


BOOK REVIEW

Law By Night. By Jonathan Goldberg-Hiller. Durham: Duke University Press, 2023.

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Searching for law's power by exploring its shadowy night, Jonathan Goldberg-Hiller's book *Law By Night* is a captivating and beautifully written genealogy of law and night. Guided by Foucault's suggestion that law's power lies in its concealment, Goldberg-Hiller assembles a variety of historical fragments and contemporary examples to explore "the relations of power and darkness in their material and rhetorical manifestations sustaining or transforming social hierarchy." (3) Goldberg-Hiller undertakes broad inquiries into sleep, vigilante violence, curfew, and nocturnal protest in three major ways. First, by uncovering and exploring how law has contributed and responded to nocturnal subjectivity. Second, by using nocturnal struggles for power as a lens to flesh out law's contingent relationship with other social dynamics. And finally, by tracing how the desire for law and order by various actors intensifies and augments with the uncertainties and emergencies of night. In the end, as Goldberg-Hiller contends, if what we seek is a law closely joined to justice, we must begin to account for night, for the nocturnal order secreting away power in the darkness. (198)

Organized into five chapters, *Law By Night* is a diverse array of experiences, histories, and motifs that work to paint a complex picture of legality at night. Chapter one considers the sleeper and the sleeping body against challenges to legal norms that tie legal subjectivity to responsibility, consciousness, wakefulness, and vigilance. Braiding together sources from court cases, phenomenological texts on the importance of rationality and thinking for the sleeper, and Ernst Kantorowicz's political theology of the king's two bodies, Goldberg-Hiller deftly constructs a novel account of the collective nature of sleep. This collectivity, as Goldberg-Hiller tells us, is "a kind of 'flesh' to which we have little conscious access but which, [he argues], can reorient us to an expansive reimagination of the legal subject more attentive to the social precarities of those denied security for sleep and the freedom to move at night." (33)

Taking up vigilantism again, albeit in a different context, chapter two considers the nocturnal politics of American surveillance and policing alongside histories of inter-racial violence and terror. In this chapter, Goldberg-Hiller invites readers to consider the impact and influence night has had on the racial dynamics of violence, gun rights, and vigilante self-defense. Powerful and compelling, Goldberg-Hiller connects early American practices of hunting the enslaved, white militia vigilantism and the

duty to disarm and dispossess Others to contemporary gun rights regulations that disproportionately restrict Black gun ownership while seeking to control and police Black nocturnal mobility, deploying familiar tropes of increased threat, fear and danger in the dark. Reflecting on the colloquialism “Saturday Night Specials” used to refer to cheap compact handguns, Goldberg-Hiller observes,

The reference to night in the political shorthand for these guns, I believe, adds significance to its demeaning racialization because it signifies a long tradition of misrecognition going back to slavery through which Black people (along with the poor and immigrants) are identified as dangers to white safety, even though it is at night that Black people (who statistically have been less likely to own or carry weapons) are most vulnerable to white terrorism. (73)

As a scholar of empire and emergency, chapter three’s treatment of curfew – linking premodern and modern forms of curfew to explore how night, safety, violence, and order carry particular temporal and spatial assumptions – was notably valuable for me. Early iterations of nocturnal confinement and curfew seem to signal “that night was a material factor in self and public order” and yet, even with streetlights and ever-increasing modes of surveillance, night and darkness continue to confound techniques of governance such that curfew remains an integral and potent source of social control. (99) Using examples of youth curfew, colonial curfew, and disease and curfew, Goldberg-Hiller demonstrates how curfew renders an otherwise disordered night into a time of discipline. Spatially, curfew designates particular cordons of control, which in turn incite fear, anxiety, and heightened forms of vigilance while creating a “tactical oscillation of diverging nocturnal and diurnal orders.” (193) Day and night, norm and exception, curfews force youths or the colonized or the ill “into a common temporal cycle defined and enforced by curfew” in order to manage, control, and correct. (123) Far from a benign form of governmentality, Goldberg-Hiller exposes how curfew governs as an extraordinary and ordinary measure.

Chapter four considers the feminist activism of Take Back the Night by exploring the possibilities and limits of treating night as property, and the politics and significance of night for women’s expression of freedom and mobility. Recalling the work of Catharine MacKinnon and Brenna Bhandar (among others), this chapter offers a particularly generative discussion of feminist theory, racial regimes of ownership, property, and possession. The book concludes with a return to the themes of sleep, vigilantism, curfew, and nocturnal protest through a meditation on night’s interruption and complication of legal rhetoric and metaphor.

Law By Night is wonderfully rich and original. An expansive study, the book has broad appeal. Each chapter is distinct and could easily stand on its own. For example, I could imagine a graduate seminar course on property or social movements picking up chapter four for a deep reading on that particular subject. A truly socio-legal text, it offers generative interventions for law and society scholars working at the intersections of race, gender, violence, and the corporeal. Similarly, scholars looking for a unique study in jurisprudence with provocative insights on ontology and temporality will find much to engage with in *Law By Night*. This book will leave readers thinking anew the shadowy nocturnal places of law that remain unexplored in their own work.

References

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