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978-0-521-67392-1 - Sociology of Law: Visions of a Scholarly Tradition

Mathieu Deflem

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Sociology of Law

Since the classic contributions of Weber and Durkheim, the sociology of law has raised key questions on the place of law in society. Drawing together both theoretical and empirical themes, Mathieu Deflem reviews the field's major accomplishments and reveals the value of the multiple ways in which sociologists study the social structures and processes of law. He discusses both historical and contemporary issues, from early theoretical foundations and the work of Weber and Durkheim, through the contribution of sociological jurisprudence, to the development of modern perspectives to clarify how sociologists study law. Chapters also look at the role of law in relation to the economy, politics, culture, and the legal profession; and aspects of law enforcement and the globalization of law. This book will appeal to scholars and students of the sociology of law, jurisprudence, social and political theory, and social and political philosophy.

MATHIEU DEFLEM is Associate Professor in the Department of Sociology at the University of South Carolina. He has published dozens of articles in journals and books, is the author of *Policing World Society* (2002) and the editor of *Sociologists in a Global Age* (2007), *Sociological Theory and Criminological Research* (2006), *Terrorism and Counter-Terrorism* (2004) and *Habermas, Modernity and Law* (1996). His website is www.mathieudeflem.net

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Preface and acknowledgements

This book presents a theoretically driven and research oriented vision of the sociology of law on the basis of a discussion of the major accomplishments in this sociological specialty since its initial formulation by the classics and its further development in the era of modern and contemporary sociology. A model of the sociology of law is offered that is driven by the central theoretical questions of the sociological discipline as they have been addressed since the classic contributions in the works of Max Weber and Emile Durkheim as well as their maturation throughout the history of sociology. This discussion thereby also addresses a variety of selected empirical themes that have been fruitfully addressed in sociological research on law and that have contributed to our understanding of the place and role of law in society.

Reviewing the history and systematics of the sociology of law from its beginnings to its present state, the scope of this book may be immodest. Yet, the objectives of this work are precise: it seeks to reveal the value of the manner in which sociologists study the structures and processes of law and law-related phenomena. The materials presented in this book present both theoretical and thematic discussions, including chapters on classical contributions in the sociology of law, modern and contemporary theoretical perspectives, the place and role of law in relation to other important social institutions, including economy, politics, culture, and social structure, and selected problems in relation to the enforcement of law and its globalization. In the hope of making this book sociologically relevant as well as intellectually exciting, each theoretical section includes relevant thematic aspects of law, while each thematic section is approached in a manner that is theoretically informed. The requirement for theory to be applied in the context of concrete socio-historical settings is as obvious as is the need for research findings and substantive issues to be framed on the basis of theoretically meaningful models. As such, this book aims to be both informative about the sociology of law and lay bare some of the

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sociologically relevant patterns and dynamics of law in society and its multiple components in a variety of socio-historical conditions.

I want to make clear from the outset what the purpose of this book is. First and foremost, this book is meant to appeal to students and scholars in the sociology of law and satisfy their need for a thoughtful review and discussion of the major achievements in their specialty area. The sociology of law is a growing and ever more popular field, typically taught at the advanced undergraduate (college) level and in (post)graduate seminars that prepare for masters and doctoral degrees. Although this book is not conceived as a textbook which directly seeks to teach students a particular area of sociological research, I am nonetheless hopeful that it will be particularly useful for the teaching of the sociology of law in university settings. Specifically, this book can be used by instructors in the sociology of law who – teaching with this book, rather than trying to rely on a book to do the teaching for them – are actively engaged in stimulating students' learning experience. As time and interests permit, this educational goal can be realized by using this book in a comprehensive or more selective fashion.¹

The sociology of law has in the present day matured to the point that it has accumulated a considerable amount of valuable contributions that cover a wide variety of theoretical perspectives and research efforts on a multitude of substantive themes. This book tries to capture the level of maturity that has been accomplished in the development of the sociology of law, but the discussions are inevitably also selective and influenced by the author's background in intellectual and other relevant respects. The scope of this book should in any case be sufficiently broad to introduce and situate important variations and manifestations of the sociology of law, selected components of which can subsequently be explored in more detail on the basis of an additional reading of the scholarly literature. The level of scholarship that I sought to attain in this work, also, should facilitate these objectives, for a tremendous disservice would be done to our students were we not to expose them to the best our discipline has to offer in a manner that is intellectually proficient. I must leave it to the readers, of course, to determine whether or not I have been able to achieve these goals in this work.

¹ Accompanying this book, a website has been set up that contains a variety of instructional and research materials on the sociology of law: www.socoflaw.net.

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Over the three years since the original proposal for this book was written, I have incurred many intellectual and otherwise relevant debts. First of all, I wish to thank my graduate assistants at the University of South Carolina who have helped me in more than only instrumental ways during the completion of this work. Kyle Irwin was an able aide during the early development of this project when a convincing proposal for this book had to be crafted. Lisa Dilks subsequently worked with me throughout much of the writing of the book and was especially helpful in locating relevant literature and providing feedback and support. Shannon McDonough read various drafts of the book and endured my seemingly endless and, no doubt annoying, requests to track down additional literature or repeatedly review various sections of the manuscript. For their energy and dedication, I thank my assistants most kindly.

I thank the University of South Carolina for providing the means to be able to rely on research assistance as well as for the comfortable institutional setting and warmth that comes with Southern living. The beautiful weather I was fortunate to see, if mostly not otherwise experience, through the window of my spacious office has been a more than useful motivation in the progression of my work. I also thank my colleagues in the USC Sociology Department for leaving me alone to write this book and do my work in peace. Their most concrete feedback on my scholarship – anonymously provided during the annual ritual of a mandated faculty evaluation – I took as an important encouragement in the spirit of the most strongly motivating model of collegiality. I express special thanks to Patrick Nolan and Paul Higgins for their patience and listening skills during our many conversations in the Department.

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I am grateful to Alan Hunt, Joachim Savelsberg, and Richard Schwartz for their often critical but always helpful comments on a

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I have also learned much about the sociology of law through my involvement in the profession, where I have gotten to know many good people who are trying to make the sociology of law a better place to be. I am grateful for all of their support. A paper based on this work was presented at the annual meeting of the American Sociological Association in New York in 2007. Invitations to write short essays on aspects of law and its sociological study for *The Blackwell Encyclopedia of Sociology*, *Encyclopedia of Law and Society*, and *Encyclopedia of Globalization* also helped my thinking for this book (Deflem 2007a, 2007b, 2007c). A shorter version of Chapter 5 appeared in Spanish in the Columbian journal *Opinión Jurídica* thanks to the kind invitation and able translation skills of Andrés Botero (Deflem 2006b).

For constructive feedback on a draft version of this book, I thank the wonderful participants of the graduate and undergraduate courses in the sociology of law, which I taught at the University of South Carolina in the Fall of 2006 and Spring of 2007. More generally, I wish to express my sincere gratitude to the many students it was my pleasure to meet in the more than ten years since I have been engaged in the teaching of the sociology of law. It has been an extremely gratifying experience to have learned from my students so much, possibly even more than they will have learned from their teacher. Let us continue to place trust and hope in the dialogue of teaching and learning that is education. Lastly, I thank anyone else who has, intentionally or not, been supportive of me these past few years. May we live to see the dawn.