

BOOK REVIEW

Franz von Benda-Beckmann, Keebet von Benda-Beckmann, and Anne Griffiths (eds), *The Power of Law in a Transnational World: Anthropological Enquiries*. Oxford/New York: Berghahn Books. 2009. 280 pp.

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This collection is the second in a series stemming from conferences organised by the Edinburgh School of Law and the Max Planck Institute for Social Anthropology, Halle, Germany; the first, *Mobile People, Mobile Law*, appeared in 2005, published by Ashgate (Benda-Beckmann et al. 2005). Like the earlier book, the present volume attests to the vitality of the intellectual links between anthropologists, lawyers, political scientists and others in the sociological study of law (in the broadest sense) in contemporary societies. Thus it may be profitably read alongside other collections that have appeared recently such as Mehdi et al eds. *Law and Religion in Multicultural Societies* (Mehdi et al. 2008), or Foblets and Renteln eds. *Multicultural Jurisprudence* (Foblets and Renteln 2009), as well as Ayelet Shachar's monograph, *Multicultural Jurisdictions* (Shachar 2001), or Werner Menski's *Comparative Law in a Global Context* (Menski 2006). Certainly the book has much of interest for readers of the present journal which has over many years contributed significantly to defining what is now a burgeoning field.

Following a helpful introduction by the editors, the volume is divided into three sections on 'Power of Law as Discourse: Claims to Legitimacy and Higher Morality', 'The Intersection of Legalities', and 'Religion as a Resource in Legal Pluralism'. The ethnographic scope is wide with chapters on Scotland, Burundi, Indonesia and Bhutan, as well as North America, and there is considerable diversity in subject matter including Islamic and civil courts, fisheries management, development projects and children's courts. This may make it sound more eclectic than it is, as there is much common ground between the contributors and the variety of contexts and situations are valuable for showing how the unifying themes described briefly above work out on different grounds. Rather than going over each chapter in detail, this review reflects more generally on the field within which the volume is situated and the contribution it makes to it.

The subtitle is ‘Anthropological Enquiries’, and most though not all the contributors are indeed anthropologists. The relationship between anthropology and the law has a long history which can be traced at least to the 19th century. It flourished in Britain and the United States in the 1940s and 1950s with important work, *inter alia*, on Native Americans and the peoples of sub-Saharan Africa. These were colonial or quasi-colonial contexts in which systems of ‘customary’ and ruling ‘state’ law co-existed or came into conflict, especially under conditions of ‘indirect rule’. The work of Max Gluckman was, of course, most notable in that regard, but he was far from alone. Over some 30-40 years, however, and despite the efforts of luminaries such as Laura Nader (who makes a telling contribution to the present volume) or Lawrence Rosen, legal anthropology lost salience. This is not to say that it disappeared or that the situations in which it had earlier flourished diminished in significance, but for a long while it lost its place in the mainstream of the discipline, which it regained only in the present century.

There were several reasons for its re-emergence: the awakening by anthropologists to the growing international significance of conventions of human rights and their impact in situations which they study; increasing attention to multicultural societies in which populations of immigrants and settlers of migrant origin make claims on legal systems, notably but not only in Europe and North America, claims which sometimes appear to conflict with human rights as defined by international conventions; the rise of Islam and the global importance of Islamic law, or demands for the implementation of Islamic law; continuing and indeed increasing attempts by many post-colonial societies to align the law and legal practice with ‘traditional’ values; and finally, the legal implications of the ‘war on terror’ and its effect on societies and peoples many anthropologists study. While there is nothing in the present volume on the law and multiculturalism in the North (though the chapter on Scottish children’s courts by Anne Griffiths and Randy Kandel has relevance for multicultural themes explored elsewhere) the chapters reveal the significance of these developments for contemporary students of anthropology and other disciplines.

The particular contribution of this volume to the debates to which studies such as those mentioned above are helping to shape, is first, as its title implies, a concern with law and power, and with the law as a site within which power relations are articulated and expressed, and through which hegemony may be confirmed, or sometimes denied. Secondly, the situations within which such struggles are located are here principally ones in which there is a multiplicity of norms, values and legal

BOOK REVIEW
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forms; that is the terrain is constituted by legal and other pluralisms. Thirdly, the studies are firmly contextualized and where comparisons are made similarities and differences are rigorously located in their appropriate context. Fourthly, as does other recent work, many of the contributions break with the 'methodological nationalism', as Wimmer and Glick Schiller called it, which has traditionally characterised the Western lawyer's conception of the law. Fifthly, and consistent with that, there is much emphasis on the analysis of discourse *about* the law, which is often international and transnational, with several contributors taking an approach which might be described as 'discursive ethnography', discourse viewed ethnographically. This is apparent in both the early chapters concerning debates about human rights and recent anti-terror legislation, and in the final section, for example the chapter by Richard Whitecross analysing the 'buddhicization' of the courts and legal practices in Bhutan.

That said, it has to be admitted that it is occasionally difficult to see why some chapters qualify as legal anthropology, except by expanding the scope of the notion of the 'legal' in unacceptably loose ways, or at least in ways which ought to be rigorously controlled. While it is entirely legitimate and indeed important to encompass people and institutions operating 'in the shadow of the law', there is always the danger that anything becomes 'law', and thus law becomes nothing. Anthropologists are particularly prone to dissolving distinctions, and often it is important to do so, but it may sometimes lead to a kind of 'ethnographic solipsism' which has to be avoided.

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