

The Tapestry of the Law: Scotland, Legal Culture and Legal Theory, ISSN 1572-4395 - Springer Science & Business Media, 1997 - 256 pages - 1997 - E. Attwooll - 9780792343103

Legal culture stands between law and culture, with unclear borders in both directions. According to a widespread understanding, legal culture represents that cultural background of law which creates the law and which is necessary to give meaning to law. This encompasses the role of law in society, the role of different legal sources, the actual authority of different actors and institutions, etc. It would destroy the very different legal culture of the common law (a similar criticism was brought against the Europeanisation of private international law). In France and Germany there is the reverse fear: by replicating national codifications, on the supranational level, a European codification will effectively rob national legal culture of its most important achievement. 5. European Legal Culture. Natural law theory like legal positivism has appeared in a variety of forms and in many guises. One of the most elaborate statements of natural law theory can be found in Aquinas who distinguished four types of law: eternal, divine, natural, and man-made. So, according to Aquinas, eternal law reflected God's grand design for the whole shebang. Divine law was that set of principles revealed by Scripture, and natural law was eternal law as it applied to human conduct. Man-made law was constructed by human beings to fit and accommodate the requirements of natural law to the needs and context. Rather than endorsing any one legal theory, it ends with some tentative conclusions about legal theory itself. It is written for all those interested in the law, whether in the academic context, as practitioners. The Tapestry of the Law brings together a study of a particular legal system - that of Scotland - with a number of (mainly contemporary) theories of or about law. Rather than endorsing any one legal theory, it ends with some tentative conclusions about legal theory itself. It is written for all those interested in the law, whether in the academic context, as practitioners of law or policy. Like culture itself, legal culture is about who we are not just what we do. Enquiries into legal culture try to understand puzzling features of the role and the rule of law within given societies. Distinguished Professor of Legal Institutions and Social Change, University of Macerata, Italy; Distinguished Research Professor of Law, University of Wales Cardiff; and Visiting Professor of Law, LSE. One well-travelled colleague who teaches legal theory likes to tell a story of the way crossing the road when abroad requires good knowledge of the local customs. In England, he claims, you are relatively safe on pedestrian crossings, but rather less secure if you try to cross elsewhere. In Italy, he argues, you need to show about the same caution in both places; but at least motorists will do. ISSN 1572-4395 ISSN 2215-0315 (electronic). Law and Philosophy Library ISBN 978-3-319-51816-9 ISBN 978-3-319-51817-6 (eBook) DOI 10.1007/978-3-319-51817-6. Library of Congress Control Number: 2017932650. legal science of public law, as a juridical theory of the state (Staatsrechtslehre), is the aspect of the German tradition of legal science from which the Hauptprobleme commences its critical analysis. The particular focus of the critical analysis is upon the work of Paul Laband (1838/1918)⁵ and Georg Jellinek (1851/1911)⁶; and the Kelsenian critique is orientated by the limitations of their different theoretical presentations of a juridical theory of the state.