Review of "In Search of Law: Sociological Approaches to Law"

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His Pete is a lively and well-traveled chronicler of the rubrics and structure of the jewel theft profession, the former leader of the “Dinner-Set Bandits.” For those who wish to revel in what savvy and physical training an unarmed jewel thief must possess to make off with hundreds of thousands of dollars worth of jewelry while the owners are at home entertaining, the first part of this book is a treat.

Because there are so few professional jewel thieves (twenty, according to Abadinsky), the importance of this work lies in the author’s ability to link the professional criminal with the professional organized criminal. When Abadinsky shows this, as he does in chapters on the connections between jewel theft and organized crime, the fence and the fix are prominent. While the thieves themselves are not necessarily protected by organized criminal groups, nor do they always pay them off, there is agreement (see Marilyn Walsh and Carl Klockars’ work in the area) that jewelry fences have organized crime connections. This forms an interactional bridge between the two seemingly disparate activities, and so does the fix, where the well-placed organized criminal operative can provide assistance to a jewel thief caught in an unfortunate legal situation.

The second half of the book discusses previously mined questions about the norms, business operations, and organizational structure of American organized crime. Abadinsky is a worthy guide through these topics, although it is clear he is not at the same level as Peter Reuter and Jonathan Rubenstein in their analysis of illegal markets in New York City. Still, with the assistance of Abadinsky’s informant, the book supports recent assertions in several vital controversies. Is there a Mafia, and does “made membership” matter? (Abadinsky, opposing the Dwight Smith position, answers in the affirmative). Do traditional organized crime families participate in the narcotics traffic? (Some avoid it, because of the penalties and attention that can result.) Are organized criminal groups patterned by kinship, as Francis and Elizabeth Reuss-Ianni proposed, with informal rules binding them together? (Abadinsky comes down on the side of formal rules, within the structure of informal division of labor, arguing for a point Peter Reuter has made before in its clearest presentation—the role of organized criminals as dispute processors.)

The strength of this section is Abadinsky’s review of existing literature on the three issues of norms, businesses, and organization. The weakness is that Pete Salerno’s firsthand knowledge, so authoritative for the first half of the book, is necessarily limited for the purposes of the second half (he was not, as was Jimmy Frattiano, in a position of power in his crime family, New York’s Genovese family). Salerno does provide some interesting anecdotes, corroborating some of Vincent Teresa and Frattiano’s statements, but he is not the insider for the organized crime material that he is for jewel theft.

The most difficult attempt that Abadinsky makes is to link the two subjects in a theoretical sense, as opposed to finding the connections that exist between them in business or organizational settings. While there are some notable differences between the two professions (violence is not prominent in jewel theft, and exiting from that profession is not a problem, inasmuch as one is not tied to an organization that can suffer from exposure in ways that an organized crime family can), the book doesn’t succeed as a comparison of the two fields.

Within each of the two parts of the book, Abadinsky is knowledgeable, thoughtful, and creative. Salerno’s accounts themselves are worth the reading of the book and Abadinsky reviews a sizable literature that readers may not be up to date on. The author, who was a parole officer in New York, and retains a similar position in Chicago to supplement his teaching, has proven that he can produce fascinating informants and interpret the significance of their revelations. I hope he’ll produce a Chicago version of this book that will be as enjoyable and as much an “insider’s view” as The Criminal Elite.


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Vilhelm Aubert, one of the leading sociologists of law, has written an important book that differs from the usual works in the field. This is not a brief introduction to the sociology of law. It steps back several paces and views both law and sociology as distinct yet interrelated intellectual enterprises, and it
sees both as forms of social action with a role in the functioning and development of modern society. The peculiar character of legal reasoning and legal scholarship is explored in depth and contrasted to the different modes of thought characteristic of the behavioral social sciences. In this discussion Aubert combines a broad historical and philosophical vision with lucid, detailed illustrations.

Law and legal scholarship are seen as rooted in the need for certainty and predictability. How is it possible to create a comprehensive intellectual system providing certainty, "when we consider the uncertainties so clearly evident in the behavioral sciences, which are swamped by unsolved questions and provide few answers" (78)? Aubert is not content with the answer that law is a normative science; rather he argues, "The reason why law can answer all questions, albeit in a specific and restricted way, is that it creates its own reality. It does not permit any problems to be legitimately raised other than those that it can answer. All other questions are legally irrelevant, even if lawyers will have to admit that they are far from insignificant" (78). Yet from this core of legal concerns, which also differ from the other social sciences by a tendency to focus on the particular—on the concrete adjudicated case—rather than aiming at theoretical generalization, lawyers and legal scholars have branched out to consider also the consequences and the conditions of legal decisions. Thus, law "has functioned as a premature social science in many respects, a precursor of sociology" (81).

If the sociology of law is seen as an applied discipline, it serves to prepare and evaluate legislation—following Bentham's vision of a new science of legislation. Alternatively, sociology, and the sociology of law in particular, may aim for a broader goal: "to cast new light on the general relationship between law and the society in which it functions . . . to increase our understanding of the function of law as a cause of, or a hindrance to, social change, as an important ingredient in practically everything that happens in society" (105). It is through these broader analyses in particular that sociology also has the potential to transcend mere socio-technique and to contribute to a critical analysis of legal issues. Measured against either goal, the achievements have been modest, especially if systematic analysis is used as a yardstick and sociology is compared to economics or law. Yet Aubert demonstrates in discussions of conflict settlement (chapter 3) as well as of property and contract (107–120) that sociological analysis does yield insights of critical importance.

The book begins with two chapters on "Concepts of Law" and "The Rule of Law," in which European, including Scandinavian, work is reviewed as well as American scholarship. The law as a conflict-settlement mechanism is the subject of the third chapter, while chapters 4 and 5 deal with the contrast between legal reasoning and other, particularly sociological, forms of analysis. Chapter 6 evaluates the contribution of law; it tackles this vast problem by discussing the changing role of law and lawyers in the nineteenth and twentieth centuries, by exploring the use of alternative modes of dealing with conflicts, and by assessing the uniformity of law enforcement and equality before the law. The concluding seventh chapter deals with human rights and the promotional function of law. It goes beyond the negative "freedom rights," asserted against the early modern state and culminating in the conception of the "law state" (Rechtsstaat), and explores the aspirations and the antinomies of twentieth-century welfare states in terms of human rights and the revival of varieties of natural law conceptions.

Based on broad learning as well as specific research and written in nontechnical yet sophisticated language, this is a splendid book, full of shrewd assessments, fresh insights and—too rarely found in sociology—worldly wisdom. The book also exhibits a number of lacunae. Max Weber's work on law is not mentioned, and the recent very important and lively debate on the state, especially among neomarxist scholars, is not reflected in Aubert's discussion at all. Correspondingly, issues related to the macroanalysis of state and law in the changing political economy of capitalist and state socialist societies are treated in a less than satisfactory way. Aubert's discussion of these questions both remains too much on the level of broad, ideologically defined contrasts and confines itself to isolated, not fully contextualized comments.


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