**The Humanities and Law: More Intertwined Than You Might Think**

*Professor David Sugarman* traces the bonds between law and the humanities. He locates the role of law historically, exploring the often uneasy and complex relationship to the broader disciplines of the humanities. He points also to the growth and development of influences from the humanities within legal scholarship and calls for greater dialogue and cross-fertilisation.

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Law has long been a principal way of studying the human world. Before the rise of modern social science, speculation about society, economics and politics was the business of theologians, philosophers, and lawyers. During the Enlightenment, Law was intimately involved with the most crucial public issues of the age. One strain of legal science contended that law was the product of time and historical development and should be studied comparatively and, therefore, sociologically. Leading lights of this movement included Scotland's Kames, Smith, Robertson, and Millar; England's Gibbon; the German historical school of Hugo and Savigny; and Frances's Montesquieu. In this way the study of law became a principal way of studying society.

Historians are increasingly recognising the importance of law, in particular, the amorphous culture of the rule of law, within the mental furniture and social visions of English people as a whole. Kelley has argued that several central concepts such as free will, history, custom and more sprang from the mentality of early lawyers, with their pragmatic thinking about the world, aimed at rule formulation. Pocock and Kelley saw lawyers playing a significant role in creating modern historical method, with history being of major importance in comprehending the common law. Law uses history to legitimize its authority and to seek finality. Questions of history, historical imagining and precedent are integral to an understanding of how language and rhetoric operate in the creation of legal doctrine.

Attempts to answer the question ‘What is law?’ started millennia ago with Plato's *Minos*. Philosophy addresses questions such as what values law should serve and whether we are always morally bound to obey the law, along with the philosophical issues arising in legal fields such as criminal law. Bentham and JS Mill developed classical utilitarianism in the light of their concerns with legal and social reform. HLA Hart revitalized British analytical jurisprudence by recasting it in the mould of linguistic philosophy. Jurists such as Blackstone, Bentham, Fitzjames Stephen, Maine, Dicey and Laski figured significantly as “public moralists”, supplying ideological rationales for the character of English society or for social reform.

The interplay between religion, philosophy and law is evident in the development of Natural Law. In most societies, the institutions of law and religion share a great deal. Both lay claim to authority, rely heavily on tradition, surround their processes with solemn ritual, involving their practitioners in the explication of authoritative texts usually couched in specialized language.

Law, history, religion, philosophy, economics, politics and literature all borrow from and compete with each other. As modern disciplines they were in important respects constituted against each other - competitors for academic legitimacy, cultural authority, student numbers, and material support. Factions within the universities and the legal profession have harboured suspicions about Law as an academic discipline, seeing university legal education as a lower level ‘vocational’ activity, akin to university degrees in plumbing. The fog of the law, with its highly technical and arcane persona, is regarded with some justification as obscure and daunting. Legal academics have been complicit in this situation in so far as they have tended to be in thrall to the legal profession and its notions of hierarchy, relevance and excellence.

In this light, the explosion of legal scholarship in Britain since the 1970’s, employing non-legal methodologies and insights, and engaging with the humanities and social sciences, is striking. This has been mirrored by a growing body of work within the humanities and social sciences producing ground-breaking analyses of the role of law, the justice system and lawyers in the constitution of society. From this perspective, legal institutions, practices and thought can be understood as not simply instrumental to some set of guild interests, economic self-interest, or societal change, but as factors promoting and protecting images of identity. Hence, notable work focuses on the role and significance of law, the legal profession and law schools in shaping, transmitting and normalizing assumptions regarding race, ethnicity, gender, sexuality, class, religion, progress, and colonization. Historical scholarship exploring the interplay between law, agency, social hierarchy, and gender has also flourished, advancing our understanding of how the law constituted and policed patriarchy, how women attenuated and circumvented legal disabilities using the law and lawyers, and the high proportion of female litigants in certain fields. More generally, this scholarship illuminates gender as a source of identity and as a structuring force in social relations.

Medicine and the law has brought together philosophers and lawyers, while interest in the relationship of justice, morality and the law has intensified as questions about the ethics of public life and the rule of law as a bulwark against authoritarianism and the abuse of power have become so compelling. Jurisprudence today is broader, more fluid and more open. Although the analytical angle tends to predominate, other veins – such as normative, natural law, globalisation and law, feminist, Marxist, critical, postmodern, pragmatic, and realist – also figure in the teaching and writing of jurisprudence. Moreover, law and humanities scholarship can now be found in law and socio-legal teaching, periodicals and conferences. Perhaps this reflects the fact that most law graduates no longer enter the legal profession and that Law has become a general degree, like PPE, providing life skills relevant to and valued in a wide range of employments.

The study of law and the humanities as a distinct field has enjoyed a long and distinguished history in the United States. It has subsequently been embraced in many other countries and isthe exclusive focus of numerous journals, on-line lists, national and international associations, conferences, seminars and degree programmes. Topics addressed include law and literature, the arts of writing, reading, hermeneutics, representation, performance (including the close association between court performance, especially counsel for the accused, and stage performance), rhetoric, material culture (such as dress) and the role of emotions on the behaviour of legal actors and the development of law.

In sum, the relationship between the humanities and law evinces both a common tradition and a striking overlap in concerns, methods, values and history. At their best, the humanities and law question received perspectives, contextualize knowledge and encourage people to think for themselves. But improving dialogue between them requires better institutional support. Although questions and controversies about appropriate associations are likely, I nonetheless assert that law and the humanities are more intertwined than is generally assumed, and that both would benefit from greater dialogue and cross-fertilization.

Professor Emeritus David Sugarman

F.R.Hist.S., FAcSS, Law School, Lancaster University.

Senior Associate Research Fellow, Institute of Advanced Legal Studies, University of London.
Senior Associate, Centre for Socio-Legal Studies, University of Oxford.

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