

NOFO: AN INTERDISCIPLINARY JOURNAL OF LAW AND JUSTICE

Call for papers

Law & Emotion special issue

We would like to take this opportunity to invite articles for Nofo's special issue 'Law and Emotions' due in 2020. As scholars interested in the ways in which law and emotion/affect intertwine in the mundane legal practices, we have initiated a research project *Law and Emotions* concentrating on questions such as how emotion/affect is experienced and communicated in legal processes and how they construct and move between (legal) subjects (see e.g. Dahlberg 2009; Damsholt 2015; Grossi 2015; Lanas 2011; Moran 2001). We invite articles that discuss law and emotion/affect from any perspective and in any context.

Law and emotion research

While law and emotions -scholarship has been relatively recently revived, it would be more accurate, according to Pasquetti (2013), to 'speak of a renewed analytic focus on the link between law and emotion' since 'it is above all the works of Durkheim that theorize the emotional foundations of legal procedures, punishment, and penal institutions'. Law and emotion scholars have challenged the exclusion of emotion in law and studied the relationship between law and emotion from different perspectives, researching topics such as the effect of emotions on different legal actors and emotion in legal decision making; (Bandes 1996; 2006; Bornstein 2010; Douglas, Lyon, & Ogloff 1997; Feigenson 1997; Little 2001; Myers, Lynn, & Arbuthnot 2002; Nussbaum 1996; Sanger 2013)¹ emotional experiences of law in legal proceedings; (e.g. Deflem 2017) and emotions in different legal fields such as criminal law, family law and transitional justice (Abrams 2009; Becker 2002; Goodrich 1998; Huntington 2008; Nussbaum & Kahan 1996; Seuffert

¹ Legal realists have long since recognized that sometimes legal decision making is coincidental and affected by different kinds of emotional biases (law in books vs. law in action). Thus emotions have not been completely disregarded as unimportant, but nonetheless considered as nonlegal factors which impact legal decision making in unsuspected and legally unfounded ways. (See Mindus 2015.)

1999; Van Roekel 2016). Also the role of particular emotions, such as fear, shame, empathy, love, disgust and hope, have been studied in the context of law (Abrams & Keren, 2007; Bandes 2004; Goodrich 1996, 1998, 2002, 2006; Henderson 1987; Kahan 1998; 1999; Massaro 1991; Nussbaum 1999; Peterson 1998; Seuffert, 1999). (See also Abrams 2009; Abrams & Keren 2010; Maroney 2006.)

New paths for law and emotion research?

Law and emotion research can be linked with the revived focus on feeling as a scholarly concern. Although evident across disciplines, feminist theory has addressed the ‘turn to affect’ with most analytical scrutiny, describing it as being ‘both against the and within the poststructuralist, social constructionist theories of subject and power’ (Koivunen 2010). (See also Greyser 2012; Hemmings 2015; Seigworth & Gregg 2010; Sharma & Tygstrup 2015.)²

Is the age old dichotomy of body/soul reproduced in the renewed interest in emotion/affect? (See Leys 2011; Clore 2015; Hardt 2007; Von Scheve 2018.) Despite many insist that affects are pre-discursive, language, too, can be understood in terms of affect, since discourses consist not only of language, but also of images, symbols and objects (see e.g. Butler 1997). Furthermore, discourses contribute to practices, which are always bodily, and to the formation of bodies themselves: bodies can be understood resulting in interaction, in which ‘affect is a main facilitator of this “bodily becoming”’. (Von Scheve, 2018; see also Kusenbach & Loseke 2013; Wetherell 2012.)

And what about another age-old dichotomy, that of emotion/reason? Ahmed (2004; 2014) has famously analysed the production of appropriately feeling subjects for specific political purposes, reminding us that insistence on a fixed hierarchy between emotion and reason may easily be displaced ‘into a hierarchy between emotions’, The ‘story of the triumph of reason’ may thus well be one about appropriate feelings. When a minister, for example, urges the public not to feel any compassion for the family members of ISIL fighters, women and children held in captivity in camps in Syria, he is arguing for a specific set of emotions – intertwined with a specific form of reason – which may have profound and vast ramifications as to how arguments of justice become constructed.³

² The work of Deleuze and Massumi are seminal for those approaches to affect and affectivity that concentrate on corporeal social relations and emphasize the relationality of affect (see Deleuze 1998; Massumi 1993; 2002.) Psychological approaches to emotion/affect, on the other hand, mostly understand affect to be ‘an essential motivational force for humans’ and emphasises the ‘interiority of individuals over relationality’ (Norton 2015; see e.g. Gregg & Seigworth 2010; Alexander & Kosofsky Sedgwick 1995; Sharma & Tygstrup, 2015).

³ Emotion/reason (cognition) dichotomy is discussed from the cognitive perspective e.g. by Damasio (1994) and Shapiro (2011).

Despite the rise of law and emotion research and affect studies, law's uneasiness with emotion, which can be traced back to early positivism, persists (see e.g. Grossi 2015). While insisting removing emotion from rational legal decision making (emotion as bias, emotion as irrational) is no longer sustainable, emotion as a simple add-on to practical reasoning is not necessarily a satisfactory step either. (See Little 2001; Mindus 2015.)

From the outset, then, the theme - law and emotion - offers a fascinating field for inquiry from a plethora of angles and perspectives, from judging to interpretation, from production of knowledge in diverse legal, juridical or more vaguely justice-related processes to investigations over methodology and epistemology in addressing emotion in law. We encourage everyone interested in the theme to submit an abstract by 30.10.2019. The deadline for articles for the special issue is 31.2.2020.

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