

Note From The Editor

Current political disputes—over domestic antiterrorism measures, military treatment of civilians and prisoners overseas, the restriction of immigration, and many other issues besides—raise the quandary of how much law people really want. Or, rather, is the strict, formalist interpretation of law a source of protection to the weak, abused, and unpopular, or are society's despised and outcast better off when police and courts exercise discretion in the name of mercy, humanity, and public good? The essays in this issue ask similar questions but of necessity leave no clear answers. Christopher Waldrep's broad-ranging historiographic essay simultaneously casts doubt on the paradigm of a Progressive Era transition from formalist to realist and sociological jurisprudence, along with the presumption that to the extent that it occurred, such a transition served the cause of humanity and justice. In Gregory Dorr's article on the medical profession and eugenics in the South and Bill Bush's review essay on recent research on juvenile justice, when and where reformers succeeded in endowing medical and social service professionals with legal authority to exercise discretion while pursuing their agendas, humanity arguably ended up worse off than if matters had been left to cold policing and blind justice.

Jonathan Gantt, meanwhile, reminds us that governments are adept at claiming the intricacies of domestic legal systems as a rationale for inaction when foreign governments make inconvenient demands. That his story concerns British demands that the United States crack down on Irish nationalist terrorists operating from American territory in the 1880s merely adds to the confusion. If nowadays the federal government may be leaning too far towards treating law as a constraint in the fight against terrorism, then federal officials may have employed law too much as an excuse not to pursue bombers with strategic pockets of support.

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