

Cultivating Conscience: How Good Laws Make Good People

Lynn A. Stout

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George Washington is quoted in *Cultivating Conscience* as saying, “Few men have virtue to withstand the highest bidder.” This duality in human nature, and the connection between conscience and public policy, is masterfully examined in this book by Lynn A. Stout, the Paul Hastings Professor of Corporate and Securities Law at the UCLA Law School. Professor Stout argues convincingly that, “conscience—that is, unselfish prosocial behavior—is a very real, very common, very powerful, and very important phenomenon.”

The phrase “unselfish prosocial behavior” is carefully defined by Stout early in the book. It describes behavior that does not benefit the actor and does benefit others, and more broadly, society. An unselfish prosocial act is one which “requires the actor to sacrifice time, money, or some other valuable resource to help, or avoid harming, others.” This is an essential point for Stout, for, as she observes, “Law, after all, is mostly about promoting unselfish prosocial behavior.”

Stout bolsters her observation on the importance of conscience with scientific evidence. She presents a readable and thorough survey of a research technique known as “experimental gaming,” and uses this scientific evidence gleaned from experimental gaming to build a working model of conscience. She argues, “The vast majority of people are willing to sacrifice to follow ethical rules and help others, but they are only willing to do this when the social conditions are right.” In short, how people act is affected by the social context within which they act.

Stout’s model features three factors or social cues that trigger unselfish prosocial behavior: instructions from authority, beliefs about others’ unselfishness, and perceived benefits from others. These three factors were chosen, Stout explains, because there is empirical data available to show they are linked with unselfish behavior, they are well connected to universally accepted human traits, and they are easy for lawmakers and policymakers to manipulate.

In a brief portion of the book aimed at people interested in the law, Stout uses her three-factored model of conscience to analyze and discuss theories of tort, contract, and criminal law. These discussions, however, have broader application. As Stout asserts, there is evidence that unselfish prosocial behavior in the United States is declining. At the same time, evidence indicates that unselfish prosocial behavior generally leads to more prosperous and peaceful societies. Her overall conclusion: law can help develop conscience and, for society, that is a good thing. *Cultivating Conscience* is a forceful and rational proposition for reasonable change.

JOHN MICHAEL SENGER (January / February 2011)

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