final article. To sign up, visit <http://authorservices.wiley.com/bauthor/>.

Republication Rights: It is a condition of publication that authors assign copyright in their articles to the American Bar Foundation. Authors retain rights of re-use, as long as re-use does not include sale or reproduction of the article or any part of it for commercial purposes. These rights apply without needing to seek permission from the Foundation or Wiley Blackwell. In addition, provided that authors give appropriate acknowledgement to the Journal, the American Bar Foundation and Wiley Blackwell, and full bibliographic reference for the Article when it is published, they may use all or part of the article and abstract, without revision or modification, in personal compilations or other publications of their own work.

All requests by third parties to re-use the Article in whole or in part will be handled by Wiley Blackwell. Any permission fees will be retained by the Journal. All requests to adapt substantial parts of the Article in another publication (including publication by Wiley Blackwell) will be subject to the author's approval.

LAW & SOCIAL INQUIRY, (Print ISSN: 0897-6546; Online ISSN: 1747-4469), is published quarterly on behalf of American Bar Foundation by Wiley Subscription Services, Inc., a Wiley Company, 111 River St., Hoboken, NJ 07030-5774 USA.

Postmaster: Send all address changes LAW & SOCIAL INQUIRY, John Wiley & Sons Inc., C/O The Sheridan Press, PO Box 465, Hanover, PA 17331 USA.

Copyright and Copying (in any format)

Copyright © 2018 American Bar Foundation. All rights reserved. No part of this publication may be reproduced, stored or transmitted in any form or by any means without the prior permission in writing from the copyright holder. Authorization to copy items for internal and personal use is granted by the copyright holder for libraries and other users registered with their local Reproduction Rights Organisation (RRO), e.g. Copyright Clearance Center (CCC), 222 Rosewood Drive, Danvers, MA 01923, USA (www.copyright.com), provided the appropriate fee is paid directly to the RRO. This consent does not extend to other kinds of copying such as copying for general distribution, for advertising or promotional purposes, for republication, for creating new collective works or for resale. Permissions for such reuse can be obtained using the RightsLink "Request Permissions" link on Wiley Online Library. Special requests should be addressed to: permissions@wiley.com

Information for subscribers

LAW & SOCIAL INQUIRY is published in 4 issues per year. Institutional subscription prices for 2018 are: Print & Online: US\$415 (US), US\$483 (and Rest of World), €315 (Europe), £249 (UK). Prices are exclusive of tax. Asia-Pacific GST, Canadian GST/HST and European VAT will be applied at the appropriate rates. For more information on current tax rates, please go to www.wileyonlinelibrary.com/tax-vat. The price includes online access to the current and all online backfiles to January 1st 2013, where available. For other pricing options, including access information and terms and conditions, please visit www.wileyonlinelibrary.com/access.

Delivery Terms and Legal Title

Where the subscription price includes print issues and delivery is to the recipient's address, delivery terms are **Delivered at Place (DAP)**; the recipient is responsible for paying any import duty or taxes. Title to all issues transfers FOB our shipping point, freight prepaid. We will endeavour to fulfil claims for missing or damaged copies within six months of publication, within our reasonable discretion and subject to availability.

Back issues: Single issues from current and recent volumes are available at the current single issue price from cs-journals@wiley.com. Earlier issues may be obtained from Periodicals Service Company, 351 Fairview Avenue – Ste 300, Hudson, NY 12534, USA. Tel: +1 518 822-9300, Fax: +1 518 822-9305, Email: psc@periodicals.com

Disclaimer

The Publisher, American Bar Foundation and Editors cannot be held responsible for errors or any consequences arising from the use of information contained in this journal; the views and opinions expressed do not necessarily reflect those of the Publisher, American Bar Foundation, neither does the publication of advertisements constitute any endorsement by the Publisher, American Bar Foundation and Editors of the products advertised.

Publisher: LAW & SOCIAL INQUIRY is published for the American Bar Foundation by Wiley Periodicals, Inc., 101 Station Landing, Suite 300, Medford MA 02155; Tel: 781 388 8200; Fax: 781 388 8210.

Journal Customer Services: For ordering information, claims and any enquiry concerning your journal subscription please go to www.wileycustomerhelp.com/ask or contact your nearest office.

Americas: Email: cs-journals@wiley.com; Tel: +1 781 388 8598 or +1 800 835 6770 (toll free in the USA & Canada).

Europe, Middle East and Africa: Email: cs-journals@wiley.com; Tel: +44 (0) 1865 778315.

Asia Pacific: Email: cs-journals@wiley.com; Tel: +65 6511 8000.

Japan: For Japanese speaking support, Email: cs-japan@wiley.com.

Visit our Online Customer Help available in 7 languages at www.wileycustomerhelp.com/ask

Production Editor: Mildred P. Bayas (email: LSI@wiley.com).

Wiley's Corporate Citizenship initiative seeks to address the environmental, social, economic, and ethical challenges faced in our business and which are important to our diverse stakeholder groups. Since launching the initiative, we have focused on sharing our content with those in need, enhancing community philanthropy, reducing our carbon impact, creating global guidelines and best practices for paper use, establishing a vendor code of ethics, and engaging our colleagues and other stakeholders in our efforts. Follow our progress at www.wiley.com/go/citizenship

View this journal online at wileyonlinelibrary.com/journal/lsi

Wiley is a founding member of the UN-backed HINARI, AGORA, and OARE initiatives. They are now collectively known as Research4Life, making online scientific content available free or at nominal cost to researchers in developing countries. Please visit Wiley's Content Access – Corporate Citizenship site: <http://www.wiley.com/WileyCDA/Section/id-390082.html>

Printed in the USA by The Sheridan Group.

Abstracting and Indexing Services: Academic Search (EBSCO), Academic Search Premier (EBSCO), Arts & Humanities Citation Index® (Thomson ISI), Criminal Justice Abstracts (Sage), Current Abstracts (EBSCO), Current Contents® (Thomson ISI), Current Contents®/Social & Behavioral Sciences (Thomson ISI), Current Law Index (Thomson Gale), EBSCO Legal Collection (EBSCO), EBSCO Sociological Collection (EBSCO), Expanded Academic ASAP (Thomson Gale), Family Index (), Index to Legal Periodicals & Books (HW Wilson), InfoTrac (), Journal Citation Reports/Social Science Edition (Thomson ISI), LegalTrac (), Proquest 5000 (ProQuest), Proquest Discovery (ProQuest), Proquest Research Library (ProQuest), Social Sciences Citation Index® (Thomson ISI), Social SciSearch® (Thomson ISI), Social Services Abstracts (CSA/CIG), SocINDEX (EBSCO), Sociological Abstracts (CSA/CIG), Student Resource Center College (w/ Academic ASAP), Worldwide Political Sciences Abstracts (CSA/CIG).

LAW & SOCIAL INQUIRY accepts articles for Open Access publication. Please visit <http://olabout.wiley.com/WileyCDA/Section/id-828081.html> for further information about OnlineOpen.

For submission instructions, subscription and all other information visit: wileyonlinelibrary.com/journal/lsi