

BOOK REVIEWS

***LEGAL EDUCATION AND LEGAL TRADITIONS: SELECTED ESSAYS.*
*EDITED BY MYINT ZAN (SPRINGER BRIEFS IN ENVIRONMENT,
SECURITY, DEVELOPMENT AND PEACE, 2020) PAGES 1-127. PRICE: \$111.38
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As a final year law student, I was curious about what I might learn from a series of essays on legal education and legal traditions. A quick look at the essay titles in the volume, *Legal Education and Legal Traditions: Selected Essays*,¹ suggests that I will learn about the links between education and practice; the importance of legal ethics and morality; and lessons from the great philosophers. These areas may be helpful in assisting me as I make the transition from my life as a law student to working as a legal practitioner.

The volume of essays is edited by Professor Myint Zan a scholar of Burmese law, legal history, Asian law, human rights and public international law. He also has an interest in history, literature and philosophy, and this interest is evident in several essays included in the volume. The volume is divided into two parts, Part I has four essays on 'Legal Education' and Part II has four essays on 'Legal and Philosophical Traditions'.

Part I identifies two main lines of discussion: (1) the significance of the link between legal education and contemporary legal practice; and (2) the relationship between core human values and legal professional ethics and legal education. In chapter one, Mary George discusses the possibility that a post-graduate law course on the International Law of the Sea should be available to civil servants as part of their continuing professional development.² This would be most relevant to those who live in coastal countries and George suggests that this course would be useful in providing them with a grounding in the state's international obligations and duty to the environment in our climate-impacted world.

In chapter two, 'The Future of Lawyers as Transaction Cost Engineers', Dennis Wye Keen Khong argues that legal education should teach students the practical skills needed to be effective 'deal makers'.³ In

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¹ Myint Zan (ed), *Legal Education and Legal Traditions: Selected Essays* (Springer Briefs in Environment, Security, Development and Peace, 2020) 34 ("Zan").

² Mary George, 'Reflections on the Teaching of the 1982 Law of Sea Convention' in Zan (n 1) 3-14.

³ Chapter two centred on the work of Ronald H Coase, particularly Ronald H Coase, 'The Problem of Social Cost' (1960) 3 *Journal of Law and Economics* 1 cited in Dennis Wye Keen Khong, 'The Future of Lawyers as Transaction Cost Engineers' in Zan (n 1) 15-20.

Khong's view, lawyers contribute to an efficient legal system through effective bargaining.⁴ He proposes that courses in negotiation and mediation should supplement the traditional focus on advocacy training. But he is also keen to see law schools place a greater emphasis on non-law skills like coding, so that law graduates are better equipped to deal with legal technology and keep pace with rapid changes in the commercial environment.

In contrast to George's essay, which is focused on public international law and ensuring that that lawyers and non-lawyers have the skills needed to protect the environment for future generations, Khong's essay is concerned with private law and the role of lawyers in contributing to an efficient legal system via commercial 'dealmaking'.

The last two essays in this part are linked by their reflections on the relationship between core human values and legal professional ethics and legal education. In chapter three, Gita Radhakrishna examines the connection between basic human values and legal professional ethics. Radhakrishna's essay emphasises that studying legal professional ethics at university alone is not enough to ensure an ethically robust legal profession. Radhakrishna believes that the answer lies in lifelong education in practising human values and that this sort of education is provided in the Sai Spiritual Education (SSE) program.⁵

In chapter four, Stewart Manly's narrative on his teaching operation on the Thailand-Myanmar border is compelling reading. Manly explains how his lived experience has influenced his teaching. Manly reflects on how the resilience of his students taught him lessons of courage and strength. He humbly bestows the title of 'teacher' on his students and 'student' upon himself.⁶ His teaching experience was transformative and had a profound impact on his perception of the world and his role as a teacher. Radhakrishna's discussion of human values and Manly's narrative reveal that promoting a deeper understanding of human values and morality is (or should be) a fundamental part of legal education.

The four essays in 'Part II: Legal and Philosophical Traditions' are connected by their scholarly and philosophical approaches to moral and ethical issues. The first and second essays discuss moral justifications for civil disobedience, the third essay examines the connection between morality and international criminal law. The final essay, while mainly concerned with evolution theory, also touches on historical and moral perspectives on man's inhumanity to man, including genocide. Part 2's essays all share a similar methodology. A well-known argument or debate is outlined, before injecting into the debate the (likely) views of other influential philosophers, jurists, scientists or historians.

Chapter five considers the argument between Socrates and Crito about Socrates' unjust imprisonment. Crito offers to help him escape. Socrates' view is that even though 'the laws' may seem unfair, they are essential to preserving order in society.⁷ He believes he must accept his punishment, even if unjust, as it is essential to uphold the social contract between citizens and the state. The likely views of philosophers, Hobbes, Locke,

⁴ Ibid 20-4.

⁵ Gita Radhakrishna, 'Human Values in Legal Professionals' Ethics Education' in Zan (n 1) 28.

⁶ Stewart Manly, 'Teaching Law Undercover' in Zan (n 1) 43.

⁷ Charlene Constance Chai and Myint Zan, 'Socrates' Refusal to Escape from Prison: Later Philosophers' Possible Views on the *Crito*' in Zan (n 1) 49-51.

Rousseau, HLA Hart and Fuller on Socrates' predicament are canvassed.⁸ Their alternative views are linked to their philosophical positions on the role of law. A similar device is used in chapter six to explore the moral versus legal issue of slavery in the United States. Two legal issues are explored, the slave's escape from the southern states (where slavery is legal) and the harbouring of a slave who is trying to escape (also an offence in the south). In this chapter, the debate or argument arises in the context of a literary work, *Uncle Tom's Cabin*, by Harriet Beecher Stowe. Ting, Xing and Zan discuss how Socrates might respond to both issues, once his philosophies are adjusted for time and place.⁹

In chapter seven, Chong Jun Min uses the Hart-Devlin debate on the criminalisation of prostitution and homosexuality to understand how ideas of societal harm prevention (Hart) and consensual morality (Devlin) continue to influence the operation of international criminal law.¹⁰ Although some contemporary legal scholars, including Ronald Dworkin,¹¹ John Gardner,¹² and Kenneth Einar Himma,¹³ consider that the Devlin-Hart debate is outdated due to legal and moral philosophical shifts, Chong Jun Min argues that the debate remains relevant to international criminal law, 'where laws and morals are intertwined and are inseparable'.¹⁴

In the final chapter, Myint Zan transposes the views of historian Arnold Toynbee into the debate between Stephen Jay Gould and Simon Conway Morris on theories of evolution. Gould adopts 'contingency theory' or the view that the appearance of humans on earth was the result of chance.¹⁵ His views were challenged by Morris who argued that evolutionary patterns are convergent, so that it is 'inevitable that human like creatures would eventually arise'.¹⁶ Zan uses this debate as a backdrop for considering a range of philosophical and moral issues. He speculates that Toynbee's belief that history is a 'vision of God's creation on the move'¹⁷ is likely to have favoured Morris's convergent stance. On the other hand, evolutionist Ernst Mayr, concluded that Gould was 'largely right'.¹⁸ Zan's essay then moves along to a discussion of history and Toynbee's belief that human affairs must be viewed *as a whole*. Zan compares this with Spinoza's eternal perspective or as *sub specie aeternitatis*.¹⁹ The chapter grapples with large and complex moral and theological issues and the author presents some of his own ideas as a 'Devil's Advocate'. Zan explains his objective is not to reach any conclusion, but rather to compare how some great thinkers in the fields of history and science might respond to these debates.

In conclusion, *Legal Education and Legal Traditions: Selected Essays* is a volume of essays with a dominant theme of human values and morality. The essays address various perspectives on legal education, as well as contrasting philosophical perspectives on big issues, including the relationship between citizens and the state, the role of law in society and the evolution of humans. However, from a law student's perspective, the

⁸ Ibid 51-60.

⁹ Chew Yi Ting, Kan Da Xing and Myint Zan, 'What Would Socrates Have Said on Two Conversations About Harbouring Runway Slaves and Running Away from Slavery in Uncle Tom's Cabin by Harriet Beecher Stowe' in Zan (n 1) 63-76.

¹⁰ Chong Jun Min, 'Relevance of Hart-Devlin Debate in Relation to the International Criminal Court' in Zan (n 1) 77-85.

¹¹ Ronald Dworkin, *Taking Rights Seriously* (Harvard University Press, 1978).

¹² John Gardner, 'Hart on Legality, Justice, and Morality' (2010) 1 *Jurisprudence* 253.

¹³ Kenneth Einar Himma, 'H. L. A. Hart and the Practical Difference Thesis' (2000) 6 *Legal Theory* 1-43.

¹⁴ Min (n 12) 84.

¹⁵ The contributor notes that the 'concept of evolution remains only a theory precisely because it cannot be repeated and verified through observation': Myint Zan, 'Spillover Thoughts in Rereading Time's Magazine's Obituary of Historian Arnold Toynbee: Teleologies of History, Contingency and Sub Specie Aeternitatis' in Zan (n 1) 95.

¹⁶ Ibid 89-90.

¹⁷ Ibid 102-3.

¹⁸ Ibid 99.

¹⁹ The phrase *sub specie aeternitatis* means to have a universal or eternal perspective.

presentation of essays is sometimes confusing. The volume is missing a preface or introduction by the editor to guide the reader through the essays by providing his views on the individual contributions and their place in the volume as a whole. Nevertheless, the collection provides some interesting insights into a broad range of issues that are current and relevant to our globalised world. I would recommend it to anyone who is interested in learning different ways of thinking about law, its relationship to morality, and its role in society.