A Stranger at the Table: Reflections on Law, Society, and the Higgs Boson

Robert Dingwall

The observation that Great Britain and the United States are two countries separated by a common language has been variously attributed to Mark Twain, Oscar Wilde, George Bernard Shaw, Bertrand Russell, Dylan Thomas, and Winston Churchill. The Law and Society Association's (LSA) Presidential Addresses tend to be one of the occasions when this overworked observation clearly rings most true. More precisely, since language is but one dimension of culture, an equally widely credited truism, it is always the point in the Annual Meetings at which an alien tends to feel most alien. For me, the achievement of Kitty Calavita's Address lies in the way that it helps me to define that feeling of strangeness.

In his essay on "The Stranger," Alfred Schutz (1964:91–105) explores the experience of "the adult individual of our times and civilization who tries to be permanently accepted or at least tolerated by the group which he approaches." That group is characterized by its ability to use "the ready-made standardized scheme of the cultural pattern handed down . . . by ancestors, teachers and authorities as an unquestioned and unquestionable guide in all the situations which occur in the social world." The stranger, however, cannot take this scheme for granted and use it in the unreflective fashion of a true member. "Hence the stranger's . . . distrust in every matter which seems to be so simple and uncomplicated to those who rely on the efficiency of unquestioned recipes which have just to be followed but not understood." Schutz concludes that, for the stranger, the cultural pattern of the approached group is "not an instrument for disentangling problematic situations but a problematic situation itself and one hard to master."

Presidential Addresses are one of the occasions on which the cultural pattern gets explicitly specified. P.M. Strong and I once

Address correspondence to Robert Dingwall, Institute for the Study of Genetics, Biorisks & Society, Law & Social Sciences Building, University Park, Nottingham NG7 2RD, United Kingdom (e-mail: robert.dingwall@nottingham.ac.uk).

Law & Society Review, Volume 36, Number 1 (2002)

drew attention to the way in which analysts of organizations dismissed this kind of ceremonial event as irrelevant, unworthy of attention, or purely symbolic (Dingwall & Strong 1985). We argued that they are actually important occasions where the organization's charter, its official goals, values, and feeling rules, are evoked. Presidential Addresses are rather special in the way that they annually celebrate the LSA institutional community. The stranger's reading of that occasion may throw some interesting sidelights on the "unquestioned and unquestionable guide" to which LSA insiders refer in determining both their cognitive and their affective response to the event. What do strangers have to learn to take for granted about what they should know and how they should feel?

Kitty Calavita helpfully begins with her own metanalysis of some of her predecessors' addresses. These lay out three explicit themes: asking big questions; commitment to engaged research; and the role of the engaged intellectual. In the process, she also reveals quite a bit about LSA feeling rules. Like quite a number of Presidents, she has been moved by Felice Levine's imagery of "goose bumps," the mixture of thrill and awe that might be felt in front of the challenges of law and society scholarship. She elaborates this in a comparison with the search for the Higgs boson, one of the most fundamental, and most elusive, particles of modern physics. (It is perhaps unfortunate that the December 8, 2001, issue of *New Scientist* reports a growing suspicion among physicists that this particle does not exist, a point to which I shall return.) She notes the decline in our confidence that universal statements might be made about the structure and functioning of human social organization and the way that this has made it more difficult to engage with the big questions. Physicists may talk about the "God particle" and the origins of the universe, but we do not appear to have any grand narratives left, although we still have the emotional impulse to produce them. The rest of the Address explores the various ways in which this impulse may be expressed. This involves three kinds of engagement: policy-driven research; social justice or "engaged" research; and public intellectualism.

Kitty's comparison of the debate about policy-driven research with Woody Allen's complaint about food and portions deserves wide and shameless plagiarism. It is striking to a U.K. observer how part of the U.S. academic cultural pattern is the low status afforded to policy-driven research. The people who do it may come to enjoy wealth and influence, but are still expected to sit below the salt at professional meetings. (The reference is to status gradations in medieval dining halls, when salt was a scarce commodity and not to be enjoyed by those who were not permitted to sit at the lord's table—such invitations depended, of course, on birth rather than wealth.) In the United Kingdom, on

the other hand, there is not much else. As a poorer country, we have had to learn to live with the view of successive governments that if they are committing public money for research then they will influence what might be researched and how this might be done. Recently, for example, several government departments have discovered that they cannot recruit enough quantitative social scientists on civil service salaries. The message is passed to our equivalent of the National Science Foundation, which then decrees that its graduate scholarship competitions will be explicitly biased towards quantitative skills training. The counterarguments, that British social scientists are actually rather good at qualitative work, with an international reputation for excellence in this field, and that the civil service might consider offering pay rates comparable with those in the financial and consulting sectors to attract the skilled labor it claims to need, are simply not expressible, as Kitty notes for criminologists and drugs policy. Our major foundations have tended to copy this philosophy, so that most of them now have very explicit agendas—sometimes in support of counter-policy research, that might look more like the social justice type. The result, of course, is a challenge to the ingenuity of the social science community: How can we take the money and still do good science? However, the tacit abandonment of the idea, clearly still powerful in the United States, that a certain base of support for curiosity-driven research and scholarship is a precondition of a lively democracy and an innovative academic community, does leave its mark on the possibilities of scholarship. The disdain for policy-driven research may be counterproductive in terms of its scientific quality and the caliber of the people who are attracted to it. The celebration of curiosity-driven research may lead to a certain measure of social irresponsibility on the part of the academy, an indifference to the taxpayers and students who pay its costs. Nevertheless, it can sustain a diversity of ideas and voices that is harder to achieve elsewhere.

The biggest challenge to this diversity, ironically, tends to come from the engaged agenda, although I am conscious that this has changed somewhat in the light of the challenges to freedom of speech and inquiry since September 11, 2001. One of the most attractive features of the United States has long been the seriousness with which it takes the protection of unpopular speech. Within the LSA, there is clearly an impressive attention to inclusiveness. On closer inspection, however, questions might be asked about just how inclusive the LSA actually is of views that stray far outside a certain critical consensus. In the absence of a serious national party of the left, or even anything comparable to the New Labour program of negotiated accommodation with capitalism, part of the cultural pattern exposed in Presidential Addresses is clearly a default assumption that the role of scholars is always to criticize and oppose. Kitty's implicit criticism of the

assumption that we all know what is progressive or what is just deserves some further unpicking. The bigger the questions we ask, the more complex the answers are likely to be.

Should we really buy into the assumption made in her quote from Sally Merry, that the central mission of law and society research is to bring about social justice and progressive politics, rather than being willing to go where our scholarship leads us, even if this is to show activists that their claims are less simple or less well-founded than they assume? How often do we hear papers at LSA meetings about the possible merits of capitalism and the extent to which markets may be more powerful engines of social change and protectors of liberty than the regulated world of the progressive activist, whose stance often seems to echo Plato's philosopher king rather than Adam Smith's morally sensitive citizen? Part of the hubris of we *soixante-huitards*, veterans of 1968, was our belief that, since the working-class could not be mobilized as Marx predicted, we could simply replace them with some new group or coalition of the oppressed and leave the model intact. Maybe there really was something wrong with the model. I read in my newspaper this morning that major U.S. corporations are becoming concerned about the low educational achievements of people from minority backgrounds because the changing balance of fertility rates will compel them to recruit in a more inclusive fashion. The Bush administration may lack legitimacy, and certainly does not lack vices, but education quality is a central issue on its policy agenda. Should we dismiss this concern just because we do not approve of the underlying motives? Do we get a better world by improving the marketable skills of the mass of black or Hispanic school students so that they get jobs, or by spinning webs of critical theory about the imperfections of the present?

In the United Kingdom, academics are also criticized for the declining role of public intellectuals, despite a few high-profile counterexamples like Anthony Giddens. Again, it is not entirely clear whether this criticism results from the changing nature of the media market or the weakening confidence of the intelligentsia. We have no equivalent of the late-night chat shows on French television or the op-ed pages of the major urban newspapers in the United States. Even if we did, it is not clear that British scholars would rush to fill them. Working in the highly politicized area of genetics and biorisks, I am constantly irritated by journalists who assume that, as a social scientist, I must necessarily be critical of any and all extensions of the use of biotechnologies. There is still a media niche, but the prior framing of the debate controls its tenancy. Plant geneticists versus Greens over genetically modified (GM) crops is a line-up that everyone recognizes. Social scientists who think that there might be good things to be said for genetic modifications in some circumstances and a case for

restraint in others do not fit the plot and do not get quoted or invited to guest on the features page.

If I begin to sound like Kitty's version of Woody Allen at this point, the key difference might be whether I care all that much about being invited onto late night TV—and I do not particularly. The result of thirty years mainly doing empirical work on topics of policy or public relevance is a view that none of it really matters very much. At best, scholars are conceptive ideologists, to use Maureen Cain's (1979) term. We produce a range of ideas for others to pick up and use as they will, but we do not really have much influence on their choice. Effectively, we compete with poets, novelists, and other visionaries (Strong 1983), although ours is a distinctive product: The result of the experimental reports of "alternative ethnography" is usually bad verse and tedious playlets. Research is normally a legitimation for what decisionmakers have already decided to do.

What can we hope for? Erving Goffman (1983) famously concluded the Presidential Address that he wrote for the American Sociological Association as he was dying with the observation that he would trade the whole of sociology for some really good conceptual distinctions and a cold beer.

> But there's nothing in the world we should trade for what we do have: the bent to sustain in regard to all elements of social life a spirit of unfettered, unsponsored inquiry and the wisdom not to look elsewhere but ourselves and our discipline for this mandate. (p. 17)

To sustain this vision, we might do worse than to rediscover the *summum malum* tradition of moral science. In a similarly posthumously published piece, Strong (1997) discussed the propensity of contemporary social scientists to pursue a *summum bonum*, the greatest good for the public realm. The idealism expressed in the cultural pattern of law and society studies, and elsewhere in U.S. academic life, reflects a desire to create a perfect world, a world of total justice, total inclusiveness, total equality, etc. It is a wonderful and compelling vision, but also a dangerous one.

The 17th-century scholars who elaborated the *summum malum* alternative had seen its perils in the religious conflicts that devastated Europe between 1500 and 1700. In the lifetimes of many of us, we have seen the same conflict in the Cold War and its proxies across Central America, Southeast Asia, and elsewhere. Dare I say that I see the same process at work in both Osama bin Laden's Islamic Utopia and George W. Bush's *Pax Americana*?

Summum bonum may be the Higgs boson of the social sciences, a wonderful theory falsified by history. *Summum malum*, the systematic avoidance of the greatest evils, lowers our aspirations to the point at which we can find some measure of agreement and then agree to differ. This, in the end, is the inex-

pressed, and perhaps the inexpressible, in LSA Presidential Addresses. The charter demands that Presidents offer a vision of the sunlit future, something that will raise the goose bumps on the necks of the members in a way that is not attributable purely to the hotel air conditioning. Is this really so different from the Islamic scholars who offered a vision, whether of endless virgins or endless white raisins (Warraq 2002), to the men who caused such carnage on September 11? Once we have settled on the minimum conditions for order, then we should allow each other to do pretty much as we please. This is why it is so important to defend the institutional supports for a diversity of ideas, voices, and scholarship, even for those who aspire to impose their vision of the greatest good. Nevertheless, the rest of us must be eternally vigilant in opposing their use of law and the state to impose this. The result, paradoxically, places a much greater premium on the moral sensibility of individuals. It envisages a different, anti-fundamentalist, goal for our scholarship:

> If we have a mission . . . it may be to show the timeless virtues of compromise and civility, of patient change and human decency, of a community bound by obligations rather than rights. Perhaps we should stop aiming to be legislators for humankind and settle for being its looking-glass. Our work might be the mirror in which others see their actions reflected and are challenged to consider whether they are worthy. (Dingwall 1997:204)

Could we begin to talk about the cultivation of moral sentiments rather than about the legislation of morality? Can this be as emotionally satisfying as cheerleading for the big questions? Can the LSA reform its charter, or is it too constrained by a wider cultural pattern in U.S. academic life? Will I always feel a stranger at Presidential lunches?

References

Cain, Maureen (1979) "The General Practice Lawyers and the Client," 7 *International J. of the Sociology of Law* 331–54.

Dingwall, Robert, & P. M. Strong (1985) "The Interactional Study of Organizations: A Critique and Reformulation," 14 *Urban Life* 205–31.

Dingwall, Robert (1997) "The Moral Discourse of Interactionism," in G. Miller & R. Dingwall, eds., *Context and Method in Qualitative Research.* London: Sage.

Goffman, Erving (1983) "The Interaction Order," 48 *American Sociological Rev.* 1–17.

Schutz, Alfred (1964) *Collected Papers. Vol II: Studies in Social Theory.* The Hague: Martinus Nijhoff.

Strong, P. M. (1983) "The Rivals: An Essay on the Sociological Trades," in R. Dingwall & P. Lewis, T*he Sociology of the Professions: Lawyers, Doctors, and Others.* London: Macmillan.

——— (1997) "One Branch of Moral Science: An Early Modern Approach to Public Policy," in G. Miller & R. Dingwall, eds., *Context and Method in Qualitative Research.* London: Sage.

Warraq, Ibn (2002) "Virgins? What Virgins?" *The Guardian,* Jan. 12. http://www.guardian.co.uk/Archive/Article/0,4273,4333607,00.html