Book Reviews

Scott Barclay, Editor

The Language of Law School: Learning to "Think Like a Lawyer." By Elizabeth Mertz. Oxford, United Kingdom: Oxford Univ. Press, 2007. Pp. xvii+308. $35.00 paper.

Reviewed by Marianne Constable, University of California, Berkeley

Mertz's *The Language of Law School* uses "close analysis of classroom language to examine the limits that legal epistemology may place on law's democratic aspirations" (p. 3). Mertz points to these limits in two ways: she shows how contract law and education promote "a common vision" of human conflicts that obscures particular aspects of social experience, and she explores the differences that gender and race make in the teaching and learning of law.

Mertz's painstaking research is a model empirical and socio-legal study of language. The first three chapters quite thoroughly survey related literatures and very clearly describe the research method. Mertz and her assistants observed, taped, coded, and transcribed eight first-year, semester-long contracts courses from a range of law schools and supplemented their material with interviews. These preliminary chapters explain factors—such as turn-taking, repeated speech, pronomial usage, framing and footing, and role-playing—and terms—such as "pragmatics," "Socratic method teaching," and "metalinguistic filter"—used in the analyses. They introduce the issues through a compelling scenario beginning as follows: "Picture yourself entering a law school classroom on the first day of law school" (p. 7).

The book's greatest contribution comes in its middle chapters, which offer, in a smart and sophisticated reading of the classroom transcripts, subtle analyses of what legal discourse does and how. In these chapters, Mertz considers the implications of the commonalities in the dynamics of the eight classrooms. Although the eight classrooms differ in their use of lecture, free discussion, and short-focused exchange, professors in all the classrooms, through their speech, model particular relations to texts, to parties involved in lawsuits, and to classroom interactions. A focus on dialogue even when presented in lectures, for instance, suggests the importance of the duelist mode in law. Students ultimately become strategists of speech. They learn to present themselves and the parties whom they animate in response to questions about cases in particular

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ways. They learn to privilege texts not for their stories of human conflicts but for their answers to "a series of nested questions about the authority of various courts deciding the case at issue and also of the courts that authored precedents" (p. 62). They learn to treat legal texts as "detachable chunk[s] of discourse" (p. 45) that can be moved from one context to another. Vast differences in the cultural meanings of particular kinds of actions or items become elided into a common legal language (p. 64) that reworks temporality and history (p. 63). Persons in conflicts become types; often, students come to know "parties" through occupational status and worldly belongings, referring to them as "buyers" and "sellers" into whose mouths they put strategic language whose looseness contrasts to the precision demanded when quoting legal authorities. "Policy" becomes a catch-all phrase for matters unaddressed in written text. As students ostensibly prepare for legal practice, they engage in a landscape of argumentative positions, discourse frames, and participant roles, and come to inhabit an "I" that is not "their own self" (p. 135).

Toward the end of the book, Mertz places her study in the context of other studies concerned with classroom inclusion and exclusion by gender and race. Although Mertz finds that "white male students" who are "traditional insiders in the legal profession . . . tend to predominate," she also finds "interesting fluctuations in the patterning" (p. 202). Classrooms may be inclusive along lines of gender but not race and vice versa; the rate and manner of student participation does not necessarily correlate to the race and gender of the professor. Here her results are not determinative and she calls for more research.

From her perspective as a social scientist, Mertz shows how law's erasure of certain aspects of social experience comes about through classroom dynamics that affirm the irrelevance of particular characteristics to legal equality. Unfortunately, according to Mertz, law has no mechanism for challenging its own orientation to what it takes for granted (p. 219). It thus falls to social science to draw attention to what she calls "the double edge" of law (pp. 63, 221): social science points not only to the invisibility of particular social factors in law but also to law's neglect of social experiences that may be relevant to "democracy" after all. In characterizing the limitations of law in terms of social factors bearing on democracy, the book reveals its political and epistemological orientations to be those common to sociolegal study today. It privileges a social and empirical language for talking about issues of justice and power, and it attributes historically contingent "democratic aspirations" to law. However warranted as a sociolinguistic critique of contemporary legal education, the book leaves one wondering whether social science indeed has the

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mechanisms for or inclination to challenge *its* own orientation to what it takes for granted.

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Everyday Harm: Domestic Violence, Court Rites, and Cultures of Reconciliation. By Mindie Lazarus-Black. Urbana: Univ. of Illinois Press, 2007. Pp. xii+244. $22.00 paper.

Reviewed by Keith Guzik, Bloomfield College

Everyday Harm: Domestic Violence, Court Rites, and Cultures of Reconciliation explores the impact of Trinidad and Tobago's 1991 Domestic Violence Act (p. 23), the first legislation in the English-speaking Caribbean giving domestic violence victims the right to petition courts for orders of protection against their abusers. The subject matter, if seemingly esoteric, is vital. Relatively little sociolegal research has studied the globalization of domestic violence law, one of the most striking legal phenomena of recent decades. Conceptualizing law as power-laden events and processes, author Lazarus-Black aims to answer four key questions in this work: (1) Why and when do lawmakers create domestic violence law? (2) Why does such legislation usually produce few substantive outcomes for victims? (3) What does domestic violence law mean for women's empowerment? (4) How does culture influence the law?

Lazarus-Black investigates these questions through an ambitious research design combining quantitative and qualitative methods. She collected the records of all 1,463 protection order hearings that occurred in a magistrate's court in "Pelau" over a two-year period (from January 1997 to December 1998). Over the course of three field visits to this town of some 15,000 residents, she conducted more than 100 interviews with legal professionals, litigants, and other community members regarding their views of the domestic violence law and experiences with protection order cases. On the basis of this rich data, *Everyday Harm* accomplishes most of what it sets out to do.

Chapter 1 considers the postcolonial history of Trinidad and Tobago to explain how the country's adoption of domestic violence legislation depended on different historical factors: a national embrace of modernist ideology; the expansion of public education, especially for women; relative economic prosperity that allowed residents to travel internationally and access global media; and feminist political activism. In Chapter 2, Lazarus-Black, together with Patricia McCall, provides a quantitative analysis of protection order applications in Pelau and finds much of what past research

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