

The Question of the Gift: Essays Across Disciplines EDITED BY MARK OSTEEEN [London: Routledge, 2002. 310 pp. Hardcover: £65]

Prima facie, it seems strange for a legal journal to review a book published under an anthropological series on gift giving. However, if we think about it, many areas of the law raise pertinent issues about gift exchanges. For example, in the law of contract, we have the problem of whether promises to make gifts are enforceable; in equity we have the perennial question of what to do with imperfect gifts (for recent developments see *T. Choithram International v. Pagarani* [2001] 1 W.L.R. 1 (noted by C. Rickett (2001) 65 Conv. 515; J. Hopkins (2001) 60 C.L.J. 483); *Pennington v. Waine* [2002] 1 W.L.R. 2075 (noted by H. Tjio and T.M. Yeo [2002] L.M.C.L.Q. 296; M. Halliwell [2003] 67 Conv. 192); and in the law of restitution, we have the unresolved issue of when a donor can get her gift back on the ground of a mistake (see H.W. Tang, "Restitution for Mistaken Gifts" J.C.L. forthcoming). Despite the significance of the nature of the gift transaction in these areas of law, it seems that lawyers still rely on archaic maxims when dealing with gifts, e.g. "equity will not assist a volunteer", "equity will not perfect an imperfect gift" etc.

At the moment, there seems to be a serious disjunction between the legal view and the sociological perspective of the gift. The prevalent legal view is that a gift is as Lon Fuller described a "sterile transactions" (see (1941) 41 Col. L.R. 799 at 815 quoting Bufnoir, *Propriété Et Contrat* (2nd ed., 1912) at 487). But sociologists have known since Mauss' seminal work in 1925 that this view is false (M. Mauss (I. Cunnison, trans.), *The Gift: Forms and Functions of Exchange in Archaic Societies* (1966)). Gifts are a form of social exchange which is embedded with the norm of reciprocity.

As a lawyer, *The Question of the Gift* is an eye-opener as to the sophisticated scholarship that has evolved on the study of gift giving in other disciplines. This book continues in the fine tradition of Mauss' work. It is a collection of new interdisciplinary essays on the gift. It brings together scholars from many fields including anthropology, economics, philosophy and literary criticism in presenting new themes and questions about the gift giving. Mark Osteen begins the book with an insightful exploration of the questions concerning gifts. Part I of the book attempts to define reciprocity in gift exchanges. Of particular interest is Yunxiang Yan's anthropological study of gift giving among residents in a rural village in China. Part II concerns the ethics of giving. The essay that stands out for this reviewer is the study by Charles Hinnant on the ethos of gift exchanges derived from the narratives of the *Genesis*. In Part III, the contributors consider the question to what degree are artwork gifts? Part IV presents new questions on gift giving. Mark Osteen's essay on the challenge in distinguishing gifts from commodities is extremely engaging. Although the essays in this volume span many disciplines, it raises essentially these questions: How do such exchanges form communities? How do human beings interact with each other outside the commercial world? What is the relationship between gifts and commodities? Are artwork gifts? Does a purely altruistic gift free from any expected reciprocity exist?

This book is certainly recommended for anyone engaging in a serious study on gifts as it provides many dimensions on the gift exchange. The editor and contributors to this volume ought to be congratulated in producing this work which constitutes a major contribution to our understanding of gifts.

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