

**SOCIOLOGY OF LAW SECTION OFFICERS
2006-2007**

Chair Kitty Calavita, UC-Irvine
Chair-Elect Elizabeth Boyle, University of Minnesota
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Brian Gran, Case Western Reserve; Erin Kelly, University of Minnesota; Richard Lempert, University of Michigan; Laura Beth Neilsen, Northwestern University; Robin Stryker, University of Minnesota; John Sutton, UC-Santa Barbara

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Chair: Matthew Silberman, Bucknell University; Newsletter Editor, David Shulman, Lafayette College; Christine Horne, Washington State University; Deborah Barr, University of Central Florida

Nominations

Chair: Mathieu Deflem, University of South Carolina; Robin Stryker, University of Minnesota; David Cook Martin, UCLA; Debbie Emmelman, Southern Connecticut State University

Membership

Chair: Beth Quinn, University of Montana; Mary Nell Trautner, Suny Buffalo; Anna-Maria Marshall, University of Illinois; Steve Barkan, University of Maine; Erik Fritsvold, University of San Diego

Mentorship Coordinator

Gerald Turkel, University of Delaware

Chair's Column for AMICI Newsletter

Kitty Calavita, UC Irvine

The results of our section's election are in, and I am pleased to announce that Carroll Seron is the new Chair-elect. The Council members, whose term begins at the end of this year's business meeting, are: Vanessa Barker, Alfonso Morales, and John Skrentny. This was a particularly wonderful slate of candidates, and I want to thank the nominations committee (Mathieu Deflem [chair], Debbie Emmelman, David Cook Martin, and Robin Stryker), all those who agreed to run for election, and the many who turned out to vote. Congratulations to these new section officers!

I hope you all are planning to come to New York City from August 11-14 for our annual meeting. It looks like it is going to be a huge event, with lots of exciting plenaries and regular sessions to choose from, as well as all the usual excitement offered by The Big Apple.

The overarching theme of the meeting this year is "Is Another World Possible: Sociological Perspectives on Contemporary Politics," which could not be more timely. On the meeting website, ASA President, Frances Fox Piven, extends this invitation to us in her usual eloquence:

"Our world is changing very fast, and it is at times like this that sociological analysis should be sharpest, most illuminating, and also most useful...Our preoccupation with reform has led us to plan a series of sessions which assess the potential for progressive social change both in the United States and the world. A plenary about the potential for democratic rebirth in the U.S. will feature Medea Benjamin, Patricia Williams, and Joel Rogers. Barbara Ehrenreich and John Conyers pursue this theme in a dialogue about immediate prospects for change in

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American politics. Another plenary will consider popular culture as propaganda and as critique.... Other sessions will focus specifically on American electoral politics, the erosion of the American social compact, the politics of natural disasters, immigration, the religious right, closing the low road in economic development, the progressive tradition in sociology, the politics of incarceration, and much more.

We also want to look beyond the U.S. and pay attention to the convulsive developments in Latin America, Africa and Southeast Asia. Our conference will open with a presentation by Richard Lagos, the former president of Chile who played a major role in the Allende government and as president oversaw a peaceful transition to democracy....

The sessions planned as regional spotlights will include Cornel West commenting on Mitch Duneier's new film on homelessness, Saskia Sassen, Richard Sennett, Diane Davis and Susan Feinstein discussing the viability of New York City, and Craig Calhoun who will lead a discussion of the legacy of Robert Merton and Paul Lazarsfeld and the Columbia school of sociology."

With a line-up like this, you've got to be there! And, with the theme of reform and the potential for progressive social change resonating so much with our section's focus, much of this year's meeting will touch on law either directly or indirectly.

Our section's big day is the first day of the meeting. We kick off first thing on August 11 with an 8:30 am panel organized by Beth Hoffman with a broad focus on human rights, judicial reform, and citizenship issues. Following that, at 10:30 there is an invited session on "The Social Construction of Human Rights," organized by in-coming chair, Liz Boyle, and featuring Terry Halliday, Wade Cole, Fortunata Songora, and John Skrentny. From 2:30-3:30, we have 5 round tables organized by Erik Larson, entitled "Narrative Legitimacy and Legal Decision Making;" "Incorporating Traditions in Legal Institutions;" "How Successful are Attempts at Inclusion and

Exclusion in Legal Institutions?;" "The Influence of Social Context on Legal Strategies;" and, "Routinization and Justice." Then at 4:30, there is a session on "Law and Legal Institutions," organized by Kathleen Hull. We are also co-sponsoring a session with Economic Sociology on August 14 at 2:30, organized by Mark Suchman. I urge all of you to attend as many of these sessions as you can fit into your (probably crowded) schedule. And, I want to extend a big thank you for those who have had a part in organizing them.

Besides our section's sessions, there are many other sessions that focus on law, including several that are sponsored by the section on Crime, Law, and Deviance, and a thematic session on "Law's Empire." Finally, there is an "Author-Meets-Critics" panel on Jeff Manza and Chris Uggen's book, *Locked Out: Felon Disenfranchisement and American Democracy*, organized by Fred Block, for which I am a "critic."

Two other important events should make their way onto your calendar. First, our section reception, which we do each year jointly with the section on Crime, Law, and Deviance, is going to be held Sunday evening, August 12, in the Sung Dynasty Restaurant, with no-host-bar cocktails at 6:30 and dinner at 7. I hear great things about this restaurant, which is located in the Radisson Hotel at 511 Lexington Avenue, so please join us!

Second, our business meeting is to be held right after the Roundtable at 3:30 on August 11. Please try to attend, as this is the time to have input in section affairs, applaud those who have offered their volunteer labor, and celebrate our award winners.

Speaking of award winners, it is my pleasure to announce that this year's prize for "Distinguished Article" published in 2005 or 2006, goes to Ryken Grattet and Valerie Jenness for "The Reconstitution of Law in Social Settings: Agency Discretion, Ambiguity, and a Surplus of Law in the Policing of Hate Crime," in *Law and Society Review*, Volume 39 (Number 4), 2005: 893-942. The committee was comprised of Susan Silbey (chair), Ronit Dinovitzer, Laura Beth Nielsen, and Mary Nell Trautner. The graduate Student Paper Award goes to Leisy Abrego (UCLA) for her paper,

“Legitimacy, Social Identity, and the Mobilization of Law: The Effects of Assembly Bill 540 on Undocumented Students in California.” The Undergraduate Student Paper Award was won by Ashley DeMinck (Macalester College) for “The Origins of Truth and Reconciliation Commissions: South Africa, Sierra Leone, and Peru.” The committee comprised Calvin Morrill (chair), Ryken Grattet, John Skrentny, and Susan Will. Congratulations to these prize winners, and thank you to those who chaired and served on these important committees.

Before closing, I can’t resist sharing with you the disconcerting experience I had upon reading the title of the theme for this year’s meeting: “Is Another World Possible.” Not because the theme is problematic—it is incredibly timely and important. Rather, because of things going on in the world we do have. I had recently been reading about the new virtual reality website called “Second Life,” so for a nanosecond it fled across some semi-conscious level of my mind that this was the “other world” being referred to. For those of you even more removed from electronic realities than I, according to its home site, “Second Life is a 3D online digital World Imagined, Created & Owned by its Residents” (of, by, and for the people?). In this world, people create for themselves virtual personas (in the form of Avatars) who buy virtual land, open businesses catering to other Avatars’ needs, and party hard in nightclubs owned and frequented by their fellow residents. “Linden dollars” earned in this

parallel reality can be exchanged “for real currency” (I assume this means real real, not virtual real). In 2003, 64 acres of this virtual land were owned by Avatars; the Avatar World now includes 64,000 acres, with over 7 million residents (I don’t know for sure, but I bet they have “law,” which opens up all kinds of research opportunities). Now, “virtual playgrounds”—with names like Cyworld, WeeWorld, and Stardoll—have emerged for children. The *New York Times* reported on June 6 that three of the principal such playgrounds received over 9 million visitors in the month of April alone. Simulating the grown-up simulators, Stardoll.com allows players to “buy credits over their cellphones and use them to buy more clothes for dolls like the actor Will Smith.”

We know we are in trouble when the notion of alternative worlds first brings to mind—even fleetingly—cyberspace. As Frances Fox Piven tells us, “Our world is changing fast...” and we need good sociological analyses to help explain how and why it is changing, and what we can do to reinvigorate ideas about progressive reform.

In signing off, I would like to extend many thanks to Dave Shulman for his editorship of the newsletter over the past years. He has done a tremendous job, and leaves AMICI in great shape. Thank you, Dave, from all of us at SocLaw!

Hope to see you all in New York!

SOCIOLOGY OF LAW RELATED PAPERS AT ASA 2007

Sat, Aug 11 - 8:30 am - 10:10 am

Special Session. War Crimes and the Trials of Abu Ghraib Sheraton New York
Session Organizer: Stjepan G. Mestrovic (Texas A&M University)

Panelists:

Paul Bergrin (Bergrin Law Firm)
Xavier Amador (Columbia University)
JoAnn Wypijewski (Harper's Magazine)
Frank Spinner (Attorney at Law)
Ryan Ashley Caldwell (Texas A&M University)
Adam Zagorin (Time Magazine)

Abstract: A discussion of social issues pertaining to the abuse at Abu Ghraib

Section on Sociology of Law Paper Session Hilton New York
Session Organizer and Presider: Elizabeth A. Hoffmann (Purdue University)

Evaluating Judicial Reform Projects Funded by the International Donors in Egypt and Turkey Majid Mohammadi (Binghamton University)

From Citizenship to Human Rights: A Theoretical Framework Chris Nigel Roberts (University of Michigan)

The Delayed Emergence of Penal Modernism in Florida, 1860 – 1960 Heather A. Schoenfeld (Northwestern University)

Towards a Conceptualization of Cosmopolitan Courts Sheldon Bernard Lyke (University of

Chicago)

What Does it Take for Children to Have Rights? Internationalization of Law, A Children's Champion, and Few Kids Brian Gran (Case Western Reserve University), Michael Flatt (Case Western Reserve University), Lynn M. Falletta (Case Western Reserve University)

Sat, Aug 11 - 10:30am - 12:10pm

Section on Sociology of Law Invited Session The Social Construction of Human Rights Hilton New York **Session Organizer and Presider:** Elizabeth Heger Boyle (University of Minnesota)

Building from the Base: The Legal Complex and Struggles for Political Liberalism Terence C. Halliday (American Bar Foundation)

World Polity Transformations and the International Legal and Normative Status of Indigenous Peoples, 1500-2000 Wade M. Cole (Stanford University)

Children's Rights, Contradictory International Requirements, and Policy Decoupling Fortunata Songora Makene (University of Minnesota)

Human Rights and Immigrant Settlement in East Asia John Skrentny (Univ. of California, San Diego), Dong-Hoon Seol (University of California, San Diego) **Abstract** The panelists explore human rights from atypical perspectives, critically analyzing the history and current instantiations of rights discourse.

Saturday August 11th 2:30-3:30

SOCIOLOGY OF LAW SECTION

ROUNDTABLES Organized by Erik Larson

Narrative Legitimacy and Legal Decision Making

While the content and theoretical orientation varies (jurors' assessments of how litigants act / react, the use of "white slavery" narratives in forced prostitution cases, and ideas about gender and the etiology of illness in assessing discrimination), the papers for this roundtable all address questions about how various actors draw on cultural ideas as part of the process of making decisions about cases. The different theoretical approaches and substantive areas should enable interesting discussions to emerge about both the individual papers and more general ideas about how actors in the legal system draw on cultural scripts in constructing and evaluating facts.

Papers:

"Narrative and Sexual Consent: Compulsory Prostitution in Progressive era New York City"
Brian Donovan, University of Kansas; Tori Barnes-Brus, University of Kansas

"Goffman on the Jury: Real Jurors' Appraisals of Performances at Trial Through 'Off-Stage' Observations"
Mary Rose, University of Texas; Shari Diamond,

American Bar Foundation/ Northwestern University School of Law; Kimberly Baker, University of Texas

"Recent Developments of the Principle of Equal Pay for Women and Men in the EU"
Kuo-lien Hsieh, Shih Hsin University, Taipei, Taiwan; Pi-chun Hsu, Cornell University

Presider: Joshua Page, Minnesota

Incorporating Traditions in Legal Institutions

The two papers for this roundtable operate on very different levels of abstraction and scope. In one paper, an analysis of a case in which a judge mandated the appointment of a shamanic healer serves as an opportunity to examine Weber's theories of legal innovation. In the second paper, descriptive quantitative analysis of emerging trends in Native Nations' courts incorporation of tradition sets up a discussion of on-going debates about the appropriate place of tradition in these courts. The two papers should serve as an occasion to represent the strength of pluralism in sociology as discussion could emerge about the meaning and significance of cases and trends and about how to reconcile the use of tradition in legal-rational legal systems.

Papers:

"Current Trends in Tribal Judicial Structure and the Use of Tradition in the Modern Tribal Court"
Rachel Starks, University of Arizona

"Innovation and Efficiency in Current Social Work: achieving the best interests of each child"
Brittini Wagner, University of Washington

Presider: Mathieu Deflem, University of South Carolina

How Successful are Attempts at Inclusion and Exclusion in Legal Institutions?

At this roundtable, the papers address very different parts of the legal system – the effects of law, litigation, and legal education. Yet, the three papers share a fundamental concern about how attempts at inclusion or exclusion in or by these legal institutions may not achieve the intended ends. One paper examines the reasons that students in law schools join organizations, concluding that racial minority students more likely seek social support while dominant group students seek groups for mobility. The second paper assesses the extent to which laws restricting adoption by same-sex couples influence the presence of children in same-sex households. Finally, the third paper examines how the status of Mexican-American students as legally white in the middle of the twentieth century influenced efforts at challenging educational segregation and discrimination. The papers could spur a discussion about the external forces that shape the effectiveness

of legal institutions and about the symbolic aspects of legal inclusion / exclusion.

Papers:

“Legislating ‘The Family’: The Effect of State Family Laws on the Presence of Children in Same-Sex Households”

Amanda Baumle, University of Houston; D’Lane Compton, Texas A&M University

“Legal Ties: The Expectations & Experiences of Members of Law Student Organizations” *Meera Deo, UCLA*

“Mendez v. Westminster (1946) as a Window into Mid-Century Racial Ideologies” *Jeanne Powers, Arizona State University*

President: Wendy Leo Moore, Texas A&M University

The Influence of Social Context on Legal Strategies

Each of the papers at this table raises questions about actors’ decisions about whether and how to use the legal system, but the papers differ in terms of the actors analyzed and their relation to law. The first paper examines the influence of jurisdiction on personal injury lawyers’ case screening by using a vignette-based experiment and finds that while lawyers in “plaintiff friendly” and “defendant friendly” jurisdictions did not differ in their likelihood to take up the cases, the strategic approaches to the cases did differ by jurisdiction. A second paper examines why low-income inner-city residents are not likely to use the legal system. Finally, the third paper examines how legal doctrine affects the likelihood that individuals will embrace an identity and form a political / rights movement by analyzing the effect of Canadian court decisions about obesity. These papers could inspire further discussion about socio-legal influences on the access to justice and how actors decide legal strategies (and what these strategies mean in different social settings).

Papers:

“Personal Responsibility v. Corporate Liability: How Personal Injury Lawyers Screen Cases In an Era of Tort Reform”

Mary Nell Trautner, University at Buffalo, SUNY

“Living In Paradox: Low Income Families, Home and Neighborhood Challenges and (Non) Participation in the Legal System”

Diana Hernandez, Cornell University

“Weakness, Sickness, or Social Pariah?: The Obese Body in Canadian Legal Constructions”

Barbara Hanson, York University

President: Yvonne Zylan, Hamilton College

Routinization and Justice

The two papers at this table concern attempts to incorporate procedures to routinize the ways in which cases are processed; however, these two attempts at rationalization may shift discretionary decision-making in different directions. The first paper examines the increased use of risk assessment in presentence reporting and finds that these assessments conceal political implications under the guise of objectivity. The second paper examines the increasing use of magistrates’ courts to handle a high volume of cases and the influence of this work on professionalism of magistrates. The papers might provoke discussions about the ways in which routinized procedures intersect with professional ideology and discretion. In addition, the papers raise questions about what routinization of case processing portends for justice.

Papers:

“The Legal Politics of Risk: Risk and Need in Pre-Sentence Investigation Reports”

Paula Maurutto, University of Toronto; Kelly Hannah-Moffat, University of Toronto

“Professionalisation and intra-professional status differences: Magistrates in Australia”

Sharyn Roach Anleu, Flinders University; Kathy Mack, School of Law, Flinders University

President: Wolf Heydebrand, NYU

Sat, Aug 11 - 3:30 pm - 4:10 pm

*****Section on Sociology of Law Business Meeting***** Hilton New York

Session Participants:

Chair: Kitty C. Calavita (University of California, Irvine)

Participants:

Elizabeth Heger Boyle (University of Minnesota)

Rebecca L. Sandefur (Stanford University)

Brian Gran (Case Western Reserve University)

Erin Kelly (University of Minnesota)

Richard O. Lempert (University of Michigan)

Laura Beth Nielsen (American Bar Foundation /Northwestern University)

Robin Stryker (University of Minnesota)

John Sutton (University of California)

40 Minutes

Sat, Aug 11 - 4:30pm - 6:10pm

Section on Sociology of Law Paper Session. Law and Institutions Hilton New York

Session Organizer: Kathleen E. Hull (University of Minnesota) **President:** Joachim J. Savelsberg (University of Minnesota)

Beyond Therapy: Problem-Solving Courts and the Deliberative Democratic State Rekha Mirchandani (Bowling Green State University)

Legal Opportunity Structures and Organizing for Latino Immigrant Labor Rights in two U.S.

Cities: The Case of San Jose and Houston Shannon Marie Gleeson (University of California Berkeley)

Mechanisms Generating Variation: Regulatory Change in the Organic Food Industry Brandon H. Lee (London Business School)

Taking Notice: Public Perceptions of Health Privacy in the Wake of HIPAA Sarah Christine Swider (University of Wisconsin Madison), Mark C. Suchman (University of Wisconsin - Madison)

Discussant: Joachim J. Savelsberg (University of Minnesota)

Sun, Aug 12 - 8:30am - 9:30am

Hilton New York

Section on Organizations, Occupations and Work Roundtables Session (one-hour) **Session Organizer:** Lisa Catanzarite (Washington State University)

Building Democracy Abroad: the Privatization of Government-Funded Foreign Aid

Rachael S. Neal (University of Arizona)

Session Organizer: Christopher G. Marquis (Harvard Business School)

Dismantling The J-firm: The Transformation of Japanese Corporate Law, 1997-2006

Li-Hsuan Cheng (Duke University)

The End of Partnership? The Decline of the Loyalty Norm among Large Corporate Law Firms, 1974-1990, as Institutional Change Nina Shah (SUNY Fredonia)

The Materiality of Failure: Using Organizational Archeology to Theorize the De-Organized Firm

Gina Neff (University of Washington), David Kirsch (University of Maryland)

From Professionalism to Commercialism: The discourses and the transforming governance structures of legal profession Yu-Chieh Lo (University of So. California)

President: Nina Shah (SUNY Fredonia)

Sun, Aug 12 - 8:30am - 10:10am

Sheraton New York

Session Organizer and President: Thomas Koenig (Northeastern University)

Performances of Juvenile Justice: Family Group Conferences vs French Children's Court Hearings

David Beaumont Tait (University of Canberra)

Problem-Solving in Criminal Courts: A Comparative Analysis of Legal Transplantation

James L. Nolan (Williams College)

The Grip of "Legal Consciousness": Theoretical and Methodological Elaborations of the Law-Culture-Society Nexus Michael W. Yarbrough (Yale University)

Towards a Sociology of Patents Alexander Zlatanov Ibsen (University of Arizona)

Sun, Aug 12 - 10:30am - 12:10pm

Hilton New York

Section on Sex and Gender Paper Session. Gendered

Questions in Law and Public Policy **Session Organizer and President:** Elizabeth H. Gorman (University of Virginia)

The Effectiveness of Rape-Law Reform: A Cross-National Study of Policy Implementation

David John Frank (University of California, Irvine), Tara Hardinge (University of California, Irvine), Kasia Ruth Wosick-Correa (University of California, Irvine)

From Fire and Brimstone to Property Values: The Changing Moral Content of Arguments Against Pornographic Industries, Atlanta, 1969-1997

Danielle Jeanne Lindemann (Columbia University)

Making Marriage Count in Law and Public Policy: Symbolic Boundaries and Gendered Anxieties Melanie Ann Heath (Rice University)

Marital Rape Laws, 1976-2002: From Exemptions to Prohibitions Jennifer J. McMahon (University of Georgia)

Discussant: Laura Beth Nielsen (American Bar Foundation/Northwestern University)

Sun, Aug 12 - 2:30pm - 4:10pm

Sheraton New York Thematic Session. Empire's Law

Session Organizer: Amy Bartholomew (Carleton University) **President:** Stephen Bronner (Rutgers University)

The Bush Regime From Elections To Detentions: The Bootstrapped Moral Economy of Carl Schmidt and Human Rights"? David Abraham (University of Miami)

Empire's Democracy, Ours and Theirs Andrew Arato (New School University)

Human Rights and Legality in the Age of Empire's Law Amy Bartholomew (Carleton University)

The Law of Self Determination and Imperial Law: Antagonists or Collaborators? Jean Cohen (Columbia University)

Theorizing American Empire: The Law of Value and the Rule of Law Leo Panitch (York University) **ABSTRACT**

This session considers the theorization, manifestations and contradictions of American empire today in relation to law, legality and democracy. The papers concur on one subject: the problem at hand is not "just Bush" but something deeper and more extensive - American Empire. Human rights, democracy and law play a prominent role here, providing the groundwork of its exceptionalism, the medium of its extension and the object of its attacks.

Sun, Aug 12 - 12:30pm - 2:10pm

Sheraton New York

Regular Session. Law and Society: Idealism, Political Activism, and the Law

Session Organizer: Thomas Koenig (Northeastern University) **Presenter:** Thomas Koenig (Northeastern University)

David versus Goliath: Contemporary American Tax Protest and the IRS Lorna L. Mason (Brooklyn College)

HEARKEN THE NEW WORLD: Reforming MNCs one Lawsuit at a Time

Gwendolyn Yvonne Alexis (Monmouth University)
Institutionalizing Public Service in Law School: Results on the Impact of Mandatory Pro Bono Programs Robert T. Granfield (University at Buffalo)

Sun, Aug 12 - 2:30pm - 4:10pm

Sheraton New York

Regular Session. Sociology of Law

Session Organizer and Presenter: Rebecca L. Sandefur (Stanford University)

Rich with 5(!) papers, this session includes cutting edge work on legal consciousness in the absence of a public social rights discourse, "hate torts," the refashioning of administrative regulation into "self-regulation," new combinations of formal and informal control of crime, and politicized departure of justices from the US Supreme Court.

"What Rights?" Injustice Framing in the Absence of a Resonant Social Rights Discourse Sandra R. Levitsky (University of Michigan)

Governing Without Commands or Controls: Self-Regulation as Regulatory Reform and Justification Jodi Short (University of California, Berkeley)

Lawsuits to Punish the Organization Roots of Hate Thomas Koenig (Northeastern University), Michael L. Rustad (Suffolk University Law School)

Mixed Methods of Control James J. Chriss (Cleveland State University)

Politicized Departure from the United States Supreme Court Ross M. Stolzenberg (University of Chicago), James Lindgren (Northwestern University School of Law)

Mon, Aug 13 - 10:30am - 2:10pm

Sheraton New York

Law and Justice

Session Organizer: Sally S. Simpson (University of Maryland) **Presenter:** Karen F. Parker (University of Delaware)

A Spatial and Community Level Analysis of Police Stops involving Black, White, and Hispanic Drivers Karen F. Parker (University of Delaware), Erin C Lane (University of Florida), Brian James Stults (University of Florida)

Social Control Under Uprising: The Effect of the First Intifada on Youth Sentencing in Israel Gustavo S. Mesch (University of Haifa), Badi Hasisi (The Hebrew University, Faculty of Law)

The Political Economy of Antitrust Enforcement: Toward a Longitudinal Explanation Eileen E.S. Bjornstrom (Ohio State University)

Mon, Aug 13 - 2:30pm - 4:10pm

Sheraton New York

Section on Racial and Ethnic Minorities Invited Session. Affirmative Action, Diversity, and the Law: The Fate of Racial Politics in the U.S.

Session Organizer and Presenter: David G. Embrick (Loyola University-Chicago)

Diversity and Affirmative Action: A Closer Look at Concepts and Goal Sharon Maureen Collins (University of Illinois at Chicago)

Teasing Out Resistance: Legal and Institutional Obstacles Facing Urban Minority Business Enterprise (MBE) Programs Deirdre Royster (College of William and Mary)

The Racial Underpinnings of the Diversity Discourse Douglas R. Hartmann (University of Minnesota), Joyce M. Bell (University of Minnesota)

The Politics of "Diversity" and the New Language of Inclusion in the U.S. Ellen C. Berrey (Northwestern University)

Discussant: Cedric Herring (University of Illinois, Chicago)

Mon, Aug 13 - 2:30pm - 4:10pm

Hilton New York

Section on Crime, Law and Deviance Invited Session. Understanding Homicide and Suicide

Session Organizer and Presenter: Charis E. Kubrin (George Washington University)

Mapping the Firearm Landscape: A New Approach to the Debate Over Guns and Homicide Gary F. Jensen (Vanderbilt University)

Alcohol and Structural Disadvantage in Youth Urban Homicide Robert Nash Parker (University of California-Riverside), Kirk R. Williams (University of California-Riverside)

Homicide Followed by Suicide: Trends Over the Twentieth Century Rosemary Gartner (University of Toronto), Bill McCarthy (UC Davis)

Poverty Matters: A Reassessment of the Inequality-Homicide Relationship in Cross-National Studies William Alex Pridemore (Indiana University)

Explaining Suicide in the U.S.: Incorporating Firearm Availability in Macro-Level Research Charis E. Kubrin (George Washington University), Tim Wadsworth (University of New Mexico)

Mon, Aug 13 - 4:30pm - 6:10pm

Section on Crime, Law and Deviance: Four Good Papers in the Area of Crime, Law and Deviance

Hilton New York

Session Organizer and Presenter: Peggy C. Giordano (Bowling Green State University)

A Multi-level Theory of Hate Crime Ross L.

Matsueda (University of Washington), Christopher J. Lyons (University of New Mexico)

An Emerging Felon Class? Intergenerational crime and mobility among a nationally representative cohort of young adult men Michael Everett Roettger (Univ of North Carolina-Chapel Hill)

The Structural and Cultural Dynamics of Neighborhood Violence David S. Kirk (University of Maryland), Andrew V. Papachristos (University of Chicago)

Tue, Aug 14 - 10:30 am - 12:10 pm

Hilton New York

Section on Crime, Law and Deviance Invited Session. Moral Panics -- 35 Years Later

Session Organizer and Presider: Nachman Ben-Yehuda (Hebrew University)

Continental Drift: The Shifting Foundations of Moral Panic Analysis Chas Crichter (Sheffield Hallam University)

Considering the Agency of Folk Devils Mary DeYoung (Grand Valley State University)

Recent Criticisms and Responses Erich Goode (University of Maryland)

Failure to Launch: Understanding Why Some Social Problems Fail to Detonate Moral Panics Philip Jenkins (Pennsylvania State University)

Section on Crime, Law and Deviance Invited Session The Causes and Consequences of Criminal Punishment

Tue, Aug 14 - 12:30 pm - 2:10pm

Hilton New York

Session Organizer: Bruce Western (Princeton University) **Presider:** Devah Pager (Princeton University)

"I Looked at This as a Beautiful Experience": Mass Incarceration and the Secondary Prisonization of Intimate Relationships Megan Lee Comfort (University of California, San Francisco)

Educational Resources and Adult Incarceration Risk Among U.S. Birth Cohorts Since 1910 Gary LaFree (University of Maryland) Richard Arum (New York University)

Imprisonment and Opportunity Structures: A Bayesian Hierarchical Analysis John Sutton (University of California)

On the Run: The Social Situation of Wanted People Living in the Ghetto

Alice Goffman (Princeton University)

Tue, Aug 14 - 2:30 pm - 4:10 pm

Section on Crime, Law and Deviance Roundtables Hilton New York

Session Organizer: Ruth D. Peterson (Ohio State University)

Resource Disadvantage and Homicide: Regional Variations in the Rural Context

Matthew R. Lee (Louisiana State University), Timothy C. Hayes (Louisiana State University), Shaun Thomas (Louisiana State University)

Disorganization, Conflict, and the Organizational Characteristics of Police Departments: What Influences Violence Against Police Officers? Dale Willits (University of New Mexico)

Extending the Chicago School to State Suicide Rates: Evidence for a Theory of Suicidal Places Steven E. Barkan (University of Maine)

Tue, Aug 14 - 2:30pm - 4:10pm

Section on Economic Sociology Paper Session Law and the Economy (co-sponsored with the Section on Sociology of Law) Hilton New York

Session Organizer and Presider: Mark C. Suchman (University of Wisconsin - Madison)

High-Status Deviance or Conformity? Silicon Valley Law Firms' Engagement in Family and Personal Injury Law Damon Jeremy Phillips (University of Chicago), Ezra W. Zuckerman (MIT Sloan School of Management)

Privatizing China's Township and Village Enterprises: A Political Change of Property-Rights Institutions Junmin Wang (New York University)

State Institutions, Organizing Capacity, and the Emergence of Organizations

Phillip Kim (University of Wisconsin-Madison), Cheol-Sung Lee (University of Utah), Paul D. Reynolds (Florida International University)

The Passage of the Uniform Small Loan Law Bruce G. Carruthers (Northwestern University), Timothy W. Guinnane (Yale University), Yoonseok Lee (University of Michigan)

****SOCIOLOGY OF LAW JOINT SECTION RECEPTION****

SUNDAY AUGUST 12 6:30 pm

Sung Dynasty Restaurant, Radisson Hotel, 511 Lexington Avenue. Cocktails at 6:30 and dinner at 7. See you there!

CALL FOR PAPERS: SPRING 2008 CONFERENCE CO-SPONSORED BY LAW & SOCIETY REVIEW AND
THE CENTER FOR LAW, SOCIETY AND CULTURE AT THE UNIVERSITY OF CALIFORNIA, IRVINE
THE PARADOXES OF RACE, LAW AND INEQUALITY IN THE UNITED STATES

Conference Theme: The Civil Rights Movement reinvigorated socio-legal scholarship and raised new questions about the place of law in social, political, economic and cultural life. Scholars have continued to grapple with issues surrounding race and class. From the beginning, one of the ideals of the Law and Society Association has been that, by making social scientific research available to policymakers, scholars could move toward righting the wrongs of our racialized pasts.

Today, scholars approach the analysis of race, law and inequality in the United States in a very different socio-political climate than that of the 1960s. There have been dramatic changes in immigration law in the 1990s, debates over even more restrictive immigration policies in the 2000s; transformative changes in labor markets within the United States and overseas; skyrocketing concerns over security threats from outside and within the United States, increased use of racial profiling, new forms of incarceration, and fears of gang warfare. In the face of these developments, theories and methodologies have diversified.

Despite these changes, the paradoxes of race, law and inequality are at least as profound as they were at the beginning of the Civil Rights Movement. The broad question before us is: What role can scholars play in understanding the landscape where race, ethnicity, inequality, and law intersect?

In January 2007, Law & Society Review Editor Carroll Seron, and Associate Editors Jeannine Bell, Laura Gómez, Ruth Peterson, and Jonathan Simon convened a workshop to plan a conference and a symposium of the Review on the topic of race, law, and inequality in the United States. Kitty Calavita and David Goldberg served as commentators at this workshop which was held at the University of California Irvine, and which was co-sponsored by the UCI Center in Law, Society and Culture. Students and faculty from across the campus were also in attendance. After a day of brainstorming, a series of cross-cutting themes emerged.

To explore these themes in greater depth, a conference will be held at UCI in spring 2008 and a special symposium of the Review will follow in 2009. The conference will be co-sponsored by Law & Society Review and the Center for Law, Society and Culture at UCI. We invite paper submissions on the conference themes. Following the conference, papers that are presented may also be submitted for inclusion in the symposium. All articles will go through the standard peer review process of Law & Society Review.

Procedures for submission of a paper: To be considered for participation, please submit your paper title with an abstract and a c.v. by October 31, 2007. Participants will be selected by November 30, 2007. We anticipate covering the travel and other expenses of participants at the conference. All papers should be submitted to paradox@uci.edu.

Inquiries: You may submit inquiries to either Carroll Seron at seron@uci.edu or Susan Coutin at scoutin@uci.edu. The Associate Editors of Law & Society Review and the Advisory Board of the Center for Law, Society and Culture will continue to play an active role in the development of the conference and the selection of participants.

Date of conference: We anticipate that the conference, to be held at the University of California, Irvine, will be May 2-3, 2008.

Proposed topics

What is the most productive way to describe race without reifying it?

How have racialized inequalities in the United States been reinforced or exacerbated in recent decades?

How do discursive shifts in crime policy and the unprecedented expansion of imprisonment since the 1960s affect investments in racialized forms of governance?

How have institutionalized inequalities been sharpened even as few admit to being racist?

What are the global impacts of American racial policies and practices?

CONTEMPORARY LEGEND AND CLAIMS OF
CORPORATE MALFEASANCE: RACE, FRIED
CHICKEN, AND THE MARKETPLACE

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Consider the innocent automotive air freshener. In the mid-1990s widespread rumors targeted just such a product. Crown automotive air fresheners are designed to resemble the ornate headpieces worn by royalty. Drivers were encouraged to put them in their rear windows where they would deodorize the car's interior. In one version, white consumers claim that the presence of this air freshener symbolizes that the driver is a member of a gang. For instance, in New Haven, Connecticut, the presence of a crown in the car is claimed to reveal the driver's affiliation with the notorious Latin Kings street gang. The product revealed the identity of the purchaser. In turn, African-Americans report that the company that produces Crown air fresheners is owned by white supremacists linked to the Ku Klux Klan. They allege that the owners unashamedly thanked blacks for buying the air fresheners during an appearance on the Jerry Springer Show. Here the secret nature of the corporation was at issue.¹

As rumors about Crown air fresheners indicate, Americans of all races and social classes find their lives dominated by the constant presence of consumerism and concerns about the dangers of frivolous purchases. Whether we wake up listening to a mainstream, top forty-rock station or a black format station, we won't have been alert very long before being inundated by an avalanche of commercial messages. Messages to consume abound and define us as persons. Throughout the day we are bombarded by messages attempting to convince us that a given product or service will improve our lives and will shape our identity. We live with corporations, and in some regards they become our family.

Historians trace the origins of a market-dominated American culture to the decades prior to the turn of the twentieth century. The transformation of consumer goods from luxuries to necessities began with the emergence of mail-order catalogues and department stores crammed with merchandise for those with available discretionary income. Lenient credit policies enabled a larger

segment of the population to increase its purchasing power. In time self-sufficiency became a badge of failure rather than an emblem of success. To buy is to be. In public esteem, store-bought goods became infinitely more status enhancing than homemade ones.

Not all Americans entered the world of consumerism at the same historical moment. Late nineteenth-century advertisers targeted their messages to appeal to those with money and to those who wanted the lifestyle depicted as belonging to the moneyed classes. Enticing urbanites was easier than attracting rural dwellers. The constraints of city living prohibited the self-sufficiency still practiced in agricultural enclaves. Although mail order catalogues endeavored to make all manner of merchandise available to people distant from up-scale urban department stores, rural Americans had a greater capacity to remove themselves from the reach of zealous merchants.

For the most part, African Americans remained outside the commercial marketplace longer than most of their white counterparts. Particularly for those in the peonage-style work arrangements common in the South during the late nineteenth and early twentieth century, access to cash was rare. Often these former slaves were forced to limit their shopping to stores selected or run by the owner of the land they worked.

In spite of the relentless campaigns urging them to purchase goods, white and black Americans have not surrendered to the commercial empire without resistance and ambivalence. Consumers possess few resources with which to fight the seductive appeals crafted by advertisers, other than personal decisions to refrain from purchasing and spreading rumors about the nature of the companies and the qualities of the goods. As a consequence, rumors and contemporary legends have assumed a prominent place in the anti-corporate arsenal, and serve, however unconsciously, as a form of resistance, what political scientist James Scott terms a weapon of the weak.² These rumors serve as truth claims that allege that consumers properly mistrust those products that they are ambivalent about purchasing.

In this analysis we present several related case studies of corporate rumor/legend cycles that have enjoyed substantial popularity during the past decade. Contemporary legends also go by the label of "urban legends," as found in the series of

popular books by folklorist Jan Harold Brunvand, such as The Vanishing Hitchhiker. By the term contemporary or urban legend we refer to a traditional narrative, told as true, but without secure standards of evidence, that addresses issues of modern society. As part of this project, we focus on racial texts, although, of course, many contemporary legends do not deal with racial themes. Further, we address those stories that emphasize corporate malfeasance. Among the stories of this type are the Kentucky Fried Chicken served a rat as a piece of fried chicken, the McDonalds hamburgers are made with red worms, or that Coors beer supports the American Nazi party. These stories claim that corporations are Careless (the Kentucky Fried rat), Deceptive (red worms in hamburgers), or Evil (corporations owned by an evil group, such as the Nazis, the Klan, or the Communist party). These three classes of stories underline the considerable mistrust that consumers have toward "face-less" corporations.

There is nothing about a contemporary legend that requires that it be false. This is particularly the case when we are talking about individual episodes. For instance, consider the well-known contemporary legend dealing with the mouse found in a bottle of Coca-Cola. An investigation of this legend from 1914 to 1976 discovered that this legend is based upon fact. The first author was able to track down 46 cases of damage that reached the Court of Appeals during this period.³ This means that issues of fact were no longer under dispute, but only issues of law. In these forty-six cases from many jurisdictions, we must assume that the allegations that consumers found a mouse in their Coca-Cola bottle were factually accurate.

Although both blacks and whites spread stories about corporations, these accounts are not identical. Black rumors play on the belief in racial animus by elites, whereas whites take the whiteness of the ownership of corporations for granted. Their stories address concerns that are not directly connected to race, even though they reflect similar underlying concerns as the texts from African Americans. For whites race is a taken-for-granted category, while for blacks race is usually explicit. Thus, in talking about explicitly racial rumors about corporations, we examine rumors spread by blacks, although whites transmit many similar rumors that do not have race as a focus.

FAST FOOD FANTASIES

In our hearts, the mothers of America remain responsible for preparing the family meal. As a reality, we have been persuaded that dual-career families or single parent households require prepared food; yet, these traditional cultural images are hard to still. Advertising agencies work diligently in persuading us that we can gain all the benefits from mass-prepared foods with none of the psychic costs, but their arguments are only partially effective. Fast-food restaurants are particularly at risk from what we call Grandma's revenge. Those who betray the family dinner pay the price.

While hamburgers or tacos are sometimes served at dinner, no fast food is more linked to family dinners than fried chicken. The mother, who purchases fried chicken, rather than preparing it herself, has "betrayed" hearth and home. In fact, mass-produced fried chicken seems to provoke more consumer uncertainty and anxiety than any other food product. Virtually every fast food chicken enterprise has had to confront a string of nasty and difficult rumors.

The best known and most hardy of these chicken rumors is "the Kentucky Fried Rat."⁴ In the early 1970s, as a high school student, long before she knew of the discipline of folklore, the second author heard and believed this story. The topic in her social studies class that day was consumer economics, and the teacher was explaining to the students that federal regulations assumed that food processing plants could never be completely pristine environments. After the teacher stated that microscopic amounts of vermin and dirt were expected and tolerated in processed foods, an African-American female captivated the class with a story of what happened to friends of her family. On the road late at night, they stopped at Kentucky Fried Chicken for a bucket of chicken. Eager to reach their destination, they opted to eat in the car, and all of the passengers grabbed a piece of chicken. A woman in the backseat asked the driver to turn the interior light on because she thought she must have gotten a piece of chicken that didn't have all the hair singed off of it. After the light was turned on they discovered that the passenger was holding a hairy, fried rat. A talented storyteller, Turner's classmate emphasized the last three words. She then repeated, "She had bitten into a Kentucky Fried Rat!" The rest of the class, including the teacher, was completely "grossed out."

Nine years later Turner, then a fledgling folklorist in graduate school, was assigned an article that Fine had written on the Kentucky Fried Rat. She realized that she was one of countless consumers who had accepted the story as gospel. Fine's wife was at that time working for a large property-casualty insurance company. She had been assured by a co-worker that her company had once paid out on just such a claim. Race was not a significant variable in this field study; most informants were white and they believed the story. Turner's own experience confirms that blacks and whites alike find the story plausible. Her black classmate was comfortable sharing the narrative in a largely white class presided over by a white teacher. The Kentucky Fried Rat story has few racial overtones. Over the years the story has remained remarkably hardy: a perennial contemporary legend.

Turner's classmate, Diane, was a high-achieving popular student respected by her peers and her teachers. That day's lecture on processed food regulation disturbed the class. On the one hand, their teacher, Mr. Peters, seemed to enjoy shattering the class's illusions about the purity of processed foods, but he also wanted to convince them that no real harm would come from the consumption of microscopic pieces of rat hair. An experienced and respected teacher, he no doubt wanted to avoid any phone calls from parents chastising him for scaring the students out of eating that evening. This social situation allowed Diane an opportunity to reinforce his message and demonstrate her knowledge and sophistication to her classmates and teacher. Diane used his commentary to shape the narrative content of the legend. She uttered the words fried rat with great emphasis. Mr. Peters had described minuscule pieces of rat hair and evoked shudders from the class; Diane said fried rat and the class, including Mr. Peters, groaned.

Of course, the basis of the tale and the conditions of the telling were a function of the social structure. We live in a corporate environment in which fast food restaurants compete for customers by providing quick food at relatively cheap prices, paying low wages. The belief that a corporation might, in fact, engage in such behavior is believable for many given the structure of the economic order, and the way in which people respond to it.

Turner never questioned the legend's truth. After all, she knew Diane and her teacher. She

only knew of Kentucky Fried Chicken through its advertisements; no franchises were located near her school. Her mother, older sisters, aunts or female members of their church congregations prepared her chicken. Served at a table or picnic, the chicken was meant to be eaten after thanks had been offered to God, not in the dark backseat of a speeding car. Diane's story urged her to avoid fast food fried chicken and the hasty eating habits that it can enable. It reinforced an already well-established view of the world.

Through coincidence, Turner's first extended research on a contemporary legend cycle highlighted the alleged misdeeds of another, seemingly similar, fast food fried chicken franchise. Teaching a black literature class in Boston, Turner recounted the Kentucky Fried Rat cycle and asked how many students had heard it. Many students, both black and white had, but then one young African-American male shared a story he had heard from a co-worker about Church's Fried Chicken. In his story, the contamination was a mysterious ingredient intended to sterilize black males. This ingredient had allegedly been manufactured at the behest of the Ku Klux Klan, the alleged owners of the company. The student affirmed the truth of his story by claiming that an expose on the company had been broadcast on a television news magazine. Many black students in the class were familiar with the rumor. No whites were.

In her subsequent fieldwork, Turner asked potential informants if they had ever heard anything peculiar about a fast food fried chicken franchise. White informants usually responded with a version of the Kentucky Fried Rat legend. Some black informants recited the Kentucky Fried Rat story, some told the Church's story, and some shared both.

Soon, we were collecting other examples of "pernicious poultry." In the early 1990s, a story circulated alleging that Al Copeland, the founder and CEO of Popeyes Famous Fried Chicken and Biscuits had made a substantial campaign contribution to former KKK Grand Dragon David Duke's senate campaign in Louisiana. This belief may have been compelling because Popeyes had assumed complete control over the beleaguered and financially troubled Church's corporation just a few months before this rumor surfaced. Rumor follows the money trail.

Related stories developed around "secret" recipes used to prepare fried chicken. Each

company takes pride in the recipes that they use to prepare their distinctive chicken. Some informants claimed that they had heard that Colonel Sanders, founder of Kentucky Fried Chicken, had stolen his special recipe from a black domestic. Other informants maintain that George Church stole the recipe from an African-American cook. Still others claimed that Al Copeland, owner of Popeye's, had stolen the recipe from a black maid. We refer to this as the Imitation of Life cycle after a popular movie based on the Fannie Hurst novel in which a white businesswoman is depicted as profiting from her cook's prized pancake recipe.⁵

As noted, rumors about fast food establishments can be divided into whether the corporation is careless, deceptive, or malicious. These fried chicken rumor cycles fall into all three categories.⁶ In most versions of the Kentucky Fried Rat legend, the contamination is accidental and is a one-time event. The corporation was not deliberately deceptive, but it was careless or sloppy. The unfortunate customer who takes a bite of the rat is a random victim. The rat has been deep-fried because the owner of a particular franchise has allowed the store to become infested with rodents. Some informants do report that malicious young employees intentionally fried that rat to fulfill a dare or as a practical joke. This version targets employees, and the uncaring corporation that employs, but does not supervise, them. No one claims that the corporation is intentionally serving rats to its customers as a matter of policy, but only that they don't care as much as home cooks. In many versions of the Kentucky Fried Rat, the innocent customer who ingests the rat has his/her stomach pumped. In a few versions the eater goes mad and must be institutionalized. But in all cases the contamination is limited to a particular time and place; often the unfortunate store is singled out.

To analyze these stories we ask who had heard and found these stories credible. For whom did the stories make "cultural sense?" Both whites and blacks are familiar with and claim to believe the Kentucky Fried Rat legend. The stories about Church's, Popeyes, and the Imitation of Life cycle circulate almost exclusively within African-American populations. They make sense within the black community, but whites typically find the claims ridiculous or paranoid.

Most informants repeat the Kentucky Fried Rat story in the form of a contemporary legend. It is often transmitted as a narrative with a

beginning, middle, and end. The incident took place in the recent past. In many versions, the story ends with a claim that the corporation provided the victim with a generous financial settlement. The company has been punished and the victim has received a significant financial compensation. If not quite a happy ending, such stories suggest that justice was done, and the threat to community was — at least temporarily — made right. One version collected in Michigan reports:

There was this lady and she went to Kentucky Fried Chicken and she went in there and she came out in the dark and it was raining, and she sat in her car eating a bucket of chicken and one of the pieces tasted funny. And she turned on the light in the car and saw a rat. She took it back in there and sued them.

In this legend, the one best known to whites, the hapless consumer (or the family if the customer dies) obtains some measure of relief, recognizing that whites have the power to control the social structure. Of course, the story is told that this was a one-time only contamination — perhaps linking the contamination to poorly trained, low-paid, alienated employees.

The stories that are widely known within the African-American community have a different texture. The Church's/KKK/sterilization cycle foregrounds intentional conspiracy and contamination. The owners of the corporation add the mysterious ingredient to destroy the fertility of black males. Most versions of this cycle are more rumor-like than legend-like: brief accounts with few supporting details. The contamination is presented as an on-going threat. Whereas a customer of Kentucky Fried Chicken is unlikely to receive a fried rat, unwanted sterilization threatens all black males at Church's. In these rumors, the corporation is perceived as having successfully masked their evil intentions.

What is it about fast food fried chicken that stimulates both black and white consumers to speculate about its safety? Fried chicken is personally prepared food that has been taken over by corporate capitalism. Studying the Kentucky Fried Rat cycle, Fine describe the ambivalent attitudes many consumers have toward the growth of the fast food industry, as restaurant meals weaken the bonds of hearth and home. While nutritionists have never seen fried foods as nutritionally adequate, the attacks on oil and fat have recently swelled, increasing consumer ambivalence about fried chicken. Like all foods

prepared in boiling oil, fried chicken holds a prominent place on the taboo list of most nutritionists. Yet, while fried chicken may be a forbidden food, it is also a familiar favorite with deep roots in American foodways.⁷ Many informants can name a relative or friend whose fried chicken recipe is tasty and special. At her twentieth high school reunion, white and black classmates of Turner's reminisced about the terrific fried chicken prepared by her Aunt Doll and sold at high school fund-raisers and basketball games. Fried chicken is "good to think" for whites and blacks alike.

For black Americans additional associations are evident. For them, the nostalgia evoked by a family's fried chicken recipe is balanced by the media's insistence on perpetuating negative stereotypes of blacks as unscrupulous chicken thieves and rapacious consumers of fried chicken. If we consider the major meat groups in America as chicken, pork, and beef, chicken is generally considered to be the least expensive. Chickens are easier to raise on poor "dirt farms," making them an inexpensive source of high quality protein. Throughout history, African Americans had more access to chickens than to other meat sources. Further, if one intended to steal an animal for its meat, a chicken would certainly be most available. During and after slavery, blacks had limited access to food. In order to feed their families, some African Americans stole chickens.

The image of the African American as shameless chicken thief is sharpened by depictions of unkempt blacks devouring fried chicken, permeating American popular culture. In D. W. Griffith's classic depiction of the reconstruction era, *Birth of a Nation* (1915), blacks elected to the state legislature sit in the chambers, eating chicken and casually tossing the bones across the aisles. African Americans are understandably disturbed by the persistent coupling of them with sloppy foods eaten by hand (fried chicken, ribs, corn on the cob, watermelon).

In fact, fried chicken is as American as apple pie. The popularity of the Kentucky Fried Rat cycle reinforces age and class biases aimed at fast-food workers who have been given the responsibility that mothers previously had. As in accounts of irresponsible and malicious babysitters and nannies, American mothers have abdicated the responsibility for their families' welfare to "strangers." Great care must be taken in granting that responsibility.

The stories that are transmitted by blacks have a different focus. These rumors emphasize the moral culpability of the corporation. Not only is the allegedly racist corporation profiting from the black community, but they are also attempting to decimate them. Perhaps the poisons that lead to sterility can be symbolically equated to cholesterol: both can lead to the death of the race. This threat is just as robust as is routine prejudice. Claims that allege that special recipes were "stolen" from black cooks without compensation further speak to the racial rapacity of white-dominated corporations: why do these black cooks not start their own franchises? In this way the content of rumors mirrors the social structure.

Purchases R Us

By now a few themes should be evident in the examination of legends of corporate malfeasance. These legends reveal blacks often condemning corporations for their racial maliciousness, while whites hold that the malfeasance of the corporation is linked to a culture of carelessness or to political extremism or religious cultism. In both cases, these "economic" legends address core concerns and values of consumers. Those legends that continue over time have themes that are more resonant with social and cultural traditions.

For black consumers, the Ku Klux Klan emerges in most corporate legends as their consummate enemy. Given the white supremacist organization's long history of anti-black violence and their attempts to magnify their numbers through the mass media, it should not be surprising that the group triggers deep fears on the part of African Americans,⁸ despite beliefs among many whites that the organization is marginal and nearly moribund. We cannot be certain where the Klan will appear next in popular belief, but we can be certain that they will rise again. If one lives in a world in which one feels that one has been treated unfairly and in which offense is just below the surface, can we be surprised that stories about the malicious stance of business continue to emerge?

The media plays a significant role in the narrations of many informants, although the preferred media has changed. Today television talk shows are most frequently cited as proof. Discussions of satanic ritual abuse and white supremacist activity abounds on talk shows; one could imagine that villainous corporate guests might appear as well. A few decades ago, informants verified their commentary by saying, 'I

know its true, I read it in the paper.' With the growth and popularity of the television talk show, newspapers have faded as a means of confirmation. By the time of the rumor linking Procter and Gamble to Satanism in the late 1970s and early 1980s,⁹ many individuals claimed that their CEO announced that fact on Donahue or on 60 Minutes. During that rumor's heyday, the Donahue show was the only major nationally-televised talk show. CBS's 60 Minutes has been a popular news magazine since the late 1960s. By the time that Turner began collecting the rumor about Church's Fried Chicken and the Klan in the mid-1980s, the Oprah Winfrey Show was frequently named, particularly by black viewers. In the case of rumors about Liz Claiborne being satanic or racist, white informants usually named Donahue, a white host and African-American informants usually named Winfrey, emphasizing the linkage between race and audience.

By the mid-1990s these sources began to change once again with the prominence of the Internet in the lives of many up-scale Americans. The Internet has become America's rumor bazaar. Increasingly consumers do not need to claim that they heard the rumor from television talk shows, but can announce that "it was on the Internet." How this will affect the credibility of sources remains to be seen, as Internet information is increasingly seen as suspect, but, as always, a compelling story outweighs its source.

Ultimately these rumors suggest a belief in the power of corporations and the relative impotence of consumers. It is striking that in many version, the alleged Klan-member or cultist proudly goes on television to announce their misdeeds to a "black" or "Christian" audience — and gets away with it. According to the rumors, Liz Claiborne can reveal her scorn for black women and continue to profit, even if they boycott the product. The CEO of Procter and Gamble can say that he is a Satanist and that there are not enough Christians left to make a difference, and he is proven right by the continuing strength of his company. Even if we speculate that these rumors suggest on some level that consumers are angry and suspicious, they also suggest their absence of political or economic power; they remain socially impotent.

In a capitalist world in which so many consequential decisions are made outside the control of individual consumers, rational, bureaucratic corporations have been tarred with having a hidden agenda. It may be healthy to mistrust those who control so much of our lives, but when that mistrust implies a personal fear from agents of terror, it is time to rethink the basis on which citizens hold such beliefs and accept contemporary legends that claim to provide the evidence.

Notes

1. Just as flannel shirts and Birkenstock sandals are said by some to indicate that the wearer is a lesbian, and various configurations of jewelry (or sharing certain color M&Ms) are said to indicate participate in a gay subculture, gang membership is said to be revealed through consumer purchases.
2. James C. Scott, Domination and the Arts of Resistance. New Haven: Yale University Press, 1990.
3. Gary Alan Fine, "Cokelore and Coke Law: Urban Belief Tales and the Problem of Multiple Origins." Journal of American Folklore 1979, 92, pp. 478-82.
4. Gary Alan Fine, "The Kentucky Fried Rat: Legends and Modern Society," Journal of the Folklore Institute 1980, 17, pp. 222-43.
5. Patricia Turner, I Heard It Through the Grapevine: Rumor in African-American Culture. Berkeley: University of California Press, 1993, p. 168.
6. Gary Alan Fine, "The Goliath Effect: Corporate Dominance and Mercantile Legends," Journal of American Folklore 1985, 98, pp. 63-84.
7. Turner notes that in the African-American community when she was growing up, fried food was considered healthy; these attitudes have changed over the decades.
8. Turner, op.cit., 1993, pp. 59-74
9. Gary Alan Fine, Manufacturing Tales: Sex and Money in Contemporary Legends. Knoxville: University of Tennessee Press, 1992.

Interesting New Lawsuit Department: Restaurant
Identity, Owning Authenticity and Law
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On June 26th 2007, the New York Times ran a front-page story on a lawsuit filed by Rebecca Charles, chef/proprietor at Pearl Oyster Bar (see “Chef Sues Over Intellectual Property (the Menu)”) by Pete Wells. The story describes Ms. Charles’s lawsuit against Ed McFarland, head chef of Ed’s Lobster Bar LLC, and her former sous-chef of six years, for “copying each and every element” of Pearl Oyster Bar in Mr. McFarland’s new restaurant. What makes this case noteworthy for mention in *AMICI*, is that it is seen as a herald of things to come in litigation within the culinary world, as to quote Mr. Wells, more “chefs and restaurateurs will invoke intellectual property concepts, including trademarks, patents and trade dress — the distinctive look and feel of a business — to defend their restaurants, their techniques and even their recipes.”

In this case, the claim by Ms. Charles is that Edward McFarland copied Pearl Oyster Bar and had proprietary information that enabled him to do so with ease and speed. The plaintiff alleges that Mr. McFarland misappropriated the complete content of Pearl (menu, décor, recipes, ambience and so forth) to open his restaurant through taking advantage of his prior privileged position of access at Pearl. If successful, this claim would find that Mr. McFarland inappropriately pirated a restaurant identity from Ms. Charles and in doing so deprived her of credit for her ideas, damaged her operation and denied her a commercial opportunity to open another branch of her restaurant under her own name and management. Mr. McFarland, in the same article, states that his restaurant is “similar,” but not a copy of Pearl Oyster Bar, and that he has “his own recipes for items.”

This case will raise larger questions about how the legal system should treat intellectual property types of concerns in connection to food and restaurants. Ms. Charles is angry, from her perspective that Mr. McFarland can take, profit from, and pass off her ideas as his own. Perhaps the plaintiff’s lawyers will show that there is a resulting confusion among consumers between the original restaurant, and the “imitation,” that causes a loss in reputation and damages Pearl. However, how do those allegations translate into an intellectual property claim for cloning a “restaurant

identity?” There could be three legal claims tied to McFarland’s wrongful “trading off” of Pearl’s identity: trade dress, unfair competition and breach of fiduciary duty. Trade dress and unfair competition focus on the consumer confusion aspect. Breach of fiduciary duty would arise in taking confidential information learned while in a position of trust and confidence and making use of it to compete with your former employer. Breach of fiduciary duty applies to a wide range of business disputes. In this case, such a claim would make Mr. McFarland’s prior employment as a sous chef at Pearl analogous to being a senior manager who violated fiduciary obligations.

The NYT article went on to claim that some chefs now require chefs who work and train with them to sign non-disclosure agreements. People can certainly argue that Ms. Charles should have done so. One future change also might be that time bound no-compete clauses are more likely to emerge in training. Yet what fascinates me about this case as a matter of law and symbolic interaction is the question of the social construction of a unique identity for food and in the expression of a commercial vehicle for delivering food, namely the restaurant.

A naysayer to Ms. Charles’s case would argue that should her lawsuit be successful, for example, anyone could sue someone who opens a new burrito place by claiming that it is a knockoff of their previous burrito restaurant because the new place serves burritos in the same way, in a flour tortilla with rice, beans, lettuce and tomato and hot sauce and because there is a Mexican theme in the décor of both restaurants. Yet those claims would differ in kind from the totality of the identity theft Ms. Charles alleges and in the betrayal of trust involved in completing that theft. Ms. Charles’s recipes, décor, presentation of dishes, ambience and service routines have allegedly been duplicated to such an extent that the new restaurant could be unfairly confused with the original. So it is up to a judge to decide the classic question of how much of a product can be copied before the original is being infringed.

Knockoffs abound in today’s marketplace, where companies rush to profit over isomorphic possibilities of copying a winner. New musical acts emerge to copy the look and sound of new chart toppers; books on “chick lit” flourished after Bridget Jones, and as mixed martial arts fighting takes off as a sports spectacle, more and more promotions offer the same fighting commodity

packaged in only slightly different variations. Imitation is the sincerest form of profitable flattery.

For me, the key intellectual issues here are distinctions between authenticity, genre and innovation. Genres cannot be knocked off – someone can write within the genres of science fiction and romance novels or cook in a traditional style such as barbecue or Cajun. To practice within a genre is a free market possibility. There is also a question of the quality of the performance within the genre, such that one is seen as an authentic practitioner within the genre. That resulting product, whether a work of science fiction or a dish of jambalaya, may or may not be judged as good examples of the genre. Hence, both Pearl and Ed's Lobster Bar are within genre and accepted as authentic examples of the genre of a seafood restaurant.

The dimension where intellectual protection seems most plausible is in innovation within an authentic application in a genre. In innovation, an application is novel and accepted as so, in some complex combination of practice, idea and minutia. Innovations require an assessment of complexity and recognition as being something different within a genre. Can you knock off an innovation without being guilty of stealing when that innovation has achieved originality? For Ms. Charles, Mr. McFarland might have opened up a seafood bar, but not her seafood bar, with her innovations. Working within genre and authenticity was fine, but cribbing profitable innovations for free crossed the line.

I don't know what the unstated code of honor is among chefs or what ethics lessons in culinary school might teach with respect to chef conduct. Perhaps the accepted custom and usage in the culinary field is to learn from, but not to copy wholesale, from your former employer. Nevertheless I'm sure that the costs of opening a restaurant in NYC are huge and business partners are influential and want to invest in a successful model. Are such investors leading the culinary "arts" down a path that will lead to more litigation?

Innovative chefs are developing new ideas all the time. We now have menus printed on edible

paper, bacon spray, restaurants that serve diners in the dark and exotic combinations of food coming from such innovators as Ferran Adria, a "deconstructive" cook who has created a 30 course menu at his restaurant El Bulli with such items as foamed mushroom, pea soup served in a champagne flute and parmesan ice cream. These are all creative innovations. But should they be owned? Are they being patented when they involve new processes and chemical combinations? Can anyone now start making Parmesan ice cream, but just not use one particular patented process to do so? Will they have to pay a licensing fee if they want to use that particular process?

Writ large, the issue is balancing protecting creative expression of ideas to encourage innovation while not discouraging the potential benefits of competition and the free market. The right to own a "restaurant identity" or a patented food process does not mean that the market for such products has to be limited. It just means that those who want to use the same identity or patented process will have to pay a fee to the creator for a license to use his or her creative expression. The costs of that fee, though, may be prohibitive.

Mr. McFarland's attorney, Alan Serrins, offered the quote (see the online article in New York, "Ed's Lobster Bar To Pearl Oyster Bar: Step Off" http://nymag.com/daily/food/2007/06/eds_lobster_bar_calls_a_press.html) at a press conference, "I didn't know Caesar salads and lobsters are protected under the intellectual-property laws." This quote begs several questions, including should they be, and does bad behavior in stealing them "not count?" We shall see. Though we don't know the outcome of this pending case, it is worth mulling over for multiple reasons, from considering how extending such intellectual property protection to restaurant identity could affect the legal system and business practices, to more abstract debates over what constitutes intellectual property and what can or cannot be "knocked off" by competitors.

Editor's Note:

This issue is my last as editor of the *AMICI* Sociology of Law newsletter. I want to thank the section chairs Wendy Espeland, Joachim Savelsberg, Mark Suchman and Kitty Calavita with whom I have worked. I also wish to thank Matt Silberman for all his help and guidance as Chair of the Publications Committee. I thank Mathieu Deflem for his generous help and advice in teaching me the ropes of producing the section's newsletter. Finally, I thank all of the contributors to the past three years worth of *AMICI* for sharing their ideas with their colleagues. Sincerely,
David Shulman

PhD SPOTLIGHT

Gabrielle Ferrales

“The Prosecution of Rape under International Criminal Law”

Sexual violence has long been employed in armed conflicts as a weapon of war against both female and male members of the adversary group as a means for achieving military and political power. Most recently, rape has plagued the war torn areas of Peru, Myanmar, Haiti, Kashmir, Somalia, Darfur, Bosnia-Herzegovina and Rwanda. As Catherine MacKinnon noted in *Harvard Women's Law Journal*, the use of genocidal rape “is ethnic rape as official policy of war in a genocidal campaign for political control...a policy to defile, torture, and humiliate, degrade and demoralize the other side... It is rape unto death, rape as massacre, rape to kill and to make the victims wish they were dead” (17:5 (1994)).

Despite the heinous nature of these offenses, wartime rape historically has seldom been prosecuted. In fact, until recently, historians, sociologists, and journalists have largely ignored wartime rape. Even where the international courts have addressed gender violence, the infrequency of rape cases in international law and the imprecision of the resulting decisions have left considerable uncertainty about the meaning and treatment of rape as a war crime.

My dissertation research seeks to address the lack of empirical scholarship in this area through three distinct studies all relating to the criminalization of rape as a war crime. In the first study, I conduct a systematic examination of the “law on the books” documenting the evolution of the treatment of rape and more generally “gender” in international jurisprudence. Specifically, I examine international tribunal legal opinions, statutes, transcripts, relevant UN Security Council resolutions, the Rules of Evidence and Procedure, and secondary sources on international humanitarian law concerning the prosecution of sexual violence. I suggest that the development of international jurisprudence as it relates to gender violence has not been such a universal success but reflects gender assumptions that run counter to many goals of the feminist movement.

The second study uses an experimental design and case vignette approach with a sample of 82 judges currently presiding in the courts of Iraq to investigate the extent to which there is consensus, conflict and confusion in potential court responses to war crimes in general- “law in action”. Specifically, the research design for this study pursues the “equations-inside the heads” and the judicial thought patterns of Iraqi judges as they sentence hypothetical cases involving the torture of victims during war. In the current instance, the case vignette method offers an opportunity, in advance of the relevant case law on rape as a war crime, to explore judicial decision making patterns and problems that are likely to emerge. Preliminary findings reveal that differential treatment in sentencing may be attributed to a combination of the patriarchal views of Iraqi judges and their desire to punish women who violate gender norms in order to protect gender role order. Finally, the third study involves an analysis of rape victimization survey data and field interviews collected in the Darfur region of Sudan to document the “narrative of rape” in the region and its implications for forthcoming prosecutions at the International Criminal Court.

BIO: Gabrielle Ferrales received her law degree from Georgetown University Law Center. She is currently a Ph.D. candidate in the Department of Sociology at Northwestern University and a Doctoral Dissertation Fellow in Law and Social Science at the American Bar Foundation.

NEW BOOKS

Alfonso Morales Co-editor, (with John Cross). *Street Entrepreneurs: People, Place, & Politics in Local and Global Perspective*. Routledge, 2007.

Addressing the current dearth of available literature on this topic, the editors use a range of international case studies to explore street vending and informal economies which continue to be, especially in developing countries, a vital economic driver. The volume collects essays from authors around the world about the markets and vendors they know best, including studies of eight different countries. The contributors speak of the struggles that vendors have faced to legitimize their activity, the role that they play in helping societies adapt to and survive catastrophes as well as the practical roles that they play in both the local and global social and economic system. The work highlights the importance of street markets as a phenomenon of interest in itself to a growing body of scholarship, this study demonstrates how an analysis of street vending can provide insights not only into economic anthropology, but also urban studies, post modernism, spatial geography, political sociology and globalization theory.

Ira Silver (editor). *Social Problems: Readings*. W.W. Norton, 2008.

Designed to serve as a companion to a new text by Joel Best, this collection of readings highlight one of the most interesting themes in the study of social problems: that there are a variety of harmful conditions which our society pays little attention to while there are many other, much smaller harms that consume our everyday thoughts. The readings cover a wide range of issues by investigating how and why certain problems elicit more concern and resources from experts, activists, the news media, policymakers and the public than do others.

William T. Gallagher (ed.), *Intellectual Property: The International Library of Essays in Law and Society* Ashgate Press: 2007.

This book brings together articles by leading international scholars from diverse disciplinary perspectives who focus on the legal, social and cultural dimensions of intellectual properties - including patents, copyrights, trademarks, trade secrets and rights of publicity. These articles employ a creatively eclectic approach to the study of intellectual property law and policy viewed through the lenses of traditional doctrinal analysis, historical perspectives, critical cultural study, and empirical examinations of intellectual property in action. The volume also directs critical attention to the significance of intellectual property in contemporary processes of globalization and political economy.

BIO: William T. Gallagher, J.D., Ph.D. is an associate professor of law at the Golden Gate University School of Law in San Francisco.

**Jobtrak **

Alfonso Morales is now Assistant Professor of Urban and Regional Planning at the University of Wisconsin.