

Introduction: Interdisciplinarity in the Study of Law's History

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Understanding law, its development, implementation and subsequent trajectory, requires empirical research that is both interdisciplinary and critical. The complex interplay between the timing, socio-political context and purpose of lawmaking in any specific instance calls for historical analysis through which we can engage with both narrow and broader definitions of law. Through historical analysis we can account for the often unpredictable direction of specific laws, and explain particularities as these change over time with each set of new circumstances. Informed by a critical theoretical and interdisciplinary approach, we can more deeply investigate the conceptual underpinning of law's meaning.

This collection is a contribution to scholarship historicising and critically examining different instances of lawmaking that also contributes to understanding the broader meaning of law. The essence of the collection is its interdisciplinarity. Contributors bring methods and questions from humanities, law and social science disciplines to highlight problems that are both national and international in their implication. From different disciplinary backgrounds and theoretical positions, they illustrate how diverse and complex the study of law's history has become.

The book had its genesis in the Australian and New Zealand Law and History Conference sponsored by La Trobe University and the Australia and New Zealand Law and History Society (ANZLHS) in Melbourne in December 2010. The theme of the conference, *Owning the Past: Whose Past? Whose Present?*, was designed to stimulate discussion around conflicting interpretations of the past in the present, and to highlight the continuing dialogue that exists between past and present and the contradictions inherent in the historical process. The conference attracted well over 100 speakers, all of whom were invited to submit their paper for publication; through a process of selection and refereeing, the papers published here were chosen.

The organising principle of the book is the relationship and interaction between the disciplines of law and history. This is not legal history as traditionally understood and practiced, as a self-perpetuating discrete area with its own logic of development and chronology. That view has been under sustained attack from critical studies scholars for over three decades, and was the basis for calling

the first law and history conference in Australia back in 1982. Instead, this collection is one of interdisciplinary scholarship that draws on the strengths of different approaches to carve out new ways of knowing. Law is consistently subject to a historicised social and cultural context, which is specific to the time and place of its occurrence, and is similarly specific to time and place in its present significance and the meanings to be drawn from it. The contributors to this book explore the problematic of past law in history's present across indigenous Australia and New Zealand, from post-Franco Spain to current international law and maritime regulation, from settler colonial humanitarian debates and efforts to end cruelty to children and animals, to postcolonial legal proceedings in the stolen generation cases.

The book is organised into three distinct parts around the concepts that frame the interdisciplinary study of law's history: law and colonialism, law in community, law as theory and practice. Part I includes chapters dealing with the impact of a slavery trial on the development of international law and the challenges posed for the rule of law over questions of indigenous people giving testimony in colonial courts in both Australia and New Zealand. Emily Haslam reminds us that slave-trading was one of the first international crimes as she seeks to expand the field of international criminal law with a close study of nineteenth-century anti-slavery cases in Sierra Leone. Shaunnagh Dorsett takes us to colonial New Zealand for an examination of the particularities of that colony in relation to Māori giving unsworn testimony. Her argument endorses the need for detailed knowledge of local circumstances when assessing the larger imperial framework in which colonial laws were enacted. In her chapter, too, Anna Johnston concentrates on the imperial-colonial nexus as illustrated by the work of a single individual from early New South Wales whose actions and writings on Aboriginal people and the law courts exemplifies the formation of settler and indigenous identities, both enabling and simultaneously limiting Aboriginal legal subjectivity.

Part II concentrates on law's role in its community context and includes the evolution of animal protection law, issues of accessing the remedies available in law by working-class communities, the vexed question of the parental right to discipline children and the colonial context for violence against women in Aboriginal communities, all of which are issues of continuing relevance today. Stefan Petrow and Debra Powell in their individual chapters draw out continuities between past and present practice in explicit considerations of cruelty laws in Australia and New Zealand. Jenny Anderson advances knowledge of working-class use of legality as a means of regulating sexual activity, with a concentration on sexual assault cases in the state of Victoria. Libby Connors

provides an invaluable corrective to Sydney-centric histories of post-contact Aboriginal law with new insights that are based on research relevant to the history of Queensland.

Part III explores law theoretically in Ann Genovese's important chapter on ways of doing feminist history of law with a specific focus on family law. This is followed by Aleksandra Hadzelek's examination of the theoretical problem of memory-making through law in an exploration of the national dilemma of remembering the unpopular regime of General Franco and Spain's civil war. Diane Kirkby, in the third chapter in this section, examines the Australian *Navigation Act 1912* as labour law in practice, changing its meaning and application with political and economic circumstances. The section is completed with a fourth chapter in which Thalia Anthony and Honni van Rijswijk explore a specific example of law in practice for families as they address the issue of parental consent for Aboriginal families whose children were removed by state policies.

All these papers examine past law, and present histories, in ways that illuminate and provide a valuable resource for continuing discussions. They demonstrate how diverse — and important — interdisciplinarity is to understanding law's meaning.

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