

REVIEW ARTICLE

LAW AND SOCIAL PSYCHOLOGY

THE WESTERN IDEA OF LAW. By J. C. SMITH & D. N. WEISSTUB.
[London: Butterworths 1983. 685 pp. Hardcover £26.60].

ONE of the enduring insights to be gained through a study of Jurisprudence has to do with the distinction between Law as an autonomous and formal category of norms and Law as a growth out of the life and experience of a social group and, therefore, substantially a projection of social consciousness. In the first sense, Law embodies the ideals of conduct and censure to which the community is subject and the Law stands out in front, as it were, leading the way. Here law is grasped as a means of dominant control over society. It is from this unique and authoritative position that the Law purveys its norms and ideals. In this sense there is an impression created, falsely, perhaps, that the Law is independent of society and that it originates in the "will" of legislative bodies. Furthermore, this view has it that Law is not only formally an autonomous entity but also in reality always a step removed from the economic and political movements within society. The links, if any, between Law and the other spheres of social life are at best indirect and to be understood in a special sense subject to the overriding importance of concepts such as the rule of law and constitutional supremacy and a non-political or "apolitical" judiciary and the like. There is the further explanation in terms of the fidelity to law and the discharge of legal obligations, all of which are overriding factors.

The "will" theory of law is not accepted by historicists and by those who wish to explore the links between law and other social phenomena. Social theorists have sought to demonstrate the weaknesses of this formal view of Law. But in its defence it could be said that the formal abstractions in terms of which Law is conceived and interpreted do serve an epistemological function by drawing manageable limits within which to know the law. So whatever the nature of the links one may find between Law and politics or economics the question as to what the law is on any given dispute or problem cannot be answered by either demonstrating the ideological basis of the law in general or in the particular context or by showing what the social experience or the social values may be in regard to the question or problem at hand. Not only marxists but writers who now form part of the critical legal studies movement, the *enfant terrible* among legal theorists, would wish to qualify this epistemological need or the legitimacy of it as a basis for the autonomy of Law. They suggest that Law can be evaluated from standpoints of "critical morality" including the concept of legitimacy.

From the writings of some legal positivists, H.L.A. Hart, for example, it is clear that they acknowledge the social foundations of

Law insofar as it belongs to the same genus as morality, religion and other social practices that can be reduced to norms of behaviour. Therefore, the two senses mentioned above have to be taken as typologies in terms of which we can understand the nature and scope of views on Law.

The editors of the volume under review would say that the question whether the matrix of Law and its institutions can survive may be examined not merely through the familiar *desiderata* of social order and fidelity to the institutions of State but also through the less familiar and deep rooted social and cultural needs that Law sustains and which, in their turn, justify Law's existence.

In this book the editors have set us difficult tasks obliging us, first, to appreciate and sympathise with the deep dissatisfaction they direct against the current state of Western law and second, to undertake the even more difficult task of grasping the elusive, almost esoteric, factors they identify as the specific ills ailing Western law. The critical examination of Western law through concepts familiar to Social Theory has now assumed a broader front and may be the harbinger of a fundamental revision in legal philosophy in the near future. The editors share the basic complaint of all such critics of Western law, viz., that it has become alienated from the cultural and social life of western societies and that it is fast losing its legitimacy as a means of resolving conflicts in society. In this book we find a relatively new emphasis on factors of social psychology as the causes for this sense of alienation. Besides commenting upon these matters the editors of the book have reproduced extracts from various previously published works.

However, to describe this book as a collection of extracts from published works will do it no justice. It is a judicious selection by the editors from a wide range of authors of passages that explore a variety of questions raised in the general as well as sectional introductions. Many of these questions have to do with the cultural or intellectual matrix of Western law. In the editors' view, this matrix has become distorted when measured against what they call, "ingredients in the psychology of man and culture...".¹ They see a serious need to examine the question of how harmonious Western law and Western culture are, their assumption being that there is a crisis in the paradigms of Western law insofar as these have drifted away from an harmonious view of contemporary law and society in the West.

This calls for a look beyond familiar legal theories in order to identify and comment on the cultural foundations of Western law. Consequently, their primary concern is not to elaborate on the traditional schools of jurisprudence that claim to describe the essence of the legal phenomenon in terms of Natural Law or Positivism *etcetera*. So to that extent, this is not a book that adopts the familiar format of many books on Jurisprudence or Legal Theory.

This work may be viewed, largely, as exploratory involving, probably, two kinds of aims. First, readers are told of the ways in

¹ Introduction, ix.

which Western law has fallen out of tune with the cultural and other needs in the people of the West. Second, readers are told of the possible ways of looking at Law that may better meet the needs mentioned in this book. While I commend the editors for bringing up the subject and for the many profound comments they have made in this volume, I do not think they have gone far enough in meeting the possible aims of the volume. I hasten to add that not many legal theorists would feel able to undertake an analysis of the sort of questions which this volume addresses, much less produce models of Law for the future. My remarks above are meant to indicate that more space may have been devoted by the editors to elucidate their views in greater clarity. As it is, a lot of their prescient comments and prescriptions are put in the briefest possible manner.

The editors seek to meet their tasks, first, through a short study of legal and cultural values as discussed in the writings of Thomas Kuhn, Whitehead and Julius Cohen, just to name a few. Then they seek to elaborate on the interplay between these values through a study of the formation of notions of law and legal institutions in the early history of both East and West. There are extracts from the writings of a host of well known writers including P. Bohannon, Diamond, Pollock, Maitland and J.C. Smith himself, on specific legal concepts and institutions such as the Law of Agreements; of property; of persons.

Chapter 2 is devoted largely to the rise of patriarchy in East and West and some critical evaluations of this phenomenon from an egalitarian and feminist point of view.

The editors regard patriarchy as an important cultural influence that has affected both Western and Eastern legal notions. One may add that patriarchal paradigms may be seen in medieval views of royal authority and to a certain extent in modern positivist assertions of prerogatives and other rights of primacy enjoyed by constitutional monarchs or sometimes, even Parliaments. This chapter enhances the value and usefulness of the book exploring an important socio-cultural feature whose influence on Law may be clearly established.

Chapter 3 deals with "The Foundations of Western Law" viz., the twin traditions of Judeo-Christian ethical thought and the Greco-Roman conceptual or systemic view of ordered law that form the foundation. I think this Chapter is one of the strong points of the book. The editors have included many interesting extracts from a host of writers, such as Kaufmann, Heschel, Sambursky and Ernest Carsiner.

Chapter 4, covering nearly 250 pages, deals with the modern paradigms of Law born of the intellectual, political and economic trends of the 18th and 19th centuries. Barring a few of the extracts most are from writers we are familiar with. I think, the editors could have devoted more space to commenting upon the matters they have included in this chapter. It is not only the longest chapter but it deals with matters that have been extensively written upon by scholars of the critical legal studies movement.

The basic premise of the book is one that poses a challenge to the readers. The editors of this volume have chosen to consider the "mythical and rhetorical" elements in western culture as having a bearing upon world-views reflected in notions of Law. The role played by these apparently "irrational" factors has been little investigated and, the editors argue that, through a study of these elements we may better understand the contemporary dissatisfaction with Western law.² It requires of the readers not only an understanding of the role that drama and myth may play in cultures in general but also to comprehend the editors' contention that they are such basic factors that they can account for a coherent view of *law in society*. The short editorial comments, interesting as they are, do not adequately convey to the readers the immensity of the intellectual tasks they are faced with.

Readers' initial reaction may well be one of puzzlement for, after all, one could argue that Western law has stood for rational analysis and has always sought to exclude myth and rhetoric. In its historical evolution Western law has favoured forces of secularization of Law by removing as many of the Canonical or theological notions as possible, especially from Public Law, (viz., Constitutional, Administrative and Criminal Laws). Can one really describe to a de-mythologised generation (as our western contemporaries are taken to be by the editors)³ what myth and rhetoric may have to do with the legal phenomenon? One is dealing with difficult macro theory in contemplating the connections between concepts like "world-views", "culture" and their "legal relatedness".

With the help of selected extracts the editors undertake the task of making sense of the interaction between Law and Culture—with some special emphasis on the "mythical, rhetorical and dramatic" elements as described by them. These we will consider later on in this review.

The word "culture" ranks foremost amongst those that require a good deal of elucidation before anyone can begin to know what is to be discussed. In order to understand the editors' views better we need to agree on some working hypothesis as to what culture means. Though there are a number of extracts reproduced in this book that may throw light on this point, in our present context it will be useful for me to suggest that "culture" must include the *Weltanschauung* that explains preferred views of *regulation* of behaviour through Law. It is in this sense that a cultural *genre* may be reflected in the legal system. Thus the "law jobs" performed by a legal system can be the outcome of cultural preferences. Law can be an important ex-

² "Whether through fear of irrationality or the positive lure of the scientific paradigm, universal reason has evolved, in the West, as the antithesis to myth. The mythic, dramatic, and rhetorical dimensions of culture, and of law as a collective expression of culture, have faded into obscurity. While universal rationality may be wrong-headed or incomplete, irrationality, though it exists in every so-called rational culture, is extremely threatening. It is clear that the equation of rationality with good and irrationality with evil in the Western theory and practice of law is uncontested." Introduction, x.

³ "... increasingly contemporary Western cultures have purged ritual as they have demythologized their origins and systematized their beliefs." Introduction, viii.

pression of a community's perceptions, knowledge and experience in relating social and cultural values to the lives of the myriad individuals that make up the community. For as the authors say, "What demarcates humanness is man's profound desire for the personalizing of his self and his moral expression, through his private and public acts".⁴ More than that the editors see Law itself as a "significant description of the way in which a society analyzes itself and projects its image to the world".⁵

Continuing in this vein our editors show us the key to their thinking when they say that Law,

is a major articulation of a culture's self concept, representing the theory of society within that culture. It is the deepest and most generalized philosophical statement that a non-revolutionary or non anarchistic culture can make about itself. The legal experience, in its most comprehensive form, is a multi-dimensional phenomenon, wherein mythic, dramatic, rhetorical, and philosophical elements play significant roles.⁶

It is easier to see that the making and administration of the Law, particularly the latter, can be affected by the customs and culture of a society than to agree with the assertion that Law is or can be "a major articulation of a culture's self concept". Though the passage quoted was meant for Western law and society, it is worth observing as a comparative point that many Eastern and African societies cannot truly claim that the "official" legal systems they have adopted constitute a "major articulation" of their native cultures. I merely point out here that the relationship between Eastern cultures and their national legal systems cannot be reduced to such a direct relationship as has been suggested in the passage above. To that extent, therefore, readers should be careful not to assume any universal validity for this statement. Moreover, the sense in which cultures express themselves through law may need a more detailed examination in its different aspects and degrees.

Similarly, one has to examine the assertion that Law can be "the deepest and most generalized philosophical statement" that a culture can make of itself. Again, this assertion may not be universally true. We know that in many countries of the world such as Japan, Turkey and a majority of the nations of the British Commonwealth, for example, their legal systems do not derive from their native cultures. We do realise, however, that a self-conscious adoption of foreign legal concepts may itself be part of an evolving culture. In such cases it is not correct to say that the borrowed law represents pre-existing cultural patterns but it ought to be considered an entirely fresh attempt that could initiate a fascinating interaction in which Law for once seeks to influence culture. I think we need to recognise here that in the interaction between law and culture, the flow can be either way. It is in this light that we must understand the following statement made by the editors:

⁴ Introduction, xi.

⁵ *Ibid.*, vii.

⁶ *Ibid.*

Cultures have critical moments in history when their values are constitutionally structured according to a legal design. The Magna Carta and the American Constitution are both examples of such an historical birth. These constitutional statements embody the most fundamental values that the society commits itself to at the time. When this is accomplished in law it means that the society undertakes to harness its energies to ensure that these values are protected and that the future of the society is shaped by them.⁷

It is important to bear in mind that Public Law can often be well ahead of its time, ahead of the practical cultural manifestations which may, indeed, be capable of negating the high sounding values declared in charters and constitutions. This feature is familiar to those that deal with written constitutions in some third-world countries and in authoritarian regimes everywhere. Even in terms of English and American constitutional evolution the values expressed in the Magna Carta and the American Constitution only gradually, over a period of centuries, came to be embodied as part of the "legal culture" in U.K. and U.S.A. Constitutional charters have been ahead of their times in almost all countries. It is only on this basis that one can explain the gap that often exists between the form Public Law takes and its substance as found in practice. Therefore, self-conscious adoptions of constitutional values or other legal concepts may not necessarily be true representations of an existing culture or thought-processes native to a given community. The role of the *avant garde* minorities in setting the pace through their initiatives in adopting new legal norms, some of which may come to stay, is one of considerable interest to historians.

No doubt, much work has been done to demonstrate the points of tension or agreement between the formal law and actual conduct - in the broader canvas of culture. But in each case it is a matter of further evaluation as to how deep or how philosophical a projection the Law is in representing different aspects of culture. The editors do recognise some of these questions as being crucial. They ask: "What is the relationship between the world-view of a culture and its process of dispute resolution, apart from its emphasis on a particular sort of ordering? Or, can the two ever be separated?"⁸ Since these are important and exciting questions I have laboured the remarks above slightly more than I would have done otherwise.

The entire basis of the volume is that Western law must re-establish its links with the mythical, rhetorical and dramatic features of Western society which had been excluded hitherto by the dominance of "scientism" or "rational logic". The editors seem to think that the intellectual dominance of the Greco-Roman tradition of "scientism" and patriarchy had subdued the influence of the Judeo-Christian tradition in terms of the archetypes and language of the Law.

Greek ideas of law and society and the rigour the Romans brought to the interpretation and application of legal principles have undoubtedly influenced legal scholarship in the West from at least

⁷ Introduction, vii-viii.

⁸ Chapter I, p. 1.

the 12th century onwards.⁹ The editors point to the link between theories of law and society in the Hellenic world. But quickly they go on to say, "It may be argued that law is, in fact, a major representation of the mythic dimension of civilisation".¹⁰ Readers may be somewhat confused at this point on two scores. First, how does this point relate to the earlier one about the Greco-Roman intellectual influences having predominated in the formation of the concept of law to the exclusion of myth, rhetoric and drama? Second, in using the term Law are the editors referring to a phenomenon of Law in a philosophical sense rather than as a collection of particular institutions?

For the Greek world it may be more appropriate to use the term in the first sense and for the Roman to use it in the second sense. I think the importance of the points made here justify a careful elaboration of the standing of the Law in the Greco-Roman world and more importantly, the subordinate and yet vital role that myth and rhetoric may have played in shaping the notion of law in the Greco-Roman as well as our own world.

However, none of this reduces the importance of the conclusion that the editors arrive at when they say that, "we must keep in mind that in the history of cultures fundamentally different world views have given rise to different principles of legal ordering".¹¹ Since I agree with this statement, to me it seems a worthwhile exercise to examine the conscious and unconscious basis of world-views that are expressed in and through Law. If morality and religion are generally included as constituents of world-views, a study of myth, rhetoric and drama may clarify the nature of such world-views. It is in this way that I see the *rationale* for this volume.

World-views or, to use an expression we are more familiar with, ideologies, have been examined from the economic and political points of view. The editors are seeking to explore other aspects of world-views which have not been articulated in relation to Law because of the commitment to "scientism" and what goes for "rational logic". However, I do not find it easy to follow the arguments through which the editors take us as to why they think the mythical and rhetorical elements are crucial at the present time for us to understand and deal with the crisis, they say, Western law is faced with. From the editorial comments alone it is not clear how their working hypothesis regarding the mythical, rhetorical and dramatic elements in relation to culture may affect contemporary Western law or how it may have been derived historically or how the paradigm may change as a result of a rediscovery and accommodation of these elements in the western world-view.

I think the editors are also saying that in form and substance the legal positivistic mode in which Western law has been expressed hitherto may have outlived its earlier justifications. They also question

⁹ Included in this book is the interesting essay by Harold J. Herman, "The Origins of Western Legal Science," at p. 399-413. It originally appeared in *Harvard Law Review* 90 (1977) 900-931.

¹⁰ Introduction vii.

¹¹ Chapter I, p. 2.

the dogmatism implicit in "legalism" that fails to deal with the sort of influences the editors seek to examine but which are rejected by positivism as being irrational and thus not worth considering. "Legalism" is the ordering principle and conservative force of Western culture. Being resistant to both change and disorder, 'legalism' has corresponding mythical or ideological requirements of coherence and predictability, the two fundamental principles of 'scientism'.¹²

Inevitably, this kind of critical re-examination pushes one towards the building of macro theories reminiscent of many of the critical legal studies that have been emerging in the West, notably, North America.

Technical law in the West... has contributed to alienation within the context of large so-called rationalist bureaucracies. The individual may sense himself as having been cast into the role of passive observer of a pre-determined order of status relationships which are awesome and over-powering.¹³

I submit that this sense of alienation from the law, which is undoubtedly causing deep stirrings amongst many Western legal theorists, springs not merely from the espousal of a certain concept of Law, technical or otherwise but also from the making, interpretation and implementation of laws in an urban society which is under constant pressures of change, much of it created by technology, and above all, from the need to regulate sophisticated economies. We would also have to recognise that the industrial revolution has over the decades filled us with a view of linear progress that makes little or no concession to the finiteness of resources, both human and material, and leaves little room for rhetoric or myth or other "irrational" elements should they get in the way of economic efficiency. So the sense of alienation is caused not just by a particular view of the Law or the sheer volume of legislation or its increasingly bureaucratic character but as much by the structures and institutions that the West has given itself over the last two centuries. If the editors are assuming that the West's world-view has changed and that the Law lags behind, then one has to, perhaps, examine that assumption carefully. But if they are addressing deeply felt social and individual needs that can only be met by the Law being better able to reflect certain values no matter what economic and political conditions in which the Law may have to function, then they may be imposing an impossible burden on Law.

Reminiscent of Ferdinand Tonnies' lament about the passing of *gemeinschaft* law and the advent of the *gesellschaft* view of Law the editors comment that,

Modern culture is out of touch with the dramatic modality of experiencing law. This is so because modern man finds himself depersonalized and abstracted from any relationship between himself and an extended community such as the family, or a religious congregation. His personal condition of character is so widespread that he is unable to express his defeat or accuse his tormentors. Anomie has flattered man's legal personality and poli-

¹² Introduction viii.

¹³ Chapter I, p. 2.

tical identity. In this sense, technological man is abstracted from law and its moral possibilities. For modern man law is indistinguishable from a maze of intricate bureaucratic regulations. It is rationality without life.¹⁴

In the light of the ground covered by critical legal writings in the last two decades, the editors may be sure of a sympathetic audience when they sound the warning that the persistence of "scientism" and "legalism" may make it impossible to obtain a harmonious view of Law, its values and its administration on the one hand, and on the other, of society and its perception of its own experience and knowledge. Indeed, they go beyond such a warning when they say that,

One of the most interesting aspects of law during this century is the fact that most lawyers have no theory about what they do. Instead, they regard themselves as pragmatists. In a certain sense we have a theory without a profession and a profession without a purpose.¹⁵

So clearly one must get back to the basics. This is what the editors seek to do by examining what they regard as one of the foundations, hidden from view as foundations are, of a world-view which is a *sine qua non* of every culture. Myth, rhetoric and drama are both the substance and form through which we can recognise the nature and purpose of this foundation and connect it with the structure raised on it. Clearly in the sort of resonant terms that macro theories are often propounded the editors declare,

To think of man as a unidimensional psychological figure, devoid of feelings, may in some way be the psychological error of the concept of the rational man produced by Western law. To be aware of man's multi-dimensional being may be the only avenue presently available to us in getting in touch with the historical cultural forces that reverberate through all our Western legal systems. Patriarchism, the church, familial ties, and group solidarity of many sorts continue to have their impact on the legal system, while utilizing the linguistic tools of persuasion, proof, and argument that are associated with rational law as we justify it.¹⁶

As is known, the view that Law is a matter of psychological experience forms the basis of Scandinavian realism. The editors are saying a lot more when they point out that Law and "legal-relatedness"¹⁷ cannot remain within a closed system (in the name of scientism) but must relate to other deep-rooted psychological needs and experiences that go to make up the over all cultural *genre*, and much more than that, Law must seek integration with the latter. For, they point out that notwithstanding rational analysis and scientism legal paradigms are influenced by "the psychological presuppositions of the decision maker who is called upon to react to conflict".¹⁸ They ask,

¹⁴ Introduction viii.

¹⁵ *Ibid.*, x.

¹⁶ *Ibid.*, xi.

¹⁷ *Ibid.*, ix.

¹⁸ Chapter I, 3.

Through its very embodiment of cultural world views, does law not thereby compromise its neutral or universal rationality? From the standpoint of man's psychological condition and the history of world culture, the "rational world view" may be a misnomer.¹⁹

While all this may be appreciated at the intuitive level the task of substantiating these insights through an overall theory of law, culture and society is indeed, formidable. The editors are certain about the nature of the task that comes out of their perceptions.

In looking at the paradigms of Western law we must attempt to think of new models which respond to human and cultural needs. The balancing of these needs is psychologically oriented and Law, in its present form, may be unable to meet the challenge. If so, the very notion of Law, to which we are presently committed, may be radically transformed over the next millenium, just as the Greco-Roman and Judaic traditions of law represented quantum leaps over previous paradigms.²⁰

We must return again to the basic *rationale* of this volume. The editors have argued for an important role for myth, drama and rhetoric in the shaping of legal systems and in the way they are expressed. We must look closely at what they mean by these concepts and ask the question why they have chosen these factors rather than such components of culture as religion or custom? The editors do not mean by myth, "the big lie"—a meaning they acknowledge to be very much part of current perceptions—but to them "Myth is the mediator between past and present and, once a culture losses sight of myth, it is disembodied from history".²¹ In their sense, I rather think, myth is something closely bound up with the self-image of a culture and, indeed, its continuing identity within history. All that a culture assumes to be its foundation or cornerstone, *all* that which lie beyond strictly historical or other forms of inferential proof may deserve the appellation of "myth". Such myths can wield enormous power over a community but they need not always be mediators between the past and present. They may at times be an hinderance in the passing of the past into the present and of the present into the future.

Myths in this sense may buttress notions of Law by giving a culture great pride in the place accorded to Law and a smug satisfaction in the sense of fairness of its legislators and judges in dealing out fair justice through Law. But such myths may also lull one's readiness to adapt to changing circumstances and thus prevent one from re-examining one's premises when faced with challenges of history and of time. It is then that myths begin to render a disservice by acting as masks shielding us from reality. Myths as components of a culture's self-image, therefore, do have serious negative aspects which have not been adequately noticed here.

The editors use the term myth in two other important senses. In chapter 2 they say that, "Myth simply understood has to do with

¹⁹ *Ibid.*

²⁰ *Ibid.*

²¹ Introduction viii.

the human attempt to fashion order out of chaos, to describe the world in such a manner that the parts are interrelated and result in subduing the threatening aspects of human existence".²²

In the first of these senses there is clearly a normative capacity ascribed to myths "to fashion order out of chaos" and their capacity, furthermore, to connect different aspects of cultural experience. I am sure that myths had filled gaps in the experience and knowledge of many early human communities, in particular. But in modern, urban communities the role of myth in culture, politics and law may be more complex. The second sense referred to by the editors has to do with the purely emotional aspects of a community's desire to reduce "the threatening aspects of human existence". No doubt, one could explain some of the early customs of all societies on this basis. While the point is more relevant to early societies we may also find examples in modern times in the ideological divisions of the world and the self-made carefully cultivated by different ideological power groups as to the superior utility of one's own ideology. It is very possible that national legal systems share some aspects of myth in this second sense.

Finally, the editors maintain that, "All cultures have a mythic dimension and it is through myth that man organizes and experiences history".²³ While this may be true in a general sense, I submit that, serious points like these require much more discussion than the editors have produced. They have referred to the many approaches to the subject of myths, including the psychological. I think more space should have been devoted to a further discussion of this matter. As it is readers may be more dazzled by the editors' short, sharp pointers rather than be enlightened. I hasten to add that as soon as the editors seek to discuss the example of patriarchy as a mythic factor that has had profound impact on Law, the reader is able to see the importance of some of the earlier statements made by the editors as to the role of myth in the formation of world-view and of the Law that results from it.

The next factor associated with myth is drama which, the editors point out, "as a form of language and experience, is non-philosophical, operating through parable and paradox".²⁴

The dramatization of conflict of values and viewpoints may be, as the editors point out, a manifestation of the mythic harmony in law and culture. Throughout history societies which had widely upheld specific value-systems had, indeed, found it traumatic and dramatic to have to accept change whatever the reasons for the change. There are, it seems, important pre-requisites which have to be present in a society as part of its make-up for it to experience the clash of contradictory values as a genuine social drama in which the deeper roots of Law and culture are seen to influence the outcome of such a dramatic clash. The extent to which values are deep-rooted and the nature of those values themselves are important preconditions for social drama.

²² At p. 119.

²³ At p. 120.

²⁴ Introduction viii.

The predominance in modern technological societies of economic and political values to the exclusion of other social and overtly religious values has meant that an important ingredient of social drama is missing. Second, the prospect of changes in value-systems does not bring in its wake the same degree of dramatic agony and re-estimation of social purpose and cultural identity. Economic necessity and periodic changes brought about by new technologies have driven modern societies to accept all the consequences that flow from, by and large, considerations of national and international economics. To put it simply, modern societies would soon turn neurotic if they were to seek to experience the drama of change in the way medieval societies had done. Therefore, a lot of the comments that the editors direct at this, undoubtedly, important question of the dramatic element in culture and its impact on the way we perceive law, I venture to suggest, overlook this point. A comparison of societies at different historical stages of progression would show that not all societies have been able to achieve the heightened awareness brought about by social drama.

The editors see the relevance of the dramatic element as follows:

The dramatic form is needed by law to create the conditions for change and to channel the resources and requirements of the imagination. When law loses its capacity to respond to these ingredients in the psychology of man and culture, it is caught in its tracks and atrophies. This can occur in mature civilizations as much as in primitive settings. When law becomes a closed system which feeds on itself and disengages from the demands of unique human experiences, it too loses its power of idealism. And, as a symbolic form of stating the higher values of civilisation, loses its credibility and mass appeal.²⁵

In an age dominated by corporations and organisations of one kind or another is it possible for either individuals or groups to bring together such ingredients as the quotation above suggests? We function in terms of the logic of organisations and we use law and language that suit the changing life of organisations. This book undoubtedly raises important questions in terms of which we need to evaluate the state of Western law.

It is not a book that someone unfamiliar with Western law can pick up for a quick reading and hope for some instant elucidation. So, I hope that undergraduates here in Singapore and elsewhere in Asia would not be disappointed to find in this work something very different to what they may have been led to expect from its title. This is not a book for the beginner. But for students of Jurisprudence this is a thought-provoking work.

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²⁵ *Ibid.*, ix.

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