FERNANDA PIRIE, The Anthropology of Law. Oxford: Oxford University Press, Clarendon Law Series

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Even within a limited book review such as this, it is possible, I hope, to offer a long and a short version. The short version of this review – the headline, if you like – is that Fernanda Pirie has produced a hugely impressive and important piece of work for socio-legal studies. It is a genuinely interdisciplinary study that takes on a foundational question for our field: what is law? Her thesis, carefully constructed and defended, is provocative and, in my view, significant – both for its content and for the method by which she produces it. Although it will be of interest to scholars well beyond socio-legal studies, it is a book that deserves a great deal of attention within the field.

The long version of the review begins with some notes of surprise. On receiving the latest offering from the Clarendon Law Series, I expected a sophisticated student text introducing a young readership to the anthropology of law – something like a critical though accessible review of the field that falls somewhere between an introductory overview and a monograph. Pirie’s book, though engaging and very accessible, is all monograph. In retrospect, perhaps I should not have been surprised. The previous law and society offering from the Clarendon Law Series (also by a Director of the *Centre for Socio-Legal Studies* at Oxford University) was Denis Galligan’s *Law in Modern Society* – another impressive text that might, nonetheless, have undergraduates racing for the course transfer list.

But the element of surprise in Pirie’s book extends beyond its identity as a monograph rather than a student text. The next note of surprise about *The Anthropology of Law* concerns its method. Unlike a great deal of legal anthropology, which often zooms in to its subject focus and produces richly described ethnographies of particular field sites, Pirie approaches her question on an extremely broad canvass. She draws on sources very expansively along the dimensions of both time and space. Within single sections we might find discussions of southern Baptists in the USA alongside Tibetan villagers; or discussions of contemporary international human rights law alongside the legal systems of ancient China. Her study is a somewhat breath-taking sweep of history and geography and, as such, a remarkable achievement. Pirie is concerned centrally with the question of what is law. On the very first line of the book, she asks “what can anthropology bring to the study of law?” However, in my view, she actually brings much more to this question than just anthropology. Indeed, it may be better to think of her book as a kind of hybrid study, combining anthropology with comparative legal history. This book successfully blends anthropological work on law with what would be considered classically legal scholarship. It is a great strength of the work, reflecting Pirie’s own training in both anthropology and law.

Pirie’s answer to the question of ‘what is law?’ is that it is characterized by legalism - essentially, a style of thought and social organization. This thesis contains the third element of surprise - not because of its content, but because of the audiences she address herself to. In developing her argument, Pirie addresses herself, first, to legal pluralists within anthropology who have, in her view, conceptualized ‘law’ too widely. Within a text entitled *The Anthropology of Law*, such is to be expected, of course. More surprisingly, however, is the second audience for her legalism thesis: analytical legal philosophers who, in Pirie’s view, have conceptualized ‘law’ too narrowly. In many ways, Pirie’s thesis constitutes a carefully steered course between legal anthropologists and legal philosophers. Of course, the philosophical analysis of the ‘what is law?’ question is associated particularly with Oxford jurisprudence. Undoubtedly, Pirie’s membership of the Law Faculty at Oxford University has influenced her research agenda.

Yet, this third note of surprise also constitutes my first note of concern for the potential impact of Pirie’s book on the field of socio-legal studies. My fear is that this excellent book may not get the attention it deserves, for the following reasons. First, for socio-legal scholars (particularly those coming from a law school background) studying the operationalization of formal state law – a classically ‘law in action’ approach – the concept of law is rarely problematized. For such scholars, the problem of ‘what is law?’ may be associated more with the Oxford jurisprudence of philosophy of law lectures and may not be particularly troubling in terms of setting out a research agenda. Of course, socio-legal studies is much broader than simply the study of state law in action. Many socio-legal scholars are studying, for example, social processes around formal legality. They might, for instance, be studying the emergence and resolution of disputes away from formal sites of law, or they might focus on the legal consciousness of ordinary people – ‘law in everyday life’, as it is often termed. But this is the second reason for fearing that Pirie’s book may not attract the readership that it should. Somewhat paradoxically, it has less to say about legality beyond the formal sites of law than one might expect. It is not that it has nothing to say: the analysis of order and dispute resolution without law is very helpful and important, as are her insights about the relationship between law and idealism. But Pirie’s legalism thesis means that her dominant focus is on the formal sites of legality – the scholars, the courts, the law-makers. Socio-legal researchers who focus on legality and law-related phenomena away from these formal sites may get less, I fear, from her analysis.

The third and final reason for fearing that this book may not get the attention it deserves is to do with another aspect of Piries’ legalism thesis. Legalism, she says, is identified by its form rather than its functions. Interestingly, the implication of this is that social scientists need to get serious about, and familiar with, legal method - the mirror image of the familiar methodological mantra of socio-legal studies, that lawyers need to get serious about, and familiar with, social scientific method. But this is not the potential bar to the book’s reception within socio-legal studies. What is more significant is the fact that she focuses on form rather than function in relation to law in society. This, it is suggested, goes against the grain of much socio-legal research, a great deal of which has been influenced explicitly or implicitly by critical legal theory. Pirie captures beautifully and reminds us rightly that law is an uncomfortable marriage of the sacred and the profane. Law, she suggests, is animated by idealism yet is inevitably hampered by its legalism. It is capable of being used oppressively by the powerful while, at the same time, can be used by the weak to resist and overturn that oppression. In other words, law is both doomed to disappoint in some senses and is neither one thing nor the other in terms of power relations within society. The implication of this, it seems, is that we must remain agnostic about law’s overall functions within society. But such agnosticism will be a challenge to many socio-legal scholars whose instincts tend towards the critical depiction of law’s oppressive effects. There is a danger, I fear, that this book will be regarded as apolitical (a criticism, interestingly, that is sometimes also made of Oxford jurisprudence). That criticism would, in my view, be unfair, given the nature of the question that Pirie asks. Ultimately, however, it may be that socio-legal scholars do not like her question and so do not give this book the attention that it deserves. That would be a shame and would overlook the very important implication of her thesis - that we must explore the relationship between law, hegemony and oppression locally rather than generally. This, it seems to me, is a sensible approach, theoretically and methodologically, and one that is true to the anthropological tradition of studying law.

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