Law & Society Review (2024), **58**, 1–25
doi:10.1017/lsr.2023.10

PRESIDENTIAL ADDRESS

Relational rights: a vision for law and society scholarship

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This Article is based on the Law and Society Association Presidential Address, delivered June 1, 2023, in San Juan, Puerto Rico (available here: https://www.youtube.com/watch?v=8us6lgdJnSc). The Address was given in San Juan Puerto Rico where I stood on colonized land as a colonizer. We paused to recognize the original inhabitants of that land – the Taíno people. The Article's concept, structure, and examples remain the same as delivered in person with some small expansions where time did not permit. In conversations with so many of you at and after that meeting, my thinking has advanced and there are some glimmers of that here. It would be impossible to thank the great number of people that helped me prepare this Address from my mentors in the UC Santa Cruz Legal Studies Program as an undergraduate including Brad Bugdanowitz, Jeremy Elkins, and Robert Meister. I also acknowledge my mentors at the Jurisprudence and Social Policy Program at UC Berkeley Law including Kristin Luker, David Lieberman, Angela Harris, and Troy Duster. A career spent at the American Bar Foundation in Chicago, IL and Northwestern University's Sociology Department means I have had the benefit of guidance from so many friends and fellow faculty members including: Jeremy Freese; Wendy Griswold; Carol Heimer; Aldon Morris, Elizabeth Mertz; Christine Percheski; Mary Pattillo; and Mary Rose. But several specific people helped me think through these concepts and read (or heard) multiple versions of the Address and the Article. Special thanks to: KT Albiston; Swethaa Balakrishnan; Melissa Bennis; Ellen C. Berrey; Jennifer Carlson; Christine Carter; Emma Dzwierzynski; Lauren B. Edelman; Sino Esthappan; Wendy Espeland; Bryant Garth; EJ Graff; Tom Ginsburg; Laura Gómez; Kaaryn Gustafson; Peter Charles Hoffer; Bonnie Honig; Sara Kadoura; Catharine A. MacKinnon; Michael McCann; Reuben Jonathan Miller; Andrew Papachristos; Ashley Rubin; Austin Sarat; Eric W. Sorensen; and Jill C. Weinberg. The portion of this Article about campus sexual assault was supported by the National Science Foundation and American Bar Foundation grants, "Consenting to Sex on Campus: How Undergraduates Understand and Enact Sexual Consent in the Title IX Era", #SES-1946671. All errors are my own. This Article is dedicated to two of my significant mentors, collaborators, and friends: Robert L. Nelson and past-LSA President, Lauren B. Edelman; may her memory be a blessing.

(Received 21 December 2023; accepted 28 December 2023)

Introduction

Being the President of the Law and Society Association for the past two years was an honor and privilege. In all the ways that all of us serve the Association, we embody part of the vision that I offer for our scholarship, our scholarly association and for our impact in the world.

Today I want to offer a vision of the possibilities for law and society as an intellectual movement that is true to our roots; builds on our growth and foundational

core principles; and most importantly, blossoms into something new. The vision I'm offering is what I am calling *relational rights*.

As sociolegal scholars, we have been collectively struggling to make sense of the role of law, legal institutions and the legal profession in the United States and the world over the past decade. Internationally, the US remains embroiled in racial and ethnic conflict on multiple continents. National leaders are deploying a politics of populism and personality that flouts constitutional limits on authoritarian power, violates human rights and persecutes refugees as well as sexual and racial minorities. Enough political leaders fail to grasp the existential threat posed by climate change that real progress is stymied. And, of course, the politics of racism, hatred and exclusion are thriving. It is a time which our colleagues Tom Ginsburg and Aziz Huq characterize as the decline of constitutional democracies (Ginsburg and Huq 2018).

At the same time, scholars of law and society – inside and outside our professional association – have much to offer by way of empirical data, important theoretical insight and ultimately policy solutions. It is time for scholars of law and society to begin to lead the way to a new vision of what law, aided by empirical research, can be in and for society.

By *relational rights*, I mean a way to think about the law that emphasizes, values, privileges and protects important social *relationships.* This approach embeds discussions of "individual rights"[1] in their relational context. This way, we can go beyond the opposition of "liberal communitarian" versus "conservative individual" models of rights to an analytical framework that examines the connections between rights and the relationships we seek to create, bolster and preserve for all members of society. I mean a model of rights, and more broadly law in its many forms, that recognizes the pervasiveness, importance and centrality of relationships in social life.

One of the primary lessons of the 21st century is that individuals are infinitely globally interconnected. From climate change to global pandemics, our mutual interdependence is increasingly obvious. Research in sociology, psychology, economics and various fields of medicine all find the value of being in healthy relationships with others. And yet, we increasingly are not in such relationships. The fact that we are increasingly socially isolated has led the U.S. Surgeon General to declare loneliness an epidemic in the United States (Murthy 2023). Research across these fields demonstrates convincingly that healthy social relationships help us live longer (Holt-Lunstad et al. 2015) by decreasing the risk of cardiovascular disease (Cene et al. 2022; Holt-Lunstad et al. 2015), diabetes (Kelly and Berg 2021; Norberg et al. 2007; Wiebe et al. 2016), suicidal ideation (Du et al. 2021; Van Orden et al. 2010; Wang et al. 2018) and cognitive decline (Froemke and Young 2021; Lazzari and Rabottini 2022; Penninkilampi et al. 2018).

In addition to improving individual health, positive social relationships also are associated with reduced crime rates (Sampson et al. 1997), lower rates of shootings and other kinds of violence (Kirk and Papachristos 2011; Sampson et al. 2002; 1997).

Law has a unique ability to foster relationships in which these positive individual and social outcomes can be achieved. Law, broadly conceived, more than any other institution of government, is situated to resolve disputes in ways that foster relationships. And if law has a role to play, what do we, as empirical sociolegal scholars, have to offer for this enterprise? In other words, "where is law in supporting such relationships and what is the role of scholars like us in that?"

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I propose a relational rights model to help us answer this important question. A relational rights framework is based on the basic humanity of all people, positive approaches and public appeal.

A relational rights framework should be *positive*, meaning it should be a framework that uses the critique we often engage in to build a bold view of the possibilities for law. Without abandoning critique or critical empiricism, a relational rights approach asks what can we build to achieve these possibilities for society? Such an approach should also be *public*, meaning that we should endeavor to engage with broader audiences outside the academy. And finally, a relational rights approach would emphasize the relationships we value and the rights claims that support those relationships.

As a scholar of law and inequality, I am especially concerned with how relationships and rights reflect, reinforce and sometimes deconstruct dynamics of power and hierarchies based on unearned privilege.

The strength of our history

I anticipate two contradictory reactions to this proposal. First, why is the Law and Society Association an important place for such work? And, second, aren't we already doing this? How is this anything new? Aren't all rights defined by relationships of power? And why is the empirical study of law and society important for understanding this? Don't the lawyers and law professors already have this covered? This section of the Article outlines the trajectories of research in law and society that answer these questions.

Roots: The value of law and society

Starting with the latter (aren't we already doing this?), I return to the tree metaphor. Our roots are the foundation of law and society. Our roots are grounded in our value and mission as a scholarly association. As many of us have tried to explain to the deans and other upper administration of our universities, this type of research is unique because we combine rigorous empirical research with normative argumentation about creating a more fair, just and equitable society. We strive to bring them together in ways that provide new paths. We sit at the intersection of the legal academy and legal scholarship that often privileges the normative without empirical evidence of efficacy; and the social sciences in which the fields largely eschew the normative in favor of something "scientific."

Law and society scholars are uniquely positioned to approach this task with the tools provided by our various disciplines as well as our formal and informal legal training. One of the primary topics of study (and one of my own) in which we endeavor to bring the normative and empirical together is through the study of rights. We do so in part because rights have the feel of something that cannot and should not be contested. Or, if a right is to be contested, any limitation on that right should be carefully weighed.

Debates about rights are as old as law itself and the purpose of this Address and this Article is not to rehearse the important findings and insights of the past decades but to set the stage for a positive and public version of sociolegal scholarship that prioritizes connection. Of course, political theorists long have debated the rights people should

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(or do) enjoy as humans and as citizens of a state. Enlightenment rights theorists championed rights as the mechanism to protect us as individuals from one another (the right to self-preservation; Hobbes 1909) and from the potentially abusive power of the state (Locke 1967). Beyond these foundational enlightenment theorists, we often think of "generations of rights" (Marshall 1950).

The first generation of rights primarily concerns rights to freedom and autonomy traditionally associated with liberal democratic societies, such as the freedom of religion, speech and citizenship. These so-called "negative rights" (meaning they restrict the power of the state to interfere with everyday citizens) guarantee individuals' freedom from state action but also include rights to political participation and fair treatment.

Second-generation rights focus on economic, social and well-being rights such as the right to be "free from hunger," the right to an adequate standard of living, a basic education, just working conditions and basic health care. These are individualized rights, but to be realized they often require the redistribution of limited resources (Nozick 1974). Second-generation rights theorists ask what it means to enjoy a right or liberty without the material conditions necessary to exercise that right (Waldron 1995) and claim that these socioeconomic rights are crucial for those who wish to exercise their political rights (Waldron 1996). For example, does a woman without access to or money for an abortion have that right (MacKinnon 1989)?

Third-generation rights concern "group" or "solidarity" rights including the right to a healthy environment, to peace, to sharing a common heritage and cultural practices. Third-generation rights theorists claim a "positive duty on the part of the state to protect the cultural conditions which allow for autonomous choice …. Respect for the autonomy of members of minority cultures requires respect for their cultural structure" (Kymlicka 1989: 903). Third-generation rights theories inspire debate about privileging individual rights over group rights and come closest to embodying relationality as a core proposition for governing society.

Debates over what rights citizens should enjoy lead to other theoretical questions. For example, to what extent do rights confer duties (Dworkin 1977)? And, can the rule of law prevail when procedural rights are guaranteed, but without substantive justice (Dworkin 1977, 1985)? Implicit in these theoretical analyses are a host of empirical questions relating to how rights work in different social, legal, political, geographic and socioeconomic contexts. As political theorists struggled with these important questions, a critique of rights emerged from scholars associated with the Critical Legal Studies movements.

As a result of several landmark cases, such as *Brown v. Board of Education* and *Roe v. Wade*, there was broad agreement among legal scholars, social movement activists and lay people that legal rights could lead directly to social change. The language of rights – in these cases, the right to equal protection and the right to privacy – provided the rationale by which individual plaintiffs prevailed and others similarly situated were granted those rights.

Social scientists and theoretically minded critical legal studies scholars began to reconsider the effect of rights-based litigation on social change in the late 1970s as these landmark cases failed to eliminate the kinds of inequality represented by school segregation and reproductive control. Still other sociolegal scholars were unsurprised. Many of our colleagues long had observed that many people who believed they had

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legal claims were not pursuing those claims (simply coping or "lumping it") and that this varied according to the nature of the claim/right at stake and the relationship of the parties involved (Curran 1977; Felstiner et al. 1980; Macaulay 1963). Scholars associated with critical legal studies challenged the taken-for-granted notion of the power of rights. These scholars argued that rights are socially constructed (Scheingold 1974), vacuous (Tushnet 1984), reified (Aron 1989; Gabel 1981) and overutilized (Glendon 1993). Some feminists argued that rights embody male norms and therefore will not ultimately aid women (Olsen 1984) or at least will do so only problematically (MacKinnon, 1989). Like their political theory counterparts, critical scholars criticized the notion of rights as appearing formally neutral but being unequally enjoyed by individuals.

While the political left was developing this critique of rights, a critique of rights strategies emerged from the political right as well. From the right, critics argued that rights, particularly judicially enforced rights, amount to an illegitimate introduction of political agendas into judicial proceedings and the legal profession. In response to seemingly successful litigation-oriented strategies for social reform on the left, conservative critics adopted a market-based model of public interest law, in which public interest representation should be nonpolitical and limited to providing access to the legal marketplace for poor individuals (Johnson 1991). This critique led to action on the part of the political right who viewed public interest lawyers as inappropriately using the courts for their social agendas (Johnson 1991), and they led the movement to cut government funding for the Legal Services Corporation and to challenge the standing of public interest organizations to sue (Aron 1989).

These critiques of rights sparked two distinct but related responses. The first largely was theoretical and focused on the utility of rights. The second was a renewed interest in the empirical study of rights.

Critical race and feminist theorists, among others, developed their own critique of the "critique of rights." Clinging to the idea that rights are something more than "myths" (Scheingold, 1974), critical race and feminist theorists responded to the critique of rights by arguing that rights serve as a significant source of power for members of traditionally disadvantaged groups precisely *because* of the characteristics inherent in the social construction of a legal right. "Rights" are said to apply equally to everyone, they are "neutral," and are backed by the legitimate authority of law and the state. While this may not be true in practice, this ideal may serve as a source of power for the disadvantaged.

In *The Alchemy of Race and Rights*, Patricia Williams (1991) makes this argument persuasively as she recounts the story of searching for and renting an apartment at a time when her colleague and friend, Peter Gabel, was doing the same. For Williams, "still engaged in a struggle to set up transactions at arm's length, as legitimately commercial, and to portray [her]self as a bargainer of separate worth, distinct power, [and] sufficient rights to manipulate commerce," good faith and trustworthiness were shown in her rush to sign a detailed lease. Gabel, on the other hand, demonstrated his good faith and trustworthiness to his future landlord by exchanging a cash deposit for no more than a friendly handshake (Williams 1991). By looking to formal law, Williams gained important legitimacy as well as protective distance from her landlords. Williams looked to law to regulate the relationship in a predictable way because of a well-grounded fear that, without that regulation, the dynamics of race and gender

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hierarchies would work to her disadvantage. Her perspective about the benefits of rights was informed by her history and the history of her ancestors as slaves. She chose to allow the language of legal rights to define herself and the relationship.

Rights may be more or less important for an individual depending on her circumstances and social location, as well as her understanding of the law and the way law works. For members of traditionally disadvantaged groups, the language of legal rights provides a common ground for discourse, establishing community norms and membership (Milner 1989; Minow 1996). For those who enjoy the benefits of various systems of unearned privilege defined by race, social class and gender, rights may be less important for ensuring one's needs than they are for those who do not.

Williams is not the only legal theorist to point out that legal rights, indeed law itself, work differently for those differently situated (Bumiller 1988; Delgado 1993; Ewick and Silbey 1992, 1998; MacKinnon 1987, 1989; McGuire 1995; Nielsen 2000; Yngvesson 1988; Young 1990), but this theoretical insight has spurred a new interest in the empirical study of rights, rights-claimers and the effects of organizational setting on the utility of rights. Because rights are necessarily embedded in law, these insights led scholars to study the relationship between individuals and the law. These theoretical debates raise important empirical questions that have been central to law and society – how do those differently situated with respect to the law think about, use or fail to invoke their legal rights?

Many social scientists are turning to a view of the social role of law and the role of rights in it that takes account of the variable functions and effects of rights in different contexts. This multi-perspectival framework extends fundamental insights gained by social scientists when they ask ordinary citizens about exercising their rights. Contexts, organizations, institutions and relationships all matter and law and society scholars repeatedly empirically demonstrate that people in ongoing relationships are far less likely to exercise their legal rights with respect to these relationships. This principle holds for those in business (Macaulay 1963), in families, in communities (Yngvesson 1985) and in employment relationships (Albiston 2001a, 2001b; Edelman and Chambliss 1999; Edelman et al. 1992; Edelman and Suchman 1997). Relationships define how rights work and is the basis for the study of second order legal consciousness as well (Young 2014).

Whether rights "work" or do not, are social constructs with or without material power, their contestation, avoidance and embrace, are important questions for scholars to engage, but fundamentally, as Patricia Williams eloquently wrote, they also "taste good in the mouths" of historically marginalized and racialized groups.

Growth: A theory of relational rights

Based on the Law and Society Association's foundation of the empirical study of rights for addressing inequality, I propose a new theoretical formulation of rights with an attendant empirical focus that considers the ways in which rights are inherently linked to relationships and are "situated" within broader social hierarchies. The goal of relational rights is to construct a theory of rights – of law itself – that recognizes relationships as crucial to justice and social well-being. Doing so tasks the law with constructing and supporting those healthy relationships and the underlying structures that support them because failing to do so invites the continuation of the patterns of

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unhealthy divisive relationships that populism, coloniality, racism and misogyny have produced.

Relationality is nothing new for the study of rights. Because a right is always about an opposition, analysis always is of a relationship: between individuals, an individual and the state, or an individual versus some sort of organization (like a workplace). And yet, the kind of relationality I am proposing is different because those relationships will be considered differently.

More specific attention to relationality is something we have seen occasionally in how we think about law. Like any experienced researcher, as I began to study relational rights, I googled it. I discovered that American historian Peter Charles Hoffer just published a biography of William Seward entitled *Seward's Law: Country Lawyering, Relational Rights, and Slavery* (Hoffer 2023).

As readers of this Article may be, I was surprised to learn that I had so much in common with a country lawyer who died about a century before I was born and is primarily known for a "folly." Yes, the book is about the politician, abolitionist, lawyer and farmer who, as Lincoln's Secretary of State, bought Alaska from Russia. Before that, he gained prominence as a passionate abolitionist and governor of New York from 1839 to 1842, when he refused to turn over Black sailors to authorities in Virginia for allegedly hiding an enslaved person who had run away. As governor he also signed bills creating laws opposing the Fugitive Slave Act, and later as a U.S. Senator, he decried the *Dred Scott* decision.

Hoffer tells us, "Seward envisioned rights existing in an ideal community, … a community where race and riches did not matter so much as mutual obligations …" (p. 153). Seward insisted that slavery was fundamentally at odds with human dignity and therefore could not be sustained by law. Hoffer notes that Seward did not live to see Jim Crow, but his jurisprudence of relational rights would have rejected that – along with many of the dehumanizing racialized practices we see the state engaging in today.

Rather, Seward would say the law must promote mutual obligation, community and relationships. According to Hoffer, Seward's theory of law was one of "relational rights," and his political vision included creating public schools and reforming prisons and mental health facilities. There are striking parallels between this 19th century abolitionist and contemporary abolitionist movements about the death penalty, policing and prisons, and all movements also premised on the principle of human dignity for all.

Some of the earliest "classics" in the law and society tradition also emphasize relationality even if they do not name it. Consider Stewart Macaulay's *Noncontractual Relations in Business* (1963). Macaulay demonstrates that factors other than law (in this case continuing business relationships that require good will among transacting parties) bind parties and that non-legal sanctions are used to discipline parties. Barbara Yngvesson's classic work, *Making Law at the Doorway*, shows that the desire for neighbors to resolve problems without using law stems from a desire to keep neighborhoods friendly and not legalistic (Yngvesson 1988). Marc Galanter's, *Why the Haves Come out Ahead*, fundamentally locates relationships of financial disparity at the heart of the civil justice system to inadequately remedy harms of ordinary people (Galanter 1974). These are but a few examples of relationality at work in the earliest law and society scholarship, and yet enough to demonstrate that the foundation of sociolegal scholars' understanding of "law in action" is fundamentally about law in relationships.

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More recently, theories of relationality and law have emerged from feminist and critical race scholars. This work extends the "critique of the critique of rights" and asks (among other things) what must we do to ensure that the state is not merely *preventing* egregious inequality but also that it ensures opportunity for connections and relations necessary for members of traditionally disadvantaged groups to thrive?

Patricia Williams emphasizes rights as a bond among people, which provides new ways to understand people and rights as interdependent. She teaches that rights are essential to sustaining life – both "mere" life and importantly, our communal and social life. In the "The Pain of Word Bondage," she (Williams 1991) is at her best, challenging the Critical Legal Studies reduction of rights to individual proprietarian terms and arguing for a theory that underlines interdependence and connection. In other words, she tells us, rights are about distance *and* connection, respect *and* obligation.

Political Scientist and law professor Jennifer Nedelsky's *Law's Relations: A Relational Theory of Self, Autonomy, and Law* (Nedelsky 2013) exhorts scholars of law to radicalize the relational power of rights as well. In earlier work, Nedelsky challenges autonomy and property as the foundational concepts of right theory, saying:

> If we ask ourselves what actually enables people to be autonomous, the answer is not isolation, but relationships—with parents, teachers, friends, loved ones—that provide the support and guidance necessary for the development and experience of autonomy. I think, therefore, that the most promising model, symbol, or metaphor for autonomy is not property, but childrearing. There we have encapsulated the emergence of autonomy through relationship with others. (Nedelsky 1989)

Other scholars of rights interested in connections across interests and among people have worked in similar directions including Martha Fineman (Fineman and Grear 2016) whose articulation of relationships identifies "vulnerability" as the lynchpin of relationships. Honig's (2013) important work in *Antigone, Interrupted* emphasizes the performative and strategic dimensions of rights but also demonstrates the utility of thinking of rights as inherently historically located and relational. And of course, our very own past-president Michael McCann in his presidential address challenged us to disavow the prevailing critical picture of rights as inherently individualizing (McCann 2014).

A relational rights theoretical frame builds on these important insights by describing not only social rights but a social *conception of rights* premised on mutual support, obligation and a redistribution ethic of shared interests.

Blossoms: Relational rights in the sociolegal field

With some notable exceptions that I elaborate in the following, law and society scholarship (and the study of rights in particular) tends to fall into competing "institutionalist models" and "interpretivist approaches."

One of the Law and Society Association's founding institutionalists – Philip Selznick – offered a vision for studying the role of law in institutions (Selznick 1970). In his view, law, properly conceived, is what distinguishes "a developed legal order from a system of subordination to naked power" (p. 11). He argued that the rule of law

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should be extended and that institutions and organizations are necessary to realize values of due process and justice for all members of society (p. 35).

Extending and complicating institutionalist theory, Law and Society's former president and colleague, Laurie Edelman (may her memory be a blessing) along with many others, carried forward the institutionalist framework by rigorously examining whether workplace organizations with a legal directive could enforce societal commitments to equal employment opportunity.

Edelman developed her now famous theory of the endogeneity of law in which she and her colleagues show that employing organizations had *managerialized* employment civil rights through their control of internal personnel systems and their dominance in court resulting in symbolic compliance (Edelman 1992; 2016).

The locus of power in this analysis is clear – it is structural, managerial, organizational and judicial. But institutional and neo-institutional theorists are less clear about how ordinary people's legal consciousness impacts the law. It does not provide a clear place for the experience of the subject on whom law is operating and exerting coercive effects.

In fact, Edelman herself wrestled with this question in her neo-institutionalist framework. The earliest iterations of her legal endogeneity theory included analysis of ordinary people's (in her case, employees') legal consciousness represented at the bottom of the figure below (See Figure 1). Ultimately, legal consciousness and ordinary people drop out of the final version of the model in her award-winning book, *Working Law*, because she did not have direct data on how employees or managers understood or used the law. This was an entirely appropriate choice, as her theory and her data were at the level of institutions, and invited the question: how do we bring ordinary people into such models?

While the institutionalists (and neo-institutionalists) are concerned with how organizations could infuse relationships with values of fairness and justice (or not), interpretivist scholars are more concerned with how legal subjects position themselves (or find themselves positioned) within the legal power structure. Legality, then, includes "the meanings, sources, authority and cultural practices that are commonly recognized as legal, regardless of who employs them or for what ends" (Ewick and Silbey 1998). Or, whether and under what circumstances ordinary citizens are "before the law, with the law or against the law" (Ewick and Silbey 1998). The central concern of the Amherst School of law and society – but more broadly the "interpretivist turn" – is how people understand and make meaning of law when the "law is all over" (Sarat 2013), and the many ways ordinary people find ways to resist forms of domination created and sanctioned by law. In this conception, narratives are an important method for connecting individual experience to social structure. Narratives *are* the data.

As Lauren Edelman herself tabulated for her presidential address 20 years ago, there was a pronounced turn to interpretive approaches in law and society scholarship in the 90s (Edelman 2004). These cultural and humanistic analyses offered new insights into how we understand the constitutive place and process of law in society. Emphasizing the value of presenting narratives about law and society to the broader public, the Association entered into a years-long partnership for the production of a podcast, the *Life of the Law* (Mullane et al. n.d.). Member Amanda Hollis-Brusky co-edited the Washington Post's "Monkey Cage" opinion page bringing political science and the insights of law and society to the broader public, often through the use of narrative.

https://doi.org/10.1017/lsr.2023.10 Published online by Cambridge University Press

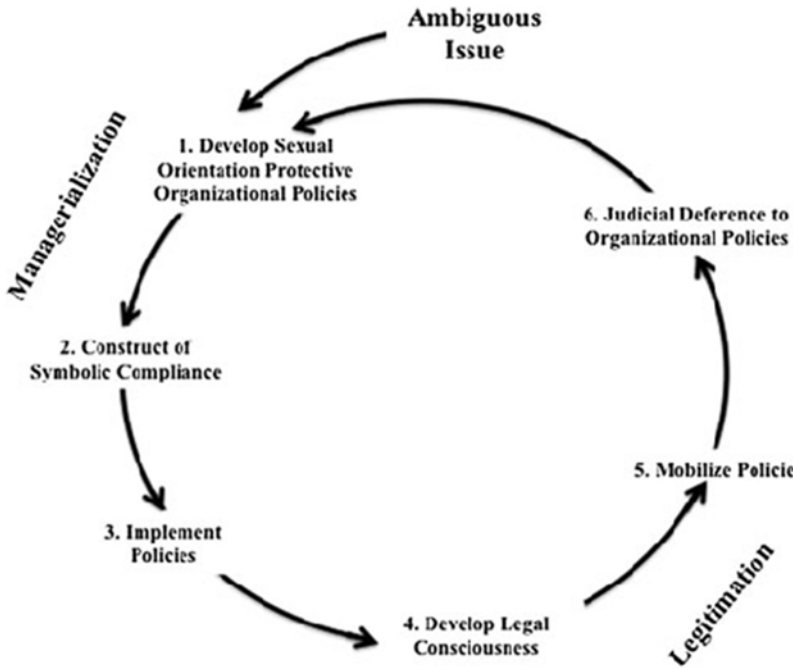

Figure 1. Edelman's early endogeneity model. From: Lauren B. Edelman, *Law at Work: The Endogenous Construction of Civil Rights* in Laura Beth Nielsen and Robert L. Nelson, eds. Handbook of Employment Discrimination Research: Rights and Realities (Springer: 2005 at 341).

And, of course, as individuals, many of our members have their own podcasts, regularly write opinion pieces and are quoted in the news, thereby broadcasting the narratives that embody law and society insights.

These efforts illustrate that we are in a unique position not only to provide powerful narratives of law in action but they also are a vehicle for law and society scholarship to gain a broader audience and have a *public* impact.

And yet, these kind of bottom-up approaches sometimes make locating state power in our analysis difficult. As Susan Silbey points out in "After Legal Consciousness," much of this work allows for our conception of institutionalized and state power to become too diffuse to locate and analyze. Silbey writes:

> Recent studies of legal consciousness have both broadened and narrowed the concept's reach, while sacrificing much of the concept's critical edge and theoretical utility. Rather than explaining how the different experiences of law become synthesized into a set of circulating, often taken-for-granted understandings and habits, much of the literature tracks what particular individuals think and do. Because the relationships among consciousness and processes of ideology and hegemony often go unexplained, legal consciousness as an analytic concept is domesticated within what appear to be policy projects: making specific laws work better for particular groups or interests. (Silbey 2005)

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But are these approaches really at odds? If the institutionalists and neo-institutionalists are trying to find ways to include the experiences of everyday people and processes into their analysis and the bottom-up interpretivist legality scholars are trying to make the structures of power/domination/hegemony more visible in their analyses, then the approaches are not necessarily at odds and in fact, each requires the other. Like the duality of individual and social, institutional and interpretive, structure and agency, bridging this divide seems difficult but eminently possible.

One important elaboration of relationality appears in Lynette Chua and David Engel's "Legal Consciousness Reconsidered" (Chua and Engel 2019). In that piece, Chua and Engel correctly point out that in using the interpretive theoretical framework we call legal consciousness, scholars often fall prey to analyzing consciousness as a binary. Instead, they urge us to be more cognizant of where our research questions and analyses fall on a spectrum.

This work underscores the significance of recognizing relationality not only within the framework of legal consciousness but also within the broader context of the law itself. Over the years, numerous scholars, committed to this objective, have contributed substantially to this ongoing discourse. This Article highlights the noteworthy works of scholars such as Laura Gomez, Kaaryn Gustafson, Dorothy Roberts, Spencer Headworth, KT Albiston and Michael McCann, who have explored various facets of relationality within legal scholarship. Additionally, I provide insights into my own research, rooted in the concept of a "situated approach," as applied to diverse areas, ranging from offensive public speech (Nielsen 2000) to employment civil rights (Berrey 2017; Berrey et al. 2012), the politics of good moms with guns (Nielsen 2019) and the regulation of sexual consent on college campuses (Albrecht et al. 2023). My approach integrates interpretivist concerns regarding hegemonic systems of meaning and power with institutionalists' considerations of the contextual impact of law.

The discourse surrounding theories and methodologies for legal consciousness theory have seen significant growth in recent years. A crucial dimension that has emerged in this discourse is the notion of relationality. Beyond merely examining legal consciousness as an isolated concept, it is essential to recognize its interconnectedness with broader legal phenomena. This Article aims to shed light on the importance of relationality within legal consciousness while also emphasizing its relevance in the broader legal landscape.

In her presidential address, Laura Gómez highlighted a pivotal aspect that the law and society movement was overlooking: the truly constitutive and relational role of race in law. Gómez argued that race, racism and the process of racialization are not mere external factors but are deeply institutionalized within legal systems (Gómez 2012). She urged for a quantitative measurement of these aspects without losing sight of the lived experiences of individuals within these racialized institutions. Gómez's work underscores the idea that race is not a standalone variable but an integral part of the legal fabric.

Another sphere of scholarship that delves into the intricate connections between legal institutions and individual experiences is the work of scholars such as Kaaryn Gustafson, Dorothy Roberts and Spencer Headworth among others (Gustafson 2008; 2012; Headworth 2021; Roberts 1990; 2012). These scholars have explored the interplay between family regulation institutions and the stories of individuals ensnared

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within them. Their research underscores the importance of considering relationality in understanding how legal systems impact individuals in deeply personal ways.

In the realm of employment, the works of Catherine (KT) Albiston and Michael McCann have contributed significantly to our understanding of relationality within the law. Albiston's research on the Family and Medical Leave Act and Michael McCann's work on unionization both delve into the complex interplay between individualized rights, institutions such as family, work and unions, and how these interact with individuals' lived experiences (Albiston 2007; McCann 1994). These studies demonstrate that legal systems cannot be understood in isolation but must be examined within the broader context of social institutions.

In alignment with this work, my own research has long been centered on legal consciousness and the significance of relationality. I have employed what I often refer to as a "situated approach" in various studies, including those on offensive public speech (Nielsen 2000), employment civil rights (Berrey et al. 2012) and the regulation of sexual consent on college campuses (Albrecht et al. 2023). This approach aligns with interpretivists' concerns regarding hegemonic systems of meaning and power, while also drawing on the institutionalists' perspective of how the law's impact varies across different contexts.

Such "situated approaches" have recognized the importance of combining the individual, organizational, institutional and broadly social levels of analysis. A situated approach calls for understanding the nuanced interplay between legal systems, institutions and individuals. By considering relationality, legal scholars can achieve a more comprehensive understanding of the law and its impact on society.

My most recent book with Ellen Berrey and Robert Nelson, *Rights on Trial*, attempts to bridge this divide through quantitative analysis of managerial and court systems along with in-depth interviews, in which we tried to capture the different and conflicting narratives of actors in litigated cases (Berrey 2017). Those narratives reveal that the workplace complaint, the regulatory process, and litigation itself reinscribe rather than ameliorate hierarchies of race, gender, age and ableism across institutions by reinforcing stereotypes about plaintiffs.

These relational works bridge the institutional and the individual to reveal new ways to understand how and where law can make a difference for social justice.

One tool for resolving the seeming contradiction between institutionalist and individualist approaches is Wendy Griswold's classic work on cultural objects (Griswold 1986; 2008). Griswold offers a theoretically driven, empirical approach to the study of culture that uses objects as entrée to understanding the relationship between the social world, their producers and their consumers. Her "cultural diamond" proposes beginning our analysis with an object because cultural objects both reflect and reinscribe social understandings of the world (see Figure 2). They are society in embodied form.

There are, of course, many examples in sociolegal studies that employ the use of objects to make the point or that are themselves the point. Consider these examples of objects with sociolegal significance: Ewick and Silbey's iconic photo of a lawn chair in the snow marking a shoveled parking spot to declare "dibs" (Ewick and Silbey 1998); Terence McDonnell's important analysis of the red HIV/AIDS ribbon in Ghana (McDonnell 2010); the documents (many legal documents such as contracts, wills, consent forms, etc.) that Annelise Riles and her colleagues elaborate as artifacts of

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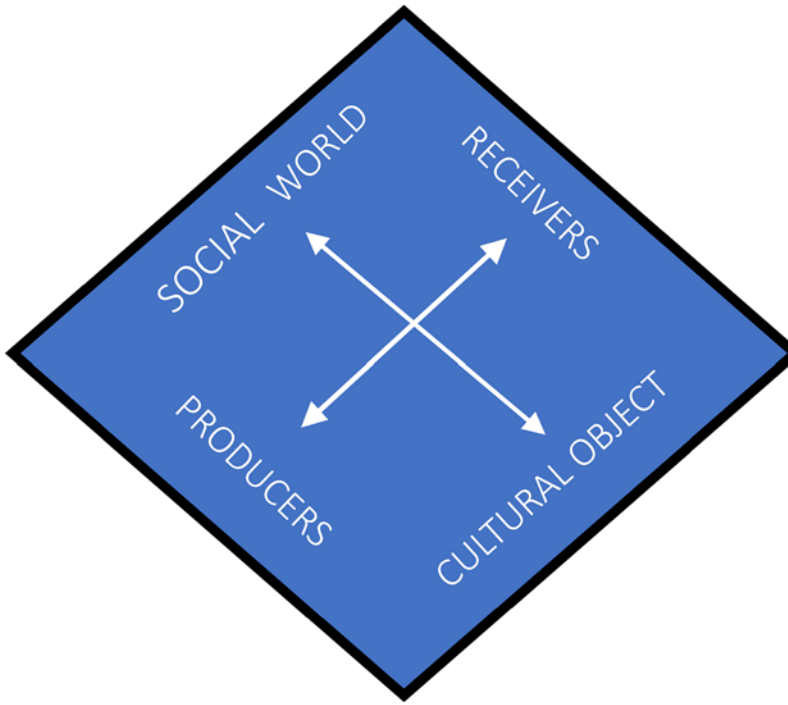

Figure 2. Cultural diamond. Adapted from the first published iteration of the diamond from Griswold's book, *Renaissance revivals: City comedy and revenge tragedy in the London theatre, 1576-1980* (1986: University of Chicago Press).

knowledge (Riles 2006); online sexual harassment training modules (Dobbin and Kalev 2017); Haltom and McCann's hot cup of coffee (Haltom and McCann 2004); and the fields of law, culture and humanities that analyze law in film, literature, podcasts and the like.

Like these studies, Griswold's cultural diamond contextualizes the cultural object and embeds it in relationships (or something). By emphasizing the producers and receivers of cultural objects, the cultural diamond is inherently relational. The inclusion of the social world (at the very top) provides a way for scholars to link cultural objects like books, statutes, podcasts, films and other cultural products a space for our analysis of more diffuse power structures.

Three empirical examples of relational rights analysis

To illustrate a relational rights empirical approach, I will work through three examples of important social problems for which a relational rights approach is helpful and in which we see cultural objects that are forged in law in some way as well as produced and consumed with various implications for law. The examples are as follows: consenting to sex on college campuses; gun ownership and gun rights and phones as a tool for communication for persons locked in carceral institutions.

https://doi.org/10.1017/lsr.2023.10 Published online by Cambridge University Press

Figure 3. Fraternity signs. *Note:These signs are from google image searches and are NOT from the **schools** or **fraternities** in my study.These are from Ohio State University as examples.*

Relational rights on college campuses

A fundamental question for scholars interested in using law to effect social change is whether and under what circumstances law can be effective when other systems of normative authority or moral ordering may be in conflict with the aims of law. In my current project, I am using a classic legal consciousness methodology in interviews about sexual decision-making and rules of consent with students (at seven colleges in three states). I do not ask participants explicitly about law, but rather I elicit how they make meaning about consent and see where law fits next to religion, morals, desire, identity and other factors. One of the cultural objects I use to analyze relational rights is one that the students themselves discussed with me as a significant part of their consent strategies.

These images in Figure 3 are similar to the signs that research participants discussed with me (but were sourced from google images to protect the anonymity of the campuses where I conducted the research.) These signs are painted by fraternity members and hang outside fraternity houses ostensibly reminding undergraduates coming to their parties that consenting to sex should be voluntary, enthusiastic, sober, verbal, active, honest and non-coerced. However laudable the goal of truly consensual sex, the impetus for the most recent conversations about campus sexual assault is the recognition by the Department of Education's Office of Civil Rights that a campus that fails to adequately address sexual harassment and sexual assault can be in violation of Title IX of the Civil Rights Act. In other words, Title IX, at 34 C.F.R. §106.31(a) requires that campuses ensure inclusion and non-discrimination on the basis of sex in order to qualify for federal funds. Awareness campaigns, lawsuits and documentary films all have amplified these conversations and legal artifacts like these signs are all around university and college campuses.

But what do these signs represent to us as scholars of law and society? And how can the study of cultural objects like these help us understand relational rights? No doubt some feminists would say these signs represent an attempt to keep a focus on consent as the linchpin of rape at the expense of understanding patriarchy as a set of broader hierarchical and intersectional relationships endemic to misogyny.

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Neo-institutionalists like the ones mentioned above might say this represents symbolic compliance by fraternities to provide a defense if they are sued by individual partygoers who claim to have been sexually assaulted or to protect the fraternity from the university should any complaints be made that might result in the fraternity being placed on probation or suspension amid sexual assault allegations.

Critical Race scholars like Mario Barnes (Barnes 2009), Osagie Obasogie (Obasogie and Newman 2016; 2017), Paul Butler (Butler 2019; 2018) and their colleagues might suggest that these signs serve as a disruptive reminder for men of color on college campuses of the ever-present threat of the racialized state or institutional violence.

It is, of course, appropriate to understand these signs in any of these ways, but a deeply empirical and cultural analysis of this "right" – the right of women and other gendered minorities to have equal access to higher education (without the threat of sexual violence, harassment and/or discrimination) – gives us insights into the relationships at work. Griswold's cultural diamond invites us to consider these objects not just as objects but as revealing of the social world in which they are produced and received. The signs exist in a social world characterized by many institutionalized structural forces about race, sex, misogyny, intersectionality and state power.

The producers of these legal artifacts took great pride in them. One participant, Harry, said:

> Our sign was painted by a few people. We love it. It's like one of our prime joys … cause it's massive …. *I don't actually know where the words originate from*, whether or not that's the campus rules or just like Greek houses have decided to use [those words.] (Harry, 20-year-old white undergraduate; Interview #436 at 21:22)

The producers of such signs – the legal artifact – take great pride in these words for their artistic aesthetic but also for what they think it signals about them as socially aware. No doubt other producers are simply pleased that such a sign may increase the number of people entering the party and therefore their chances of finding a sexual partner.

The producers are also giving us clues about the institutions they look to for guidance. Although they cannot remember the exact words on the sign, by studying the sign, we learn that producers look to the university itself, the formal Greek structures and their fellow students for information about what constitutes consent to sex.

Receivers of the cultural object, typically students, provide a different perspective on it, allowing us to document culture from multiple perspectives. One such receiver reported that when she goes to a party:

> You walk to the entrance; the entrance is blocked. … [After they check IDs], they're like, "Okay now, please read this out loud to us before you go in." And it says, "Consent is something …" I think it's, "before you engage in anything you should know to have consent. Consent has to be continuous and affirmative and continuous," And then something else. It's short, but I just can't remember it. (Bella, 18-year-old white college undergraduate; Interview #373 at 17:56)

With a relational, multi-perspectival approach, we can better understand how relationships among students about sexual decision-making, risk and law are managed.

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Of course, there are many, many relationships to explore, but this analysis reveals the dimensions of a very important one: Producers and receivers agree that sexual decision-making between people, in this space, will be governed by a set of rules that neither of them can remember! The defining legal concept is consent – all the parties agree on that but neither can remember the definition of consent or the source of the definition.

This approach allows an integrated analysis of institutional power, cultural practices and legal consciousness in play in consent to sex on campus. The implementation of law creates legal objects – physical, processual and metaphorical – and different people come to these legal productions with their own intersectional identities and with their own knowledge systems, moral beliefs and desires. These interactions are where we get to relational rights. All these interactions teach us about the relationships among the people in the interactions and become important sites for analysis. When we understand the forces that shape how law is deployed, we gain new insight into how law works.

Relational rights and gun violence

Gun violence is one of the most significant problems facing the US right now. From "mass shootings" to "gang violence" as well as accidents and deaths by suicide, guns are responsible for immeasurable harm and division today. Whether we attribute the cause of this to guns themselves, lone wolves or mental illness, Americans put these tragedies to the side without considering the vast array of failing social supports that contribute to these disasters. Law and society has something special to contribute if we put guns at the center of a cultural analysis.

It is self-evident that gun violence ends important relationships. It rips apart families, universities and communities. Living victims often suffer Post-Traumatic Stress Disorder (PTSD) and other negative outcomes from being in or around gun violence. And yet, Second Amendment jurisprudence is increasingly individualized rather than relational.

In *DC vs. Heller*, the US Supreme Court ruled that the right to have a gun is an individual right under the US constitution rather than (as was actually written in the constitution) a right that came along with being part of a group – a well-regulated militia. Since *Heller*, the right to bear arms, has become even more individualized at the expense of any understanding of relational context. In fact, the individualized right to bear arms for self-defense has expanded to not just the right to bear arms but the right to aggressive self-defense, to defense of family and even defense of property against any individual's perception of threat, under the emerging "Stand Your Ground" laws.

Analysis of gun rights by the courts are focused on the right to bear arms, and therefore gun rights are seemingly always focused on the right of one individual – the gun owner – with no place in the legal and jurisprudential analysis to consider the various relationships of community we value and which law should rightly facilitate and protect.

Consider the 5th Circuit Court of Appeals decision in *United States v. Rahimi* earlier this year, in which a three-member appellate panel ruled that a domestic abuser, against whom a restraining order was in place, had an *individual* right to carry a gun that could not be infringed despite the threat he posed to a particular woman and

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despite what we know about the perpetrators of intimate partner violence in general.[2] The 5th Circuit Court of Appeals only seemed able to consider the individual right of the gun owner, without considering the risk such a right might pose to his former intimate partner.

Just under half of women murdered in the US are murdered by an intimate partner and this number is more than half if you include stalkers. The *Rahimi* court neither understood nor considered the relationships of gendered violence that we know are in play. Nor did it consider that most mass shootings are conducted by people with a history of intimate partner violence. Some 71% of Americans want common sense gun laws, so why is gun ownership and common sense gun safety so difficult for our democracy to accomplish?

Law and Society Association member Jennifer Carlson's award-winning work centers guns themselves to answer this question. In her first book, she looked at gun ownership among citizens of Detroit just after that city's bankruptcy and the collapse of many governing structures, including law enforcement (Carlson 2015). Her research reveals that people carrying guns were not irresponsible vigilantes but saw themselves as "citizen protectors" in the absence of an effective state security presence. We may have qualms with untrained and inexperienced people carrying guns and deeming themselves law enforcement, just as we have reservations about the racialized state violence carried out by police. But Carlson is showing is that in the absence of some sort of functioning social contract – the kind law is supposed to provide – guns become increasingly important to some people.

Carlson's story is a story about relationships among ordinary people (and a hopeful one at that – people's desire to protect one another). It is also about individuals' relationship to the (failing) state. In other words, with better government, fewer people feel the need to carry a side arm.

The positive story to be told is one of relational interdependence. And it reveals that law is implicated here because of the non-functioning state.

In her most recent book, *Merchants of the Right*, Carlson documents how gun sellers entered into relationships with new groups of buyers in 2020. COVID fears led new kinds of buyers to gun stores – even Democrats – and provided opportunities for gun sellers and new gun owners to engage about the politics of gun rights in the United States in the Trump era (Carlson 2023).

Carlson rejects the easy – and critical – story that our political divisions lead to more guns on the streets. Rather, Carlson documents newly forged relationships around contested politics, fear and safety. She reveals the humanity on both sides of the gun shop sales counter. This may not be a healthy relationship, but it is one forged in mutual interdependence.

Similarly, Andy Papachristos' scholarship about gun violence among Chicago gangs uses network analysis to go so far as to almost predict the next victim of gun violence.

Gang murders are not just about the individuals and their guns. Rather, Papachristos shows that understanding the social relationships among gun owners is what determines how many people might be killed with a gun and in what order. The focus on guns – who wields them, when and for what purpose – gets us nowhere without understanding the social relationships in which this violence occurs.

Papachristos' work (along with others) helps us understand why gun violence is higher in some neighborhoods than in others. In disadvantaged areas on the south

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side of Chicago, young Black men sadly know that they have been abandoned by law and they must protect themselves. Or, in Papachristos' words:

> the social structure of gang murder is defined by the manner in which social networks are constructed and by people's placement in them. Findings demonstrate that individual murders between gangs create an ***institutionalized network of group conflict***, NET of any individual's participation or motive. Within this network, murders spread through an epidemic-like process of social contagion as gangs evaluate the highly visible actions of others in their local networks and negotiate dominance considerations that arise during violent incidents. (Papachristos 2009)

Both Carlson and Papachristos are using a relational approach to better understand gun violence. Both have positive implications about what we can do to prevent gun violence, which is to enact policies that address its underlying causes, enlist the state in improving identifiable structures that preserve community and ameliorate violence to improve the futures of everyone.

Guns, therefore, are not just a political problem. If law is functioning (or not functioning) in ways that create the impetus for ordinary people to carry weapons, then LAW ITSELF is the problem.

Relational rights in the carceral state

The last cultural object in law that I will discuss relates to the system of mass incarceration in the United States. The cultural object for analysis here might be a bank of phones like those depicted in Figure 4 that incarcerated individuals use to try to contact the outside world. In that sense, the phones are objects but also symbols of connection and relationships.

Prison phones have become a focal point in recent efforts to make incarceration more humane, as the current administration is intervening to put a cap on the price of using phones, which has been set at unconscionable levels, putting a heavy burden on prisoners' families, who often struggle to make ends meet. The exploitative price of phone calls is but one of a litany of inhumane practices in US prisons that have been documented by law and society scholars.

As a field, our research clearly illustrates the disruptive effects of mass incarceration felt not just by the individual who is incarcerated but also the children/partners/family and neighbors of incarcerated people.

One of the most compelling examples of this kind of work is Reuben Jonathan Miller's important book, *Halfway Home* (Miller 2021). Miller offers what I would call a relational rights analysis of how incarceration invades the life worlds of African American men and their families. He documents how young black men are presumed to be criminal by the police and prosecutors, and that this bias becomes a self-fulfilling prophesy, as criminal defendants are forced to take plea deals for crimes they did not commit or for crimes they did commit that directly result from law's failure. Upon release from prison, they are put in circumstances that render them isolated from their families, unable to support themselves, and that guarantee violations of parole that land them back in prison.

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Figure 4. Prison phone bank.

Miller's account is a personal one as he recounts his relationship to his older brother Jeremiah, who has been in and out of jails for much of his life. Often their only connection is on one of those prison phones. The closing paragraph of the book tells of Reuben receiving a call from "the digital woman" who says, "You've got a phone call from a prisoner at the Michigan Department of Corrections." Miller writes, "Goddamn, I thought, then pressed 0 to accept the call" (Miller 2021).

But just as the criminal legal system operates to imprison and impoverish poor black people and their families, it can also be a site of incredible courage, resilience and relations that honor individual humanity. Miller describes Ronald Simpson Bey, a man who was wrongfully imprisoned for 27 years, and who learned while still in prison that his son had been killed by a 14-year old. Bey, who now counsels ex-prisoners, advocated that his son's murderer be tried as a juvenile rather than as an adult. As Miller writes:

> Ronald advocated for his son's killer, because no matter how he felt about that boy, he knew that he needed all the same things that every other boy needed … a community to belong to and a place in that community where he was made to feel as if he belonged. And he was entitled to this community whether he changed his ways of not, just because he was fully human. (Miller 2021: 256–57)

Miller characterizes Bey's philosophy as "a radical politics of community … that would take us far beyond the limits of a moral calculus based on public safety or fear or retribution" (Miller 2021: 257). In other words, the system of mass incarceration represents the antithesis of a relational rights regime. Mass incarceration attacks the relationships that would lead to a better life world for us all and particularly for those struggling with poverty and for communities of color.

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While some have suggested that there is a tension between so-called carceral feminism and abolitionists in debates about the criminal legal system, this is a false dichotomy. The sublimation of power (and especially systems of power based on hierarchies of race, sex, ability, LGBTQ status and the like) is about shared solidarity – across fraternity thresholds, gun counters and prison bars.

From a relational rights framework, we would see that the failure of law to provide what is needed to sustain communities leads to (mostly private) violence against women of color and state and private violence against men of color.

Seen this way, it is possible to reconcile theories of rights, law and society. A relational rights perspective based on humanity and community builds connections based on mutual struggles and subordination. In these examples, gendered violence and the racialized violence by the state can create allies and alliances rather than competing demands for justice. The compassion and community exhibited by Ronald Bey must be our North Star.

Black feminist theorists have been working on this for years – consider Kimberley Crenshaw, bell hooks, and, of course, Angela Davis' now 50 years of prison abolitionism scholarship, and others. This radical politics of community makes new demands on us as scholars.

In a compelling interview between Michelle Alexander and Paul Butler on the contributions of their respective books, *The New Jim Crow* and *Chokehold*, Alexander suggested that social science can play an important role in bringing about change in the carceral society. Alexander says and Butler highlights later in a law review article that the most important role for social science is not so much to convince policymakers about the irrationality of mass incarceration so much as develop a vision for more just and humane treatment of marginalized groups in our society (Butler 2018).

Principles & conclusions

I suggest that we see law and rights as sources of social solidarity, creating interdependencies across seemingly oppositional political struggles and social problems. It is not enough to achieve new theoretical and empirical innovations, however. Key principles in this program of research are that the research also be public and positive.

Public

A relational rights perspective calls on us to consider our own positions in the world. As individuals and as an Association, we can lead by example and reflect on the kinds of relationships in which we do our work. For the most part, we work at universities that benefit from non-profit status, and we rely on grants that come from taxpayer funds. Ironically, we often publish our findings behind paywalls.

Our obligation is not just to study. It is also to translate, communicate and advocate with various publics. And especially those who disagree with us, be they policymakers, judges, lawyers or ordinary citizens. However the translation takes place – in policy briefs, amicus briefs, judicial college teaching, teaching in prison education programs or writing opinion pieces – we have an opportunity to share our unique perspective.

Let's be creative in this endeavor. It is inspiring to see Monica Bell (2019) writing poetry from her qualitative transcripts and that she has teamed up with an artist to paint her subjects. In my most recent book, *Rights on Trial* (2017) with Ellen Berrey and

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Robert L. Nelson, we obtained permission from our subjects to use the audio recordings of their interviews. From links in our books and articles, a reader can hear our subjects in their own voices. We hear plaintiffs crying at the pain of their experiences; we hear a defense attorney calling an African-American woman plaintiff "bitchy;" and a human resources vice president exalting at winning over a plaintiff who had not been discriminated against and was just "playing the race card" (Berrey 2017: 107). website). We are not and cannot be alone in developing a vision for social justice and a more humane society; creative communications enlarge our potential audiences.

Positive

Recognizing law as one tool we need to build life-sustaining relationships, we also must recognize that in some circumstances, law may NOT be the best option. Where it is, and where we invoke law, we must acknowledge law's limitations, colonial impulses and retributive tendencies.

As scholars, we are trained to be and are most comfortable as critics – critics of one another's work, of social institutions and the world. But much of the work, I have referred to today has a constructive vision, a story the public deserves to know, and one which advances social justice. In the Title IX context, we see affirmative, if not convincingly effective, strategies being developed by undergraduates to begin to address the problems associated with campus predators. Carlson's work on guns reveals the potential to build community from both sides of an entrenched social divide. Reuben Miller's research participant and friend Ronald Bey exemplifies how to live the politics of radical hospitality and community by extending forgiveness to the young man who murdered his son.

In addition to critique, we must look for work that reveals the importance of relationships; identifying their connections to law and justice will allow us to articulate a vision for how to use law more effectively in our shared social struggles. This kind of scholarship and world view requires us to welcome those we fear, empathize with those who hurt us and advocate for the least of these. We are uniquely equipped with tools to creatively reimagine the world and our national political projects: incarceration; gun violence; sexual assault and many other problems created and sustained by law. I invite you to join this effort.

The law and society movement and the Law and Society Association have prospered and grown in recent years through broad inclusiveness, dedication to rigorous scholarship and a commitment to social justice. What I have outlined here is a vision of law and society research that can carry that growth forward by being positive and public. My aspiration is for a relational approach to rights that bridges the distance between institutional and interpretive approaches and recognizes that we sit in multiple formal and informal hierarchies that affect how we understand law. My hope is that a relational rights framework can enhance the rigor and relevance of law and society research and thereby advance our ultimate quest for social justice.

Conflict of interest. There are no conflicts of interest.

Notes

1 By "individual rights," I mean the longstanding liberal legal tradition of considering rights to be individually possessed (like property), focused on protecting the individual person or rights-holder, embodying a concept of equality that is individualized (rather than group oriented), associated with freedom to act

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or speak and so on. These conceptions of rights are most widely associated with Enlightenment theorists like John Locke, among others. A turn to relational rights analysis does not mean disregarding these important foundations of the liberal legal model of law but adds to the conceptions by elaborating the "responsibility" side of "rights and responsibilities" that these philosophers articulated.

2 The case was appealed and recently argued in the Supreme Court. At the time of press, the Court has not yet handed down a decision. See, https://www.supremecourt.gov/oral_arguments/audio/2023/22-915.

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Cite this article: Nielsen, Laura Beth. 2024. "Relational rights: a vision for law and society scholarship." *Law & Society Review* 58(1): 1–25. https://doi.org/10.1017/lsr.2023.10