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2001

Book Review: Legal Traditions of the World: Sustainable Diversity in Law

S. I. Strong

University of Missouri School of Law, strongsi@missouri.edu

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Recommended Citation

S. I. Strong, Book Review: Legal Traditions of the World: Sustainable Diversity in Law, 60 *Cambridge Law Journal* 421 (2001).

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to be any reason for thinking that the equality-preserving role of post-auction transactions will be threatened in the way that Dworkin broaches. At any rate, he will have to supply further argumentation if he hopes to make his case persuasively.

Chapter 4 explores the distribution of political power, as it asks what form of democracy is most appropriate for an egalitarian society. The chapter contains many insights, but is marred by Dworkin's insistence on reconciling all political desiderata. Near the end of the chapter, for example, he submits that the practice of judicial review in the United States does not detract from the ideal of equality of voting power, "because it is a form of [electoral] districting." Such a characterisation is outlandish rather than illuminating.

Notwithstanding the foregoing criticisms and quite a few other objections that can be levelled against sundry lines of reasoning in *Sovereign Virtue*—not least against a number of its remarks about the nature of liberty—the book as a whole is extraordinarily impressive. It is a flawed work, but a profound work. Though analytically the first two chapters are particularly powerful, the most arresting portions of the volume are the closing pages of Chapter 5 and some parts of Chapter 6. Therein, Dworkin rises to heights of eloquence as he affirms the importance of societal justice as an element of each individual's well-being; to live in a society disfigured by manifest injustices is *pro tanto* to lead a life that is diminished. One clearly gains the sense that these pages express not only general theoretical insights, but also Dworkin's own feelings of frustration and exasperation at the failure of the United States to live up to the ideals which *Sovereign Virtue* delineates. In these sections of the book as well as in some of the later chapters that deal with practical political controversies, the keen analytical sharpness of the volume is matched by its passion. Few legal or political philosophers during the past century have been capable of such a feat.

MATTHEW H. KRAMER

Legal Traditions of the World: Sustainable Diversity in Law. By H. PATRICK GLENN. [Oxford: Oxford University Press. 2000. xxiv, 338 and (Index) 20 pp. Paperback £19.99. ISBN 0-19-876575-4.]

IN 1998, the International Academy of Comparative Law named Professor Glenn's newest book, then in manuscript form, the winner of the grand prize at the XVth International Congress of Comparative Law. In so doing, the Academy made no mistake, for this is an exceptional and eminently readable book. Combining a historically accurate analysis with a distinctly contemporary sensibility, Glenn invokes not only jurisprudential concepts as he explains the different legal traditions, but religious and sociological ideas as well. It is difficult to imagine an interdisciplinary team of authors taking on a project of this scope, but Glenn, working alone, successfully integrates strands of thought from these different disciplines into a single cohesive whole.

The book's brilliance belies its slightly slow beginning. The first two chapters initially appear to contain the type of general theorising that is, in many cases, promptly ignored as an author moves to more substantive discussions. Glenn, however, defies this unfortunate convention and refers

back to ideas contained in these early chapters throughout the book. One theme, that of tradition as information, becomes a standard touchpoint in later chapters, as does the idea of corruption, meaning criminal corruption, institutional corruption, and intellectual corruption. Glenn illustrates the differences in legal cultures by showing whether and to what extent those cultures incorporate tradition and tolerate corruption in legal and social norms.

What the author does not do is take a certain field of law—tort, for example, or contract—and compare it across systems. His emphasis is less on delineating particular laws or procedures and more on contextualising the ideas and historical accidents that motivate lawmakers in the different societies. While this technique does not yield the sort of detailed analysis of particular laws that one finds in other comparative works, Glenn's more holistic approach allows him to indicate certain global differences between the systems. For example, he notes that the chthonic tradition (which can be described roughly as oral, customary and/or indigenous law, although Glenn distances himself from any one of these particular definitions) puts little emphasis on the law of obligations, whereas the civil law tradition, with its roman influences, typically includes a highly developed law of delict and contract.

The book's core consists of the seven chapters that discuss the different traditions. Beginning with the chthonic tradition, the book continues with the talmudic tradition, the civil law tradition, the islamic tradition, the common law tradition, the hindu tradition, and the asian tradition. Each section sets the legal discussion within the context of a particular religious worldview, which helps explain the rationales supporting different legal cultures. For example, the chthonic tradition is said to "resist[] individual powers or entitlements ... because of the higher form of obligation owed to the cosmos," while the talmudic tradition, on the other hand, acknowledges the role of the individual in society, although it still avoids engaging in any language of rights, *per se* (p. 101). Similarly, because hinduism does not incorporate "any general principle of equality ... , and given the pervasive presence of dharma [which assigns every person a place in life], the notion of rights, as individual power, or as anything else, is not inherent in hindu thought" (p. 265). In each case, the religious faith of the constituent members of society informs and influences the shape and direction of the law.

Because the author proceeds in roughly chronological fashion, he is able to illustrate how later traditions incorporate and modify elements of earlier traditions. For example, he notes that "[w]hen English commerce began to emerge, talmudic practices, known because of jewish-gentile commercial relations, were a natural model for common law development" (p. 214). Not only does this information demonstrate the interconnectedness of the various legal traditions, but it brings into the mainstream ideas that have often been limited to specialist literature.

As illuminating as this book is, some shortcomings exist. First, there is the occasional tendency to gloss over important jurisprudential concepts, perhaps in an attempt to avoid overwhelming non-lawyers. While Glenn's brief references to the command theory of law and the debate between the interest theory and the will theory of rights will make sense to those who are already familiar with the work of Austin and others, the richness of Glenn's analysis will be lost on the novice reader, particularly since Glenn

sometimes fails even to provide footnotes to indicate where further materials on these subjects may be found. Although it is not necessary to engage in a detailed discussion of each of these points, the current approach is somewhat disappointing in its brevity.

Second, in attempting to be contemporary and accessible in his language, Glenn sometimes overshoots the mark, referring, for example, to trespass as “the mother of all writs” (p. 213) and defining non-factual assertions as “non-observable or, to be fancy again, metaphysical” (p. 137). While such colloquialisms may put students at their ease, they appear flippant to others and mar the overall tone of the book. Because Glenn expresses even the most sophisticated ideas clearly and simply, he has no need to resort to slang to appeal to the younger members of his audience.

One of the most striking aspects of this book is that, although it was clearly written with students and non-specialists in mind, it will also appeal to experienced comparativists. Few academics are able to undertake the kind of global, interdisciplinary analysis that Glenn does, and this book will undoubtedly give readers a fresh, vigorous outlook on their own work. While there is a price to be paid for taking such a broad-based approach, in that the book does not contain the type of detailed analysis of specific problems that some specialists would appreciate, there can be no greater achievement than to reinvigorate interest in an area in which one has worked for years. In this, as in so many things, Glenn has succeeded magnificently.

S.I. STRONG

The Business of Judging: Selected Essays and Speeches. By TOM BINGHAM.
[Oxford: Oxford University Press, 2000. viii, 413 and (Index) 20 pp.
Hardback £35.00. ISBN 0-19-829912-5.]

LORD BINGHAM of Cornhill is no stranger to the business of judging. Senior Lord of Appeal in Ordinary, former Lord Chief Justice of England, former Master of the Rolls, he has been sitting on the bench in one capacity or another for the last twenty years—twenty-five if one counts his tenure as a recorder. Although he began his career at the bar in 1959 as a commercial and civil lawyer, his appointment in 1996 as Lord Chief Justice placed him at the apex of the criminal justice system. In becoming senior Law Lord, Lord Bingham has expanded his purview yet again, thus enabling him to write about all aspects of the law from a unique position of knowledge and experience.

The current collection of lectures, speeches and essays makes full use of Lord Bingham’s wide range of insights. The thirty individual items are arranged in nine sections, which include *The Business of Judging*; *Judges in Society*; *The Wider World*; *Human Rights*; *Public Law*; *The Constitution*; *The English Criminal Trial*; *Crime and Punishment*; and a miscellaneous section which touches on some earlier themes as well as some new ones, including the future of the common law and the history and future of legal aid. The pieces, which were written between 1985 and 2000, are published in their original form, a device that is not without potential pitfalls, since, in some cases, events have not turned out as anticipated. Still, Lord Bingham writes that he “hope[s] that these blemishes will not deprive the contents of any interest there may be in the contemporaneous response of