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BOOK REVIEWS

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Distorting the Law: Politics, Media, and the Litigation Crisis
William Halton and Michael McCann (Chicago: University of Chicago Press, 2004)

The postwar "legalist reformation" in America entailed the turn to rights-based claims machinery and significant changes to existing civil law (Nelson 2001). These changes included tort law, as courts took the initiative in the New Deal era to broaden remedies, increase accountability, lower procedural barriers, and generally increase access to litigation and redress for social injustices. This expansion of legal instruments and legal agency, and the optimism for rule-based solutions to perennial social problems, spawned a counter-movement of "too much law," characterized by an idiom of "litigation crisis" and alarmist tort reform rhetoric. This latter narrative, which Galanter (2006) calls the "jaundiced view" of law, is presently a reigning legal common sense in the U.S. As such, it continues to shape legal culture and legal consciousness. In *Distorting the Law*, Halton and McCann contend that this common sense assumes "an epidemic" of civil litigation, a surfeit of rights claiming, and a legal system run amok" (p. 6). This conventional wisdom of excessive American litigiousness, capricious use of the law by greedy plaintiffs, and unscrupulous lawyers is the object of this book. Halton and McCann ask how this logic has been created, sustained, and refuted despite much evidence to the contrary. Their retort is a compelling critical assessment of the role of media, public intellectuals, policy and business elites, and the general public in the ascendancy and hegemony of the "litigation crisis" narrative.

Distorting the Law is an important contribution to our understanding of the multi-dimensional relations between law, politics, and society. The authors' adopt a social constructionist account which explicitly cognizes social practice and which articulates a theory-driven analysis informed by a deeply empirical sensibility. Halton and McCann examine three general analytical dimensions in order to fill out their constructionist account: the instrumental, the institutional, and the ideological. The instrumental dimension takes account of the texts, scripts, discourses, and strategic activities of three primary interest-oriented groups of actors: "populist tort reformers," "the plaintiffs' bar," and "realist sociological scholars" (pp. 15-16). The institutional dimension focuses on the reporting conventions of the media that shape ideas about the legal system and legal practice. The ideological dimension examines the primacy of individualist cultural logics and moral expectations of personal responsibility. These dimensions are not discrete but are rather triangulated elements of social activity that operate to create and sustain some narratives, while foreclosing or marginalizing others. This triangulation shapes the book's general argument that

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