

Book Review

Everyday Justice: Responsibility and the Individual in Japan and the United States. By *V. Lee Hamilton and Joseph Sanders*, New Haven, CT: Yale University Press, 1992, 290 pp.

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COMPARING INJUSTICE IN JAPAN AND THE UNITED STATES

Most people readily identify differences between the United States and Japan. Numerous American-Japanese contrasts appear regularly in current media reports, particularly with respect to the different business practices of the two countries. As V. Lee Hamilton and Joseph Sanders point out, the two countries also appear to be virtually opposite in the arena of law and justice. Perhaps most striking are their comparative crime rates: The United States has an exceptionally high rate of serious crimes while Japan's rate is exceptionally low. In addition, they have dissimilar litigation rates and dispute processing structures. The United States maintains an adversarial system while Japan minimizes adversarial and adjudicatory processes. Such differences, according to Hamilton and Sanders, have "frequently degenerated into stereotypes about a lawless and litigious United States versus a mysteriously harmonious Japan" (1992, p. 5). Clearly, however, there is much more to understanding the legal cultures of the two countries than reported crime rates, litigation rates, and stereotypic perceptions. Hamilton and Sanders point out that we must move beyond a simplistic cross-cultural explanation if we wish to understand cultural differences in notions of responsibility and sanction. Their book, entitled *Everyday Justice: Responsibility and the Individual in Japan and the United States*, addresses one aspect of this cross-cultural complexity by delineating a model that explains how conceptions of a responsible actor are construed in the United States and Japan.

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They acknowledge that important cultural differences do exist between the two countries. While a person in the United States tends to be seen as an individual and independent actor, a person in Japan is viewed contextually and embedded within a web of social relationships. Different conceptualizations of responsibility lead to variations in how role obligations, the nature of wrongdoing, and possible punishments are assessed by each nation's citizens.

However, Hamilton and Sanders point out that it is insufficient merely to state that Japanese are contextual because they are Japanese, or that Americans are individual because they are American. Cultures, they note, "flow from and incorporate varying social structural realities" (p. 8). Hamilton and Sanders propose that these structural realities shape justice perceptions and a nation's legal system at both the micro- (individual) level as well as at the larger macro- (societal) level. They summarize this relationship in the following way:

At the microlevel, different social relationships between and obligations of the parties involved in a dispute lead to different judgments of responsibility and punishment. However, judgments are also shaped by the overall structure of relationships in society. At the macrolevel, . . . differences in the distribution of relationships of different types shape perceptions of what it is to be an actor in general and a *responsible* actor in particular. (p. 5, emphasis in original)

The two dimensions of social structure particularly central to this model are hierarchy and solidarity. Hamilton and Sanders see hierarchy as a dimension that distinguishes between equal and unequal actors while solidarity distinguishes between separate vs. connected actors. Japanese and American societies vary in the degree to which they emphasize the poles of each dimension, and it is these variations that affect views of responsibility and sanction.

To test this conceptualization, Hamilton and Sanders conducted a major survey research project that compared judgments of responsibility and sanction between respondents in the United States and Japan. "The research [was] based on predictions about how responsibility judgments should vary within and between Japan and the United States based on the nature of social ties and the content of deeds" (p. 19). Citizens of Detroit, Michigan, and Yokohama and Kanazawa, Japan, were presented with vignettes describing everyday incidents of wrongdoing. Each survey included four core stories. Two of the stories included high-solidarity relationships between family members, and two stories included low-solidarity relationships that took place in a work setting. Within each type of vignette (high solidarity vs. low solidarity) the stories varied according to the role status of the characters presented. Hence, one family story described twin brothers of equal role status, while another family story described a

mother-child relationship, where one character represented an authority role. Similarly, the low-solidarity work stories included one version in which a customer buys a used car from a salesman (equal status) and another version that described the relationship between a worker on an assembly line and his foreman (authority status). Finally, within each of the story types presented, the investigators manipulated the actor's mental state (accidental, negligent, or intentional), the seriousness of the consequences following from the wrongdoing that occurred (serious vs. minor), the actor's past pattern of behavior (whether or not the character demonstrated behaviors in the past similar to the wrongdoing), and the influence of others (whether there was a third party present to influence the protagonist's actions).

Each respondent heard six vignettes, randomly chosen from among the multiple variations for each story. After every vignette, they were asked to judge the level of responsibility they attributed to the protagonist and their views regarding how punishment should be handled.

By manipulating these factors, Hamilton and Sanders are able to move well beyond the simple question of whether citizens of Japan and the United States differ in their assessment of responsibility and sanction, and instead make specific predictions about how and under what conditions these differences will emerge. These predictions, which are presented in the first section of the book, are based upon the authors' review of literature comparing the legal structure, social structure, and socialization processes in the United States and Japan. The review focuses primarily on Japan, whose social structure is characterized by hierarchical and highly solidary relationships at multiple levels. Hamilton and Sanders cite a wide range of studies documenting the presence of these qualities in Japanese society as they are reflected in language, education, mother-child relationships, work, and community relationships. American society, in contrast, primarily emphasizes equality and low solidarity.

The differences between these social systems and their relationships to citizens' reactions to injustice are central to the book's thesis. However, the authors are also careful to point out similarities between the countries, as well as the presence of variation within each country. Particularly fascinating is their inclusion of case illustrations that highlight the differences and commonalities. One case, for example, compares the responses of citizens in Buffalo Creek, New York, to those of citizens from Minamata, Japan. In Buffalo Creek, citizens pursued legal action after attributing the disastrous flooding of their town to the company responsible for a burst dam. In Minamata, Japanese citizens suffered mercury poisoning after eating fish contaminated by waters polluted from corporate waste, yet were reluctant to pursue legal action. Corporate responses also varied in these

two situations. The company that built the dam in Buffalo reacted impersonally and bureaucratically, while the president of the Japanese company responsible for the mercury pollution formally apologized by kneeling before the victims in Minamata. Cases such as these both enrich the text and remind the reader that the research data reported by Hamilton and Sanders have important implications for understanding justice, responsibility, and sanctions in real life.

Based upon their review of the literature, Hamilton and Sanders predicted that Japan's emphasis on solidarity, hierarchy, and the contextual interconnectedness between individuals would lead to greater hierarchical effects in the Japanese sample. They also predicted that Japanese respondents would use vignette information about the influence of another to a greater extent than American respondents when making judgments of responsibility, and that they would make less use of the individual actor's mental state in making such ratings than their American counterparts.

The data from the vignette responses supported these predictions and the authors concluded that in determining level of responsibility, "Japanese tend to emphasize role-based expectations, whereas Americans tend to emphasize the actor's concrete deeds" (p. 134). This pattern of findings is "consistent with the idea that the responsible actor in Japan is more contextual and the responsible actor in the United States is a more isolated individual" (p. 134).

Hamilton and Sanders also found support for their predictions in relation to judgments of sanctions. Japanese were more inclined to favor restorative and reintegrative sanctions for wrongdoing. This result was predicted given Japan's social emphasis on the interrelations between individuals. Both forms of sanctioning seek to place the responsible actor back into society, hence maintaining a connection with others. Americans, in contrast, tended to favor isolative sanctions that were more in line with a social structure emphasizing the individual actor as a separate entity.

Additional evidence supporting Hamilton and Sanders' social structural model comes from their data comparing the two Japanese cities (Yokohama and Kanazawa) in relation to each other and Detroit. The authors note that Yokohama has many similarities with Detroit. It is an auto-based, cosmopolitan, industrial seaport. Kanazawa was selected for inclusion by the authors' Japanese colleagues because it is less cosmopolitan and maintains more aspects of traditional Japanese culture. Predictions that Yokohama responses would reflect a more "Westernized" view than Kanazawa responses were largely born out, and Kanazawa respondents were frequently the most divergent from the Detroit respondents. Ratings from the Yokohama respondents fell between the two other groups. This pattern of findings suggests that important intracultural differences exist: it is not sim-

ply being Japanese that leads to differences in perceptions of the responsible actor, but rather the social structure within Japan that leads to such differences. Hence, the more Westernized social structure of Yokohama leads to a set of findings more similar to the American respondents than the Kanazawa respondents.

Finally, support for Hamilton and Sanders' model comes from their comparisons between American and Japanese respondent ratings of responsibility and sanction for a separate set of vignettes involving crime and auto accidents. Here all of the story characters were strangers. Hamilton and Sanders predicted that "If Japanese and Americans assess wrongdoing differently in part because Japanese tend to be more closely tied to one another, then the judgments of Japanese and Americans should more closely resemble one another when disputes are clearly between strangers" (p. 183). Their data showed just such a pattern and the responsibility judgments of the Japanese, when given the crime/accident stories, were highly similar to those made by Americans.

The implications for the book's findings are discussed in the final chapters where Hamilton and Sanders describe how the observed differences in conceptualizing a responsible actor reflect the micro- and macrolevel processes that shape legal culture. "The point . . . is not to pit legal culture against legal structure as a way to produce explanations for differences in Japanese and American legal systems. Rather, it is to show that legal culture legitimizes and supports legal structural arrangements and together these macro processes constrain the alternatives available in the microlevel processing of particular disputes" (p. 196).

Hamilton and Sanders suggest that there are important consequences associated with both the Japanese and American conceptualizations of responsibility and justice. American tendencies toward seeing the responsible actor as behaving independently and minimally affected by outside forces suffer from what the authors term the "problem of isolated equals." The application of such a standard of individual responsibility in certain circumstances, as with juvenile offenders, is inappropriate. Additionally, Hamilton and Sanders note that assumptions of role status equality are inaccurate since multiple forms of inequity (e.g., economic, racial, and gender) affect the fairness of legal proceedings in the United States.

Japanese conceptualizations of the responsible actor are problematic as well. The authors suggest that the Japanese social structure based on high levels of solidarity requires the identification of an outgroup, and inequalities between those who are viewed as included or excluded from a circle of belongingness. Excluded members of Japanese society (which Hamilton and Sanders describe as including the indigenous Japanese Ainu, resident Koreans, and the Burakumin class of outcasts) are systematically

discriminated against and kept outside the circle of solidarity. This process closely parallels the act of moral exclusion as described by Opatow (1990) and clearly carries grave consequences for those who are excluded from the scope of justice. Japan's emphasis on harmony, high solidarity, and hierarchy can also lead to an extreme level of conflict sensitivity that hinders conflict resolution.

METHODOLOGICAL QUESTIONS

Hamilton and Sanders argue for the need to expand current conceptualizations of legal culture. Although current research is focused upon litigation processes, their research demonstrates the value in examining "the larger set of attitudes, beliefs, and values" (p. 195) that shape legal culture and structure. The reader's confidence in the reported findings stems from the study's methodological strengths. Traditional survey research design and techniques are skillfully applied. Efforts were made to counterbalance vignette presentations, check for manipulation effects, and to code responses from open-ended questions in a reliable manner. The project was clearly a major undertaking, conducted with great attention to detail and control. There are, however, aspects of the research that also raise additional questions for consideration. These questions are mentioned because the book's subject matter is so rich and intriguing that one is tempted to suggest even further directions for exploration.

Cross-cultural studies such as Hamilton and Sander's work are inherently complex and, as noted by Triandis (1972), plagued by a range of difficulties. It is difficult to know just how comparable the respondents from the three cities were. For example, Detroit is multiracial while the Japanese cities are not. Beyond this, however, are additional points of concern. We cannot assume that the relationship between interviewers and respondents in the United States and Japan was equivalent. Given Japan's strongly hierarchical social structure, a difference seems quite possible. It would have been interesting if the authors discussed the manner in which the study was presented to respondents, and whether or not there were differential rates of participation in the interviews between Japanese and Americans. In a similar vein, one cannot assume that the motivations of the respondents who did participate from each country were similar.

Translation problems also can occur. One study, for example, has found that grammatical forms within the Japanese language may emerge when translating from English to Japanese but not from Japanese to English (Niyekawa, 1968, as cited in Triandis, 1972). Hamilton and Sanders acknowledge specific difficulties that emerged in the translation of vignettes

from English to Japanese, and also recognize that the vignettes themselves may not be equivalent in the United States and Japan. For example, the used car salesman in the United States may not have a parallel role in Japan. An even broader issue may have affected the reported findings and their interpretation. The vignettes (which presumably represent everyday instances of wrongdoing) appear to have been developed by American researchers and then translated for administration to Japanese respondents. Instruments that rely only upon items that reflect essentially American conditions and are used in other cultures do not reflect pancultural or universal social phenomena (Triandis, 1972). It is not clear that their Japanese colleagues would have come up with the same types of vignettes had they been asked to generate examples of what they considered to be everyday instances of wrongdoing. And if this step were taken, how might the American and Japanese ratings of responsibility to Japanese-produced vignettes have differed? A related issue concerns the degree to which the vignettes presented to respondents were representative of what most individuals from either culture would consider prototypic instances of everyday wrongdoing. Rather than have researchers develop stories, it would be useful to select stories by identifying those most commonly produced by respondents from each country and presenting those as stimuli in both countries.

Hamilton and Sanders employed a factorial survey research design and conducted structured interviews with each respondent. This technique is widely used in social science investigations and was well suited to their study. Standardized interviews provide considerable control and precision. However, standardization may also restrict an individual's range of responses. Such an approach to interviewing can omit the respondent's "social and personal contexts of meaning" (Mishler, 1986, p. viii). Although the authors did ask open-ended questions to elicit responses regarding sanctions (e.g., "What should the punishment be?" and "What should happen [to the actor in the vignette]?"), these responses were ultimately condensed into coded categories. Again, this approach is widely accepted and valuable. However, the vignettes presented situations that were likely to elicit more than simplistic responses, and it would have been helpful to hear the respondents' rationale for their answers to "contextualize" their views of responsibility and sanction.

Similarly, it would be interesting if Hamilton and Sanders briefly described how their Japanese colleagues interpreted the reported findings. Do the cultural and social factors reflected in Hamilton and Sanders' model have an impact on their collaborators' perceptions of the research itself? If so, how? In other words, how might we culturally contextualize reactions to the data collected?

On a different level, Hamilton and Sanders' work raises the question as to whether the distinctions between the Japanese and American legal cultures will endure over time. The authors speculate that if social relationships in Japan were to become less solidary, it is possible that Japanese legal culture could become more individualistic and litigation might become more common. However, they caution that although there are signs the traditional Japanese sense of community may be in decline, patterns of hierarchy and solidarity still characterize many urban areas. These enduring qualities within Japan are impressive. Although not discussed by Hamilton and Sanders, it is interesting to note the existence of research suggesting that aspects of the same qualities have persisted across generations of Japanese in the United States. Fugita and O'Brien (1991) found that even third-generation Japanese Americans continue to demonstrate high levels of involvement in and psychological identification with their ethnic community. The percentage of Japanese Americans reporting membership in an ethnic voluntary association, for example, is significantly higher than that reported for third-generation Italian Americans. Fugita and O'Brien attribute the persistence of the Japanese American community to the Japanese social structural values brought to the United States by the first-generation Issei immigrants. The same social values described by Hamilton and Sanders (solidarity, collectivity, an emphasis on group harmony, and mutually dependent hierarchical relationships) are used to explain the persistence of the Japanese American community in this country.

Fugita and O'Brien also emphasize the relevance of an additional Japanese concept, relativism, which allows Japanese to "adopt their social organizational forms to a wide variety of circumstances" (p. 40). Relativism has played a critical role in allowing Japanese Americans to both attain a high degree of structural assimilation and retain an ethnic community. Hence, while Japanese patterns of solidarity and hierarchy may fluctuate and adapt to social changes over time, they may be especially resistant to the forces of change. This may be further evidence suggesting that the Japanese legal culture as described by Hamilton and Sanders will remain intact.

The Japanese American data also raise the question of how the processes of immigration, acculturation, and assimilation alter the nature of social relationships. What characteristic relationships are more or less vulnerable to change? For example, one wonders whether Japanese Americans have retained remnants of Japanese values with respect to their views of responsibility and sanction. To explore this, it would be interesting to

compare their ratings on the case vignettes to those of Japanese nationals and non-Japanese American citizens.

SUMMARY

In summary, *Everyday Justice* is an important and impressive book that presents a compelling theory to explain differences in individual and cultural reactions to wrongdoing in the United States and Japan. Using a combination of theory, research data, and existing literature, Hamilton and Sanders successfully illustrate a social structural model for understanding perceptions of responsibility and sanction. The model provides a useful conceptualization of legal culture, while at the same time raising significant and intriguing questions about the nature of culture, social structure, micro- and macroprocesses, and cross-cultural differences. Future research based upon Hamilton and Sanders' work would greatly aid us in making cross-cultural comparisons in justice research. In addition, the application of their model demonstrates the important role social science can play in moving beyond crude national stereotypes to understanding the processes that underlie specific legal cultures.

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