

BOOK REVIEWS

I. LAW AND THE BEHAVIOURAL SCIENCES

B.G. Burton-Bradley, *Psychiatry and the Law in a Developing Country, with Special Reference to Papua New Guinea*. South Pacific Commission, New Caledonia, 1973 (2nd edition).

The rapid emergence of Third World nations has given rise to a host of challenges, such as the relation of new legal systems to traditional law and customs, and the legal definition of aberrant anti-social behaviours. The latter involves forensic medicine and forensic psychiatry in particular.¹ And in a country such as Papua New Guinea, the mutual concerns of those drafting the Constitution and associated legislation and those involved with behavioural research become very evident.

The re-issue of Burton-Bradley's succinct work evinces the intensifying of these issues. It is drawn from nearly two decades of clinical work and research during psychiatric service in Papua New Guinea. Since this country includes the bulk of those remaining societies throughout the world which may be termed non-literate and pre-western in terms of daily subsistence and technology, the challenges, pressures and problems of rapid acculturation are as vivid here as anywhere in the world. Drafting the constitution and legal codes for the new nation--including the criteria for legal and health services--carries a level of meaning symbolically encompassed within the immediate needs of this emergent country with its multiplicity of ethno-linguistic groups, each one unique and each one changing or facing intensive changes. In fact, the issue of change is so deeply imbedded in the present scene that, as Burton-Bradley emphasises, law becomes an abettor and instrument of change, and a systematising method of assessing it. This latter is one of the most difficult tasks to achieve, whatever one's professional and personal perspectives. If law is codified public opinion, as some assert, how much more elusive a public domain that changes monthly or even weekly, as within a highly acculturative and developmental

1 H. Davidson, *Forensic Psychiatry* (1952).

setting?

The point is made by Salisbury in his 1971 review of the first edition: if we are to deal with change fairly and constructively, we must admit to an emphatic and dynamic interface of the modern and the traditional; this includes aberrant violent and psychotic episodes with their threats to public safety and stability.² Episodes cited by Burton-Bradley include several categories elaborated from the insular New Guinean domain--murder, amok, cheque forgery and coprophemia. The latter two have a special interest because they in part represent an attempt to cope with the *objects* of modernity, here the monetary symbols for handling economic exchange and the telephone. As one works within this interface--seeing, for example, a young man's amok episode, induced by intensive shame, involving acculturative pressures on him, and resulting in the death of several innocent people--one begins to realise the necessity of encoding both cross-cultural flexibility and justice into the law. This need not be seen as necessarily losing something from each to produce a poor compromise. Rather, the challenge for legal draftsman, politician, judge, policeman, medical and social scientist involves effective trans-cultural communication. It has become evident through accumulated research and clinical experience that the law should focus on the pan-human, psychic unity of *homo sapiens*, regardless of social domain and enculturative conditioning. At the very least, such a perspective can provide a programmatic datum which should be more productive for the long run.

Out of his experience, Burton-Bradley draws several useful, cogent and basic distinctions which are cross-cultural in the contrastive informational sense.³ He distinguishes between the "facultative" or "non-obligatory nonconformist" and the "obligatory nonconformist." He defines criteria for identifying these types culturally and for assessing idiosyncratic and psychotic behaviour. His approach makes it clear that there must be a mesh between law, behavioural sciences (among them psychiatric medicine and anthropology), political

2 Salisbury, Book Review (1973) 7 *Transcultural Psychiatric Research Review* 140-144.

3 See also Burton-Bradley's other works: "Forensic Psychiatry in Papua New Guinea" (1974 7 *Aust. & N.Z. J. of Criminology* 17; *Longlong! Transcultural Psychiatry in Papua New Guinea* (1973).

agencies and governmental codes such as the recent Five-year Health Plan of Papua New Guinea. His book provides a commentary on the difficulty of articulating traditional value-systems with introduced cultural-legal structures, such as Judaeo-Christian views of justice and property or assessments of culpability, right and wrong as in the McNaghten code.

It has been flatly claimed by some that non-literate societies have little if any crime and no marginal model for the criminal or psychotic. These somewhat projective assertions find little support in the growing ethnographic corpus.⁴ They certainly find no support in Papua New Guinea, where a cardinal feature of law is its embodiment in decisions about dysfunctional anti-social behaviour. Papua New Guineans maintain relativity in their perspective on wrong-doing, but this is not a corollary ignorance of criminality. Instead, it demonstrates the existence in Papua New Guinea of larger ethical perspectives on acculturation, traditional world-view and identity, Read has elaborated for the New Guinea Highlands.⁵

Areas of change that may be usefully denoted include social organisation, traditional symbolic codes and values, and identity. All three may be subsumed under the term culture in its more inclusive sense. In this informed and useful volume, Burton-Bradley realises the continuous need for fresh cultural information, especially in areas of high contrast, and urges that those involved in medical professions be *expected* to participate in "research directed towards the many problems that come within [their] province...as well as in the development of effective research methodologies appropriate to the socio-cultural context" which is their particular purview, nor need this only apply to the medical services. He suggests that a joint medical and legal glossary of terms used by and acceptable to both law and medicine could well be prepared; this reviewer would add a more grandiose scheme, a cultural index or, more properly, a codex of the traditional values, moral expectations and ethical norms for all societies within

4 See, for example, Bohannon, "The Differing Realms of Law," in L. Nader (ed.) *The Ethnography of Law* (1967) 33-42.

5 Read, "Morality and the Concept of the Person among the Gahuku Gama" (1955) 25 *Oceania* 23-33.

a national frame.⁶ Such a codes could be compiled jointly by lay and professional people from a fieldwork base, and would provide a useful guide of specific cultural information when it is quickly needed.⁷

The recognition that forensic medical, psychiatric and behavioural science can assist law involves the integration of disciplinary perspectives and concerns--"rapprochement" as Burton-Bradley puts it of professional workers, but also mutual acceptance (or at least, initial forbearance) between the world's cultures. It seems that a modicum of this is now with us, or certainly with those of us in Third World situations which I would not limit to Third World states only. An abbreviated quotation from Burton-Bradley's book will serve to conclude this review of a cogent and readable volume, whose likes we could use more of:

When all men are no longer afraid to go to court, whether guilty, innocent, or in any other role, when all...give the best of their skills to the courts with good grace and assign a value to the role equal to or greater than that of the more formal aspects of their craft, we will then know that the rapprochement is complete.

-- K.J. Pataki-Schweizer

6 The formal combining of traditional and western law has become a subject for public discussion in Papua New Guinea. See "Law Reform to Consider Tribal Ways," *Post-Courier* (3 December 1974) 1.

7 Studies leading to a compilation of customary laws are underway. Law students, supported by the Papua New Guinea Department of Law, are in the field collecting customary law cases.