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The Arab Spring: An Essay on Revolution and Constitutionalism. By Antoni Abat i Ninet and Mark Tushnet. Elgar. [book review]

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BOOK REVIEWS

The Arab Spring: An Essay on Revolution and Constitutionalism. By Antoni Abat i Ninet and Mark Tushnet. Elgar. ISBN: 978-1-78536-159-3. Pp. viii, 281. US\$125.00

An American audience may not know Professor Ninet, but they surely are aware of Professor Tushnet, who has achieved the distinction of being both on the far left of the legal profession and on its more conservative front. In its earliest inception, Critical Legal Studies (“CLS”), as Gary Minda explains,

attempted to recreate a ‘left intelligentsia’ in American law. Except for the legal realists of the thirties and forties, and a handful of sixties Marxists, there has never been a serious ‘leftist’ presence in American legal education. To establish a left intelligentsia in American law one would have to break free from the consensus orientation which has dominated American jurisprudence for this and much of the last century, and in fact of the century before that, too. To do this, CLS had to hold itself out as a ‘radical dissident movement within the legal academy.

In the latter part of the twentieth century, Professor Tushnet was one of the CLS founding fathers, right there with Mort Horwitz and Duncan Kennedy. Since its high point, CLS has had many lives, much like South Parks’ Kenny character,¹ but by now CLS largely rests in peace. But the conservative side of the American legal academe is flourishing, and Professor Tushnet is also well aware of this. In 2006, he served as co-editor of the *Journal of Legal Education*, which can only be called a centrist meeting-place.

For transparency’s sake, I have to admit that I asked to review this book due to the authors’ academic pedigree, and because I have also recently addressed the ambivalent role technology plays in social movements.² It was disheartening to discover that a book about the impact of post-European colonialism and current American imperialism is quiet on both fronts and treats Arab social unrest as internal movements. True, this is not a political screed. This is a book using Hannah Arendt’s essay *On Revolution* as the measuring stick for what constitutes a revolution. Still, revolutions are social movements of a certain dimension, which reach certain goals, and despite the Wittgensteinian ambivalence of terminology,³ labels and concepts remain the only way we can communicate ideas. Unless we call the South American CIA-backed movements, revolutions, I would be reluctant to call any social unrest that includes, however tangentially, an American presence, a revolution (including the social unrest in the former USSR countries).

The book is intriguing and all law libraries should own a copy. I suspect it may soon be used as a textbook in a seminar discussing law and politics, and then libraries will have to carry multiple copies. The only warning I would raise is that other than an illustrious example of speculation and argument, I could not recommend it to the reader. The brief chapter on Libya stands out as a major, but only representative, reason. If Libya, whose American-made turmoil is presented in such a way that the American interference is not once mentioned, then I wonder who is behind the other Arab and North African so-called “internal” grown social movements. Is this a veiled attempt to legitimize the new governments of those countries so Americans can continue their mostly oil-based business without raising

¹ E.g., Neacsu, CLS Stands for Critical Legal Studies if Anyone Remembers, 8 JOURNAL OF LAW AND POLICY 415 (2000).

² E.g., Neacsu, D., Technology, alienation and the future of litigation-based social change, 24 TEMPLE POLITICAL AND CIVIL RIGHTS LAW REVIEW, 155 (2014).

³ E.g., Davis & Neacsu, The many texts of the law. 3 BRITISH JOURNAL OF AMERICAN LEGAL STUDIES, 481 (2014).

any questions? Is this yet another high-brow propaganda where things are discussed without actually being scrutinized? I invite the readers to find the answer for themselves.

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The Self, Ethics and Human Rights: Lacan, Levinas & Alterity. By J. A. Indaimo. Abingdon, Oxon; New York, NY: Routledge, Taylor & Francis Group, 2015. Pp. xi, 271. ISBN: 978-0-415-74210-8. US\$95.33.

Author J.A. Indaimo opens his study with the statement that “[U]nderstanding human rights necessarily includes an understanding of human identity.” His theme may seem at first to be a familiar one, namely the critique of contemporary human rights discourse put forward by those political and legal theorists who assert the value of “identity and community over traditional liberal individualism.” However, with patient and careful attention to the long trajectory of the argument presented in this monograph, one finds that beneath a use of dense and sometimes repetitive language there exist important insights into the very political and legal quandary in which liberal democracy and the rule of law arguably finds itself.⁴

In order to begin this journey from Enlightenment individuality to a deep understanding of the power of Alterity (radical Otherness cultivated as a perception of another or others in relationship), Indaimo wants us to realize where we are now, which is in the situation of the “post-discourse.” Like many of the terms the author uses and takes somewhat for granted, this term is left undefined. He assumes an audience familiar with post-structuralism and deconstructionist literary and language theories, and perhaps post-colonialism, a close counterpart within history and social science. This world of the “post-” is not necessarily pervasive or even accepted as an interdisciplinary approach by all Western lawyers, and so from the outset this book would have benefitted from an introduction to these approaches. Given that Indaimo spends time with overviews of historical developments in Western philosophy, it would have fitted well within his argument and would have clarified and grounded it. This work is an idealistic and theoretical think piece, reliant upon interpretive approaches and not an empirical study, except perhaps indirectly through psychoanalytic case studies. As a result, it may not fit well within law library collections that emphasize doctrinal scholarship or skills-based learning; this is an academic study in what I would call the Continental philosophical tradition.

Indaimo introduces two otherwise unrelated thinkers: Emmanuel Levinas and Jacques Lacan. Although at least one other writer has explored these philosophers in tandem,⁵ their relevance for human rights turns on how their insights bridge a new gap between a Marxist view of the human being as subject to forces in history beyond his/her control and the new liberal narrative of human rights, which may obscure the real domination of a people by state-created rights (sovereignty). Missing from the picture is “inter-sociality between communities.” To set about explaining why this has happened, Indaimo devotes significant portions of the book to Lacan and Levinas, respectively.

⁴ This statement generalizes mainstream news and commentary from the first half of 2016 such as Joseph P. Williams, A Year to Be Forgotten: Shootings, division and unrest in 2016 parallel another consequential year in American history – 1968, U.S. News & World Report, July 22, 2016 at 6:00 a.m., <http://www.usnews.com/news/articles/2016-07-22/2016-resembles-the-most-chaotic-dangerous-year-in-history>; the notion of a crumbling world order advanced by Roger Cohen, Trump and the End of Truth, The New York Times, July 25, 2016 <http://www.nytimes.com/2016/07/26/opinion/trump-and-the-end-of-truth.html> (last accessed 4:27 pm); the combined fears of migrants and globalization evidenced by Brexit and increased random violence, at least as reported by the news of rising populist authoritarianism and risk-taking for the sake of change, with children in Syria and Afghanistan suffering along with instability in Turkey (see David A. Bell, Argument-2016: The Theory Behind a Very Bad Year (and It’s Only Half Over), Foreign Policy, July 20, 2016, <http://foreignpolicy.com/2016/07/20/why-decades-do-happen-in-weeks-brexite-coup-turkey-trump-isis/> (last accessed 4:35 pm July 25, 2016)

⁵ MARI RUTI, BETWEEN LEVINAS AND LACAN: SELF, OTHER, ETHICS (New York and London: Bloomsbury Academic, 2015).