

makes the potentially objectionable claim that all “crimes of dissent constitute individual acts of anarchy” (p. 14), albeit anarchy “in the best sense of the word” (p. 14).

Finally, the book can read as a more empirically oriented tracing of the experiences of activists from their decisions to engage in civil disobedience (Chapter 3), to their participation in civil disobedience (Chapters 3 and 4), to their arrest and subsequent involvement with the legal system (Chapters 4 and 5), and to their perceived impacts of action (Chapter 6). It is beyond this review to summarize each set of arguments, but in each instance the book attempts to connect with some of the relevant existing literature while presenting the author’s unique take on the topic.

In terms of data, Lovell primarily relies on interviews with activists who have been serially arrested and on the author’s own experiences. Much of the data are summarized or paraphrased, with scattered quotations giving more life to the discussions. Brief biographies of interviewees appear in an appendix. The author also uses a wide range of historical and contemporary examples, with some key historical examples looking back into antiquity.

In critical terms, the three central story lines, each with seemingly distinct (and perhaps competing) audiences, make it somewhat difficult to imagine a single coherent audience for the book. For instance, the thesis around cultural criminology is meant to speak critically to criminologists in hopes of expanding understandings of principled law-breaking, but the strong advocacy for a specific brand of anarchism may alienate a large proportion of this audience (and some activists too, as well as some anarchists). Because of the diversity of arguments and audiences, it might also be difficult to use the book as a stand-alone monograph in a course, although one can imagine ways of using a subset of chapters depending on course goals. Further, while Lovell shows great respect in his writing for the activists he interviewed, readers do not see as many direct quotations as some may desire, nor is there always a clear sense of the relative proportion of activists that took a specific view or shared a similar kind of experience.

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Living Law: Reconsidering Eugen Ehrlich. By Marc Hertogh, ed.
Portland, OR: Hart Publishing, 2009. 280 pp. \$44.00 paper.

Reviewed by Dan Steward, Ohio Wesleyan University

Living Law: Reconsidering Eugen Ehrlich offers the considered opinions of several scholars on the significance of Ehrlich’s work from

his first publications more than a century ago until today. In reading this volume, one is struck by Ehrlich's prescience. His notion of "living law" is a precursor to a wide range of concepts that still shape law and society discourse. It has served as a constructive contrast to Pound's "law in action" for many decades now, but it also foreshadowed studies of legal pluralism and legal consciousness.

Editor Marc Hertogh introduces these essays with some reflections on Ehrlich's treatment of *opinio necessitatis*. Rather than criticize Ehrlich for using such a vague concept to test whether norms are "legal," Hertogh welcomes the tentative and provisional quality of the test as an invitation to research. Ehrlich, after all, hoped to transform lawyers "From 'Men of Files' to 'Men of Senses'" (the title of Hertogh's introduction) and urged them to observe carefully what scholars would now call the "legal consciousness" of social actors. Whether norms are "legal" is a matter for empirical and inductive work rather than doctrinal formulation.

The first part of this volume situates Ehrlich's life and work in the hinterlands of the Austro-Hungarian Empire at the turn of the century. Researchers know very little about Ehrlich's life, but Monica Eppinger and Assaf Likhovski make good use of available biographical and historical materials to re-create a picture of a creative ethnographer de-centering state law. Eppinger's "Governing in the Vernacular" explores Ehrlich's work as a translator of legal folkways into the facts of law that might provide the foundation for a sociological jurisprudence. Likhovski's "Venus in Czernowitz" makes use of Sacher-Masoch's *Venus in Furs* (as well as Kafka and Klimt) to illuminate the ritual significance of unenforceable contracts and the centrality of nonstate legal norms.

The second part of *Living Law* offers a critical introduction to Ehrlich's sociology of law. In "Ehrlich at the Edge of Empire," Roger Cotterrell presents a radical legal pluralism in which multiple standpoints determine many centers and peripheries, none of which is privileged. In "Eugen Ehrlich's Linking of Sociology and Jurisprudence," Stefan Vogl argues that Ehrlich's sociology of law was meant to replace theoretical jurisprudence with more scientific concepts, but the most intriguing part of this chapter is the reception of Ehrlich's ideas in Japan through the work of Suehiro.

The third part of the book situates Ehrlich with respect to his contemporaries. In "Facts and Norms: The Unfinished Debate between Eugen Ehrlich and Hans Kelsen," Bart van Klink examines Kelsen's attack on Ehrlich and explores some potential replies that Ehrlich never fully developed. In "Pounding on Ehrlich, Again?" Salif Nimaga compares and contrasts the treatments of norms in Ehrlich and Pound. Franz and Keebet von Benda-Beckmann address the dynamics of legal pluralism in "The Social

Life of Living Law in Indonesia,” revealing problematic tensions among precolonial *adat* law, Islamic law, and colonial state law.

The fourth and final part of *Living Law* invites readers to consider the abiding significance of Ehrlich’s work. Jeremy Webber’s chapter, “Naturalism and Agency in the Living Law,” resists the temptation to naturalize nonstate norms as if they emerged harmoniously and spontaneously; he emphasizes instead the ongoing process of articulating and deliberating upon norms, especially under conditions of legal pluralism and conflict. In “World Society, Nation State and Living Law in the Twenty-First Century,” Klaus A. Ziegert invites readers to consider the global implications of a living law that is relatively autonomous from the positive laws of nation-states; such a living law is not limited to the local but may also emerge from the cosmopolitan associations of world society. Finally, David Nelken invites readers to consider “Ehrlich’s Legacies: Back to the Future in the Sociology of Law?” In part, this is an examination of contemporary Luhmannian appropriations of Ehrlich, but it also offers a broader readership some illustrations of normative ordering in contemporary global associations largely uncoupled from the nation-state: the *lex mercatoria* and the various emergent codes indigenous to the virtual communities of cyberspace.

This book is not for every taste. The essays in *Living Law* have a more jurisprudential flavor than most of the American law and society literature. I would not recommend this volume as an introduction to Ehrlich. After all, the English-speaking world now has introductions to his *Fundamental Principles of the Sociology of Law* by both Roscoe Pound and Klaus A. Ziegert. But anyone inclined to re/read Ehrlich’s *magnum opus* would do well to study Hertogh’s collection as a companion volume.

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Choosing Life, Choosing Death: The Tyranny of Autonomy in Medical Ethics and Law. By Charles Foster. Portland, OR: Hart Publishing, 2009. 189 pp. \$45.00 paper.

Reviewed by Katharina Heyer, University of Hawai‘i at Manoa

Autonomy grew up as a street fighter, and was blooded in some genuinely noble battles against medical paternalism. But like so many rulers with this sort of pedigree, it has quickly forgotten its democratic roots, and grown fat and brutal in power.

(Preface, ix)