PRESIDENT'S MESSAGE

Caveats to the Interface of Law and Social Science

Thus far I have attempted to describe what social science might offer to law and what law might offer to social science. In each case some caveats were offered. At this point, further warning flags should be posted.

I have observed that the goals of lawmen, on the one hand, and social scientists, on the other, may be different; while collaboration may be desirable and possible, pervasive colleagueship may be undesirable and impossible. Specifically, there is reason to believe that some of the goals of social science might be frustrated should its disciplinarians yield to the lawyer-centered pressure for immediate practical resolution of problems. Yet, the differences of goals must not stand in the way of a dialogue between lawmen and social scientists which might bring genuine improvement to both the art and the science.

Legal education has proceeded until recently from the assumption of Langdell:

> To accomplish these objectives, so far as they depend upon the law school, it is indispensable to establish at least two things—that law is a science, and that all the available materials of that science are contained in printed books. . . . I wish to emphasize the fact that a teacher of law should be a person who accompanies his pupils on a road which is new to them, but with which he is well acquainted from having traveled it before. [Langdell, 1887: 124]

Mr. Justice Holmes observed, in stark contrast to Langdell:

> For the rational study of the law, the black-letterman may be the man of the present, but the man of the future is the man of statistics and the master of economics. It is revolting to have no better reason for a rule of law than that so it was laid down in the time of Henry IV. It is still more revolting if the grounds upon which it was laid down have vanished long since, and the rule simply persists by blind imitation of the past. [Holmes, 1897: 469]

This difference in perceived goals of legal study receives frequent attention today; it outlines the issues of difference between the art and the science. Unfortunately, lawmen have chosen sides in the argument, which jeopardizes lawyer receptivity to a continuing dialogue between lawmen and social scientists. Thus, on ideological grounds, there is a formidable barrier to the interface between Law and Social Science. And there are others.

Lawyers are not used to questioning the assumptions which "the law" has made about human behavior. Frequently, lawyers proceed to verify their own preordained conclusions. Herein may lie the deep significance of social science for law. To achieve the assumed, but rarely considered, goal of lawyers–to secure justice–it may be required that lawyers learn to question and examine their assumptions–the preordained conclusions provided by another, earlier, social order.

The compelling concern of social scientists is in a generation of new knowledge–labeled "research." In this notion, lawyers are singularly ignorant. What they daily call research is legal documentation. Legal scholars are teachers first and investigators a poor second. The law school puts teaching as its prime objective. (Martin Meyer reports this to be a self-fulfilling prophecy.)

Similarly, social scientists have found transmission of knowledge a necessary condition to continued support for research time and facility. In view of justifiable student disenchantment with graduate (and undergraduate) disciplinary acculturation, the social scientists might take heed of their tradition-steeped brothers-in-law.

There is no legal theory. What lawmen call theory is a complex set of doctrinal, organizational links. From a viewpoint of behavioral principles, the lawyer is a plumber. The system of ordering conduct might be served should social science assist, if not in providing the framework, then in developing theories for law. Thereafter, justice might be served.

An interesting difference between law, on the one hand, and each of the social sciences, on the other hand, is the manner in which each tells about the state of its arts/sciences. Compare any law review with any scientific journal. The law journal will meticulously report conclusions; the scientific journal will meticulously report the methodology. Said another way, lawyers report their successes; social scientists report their failures.

The jargon of the different fields poses another barrier. Lawyer: de minimus non curat lex; sociologist: present evidence suggests that when normal adults are repeatedly exposed to the rewards and punishments consequent upon conformity or nonconformity to certain norms, in activities essential to realization and nonrealization of life goals of these individuals, there is low probability of development of motor and/or effective disturbances in behavior patterns associated with such activities. Both mean: little things don't matter.

There must be a common ground—all for the advancement of knowledge about human behavior—curiously, the subject matter of both the art of law and the science of human behavior.

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REFERENCES

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