How I Wrote a Book: Richard McAdams

By Meredith Heagney
Many of our faculty are authors of one or more books, generally the form of scholarship that takes the most time and effort to produce. For this story, Professor Richard McAdams, Bernard D. Meltzer Professor of Law and Aaron Director Research Scholar, talked to The Record in detail about the process of writing his first book. McAdams has taught law since 1990—at the Law School since 2007—and has authored dozens of articles and book chapters but had not yet tackled his own book.

Professor Richard McAdams printed out the more than 300-page manuscript for his upcoming book and held it in his hands. He felt the satisfying heft of many years of work all together in one place. He was nearly done.

McAdams still has a few months to go before the book is published, but getting to the final editing stages is a reward in itself.

“It feels liberating,” he said.

*The Expressive Powers of Law: Theories and Limits*, due in January from Harvard University Press, is McAdams’s first authored book. He coedited 2013’s *Fairness in Law and Economics* with Professor Lee Fennell, and he’s written several book chapters and dozens of articles, but writing his own book was a new experience.

The book focuses on two “expressive theories” of law, McAdams’s ideas about how law influences behavior.

He started writing journal articles on these expressive theories back in 2000. Sometimes, he’d discover that other scholars would cite him for one theory or the other, seemingly unaware that he had written extensively about both. He wanted to explore them both in a single vehicle and knew, with much to say, that a book was the best option.

What he didn’t know was whether the publishers he wanted—high-end academic presses—would buy it. So, in 2005, he wrote a 15-page book proposal and sent it out.

“Some people write the book and then try to get a contract, but I didn’t want to write it before knowing if anyone wanted to buy it,” McAdams said.

He didn’t have anything to worry about. Harvard University Press, one of his top choices, told him they would publish it. Then all that was left to do was write.

Despite the fact that McAdams had written several articles on his expressive theories, he didn’t find that they merged obviously into a book. That would’ve been much more efficient, he said, than his process.

“I kind of started from scratch. I had the ideas, but I didn’t take any particular article and say, ‘this is chapter three.’ Instead, I just started over.”

McAdams doesn’t remember what he wrote first, or even on what subject he started. He just knows he jumped in and wrote, and chapters formed, broke apart, and flipped around.

“The chapters I imagined in the book proposal would bear little relation to the chapters I produced. The ideas are all there, but they’re differently arranged,” he said. “As a writer, I’m somebody who tinkers endlessly and changes my mind about organization.”

But, he added, “the best part was finishing a chapter and feeling that I had discovered significant things in the writing of it that I had not known when I started.”

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The goal of the book is to inform an existing debate about how law influences behavior. Economists have traditionally believed that it’s about deterrence: that is, law changes the cost of behavior by imposing legal sanctions. Sociologists and psychologists subscribe to a theory of legitimacy, which says that people obey the law to the extent that they perceive it as a legitimate authority.

Both likely explain some amount of compliance with the law, McAdams said, but not all of it. His book presents his two theories, the information theory and the focal point theory, and applies them to many interesting real-world situations, including international relations, drug legalization, war, flag desecration, property disputes, and Florida’s Stand Your Ground law.

The information theory says that law is information that may change beliefs that change behavior. For example, if a legislature bans smoking in public places, that conveys information. First, it may cause people to believe that their fellow citizens are more opposed to smoking than they previously thought. Second, it gives people a reason to
think more about the risk of secondhand smoke and its dangers. Smokers may change their beliefs and behavior in response to this information (the law), perhaps not because they’re worried about getting in trouble, but rather because they don’t want to look like a jerk or compromise others’ health.

In McAdams’s second theory, law works as a coordinating focal point to help people avoid conflict. Think of an intersection where the traffic lights are out, and imagine that a bystander jumps in and starts directing traffic. He doesn’t have the legitimacy of the law behind him, and no one can go to jail for not obeying him, but people probably will anyway. In a situation requiring coordination, people seek order, and the law can provide that, McAdams said. “People in conflict often have some common interest in wanting to prevent the conflict from escalating to something that is analogous to a car crash in the middle of the intersection,” he said. “Therefore, in those situations the law gets some power just from being the most salient suggestion for how to resolve their conflict.”

McAdams lays out his theories in his introduction, which he rewrote again and again in the hopes of making it as clear and interesting to readers as possible.

“The beginning of the book is in some ways the most important,” McAdams said. “If people don’t like the beginning of the book, they’re not going to read the rest of it. And some people will only read the introduction to get the gist of the ideas.”

“...until people who were reading it for me were happy with it.” (McAdams sent drafts to a few friends and colleagues.)

McAdams wrote in his Law School office and in his home office, whenever he had time, which proved difficult to come by. In the years he was writing the book, he started coauthoring more journal articles with colleagues. He didn’t want to let his coauthors down, so he’d prioritize those articles over his solo book project.

He also taught, of course, and had a long list of Law School responsibilities: he organized conferences, cochaired the faculty appointments committee, chaired a committee tasked with reorganizing clinical governance, and chaired a university committee reviewing internal investigations of the University of Chicago Police Department, to name a few. That meant that sometimes the book was put aside for months at a time, which then required time to restart the project.

“If I were more efficient, I would have just done all of it, as some of my colleagues do,” he said, but “they may or may not sleep.”

Much of his time was spent working with the D’Angelo Law Library and research assistants to unearth material about the book’s many interesting examples. In the focal point chapters, he talks about the federal statute that states rules for respecting the American flag, the Lieber code promulgated by the Union in the Civil War, and the court in medieval Iceland that issued judgments for several centuries without any executive officials, such as police, to enforce them. All those legal pronouncements created a focal point for people who wanted to, respectively, show respect to the flag, cooperate with an enemy over certain aspects of war, and resolve disputes, he explained.

For the idea of law as information, McAdams writes about the unwanted expressive effects of drug legalization, which signals that drugs are more popular and less dangerous than they actually are. He claims that the real issue in the public controversy over Florida’s Stand Your Ground law (made famous after the killing of Trayvon Martin) were with the law’s informational effects, more than anything else.

McAdams also argues that the law’s expressive influence over behavior (through information on public attitudes) helps to explain why we should interpret the First Amendment’s Establishment Clause to prohibit the government from endorsing religion.
McAdams hopes that the combination of theories and practical examples will appeal to other law professors, political scientists, and lawyers interested in theory.

He found it challenging to move beyond the fields of criminal law and procedure. “I wrote a lot about topics outside my primary expertise: the fields of constitutional law, international law, customary law, property, and a host of smaller regulations about traffic and smoking. I discuss game theory, social movements, and histories of dispute-resolution mechanisms,” he said. “Next time, I’ll pick a narrower topic, one that I can complete in less time. Ideally, something where I can fully understand the scope of the topic before I write the book.”

Luckily, Harvard University Press didn’t mind the wait. “Harvard completely left me alone. I guess they’re used to the fact some people take a very long time. They really didn’t bother me, which kind of surprised me.”

His last step was to write a chapter on normative implications of his theories and how they can be used when making policy. Law professors always want a chapter like that, he said.

Finally, on December 22, 2012, McAdams submitted his completed manuscript. After that, the press gave the manuscript to two anonymous reviewers, who came back after about six months with extensive comments. McAdams had to then resubmit the manuscript explaining all the changes he made or why he rejected suggested changes, which ended up being a 35-page document in addition to the manuscript. That version was sent in on September 3, 2013, and editing began in January of this year.

McAdams received Harvard’s first edit in late May and returned his edited manuscript in June. He saw page proofs in July, approved them and made minor changes, and now he waits for the big day: January 12, 2015.

“Maybe it sounds egotistical, but I really like sitting down and reading the whole thing,” McAdams said. “I printed it out, double-sided, and it’s kind of a hefty thing, and it was like, yeah, this is a book, finally.”

He doesn’t know when or on what he’ll write that next book yet. Now he knows firsthand that the process is very rewarding, but rarely easy. “Of course, my favorite part of writing the book was finishing it.”

\[\text{The end.}\]