publishers in the early 1990s led Algerians to become "subjects of history and not just subjects of a regime" (p. 199). His book, while destined to be contentious, largely succeeds in vindicating this honorable definition of the historian's enterprise.

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Tshosa, Onkemetse. 2001. NATIONAL LAW AND INTERNATIONAL HUMAN RIGHTS LAW: CASES OF BOTSWANA, NAMIBIA AND ZIMBABWE. Aldershot, Eng., and Burlington, Vermont.: Ashgate Publishing. 317 pp.

Botswana, Namibia, and Zimbabwe have in common that they all inherited from the South African Republic (or the old Cape Colony in the case of Rhodesia (Zimbabwe) the old Roman-Dutch law, dating back to the Code of Justinian and before, but modified by the addition of elements of English common law. This modification was particularly the case with judicial procedures, commercial law, and *stare decisis*, the use of precedents. Indeed, the author lists a full ten pages of cases that are mentioned in the text, drawn from not only other British-related colonies (South Africa, Kenya, Nigeria, and even Bermuda), but also Germany, Austria, and Switzerland, these last largely in connection with international law on human rights.

National law, correctly "municipal law," has a complex relationship with customary international law and treaty law. The latter, as a rule, must, even after being ratified by a country, be enacted as a statute by the country's parliament. Not all countries have parliaments. What does the author mean "by the parliamentary or legislative branch of government"? And how does that differ from "by a country"? What does "the country" do that "the legislature" doesn't? Philosophically, the view of the relationship between municipal law and international law, according to the author, has generated two schools of thought: Hugo Grotius, in *De Jure Belli ac Pacis* (1625), is the father of international law, and takes the view of its relationship to municipal law that is labeled "monist theory." Tshosa asserts, "This school of thought posits that all rules of law ultimately regulate the behavior of the individual. The only difference is that in the international sphere the consequences of such behavior are attributed to the state and in the municipal law sphere they are attributed to the individual citizen" (p. 6). By contrast, Hegel and others hold with "dualist theory," and "stress that international law and municipal law exist separately and each is supreme in its own sphere. In cases of conflict the Hegelians view international law as inferior to and hence weaker than municipal law" (p. 5). This view is clearly derived from the concept of the absolute sovereignty of the nation-state.

Tshosa is clearly a monist, but admits ruefully that most of the actions of the three governments he is discussing are more accurately a

blend of the two theories, with the dualists having a substantial edge. Some of the matters he considers in detail for each of these states are capital punishment, torture and cruel or unusual punishment, personal liberty, right to a fair trial, reasonable time (between arrest and indictment), independent and impartial court or tribunal, right to legal counsel, and nondiscrimination.

Namibia has, in its constitution, forbidden capital punishment. The other two states still hang criminals. Most of the judiciary seems to be opposed to physical punishment ("giving lashes"), but in Zimbabwe, when the banning of the whipping of children was being considered in the courts, in accordance with an international agreement, parliament enacted a statute, an amendment to the Criminal Procedure and Evidence Act, authorizing up to six strokes for males under the age of eighteen (p. 225).

The greatest need for improvement of human rights law is in discrimination on the basis of sex (gender in popular parlance). In all three countries, customary law is still very much part of the judicial system. Tshosa argues that Western norms are not necessarily applicable in traditional society when customary law and practices "oftentimes are antagonistic to, and in conflict with, the universal norms but not in themselves being discriminatory providing they reflect practical reality and do lead to social cohesion" (p. 190). Or, as one attorney general said, one nondiscrimination clause "had been intentionally omitted so as to reflect the fact that the customary law of Botswana society is based on patrilineal structure" (p. 190). However, women's rights are too often far inferior to those of men in terms of inheritance and property.

The right to a prompt and fair trial if charged with a crime is one of the fundamental rights of a free society. Basic to receiving a fair trial in any court is legal representation, though a lawyer might well be out of place in a customary law court. This is a problem that would seem to have no easy solution. Should the defendant take a chance on the traditional court? or go with a lawyer in the state system?

Tshosa's book is based on his dissertation and suffers from the ills of that format, such as frequent repetition. It suffers from lack of good editing. Nonetheless, it is useful and thoughtful, and will no doubt be a standard in the study of the development of human rights law. Tshosa has provided an extensive bibliography, but the only index is the list of cases, with no pages indicating where in his book they are cited.

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Vera, Yvonne. 2002. WITHOUT A NAME AND UNDER THE TONGUE. New York: Farrar, Straus and Giroux. 234 pp.

Yvonne Vera has been a leading light in Zimbabwean letters for more than a decade, beginning with the 1992 publication of her collection of short stories, *Why Don't You Carve Other Animals?* Now Farrar, Straus and Giroux