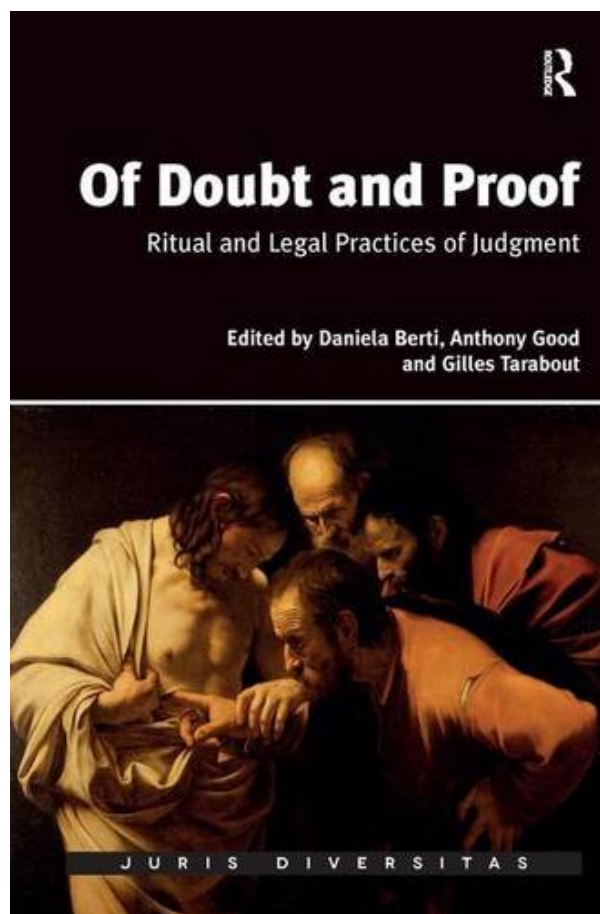


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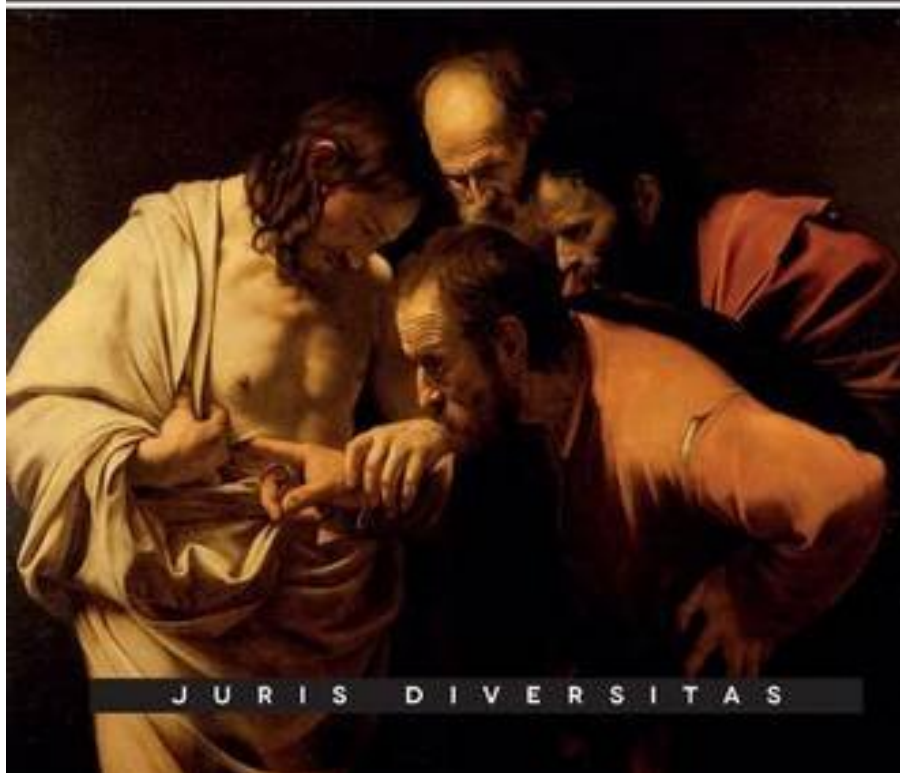
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Of Doubt and Proof

Ritual and Legal Practices of Judgment

Edited by Daniela Berti, Anthony Good
and Gilles Tarabout



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Review

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About the Author

Daniela Berti is 'Chargée de Recherche' at the French National Centre for Scientific Research (CNRS) in

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All institutions concerned with the process of judging - whether it be deciding between alternative courses of action, determining a judge's professional integrity, assigning culpability for an alleged crime, or ruling on the credibility of an asylum claimant - are necessarily directly concerned with the question of doubt. By putting ritual and judicial settings into comparative perspective, in contexts as diverse as Indian and Taiwanese divination and international cricket, as well as legal processes in France, the UK, India, Denmark, and Ghana, this book offers a comprehensive and novel perspective on techniques for casting and dispelling doubt, and the roles they play in achieving verdicts or decisions that appear both valid and just. Broadening the theoretical understandings of the social role of doubt, both in social science and in law, the authors present these understandings in ways that not only contribute to academic knowledge but are also useful to professionals and other participants engaged in the process of judging. This collection will consequently be of great interest to academics researching in the fields of legal anthropology, ritual studies, legal sociology, criminology, and socio-legal studies.

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A fascinating contribution

By Phillip Taylor MBE

A FASCINATING CONTRIBUTION TO THE DEBATE ON THE CONCEPT OF PROOF AND DOUBT

An appreciation by Phillip Taylor MBE and Elizabeth Taylor of Richmond Green Chambers

'Of Doubt and Proof' is a title that could have come straight from Dostoyevsky. But no -- this book is in fact a scholarly examination by ten international contributors, including the three editors, of 'doubt and proof' -- that often perplexing duality which, like it or not, is part and parcel of the process of judgment and judging across a range of contexts, from judgments in a court of law to -- when you come to think it -- decisions by cricketing umpires, or indeed Taiwanese diviners, as three of the distinguished contributors to this book have set out either to discuss or prove.

The contributors are distinguished indeed. With university backgrounds ranging from, for example, Copenhagen and Edinburgh to Hamburg and Oxford and a range of academic institutions in France, they bring a dizzyingly diverse array of impressive credentials to this particular forum of discussion and enquiry.

As the editors explain, the book is based on a panel of the same title which took place during the Biennial Conference of the European Association for Social Anthropology (EASA) at the Université Paris Ouest, at Nanterre in 2012. Recognized as 'the principal event in the European Conference calendar' and organized around the theme of 'Uncertainty and Disquiet' the conference -- to summarise -- set out to examine ways in which notions of doubt and states of doubting have generally been understood across a variety of academic disciplines.

Fundamentally, say the editors, 'the individual contributions reveal and illustrate the range of techniques employed in dispelling doubt', not only in ritual contexts, but in formal legal procedures, (as the sub-title indicates). The aim, they add, is to 'deepen theoretical understandings of the social role of doubt, both in

social science and in law.’

One could remark here that it is the lawyers of this world, as well as judges of course, who would, we think, derive maximum fascination from this admittedly multidisciplinary overview of doubt and proof, that is tackled from a number of different viewpoints and certainly from, yes, different disciplines, including law and jurisprudence – (obviously), to social science and anthropology, (not quite so obviously).

The end result emerges as, in the words of Deborah James of the London School of Economics ‘a rigorous contribution to the novel field of the anthropology of doubt and evidence,’ which demonstrates ‘how law and ritual have much more in common than formerly supposed.’

A recent publication from Ashgate’s ‘Juris Diversitas’ series, this is a stunningly original book that should certainly occasion endless debate at high tables and in common rooms, not to mention robing rooms in court buildings where English barristers strive to ensure that in all cases – and without exception – that justice is done.

While agreeing with much of the content of this book, they -- and certainly the judges -- would say, almost without any doubt whatsoever, that in the common law, it is the quality of the argument that refines the decision. See, for example, Anthony Good’s article on ‘The Benefit of the Doubt in British Asylum Claims and International Cricket’. Touching on ‘standard of proof’, ‘reasonable doubt’, credibility and so forth -- this is one of the most lucid explanations of the concept of ‘the benefit of the doubt’ in common law systems as you’re likely to find anywhere.

Rooted in comparative law, the book will be of interest to a wide range of academics, students and practitioners, particularly those with an international orientation who wish to keep abreast of current thinking in this and other related areas of law.

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