



The Cultural Defense

Alison Dundes Renteln

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In a trial in California, Navajo defendants argue that using the hallucinogen peyote to achieve spiritual exaltation is protected by the Constitution's free exercise of religion clause, trumping the state's right to regulate them. An Ibo man from Nigeria sues Pan American World Airways for transporting his mother's corpse in a cloth sack. Her arrival for the funeral facedown in a burlap bag signifies death by suicide according to the customs of her Ibo kin, and brings great shame to the son. In Los Angeles, two Cambodian men are prosecuted for attempting to eat a four-month-old puppy. The immigrants' lawyers argue that the men were following their own national customs and do not realize their conduct is offensive to American sensibilities. What is the just decision in each case? When cultural practices come into conflict with the law, is it legitimate to take culture into account? Is there room in modern legal systems for a cultural defense? In this remarkable book, Alison Dundes Renteln amasses hundreds of cases from the U.S. and around the world in which cultural issues take center stage—from the mundane to the bizarre, from drugs to death. Though cultural practices vary dramatically, Renteln demonstrates that there are discernible patterns to the cultural arguments used in the courtroom. The regularities she uncovers offer judges a starting point for creating a body of law that takes culture into account. Renteln contends that a systematic treatment of culture in law is not only possible, but ultimately more equitable. A just pluralistic society requires a legal system that can assess diverse motivations and can recognize the key role that culture plays in influencing human behavior. The inclusion of evidence of cultural background is necessary for the fair hearing of a case. An invaluable resource for practitioners, students, and the merely curious, this comprehensive treatment of cultural conflicts in diverse societies will spark lively debate.

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