alize better what cause lawyers *are* on a theoretical level? This is not a question that Halliday and colleagues needed to answer, though I am certain they will spend many more years thinking about what political lawyers are and how they are connected to political liberalism. However, this question is one that scholars interested in law and social change more generally may want to consider in the future, while providing a springboard for further debate concerning the types of lawyering, and their relationships to ideas, ideology, and social change.

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Explorations in Legal Cultures. By Fred Bruinsma and David Nelken, eds. The Hague: Elsevier, 2007. Pp. 185.

Reviewed by Jennifer Fredette, University of Washington

Bruinsma and Nelken's edited volume seeks to bring clarity to the concept of legal culture, but in a way that honestly addresses its inescapable "messiness." Rather than seeking to fix one meaning to the concept of legal culture as others (Cotterrell 1997) have suggested, the book clarifies the various ways the term is used, explores the inherent methodological limitations of each of these usages, and then showcases the potential legal culture has, in its various incarnations, for interpretation and explanation. If the ultimate goal of studying legal culture, in all its guises, is to better understand the embeddedness of law—the significance of *when* and *where* or *how* law is done—then the greatest value of this book is in its careful discussion of how law is both a product and a producer of social meaning-making.

The book is organized into eight chapters: an initial meditation on how we can improve our discussions of legal culture, followed by seven case studies. Sociolegal scholars more familiar with this kind of work will find the methodological chapter by Nelken of particular interest. Nelken offers much-needed guidance to sociolegal scholars who wish to make use of the concept of legal culture but find themselves dogged by questions of tautological reasoning. He reassures us that the problem is not that "legal culture" is an explanatory factor in some research and a subject in need of description in others; this diversity in use of the term accurately reflects the complex role culture plays in law. Problems arise, however, when scholars fail to define how they are using the term *legal culture*, or fail to consider how their use of the concept affects the way they ought to study it. To clear the air, Nelken has two suggestions: the first is to use the term *legal consciousness* instead of *legal culture* when talking about attitudes toward the law as opposed to descriptions of collective meaning-making surrounding the law. This, he argues, will mitigate the tendency for legal culture

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research to descend into circular logic. The second suggestion is to be very conscious about whether one is using legal consciousness or legal culture as an explanation of a phenomenon, or as a description of a phenomenon that requires explanation (p. 21). When it is clear what we mean when we use the term *legal culture* (or *legal consciousness*), comparative work begins to be possible; and when we consider whether our studies are explanatory or descriptive, we see the need for different methodologies (a more abstract positivism or an interpretive, Geertzian approach) (pp. 20–1).

The case studies of this book will be of interest to social scientists and legal scholars who are first introducing themselves to the work of legal culture. Keep and Midgley present an interesting and data-rich analysis of how the judiciary in South Africa has been seeking to fashion a common South African identity through the incorporation of *ubuntu-botho* (a notion of social justice and fairness that emphasizes the interdependence of community members) into its jurisprudence.

Van Rossum writes about Dutch judges seeking to be sensitive to the cultural backgrounds of their litigants; without much cross-cultural training, however, these judges sometimes refer back to crude stereotypes that belie the rich diversity of any culture. The results, unfortunately, are sometimes arbitrary rulings justified on grounds of "culture" without a deeper investigation into whether the judge's understanding of that culture is correct, or how non-dominant cultures have their own power imbalances that breed injustice within them. The Oomen and Marchand chapter on the quest for justice in Uganda is a fitting companion piece to Keep and Midgley: Oomen and Marchand illustrate how amnesty, while perhaps part of Ugandan culture, can sometimes interfere with how victims would like to see justice pursued. Kurkchiyan discusses changes in Russian legal consciousness since the fall of the USSR. She concludes that people continue to use informal networks and extralegal solutions, viewing law instrumentally as opposed to a structuring force in social and political life.

Shaw's chapter on French civil law notaries is descriptive legal culture work at its best: Shaw closely examines the role of French notaries and the legal culture surrounding them, while considering the consequences of liberalization on this insulated world.

Bruinsma and de Blois present what they understand to be French and Dutch legal culture, and they explain how the recent French ban on the *hijab* (a head covering worn by some Muslim women) and Dutch law requiring language acquisition for Muslim immigrants contravene these legal cultures. They attribute the uncharacteristic responses of France and the Netherlands to a "moral panic" over national identity strategically manufactured by nationalist and populist politicians (p. 125). Klamt compares the way that

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six different European state constitutions protect their democratic nature, arguing that legal culture is a product of both history and legal structures such as constitutions.

The book's strength is in its broad overview of the study of legal culture. Curiously missing, however, is a more interpretive analysis of legal culture; the voices of cultural insiders are relied on heavily in this volume (particularly in the chapter on law in Russia and civil law notaries in France). Typographical errors also detract somewhat from the book's quality. Overall, this book is a solid introduction to the study of legal culture, and its first chapter could be a frequent reference resource on any sociolegal scholar's shelf.

Reference

Cotterrell, Roger (2007) "The Concept of Legal Culture," in D. Nelken, ed., *Comparing Legal Cultures*. Aldershot, United Kingdom: Dartmouth.

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Public Opinion and the Rehnquist Court. By Thomas R. Marshall. Albany, New York: SUNY Press, 2008. Pp. 269. $85.00 cloth.

Reviewed by Scott Lemieux, Hunter College

A substantial amount of both normative and empirical study of the courts has assumed that the judiciary is a countermajoritarian institution. This can be seen as a negative ("nine unaccountable lawyers in robes thwarting the will of the people") or a positive ("courts are the only institution that can protect the rights of unpopular minorities") quality, but either way assumptions that the courts are countermajoritarian frequently structure assessments of their role in a democratic system. A growing branch of legal and political science scholarship, however, has identified a number of glaring defects in the these traditional assumptions. Perhaps the biggest empirical flaw with the traditional assumption is that courts tend to be aligned with the governing coalitions at any given time.

Marshall's very useful study finds further evidence that assumptions about countermajoritarian courts are highly problematic. Marshall carefully assesses public opinion data, and finds that "at least since the 1930s, most Supreme Court decisions agreed with majority public opinion" (p. 162). Marshall's methodology involves making pairwise comparisons between the policy outcomes of Supreme Court holdings and public opinion surveys on similar questions taken before and/or after the decision. (Marshall also looks at denials of certiorari, although given the extremely high likelihood of rejection by the contemporary Court the value of these data is more

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