Taking Emotion Seriously: Implications for Legal Decision Making

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The “Affective Turn” in the Human Sciences and Philosophy

- Re-discovery and re-evaluation of emotions in Western society (Adam Smith and *The Theory of Moral Sentiments*)
- Historical re-appraisal of the role of emotions in shaping Western history (emotional regimes and emotional communities)
- Renewed attention to the influence of emotions on society – political and economic (passions in public life and behavioral economics)
Useful Functions of Emotions

Communication
• involuntary
• obvious
• transparent

Motivation
• compelling
• immediate
• powerful
Influences on Emotions

- Physiological (endocrine and exocrine)
- Psychological (self-image and personality)
- Cultural (vocabulary and norms of social expression)
- Political (power through emotional support or suppression)
Insights and Research Findings

- Sympathy aids persuasion
- Anticipated emotion also motivates action
- Positive feelings promote open minds
- Anger and disgust promote confidence in conclusions and closed minds (moral outrage)
- Expression and description of emotion is culturally shaped (including suppression and transmutation)
- Emotion has a cognitive element and cognition an emotive one (no thought without emotion)
- Legal decision making is emotional
Sources and Further Reading

- Law and Human Behavior (journal)
- The Passions of Law (2001) (book available online at Project Muse)
- Behavioural Sciences and the Law (journal)
- Cognition & Emotion (journal)
- Twelve Angry Men (1957) (movie)