

From the Editor: Some Lessons of Hindsight

Just how well have we, as law and society scholars, done in making race, class, and gender central issues in the law and society agenda?

In the months before my active editorship of *Law & Society Review* began in mid-1994, I asked several colleagues for their advice as well as their support. I was given lots of encouragement, generous offers of assistance, and frequent expressions of appreciation of my willingness to serve. I am grateful to those many of you who made and kept your pledges of support over the past three years. Your assistance in reviewing manuscripts on a timely basis far exceeded my expectations. The advice you gave was challenging: increase the rate of submissions; balance cutting-edge scholarship with quality research that follows established methodologies; and pay special attention to race, class, and gender as fundamental dimensions along which the promise of equality under the law often fails in practice.

As I juggled the role of Editor with my other scholarly activities, I reflected often on these challenges. At the end of my term, I see many good things that have happened over the past three years: The submission rate to *LSR* remains high;¹ *LSR* continues to be selective;² the published articles in Volumes 29, 30, and 31 reflect a wide variety of approaches, theories, and topics; and the articles published here reach wide audiences³ and are frequently cited. Indeed, what gets published directly represents the variety of research conducted by those who seek to use *LSR* as a publication outlet and are willing to submit their manuscripts to the very thorough interdisciplinary review process that is standard here. In these many ways, we have done well and we continue to do well.

But just how well have we done with the issues of race, class, and gender? To answer this question, I asked Michael Layish, a Duke University law student, to undertake content analysis of the first 30 volumes of the *Review*. Our question was simple: How often have race, class, and gender been given substantive attention in the pages of the *Review* over our first three decades?

¹ The specific number of submissions to the *Review* for the last three years is 170 (1995), 106 (1996), and 122 (1997).

² We publish only a small number of the manuscripts we receive, thus making *LSR* a highly selective peer-reviewed journal. The acceptance rates for recent years are 13% for 1994, 14% for 1995, and 14% for 1996.

³ Over 2,500 copies of each issue of the *Review* go to libraries and individual members of the Association around the world.

To get an estimate of how often these issues were treated in the pages of the *Review*, Layish coded every article for whether any of these issues was given primary substantive treatment. To be counted as an instance of substantive treatment, race, class, or gender had to be a central theme, issue, or variable in the article. This measure is somewhat crude, but the results reveal some important things about the nature of law and society scholarship as reflected in the pages of the *Review*.

On average, over the first 30 years of the *Review*, race and gender were mentioned at the low but relatively constant level of zero to one time per issue. On a small number of occasions (see Fig. 1), these topics received a great deal of attention. *In every instance when this was the case, it was because the Editor (or a guest Editor) devoted a special issue to these topics, or to themes that implicated these topics.*

Regarding race, there was a “spike” in attention in 1967.⁴ This flurry of intense treatment was followed by a 30-year lull, and marked interest in race was not rekindled until 1993.⁵ The renewed interest in race was fueled by a special focus not on racial issues per se but rather on topics which implicated race—capital punishment and an examination of “crime, class, and community.”

On the issue of gender, very little substantive treatment was evident until well after the emergence of contemporary attention to feminism. It was not until special issues in 1991 and 1994 that *LSR* Editors pushed the issue of gender to the fore.⁶ Again, except for these isolated occasions where a tremendous amount of interest was manifest, gender received only a low level of treatment over the past three decades.

⁴ Volume 2, Number 1 of the *Review* was devoted in its entirety to school desegregation. It contained eight case studies dealing with the situation in various U.S. cities in a symposium entitled “Affirmative Integration: Studies of Efforts to Overcome De Facto Segregation in the Public Schools,” four additional articles in a section entitled “Reflections on Recent Studies in Race and Education,” and a bibliography on de facto school segregation. Richard D. Schwartz was editor of the *Review* at the time the issue was published.

⁵ Volume 27 contained two issues that dealt with themes that emphasized race. Number 1 contained symposium entitled “Research on the Death Penalty” that contained four articles collected together from regular submissions to the *Review*. Number 2 of the *Review* contained the first of several “mini-symposia” instigated by Frank Munger during his tenure as General Editor. The issue contained a symposium on “Crime, Class, and Community—An Emerging Paradigm” introduced by John Hagan, an Associate Editor of the *Review*.

⁶ Volume 25, Number 2, published in 1991, was a special issue on “Gender and Sociological Studies” which resulted from a call for papers on this topic by General Editor Shari Seidman Diamond. Carrie Menkel-Meadow served as co-editor. In addition to seven main articles in the issue, two review essays edited by Joseph Sanders also dealt with gender topics. In 1994, a special issue in Volume 28, No. 3, edited by Jane Collier, David Engel, and Barbara Yngvesson, was devoted to “Law and Society in Southeast Asia.” Many of the articles in that issue dealt with gender. This symposium was published during Frank Munger’s editorship.

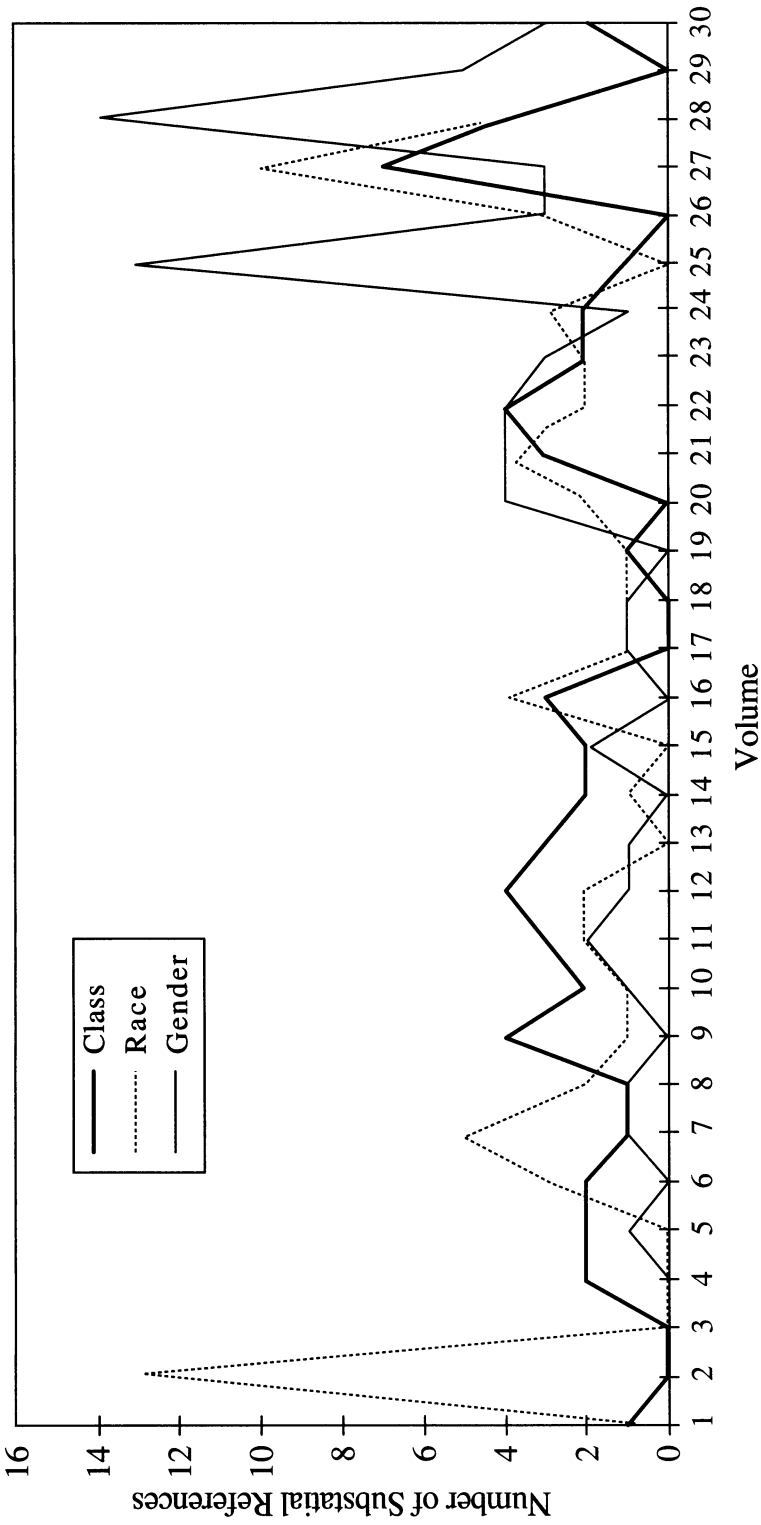


Fig. 1. Treatment of race, class, and gender in *Law & Society Review*, 1966–1996

It is worth looking at the circumstances that surround the special treatments of race and gender in each given instance. In one case, a major event precipitated the intense focus (i.e., school desegregation in the 1950s and 1960s), but beyond that it is difficult to locate the special emphases with regard to large-scale social or political events. Rather, the special issues all seem to be responses to rising social trends of concern with race and gender topics (although there was invariably an attenuated lag between popular interest and scholarly focus in *LSR*), and all seem to represent somewhat of a mix between responding to perceived problems and inequities on the one hand and anticipating and mitigating further problems on the other. The comments of the editors of the special issues further reveal that these scholars often manifested strong personal commitments to raising and confronting racial and gender issues.

In sum, while it is difficult to say exactly what factor or factors energized the special issues that yielded heightened treatment of race and gender, future Editors can profit from the knowledge that substantial treatment of these topics resulted only when someone made a concerted, affirmative effort to organize and administer a special issue to examine them.

The treatment of class was also scrutinized, but less clear results emerged. The topic of class defies easy categorization and presented special difficulties under the methodology of examination employed here. What is most clear is that substantive treatment of class, distinguishable from baseline interest, was observable on only one occasion in 1993⁷ and that departure is suggestive of similar patterns to those observed in the treatment of race and gender.

So just how well have we done in studying, understanding, and reporting on the issues of race, class, and gender in our field? Not well enough, obviously, as these dimensions of inequity in law and in society persist. At the end of my term as General Editor, I see more clearly some areas where I believe we ought to emphasize. I hope this will happen, first, in our scholarly priorities and in our lobbying for research funding. But it also needs to happen in our classrooms and in the forum of our annual meetings. Most important of all, it needs to happen here in the pages of the *Review*. Beyond this, we need to expand our attention to include other dimensions of inequality such as age, disability, and sexuality and to make them priorities of concern as well.

—WILLIAM M. O'BARR with MICHAEL D. LAYISH

⁷ The themes of the death penalty and crime that resulted in a significant emphasis being placed on race also privileged class (see note 5 above). This comes as little surprise, since race and class are widely discussed dimensions along which these are known to vary.