

Book Reviews

A General Theory of Law

The Behavior of Law. DONALD BLACK. Academic Press, New York, 1976. xii, 176 pp. \$12.50.

In *The Behavior of Law* Donald Black provides a long-awaited synthesis of sociolegal scholarship, presenting a general model of the behavior of law in social life and laying a conceptual foundation for future comparative research on law in history, sociology, and ethnography.

Black judiciously avoids getting into the seemingly endless debate over "what is law?" and simply defines law as governmental social control and its absence as anarchy. Anthropologists, including this reviewer, who have objected to the definition of law as "social control among the citizens of a state" (p. 105) and have insisted that law exists in all societies may detect an ethnocentric bias in this definition. So be it; the way Black has used his model to generate a general theory of law vindicates his approach. He sees law as that aspect of the social control of behavior which makes use of legislation, litigation, and adjudication, and he distinguishes behavior that is controlled by these means from behavior that is subject to other forms of social control such as etiquette, customs, ethics, and bureaucracy.

In Black's model law is a quantitative variable that can be measured by the frequency by which, in a given social setting, statutes are legislated, regulations or ordinances are issued, complaints are made, offenses are prosecuted, damages are awarded, and punishment is meted out. Consequently, societies the world over may have law in different quantities, a single society may have much or little law at different times in history, and different groups, networks, castes, and organizations in a particular society may have more or less law both for themselves and in relation to other groups, networks, castes, and organizations.

The direction of law, that is, the differential frequency and success of its application by people from different social settings, varies too. So does the style of law, which may be accusatory (with pe-

nal or compensatory consequences) or remedial (with therapeutic or conciliatory consequences). Each style, in turn, has its distinct way of defining deviance and of dealing with it, by punishment or payment in accusatory procedures and by help or resolution in remedial procedures.

Within this framework Black develops a series of propositions that explain the quantity, direction, and style of law in relation to five measurable variables of social life: stratification, morphology, culture, organization, and social control.

Stratification (or the inequality of wealth) can be measured along several dimensions: by vertical distance, or the magnitude of the differences in wealth; by vertical segmentation, or the degree to which the distribution of wealth is discontinuous; and by vertical mobility, which depends on whether ascription or achievement favors or impedes access to and control of resources.

Morphology refers to those aspects of social life that can be measured by social differentiation, or the degree of interdependence of people (the extent of division of labor, for example); by relational distance, or the degree to which people participate in one another's lives (for example, as intimates, as strangers interacting infrequently, or as members of entirely distinct social worlds who live in political and economic isolation from each other); and by radial location, or the degree to which people are integrated into collective social, political, and economic life.

Culture can be measured by the volume and complexity of ideas held "about the nature of reality, whether theoretical or practical, and whether supernatural, metaphysical, or empirical" (p. 61); by conventionality, or the degree of conformity to the mainstream of culture, the most frequent modes of thought and behavior; and by cultural distance, or the diversity of ideas and behavior patterns among people within or across social settings.

The quantity of organization in a given social setting can be measured by the degree to which the administration of collective action in the political sphere and in economic endeavors is centralized.

The amount of social control of the nonlegal sort to which people are subjected is a measure of their respectability, and differences in respectability between people indicate their normative distance from each other.

Drawing from a wealth of historical, sociological, and ethnographic data, whose sources are listed in a 26-page bibliography, Black has gathered massive support for his major conclusions:

1) The quantity of law varies directly with stratification, rank, integration, culture, conventionality, organization, and respectability and inversely with other forms of social control. Thus, stratified societies have more law than simple, egalitarian societies, wealthy and educated people have more law among themselves than poor and illiterate people have, and the amount of law grows with the centralization of control over political and economic affairs.

2) The relationships between the quantity of law and the variables of differentiation, relational distance, and cultural distance are curvilinear. Law is minimal at either extreme of these variables and accumulates in their middle ranges. For example, law relating to economic transactions is sparse in its contractual form both in simple societies, where every family engages in the same productive activity, and in the world of business in capitalist societies, where manufacturers are tied into a symbiotic exchange network. Likewise, both families or face-to-face communities and people from entirely separate social settings have less law than people who live together as strangers, and modernization and urbanization create law in proportion to the extent to which they destroy the homogeneity of kinship groups and tribal villages, leading to the breakdown of traditional nonlegal modes of social control.

3) The direction of law, in scope and severity, across social settings is always downward or outward: toward people who are poor or of marginal status, who have less education (or culture in general), and who are less organized and less respectable. Thus law supports and favors wealthy over poor people, well-integrated over marginal people, educated over illiterate people, and corporations over individual consumers.

4) The style of law varies with its direction: in relation to stratification, law has a penal style in its downward direction, a compensatory or a therapeutic style in its upward direction, and a conciliatory style among people of equal rank; in relation to morphology, law tends to be accusatory among strangers

and therapeutic or conciliatory among intimates; in relation to culture, penal law varies directly and conciliatory law inversely with cultural distance and compensatory and therapeutic law dominates in the middle range of cultural diversity; in relation to organization, less-organized people are more vulnerable to penal law, whereas more-organized people can depend on compensatory law.

These patterns of stylistic variation explain, for example, why an offense is more likely to be punished if the rank of the victim is higher than that of the offender but is more likely to be dealt with by compensation if their ranks are reversed, why accusatory law replaces remedial law when communal ties in tribal societies weaken in the course of modernization, why members of subcultures are more vulnerable to law enforcement than conventional citizens, and why business enterprises and administrative agencies usually escape punishment for illegal practices against individuals.

Many of these phenomena have been recognized for a long time; but a number of different theories have been needed to account for all the facts that Black's theory subsumes. Some of these theories, in contrast to Black's, focus on the motivation of individuals, their feeling of deprivation or of marginality, their subcultural values, or their internalization of a deviant identity.

In the last chapter of his book, Black discusses the evolution of law in relation to anarchy. He sees anarchy, or the absence of law, as prevailing both at the beginning of legal evolution in the course of culture history and in the future. But the kinds of anarchy differ. The first kind, "communal anarchy," exemplified (perhaps) by tribal societies, exists among people who live in stable, intimate, homogeneous, and unorganized social settings. The second kind, "situational anarchy," is exemplified by many settings of modern life in the stratified and diversified world of industrial society where many people interact only as strangers in brief, ephemeral encounters. Yet if, according to Black, the present trends continue, the proliferation of law engendered by the increase in stratification, inequality, diversification of culture, and organization in modern nation-states is approaching a turning point. A new kind of anarchy might appear that is neither communal nor situational but a synthesis of the two. With progressing equalization, growing interdependence of people within and across societies, intimacy becoming a situational rather than remaining a communal aspect of social life, diverse cultures undergoing homoge-

nization, and organization losing its hold on people as their mobility increases, law might gradually be replaced by a mixture of old and new patterns of social control, adapted to the regulation of behavior in a "situational society."

It is not difficult to debate some of Black's assumptions and interpretations, especially in regard to the ethnographic material he has adduced in support of his propositions. But the debatability of particular points does not impair the importance of his theory for a comprehensive understanding of the relationship between law, deviance, and social structure. What remains for future research is the task of scaling his variables so that their relative weight in determining the quantity, direction, and style of law can be ascertained.

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Liquid State Physics

Theory of Simple Liquids. JEAN PIERRE HANSEN and IAN R. McDONALD. Academic Press, New York, 1976. xvi, 396 pp., illus. \$30.65.

Atomic Dynamics in Liquids. N. H. MARCH and M. P. TOSI. Halsted (Wiley), New York, 1977. viii, 330 pp., illus. \$39.50.

Both of these books are intended to acquaint the researcher with recent developments in liquid state physics. The book by Hansen and McDonald concentrates on the interpretation of the properties of ideal systems that are generated by computer simulation; the book by March and Tosi is more physically oriented, concentrating on what can be learned about dynamics in liquids by the use of the neutron scattering function. In both books the choice of topics is idiosyncratic. Although the authors' views are well worth recording, neither book offers a unified view of the field or a critical assessment of the literature. It is no doubt premature to expect a unified view of nonequilibrium properties inasmuch as this is still a very active subject, but most people in the field consider the equilibrium properties of simple liquids, such as the rare gases, a closed subject.

About half of the Hansen and McDonald book is devoted to a well-organized and clear discussion of the calculation of the thermodynamic properties of classical liquids. The various integral equations and the diagrammatic expansion techniques, important to perturbation theory, are particularly well covered.

The formal manipulations used in the two approaches are described well, although physical insight is lost in the process. In fact, there is not much new insight to be had. Recent developments have led back more than a hundred years to van der Waals's idea that the properties of a fluid are primarily determined by the geometric arrangement forced on the system by harsh repulsive forces. First-order perturbation theory, by which attractive forces are taken into account, leads to the van der Waals theory. Much effort is being devoted to attempts to distribute the total potential of interaction between the reference and perturbation parts in such a way as to achieve a theory in which convergence is as rapid as possible. Convergence is judged by comparing the first-order theory with computer results, since it is difficult to calculate higher-order terms. Much of the fine tuning of perturbation theory has been carried out for normal liquids, although the liquid state covers a wider region of temperature and density.

It is too bad that after describing the whole apparatus of perturbation theory, Hansen and McDonald cover the treatment of binary mixtures only by conformal solution theory, which is of limited applicability. Van der Waals's theories are generally inadequate for mixtures, since excess thermodynamic properties have to be calculated. Hence, higher-order perturbation theories are necessary and appear to lead to real progress in the treatment of mixtures. Other equilibrium properties of simple liquids, surprisingly, are not covered at all, including electrical and optical properties and surfaces. Not surprisingly, the treatment of quantum fluids is practically ignored.

Hansen and McDonald cover phase transitions as an afterthought following their discussion of nonequilibrium properties, and hardly do justice to the recent theoretical developments concerning the critical point. As for melting, the computer results and their consequences are succinctly presented, but the authors fail to point out that of the four or so of the infinite set of integral equations that have been studied, none can distinguish between a solid and a liquid. The lack of a fundamental theory of melting remains the outstanding problem in the study of equilibrium properties.

March and Tosi discuss equilibrium properties only from a structural point of view and only for more complex substances such as metals and water. They devote a chapter each to quantum fluids, critical phenomena, and surfaces, but, as in the Hansen and McDonald book, these subjects are covered only rudi-