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## **The LSA at 50: Overcoming the Fear Of Missing Out on the Next Occupy**

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The law and society field has a venerable tradition of scholarship about pressing social problems, but the Law and Society Association maintained a curious silence about the Occupy movement. This essay proposes occupying our teaching and scholarship and recommends changes to research methods, teaching techniques, and conference practices.

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In 2011, Occupy Wall Street gripped political imaginations across the country – except within the Law and Society Association. There were only seven papers related to the Occupy movement at the last two LSA meetings. There are no articles on the movement in either the Law and Society Review or Law and Social Inquiry. The Law and Society Association traces its lineage to a legal realist tradition with an unabashed empirical and normative agenda. As the association looks towards the next half century, we should ask why we kept a cool distance from this populist social movement. How do we teach when we and our students are in the movement? How do we research when the events are still underway?

Catalyzed by an occupation of Zuccotti Park in Manhattan, a string of protests and occupations erupted across the United States and globally. The movement coalesced around a critique of the concentration of wealth and power in the hands of global financiers. At UC Berkeley, Occupy re-framed a pre-existing campaign against the privatization of the University of California system. Occupy Cal began with a general assembly attended by over 2000 people and continued over several weeks of assemblies, meetings, teach-ins, and an occupation on the steps of the university administration. Occupy Cal, like most of the Occupy sites, ran on principles of consensus. Facilitators taught hundreds of people how to make decisions collaboratively. Through these techniques, communities formed across diversity to work towards shared political objectives.

Members and leaders of the graduate student union at the core of the movement facilitated hours of meetings, negotiated with university officials, and tried to keep up with their course work, research, and teaching commitments. Those of us, like myself, who were participants rather than core organizers, marched, joined in general assemblies, cancelled classes, and held teach-ins. Some professors struggled to decide how to orient themselves to the movement, while others were with the students in the front lines of demonstrations. Undergraduate students were among the most committed to maintaining the occupation. It is not unusual to teach a room of bleary-eyed undergraduates, but these students had been up all night chalking the campus, sitting in assemblies, or camping out. On some days, students were also nursing injuries from police officers ordered to clear ‘not non-violent’ assemblies.

The first lesson I learned from the Occupy movement was how to occupy my own classroom. I teach in a department where most of the courses are about justice and inequality. The professor and teaching assistants all agreed that we could not ignore the justice movement

on our doorstep. In the context of a course on feminist legal theory, we talked about gender inequality and the Occupy movement. We watched a short film about consensus decision-making and then had a discussion about whether this technique adequately addressed various types of inequality. We brought techniques from the movement into the classroom. The professor facilitated a discussion using the 'progressive stack,' a procedural system in which speaking order in a discussion is based on who has talked least and on common demographic markers of exclusion. Afterwards, we discussed how students felt – particularly given that, in a classroom populated largely by women, the progressive stack entailed giving speaking priority to the white men in the room.

The Occupy general assemblies required procedures for creating nearly spontaneous communities among strangers to achieve a shared purpose. It occurred to me that using Occupy techniques could also quickly build the kinds of trust relations that are necessary in a classroom. On the second day of a writing seminar, I taught my students the basic techniques of consensus decision-making. I then facilitated a process of drafting a classroom code of conduct. Collectively, the class agreed to rules on issues ranging from punctual arrival to the penalties for late submission of draft assignments. As strangers figured out how to govern themselves, I watched, kept stack, and wrote decisions on the board. During our next class session, the exercise of drafting a classroom constitution formed the basis for a discussion about the nature of a political community.

My participation in the Occupy movement changed me as a teacher. The experience gave me a set of tools to decenter my authority in the classroom, creating the kind of learning community I hoped to foster. Furthermore, consensus decision-making rests on a set of transferrable technical skills that students can use in subsequent collective action efforts. Bringing the Occupy movement into courses allowed us to show students that the academy is part of the big world out there, rather than simply a launching pad for adulthood or a storage shed full of abstract theories.

As law and society scholars, we know a lot about how institutions and processes structure behavior and values. We could use these insights in our own backyards. Consensus methods could be applied outside the classroom in our meetings, seminars, and scholarly conferences. The stack could always be progressive. Audience members who pose a question at a panel could be invited to sit in the semi-circle with the panelists. Moving people, physically,

into the conversation changes the experience from one of authoritative scholars speaking to a passive audience to one in which collaborators are working together on a shared question. We can occupy our profession.

My experiences in Occupy not only shaped my teaching, but also my scholarship. As I sat through Occupy Cal assemblies, I was torn by split allegiances. On the one hand, I was in the movement as a passionate and committed participant. On the other hand, I was in a gold mine of data. I started writing and presenting about the Occupy movement, straddling the line between participant and observer. I persuaded a room full of scholars to perform ‘a human microphone’ (a staple of participatory communication in the Occupy movement), so that we might all experience what it is like to be in that kind of a meeting. I tried to convince law professors that a 2000-strong general assembly could collectively make decisions that resembled laws. At a writing workshop, someone asked why I kept writing about ‘them’ when I was really writing about ‘me’ and ‘us’. Eighteen months after the events of Occupy Cal, I sought institutional approval to interview Occupy participants and was astonished at the painstaking and lengthy process. Having completed over 25 interviews, I am now working on an article about using consensus techniques to make law with strangers.

As the creation story of a scholarly project, this is just another tale of singular obsessions or diversions from the work one is supposed to be doing. I am sharing it to make the point that this project happened because I lived my political life, and then followed when a door opened to a new research question. Though I have supportive – or, at the very least, forgiving – advisers, I felt like I might be misbehaving. My methods training sowed the doubt that my commitments would cloud my objectivity. I worried that I wouldn’t be seen as a serious scholar if talked about ‘my movement’ rather than ‘their movement’. The literature on action research suggests that politically engaged research is the prerogative of tenured professors. Law journals teem with articles about politically charged questions, but legal scholars write at arms-length from their normative conclusions. It seems we are all hunting that endangered animal, the tenure-track job, and our politics might scare it away.

It is too much to ask the Law and Society Association to ensure job security for all graduate students, starting with the most radical ones. But I think that the field can revisit the question of its orientation to on-going social and political events. The LSA’s relative silence about Occupy seems at odds with the tradition of problem-driven inquiry in socio-legal studies.

If anyone should be able to cast an astute eye on an on-going social movement, it should be the scholars who pioneered the study of collective action. But anthropologists and political theorists wrote most of the scholarly articles about the Occupy movement. The American Anthropological Association convened an online General Assembly, with working groups ranging from 'Teaching Occupy' to 'Decolonizing Anthropology'.

A first innovation concerns research approval processes. Can we use our old research techniques when the demonstration we want to study is taking place tomorrow? Professors shook their heads when I asked about expediting the human subjects process in the context of an on-going movement. But if human rights organizations produce defensible data about an event that happened last month, why can't law and society scholars? Speed in approval of research protocols may be a barrier to publishing about protest in socio-legal scholarship. If so, the Law and Society Association should convene a discussion on rapid reaction research techniques. How could we facilitate qualitative research about on-going and quickly changing political events? As a suggestion, under a pre-clearance process, institutional review boards could approve a professor's boilerplate protocol, so that it would provide an umbrella for just-in-time research by both students and faculty.

The scholarly work on Occupy has been done by anthropologists and political theorists, neither of whom are renowned for speedy methods. If they are not doing research in a hurry, then the stately pace of human subjects processes might not be the problem. An alternative answer might lie in an orientation to research sites. Much socio-legal scholarship concerns problems we wish we didn't have – too much racial profiling by police officers, too few women in management positions, too many people in prisons, and so on. The task is a 'history of an error'. Why does this mistake exist? What policy interventions would fix it? What kinds of humans would we need to be to avoid this problem? Studying a movement in action – like Occupy or the Arab Springs – is the study of a moving target. We don't know who is on the right side of history, and we don't know what problems need to be fixed. Researching on-going political events requires an openness of mind and generosity of spirit towards the data that we, as socio-legal scholars, could afford to cultivate.

For the socio-legal field, research in on-going movements provides an opportunity to decenter the researcher's authority. All the participants in Occupy that I interviewed talked about how their experiences in the movement changed their political views. This implies that

we, the researchers, will also be changed by the movements we live and study. As socio-legal scholars, we spend our time situating ourselves on a scholarly map about law and society. But as participants in a movement, we need to resist assuming we always, already, know how law will function. The solutions – the ends of history – can't be pre-determined by our intellectual commitments about law, rights, or the state. It is the movement that articulates theory about the relevance of rights to social justice struggles, the sources of law, the role of the police, and the legitimacy of state. In short, the kinds of Marxists you organize with may matter much more than the kind of Marxist you are. Paradoxically, doing politically committed research involves suspending some intellectual commitments.

The Law and Society Association looks into a future likely to be marked by old and new forms of social protest. Our field has an opportunity to innovate responsive techniques for research and teaching. Engagement in protest movements can bring new ways of learning into the classroom. Not only can we bring current events into course discussions, we can practice a movement's methods – like consensus decision-making – in order to change the dynamics in scholarly spaces and break down academia's ivory towers. To investigate politically committed research as an opportunity for junior scholars, rather than as a career risk, the LSA could convene a critical research network on 'committed socio-legal studies'. Rapid-reaction research techniques could be developed to allow us to research on-going political movements. To equip us to study on-going social mobilization, we should think together about cultivating open-ended and paradoxically uncommitted orientations to research design.