Reference

Shepherdson, Charles (1997) "A Pound of Flesh: Lacan's Reading of 'The Visible and the Invisible,'" 27 *Diacritics* 70–86.

***

The Immigration Battle in American Courts. By Anna O. Law. New York: Cambridge University Press, 2010. 266 pp. $90.00 cloth.

Reviewed by Jodie M. Lawston, California State University, San Marcos

In *The Immigration Battle in American Courts*, Anna O. Law uses immigration law as a case study to provide a compelling analysis of the different developmental paths of the two highest U.S. federal courts—the Courts of Appeals (the Third, Fifth, and Ninth Circuits) and the Supreme Court, for an impressive array of years: 1881 to 2002. Law, interested in institutional changes that occurred in these courts, utilizes a mixed-method analysis that yields three core arguments. First, the Supreme Court and Courts of Appeals operate in different institutional contexts; each court's unique context acts as a filtering mechanism that shapes the judges' perception of what they should be doing and how they should be doing it. Second, the contexts of both courts have slowly changed over time; as such, neither the Supreme Court nor the Courts of Appeals have played a static role in the federal judicial system. Third, the changing institutional settings of the courts have consequences for the courts themselves, for the occupants of those institutions, and in the case of immigration law, for the immigrants who appear before the courts.

While the overarching theme of this study is institutional change, the book presents a strong and nuanced analysis of the institutional context for the creation of immigration law. Chapter 2 examines the immigration bureaucracy, from the Board of Immigration Appeals to the federal courts. Law analyzes the anti-immigrant reputation of the Supreme Court, arguing that it has gained this reputation largely because it has ceded power over immigration to Congress and the executive branch. Because the Supreme Court has the power to control its own docket, it is able to decide which immigration cases to review; at the same time, the Courts of Appeals must adjudicate all of the immigration cases that are appealed to them. The number of these cases, as Chapter 3 shows, has increased significantly, and, as Law convincingly argues, "the confluence of congressional legislation first creating the structures and rules of the federal judicial system, the decision of immigrants to defend challenges to their immigration status, and

https://doi.org/10.1111/j.1540-5893.2011.00442_5.x Published online by Cambridge University Press

the rise of immigration enforcement beginning in 1986 had the combined effect of further distancing and distinguishing the U.S. Supreme Court and the U.S. Courts of Appeals in their functions" (p. 83). Because the Supreme Court grants certiorari to so few cases, the Courts of Appeals have taken on the brunt of immigration cases. Law quantifies this: Between 1881 and 2002, the Supreme Court decided 200 immigration cases, whereas the 11 Courts of Appeals decided 12,371 immigration cases combined (pp. 114, 115).

The fact that the Courts of Appeals are more likely to be the last decision making body to address immigration cases suggests, as Law shows in Chapter 4, that these judges' preferred interpretations of statutes will stand (p. 115). Note that this means that Courts of Appeals judges have the power and discretion to interpret statutes to determine whether an immigrant will be able to remain in the United States or not—whether an immigrant will be deported, receive a suspension of deportation, or receive a cancellation of removal, thereby making policy. In this chapter, Law lays out the institutional factors that enable and constrain judges who wish to pursue policy preferences.

Perhaps one of the most interesting aspects of this study appears in Chapter 5. Law argues that rising immigration caseloads in the Second and Ninth Circuit Courts of Appeals led to a change in the way most immigration cases were adjudicated and also changed the two courts from a focus on error correction to a certiorari-like function. In response to changes in the procedures of the Board of Immigration Appeals in 1999 and 2002, the Second and Ninth Circuit Courts experienced a sharp increase in immigration cases. As a result, a significant portion of these courts' immigration cases have received less judicial attention by Article III judges than in the past, with judges relying on staff attorneys to address cases, with a growing reliance on unpublished opinions, and for the Second Circuit, with the abandonment of the commitment to provide oral argument in all of its cases. This finding is especially important because it shows not only that institutional development within one level of federal courts can be uneven, but also because it illustrates that within a policy area, the federal courts do not operate in a vacuum but are one part of a larger, very complex, and often convoluted organism: When one part of this organism changes the way it does its job, other parts of that system are also influenced.

Overall, this book makes a tremendous contribution to an understanding of the connections between and within institutions and bureaucracies, the different federal appellate courts' distinct institutional and political settings, and immigration law. It is of interest to political scientists, political sociologists, and law and society

https://doi.org/10.1111/j.1540-5893.2011.00442_5.x Published online by Cambridge University Press

scholars. It is a must-read for students of immigration and immigration law and institutional development. Well-written, insightful, and smart, this book is a solid piece of scholarly work that furthers an understanding of institutions, the highest U.S. federal courts, judicial decision making, and historical and contemporary immigration laws and policies.

***

Poetry of the Law: From Chaucer to the Present. By David Kader and Michael Stanford, eds. Iowa City: University of Iowa Press, 2010. 234 pp. $22.00 paper.

Reviewed by Julia J. A. Shaw, Leicester De Montfort University

In *Poetry of the Law*, Kader and Stanford have produced an anthology of 100 law-themed poems spanning six centuries, arranged chronologically from Chaucer to the present day. The poems are organized into six distinct categories: lawyers and judges, citizens in the legal system, historical trials, punishment, exploring legal concepts, and applying legal metaphors to nonlegal subjects. Most entries are contributed by poets who are nonlawyers, although many of the selected early poets were practicing lawyers or had been legal scholars: for example, Edgar Lee Masters, Charles Reznikoff, Roy Fuller, Brad Leithauser, Lawrence Joseph, Martín Espada, Seth Abramson, and John Donne. Notably, these include eighteenth-century English judge, jurist, and professor Sir William Blackstone, whose *Commentaries on the Laws of England* inspired the drafters of the U.S. Declaration of Independence. He studied the classics, logic, and poetry before embarking on a legal career, and *The Lawyer's Farewell to His Muse* was written after entry to the Middle Temple Inn of Court; the poem eulogizes his earlier aesthetic pursuits against the noisy, grubby world of law with its "tedious forms," "wrangling courts," "selfish faction," and other hallmarks of legal practice (pp. 36–9). John Donne's *Satire 2* portrays the fictional poet-turned-lawyer Coscus as an abuser of the magic of his poetic abilities in order to manipulate law for personal gain; he castigates the poet turned "professional" as "more shameless [than] carted whores" (pp. 16–19). Chaucer's "Sergeant of the Lawe" from *The Canterbury Tales* depicts a dapper, educated lawyer who is similarly preoccupied with self-enrichment, only in this instance to comic effect (p. 1).

There are various poems about controversial legal cases. *John Brown's Body* by Stephen Vincent Benét describes the capture, trial, and execution of radical American abolitionist John Brown (pp. 97–102). Langston Hughes's single verse *The Town of Scottsboro*

https://doi.org/10.1111/j.1540-5893.2011.00442_5.x Published online by Cambridge University Press