are hypocritically ignored at political convenience anyway. Peters suggests that the conflicts are real and significant but that offensive laws will not be altered in response to outside pressure, rather only as Muslims draw on elements of their own tradition to form a vital Islamic human-rights discourse.

This is an excellent book, well informed and readable. I warmly recommend it as an introduction to the history of penal law in Islam, even to Islamic law in general, where it can stand beside Schacht's *Introduction* and, more recently, Knut S. Vikør, *Between God and the Sultan: A History of Islamic Law* (2005).

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H. Patrick Glenn, *On Common Laws,* Oxford: Oxford University Press, 2005. Pp. 176. $99.00 cloth (ISBN 0-1992-8754-6); $40.00 paper (ISBN 0-1992-2765-9).

The growth of a common market in Europe has led to a renewed interest in the old concept of "common law." The preferred model of modern legal thinkers is the medieval *ius commune,* which they perceive to represent the sort of uniform, pan-European law that they desire to see emulated. H. Patrick Glenn, the Peter M. Laing Professor of Law at McGill University, has written a book insisting that the historical record does not support this definition of common law. Glenn believes that common law was neither hegemonic nor singular. Instead, he finds both multiple possible definitions of the concept and multiple possible instances of common laws. This is an important insight. The rest of his theory, in particular the definition of common law that he claims best describes the post-twelfth-century phenomenon that strongly influenced modern legal systems, proves less satisfying.

The book consists of three chapters. In the first, Glenn presents three primary types of common law (in addition to several other minor forms that he discusses in passing and that will be ignored here). The first was the Roman law concept of *ius gentium,* or the law shared by all peoples, in contradistinction to the *ius civile,* which governed only Roman citizens. The second was the shared customs of the various early medieval Germanic peoples. The Roman law and Germanic custom eventually formed the basis for the third, and historically most important, form of common law. Glenn calls this "relational common law." He defines it as a non-exclusive, non-binding gap-filler that flowed around the local, regional, or national positive law and interacted with this *ius propria* in a fluid and on-going dialect in which the common law played a subservient role. In this sense of the concept, Glenn denominates not just the *ius commune* and the English common law as common laws but also the common customary law of France, the *Siete Partidas* of Spain, the German Pandectist doctrine, Roman-Dutch law, Talmudic and Islamic law, among others. The second chapter discusses the relationship of these common laws with the *iura propria* with which they come into contact, and the third chapter considers the interaction of common laws between themselves.

As significant as is Glenn's point that common law was not a phenomenon

unique to the English common law and, especially, the *ius commune,* his attempts to capture all of the multitude of common laws he identifies in his expansive definition do not hold up to scrutiny. While the *ius commune* was a relational, gap-filling law in the sense that the *ius propria* came higher in the hierarchy of sources, the gaps the Roman law was called upon to fill were huge and frequently overshadowed the local positive law. In England, while the common law accommodated local custom, the divide was jurisdictional. Reversing the relational pattern of the *ius commune,* the English common law took precedence in the king's courts and left the local courts to apply local law.

Pairing "gap-filling" and "non-binding" in the definition creates its own problems. If the common law served as a gap-filler, then at a certain point its contents were employed as rules of decision, and presumably became binding in some sense. When this happened, did the rule derived from the common law become a part of the *ius propria* (according to Glenn the only type of binding law), and thus no longer part of the common law? Is the common law only what is left after the *ius propria* has whittled away all the rules it wants, as if the common law were nothing but a source of ideas for the *ius propria* to raid? In any event, Glenn is not correct to claim that the common laws were non-binding. The law applied in the king's courts in England was most certainly binding, and if at least parts of the *ius commune* were not considered binding it becomes difficult to explain the widespread citation to Roman law in continental court decisions or the group of early modern works listing those parts of the Roman law abrogated by local customary law.

Another important characteristic in Glenn's definition is non-exclusivity. This, he claims, means not only that common laws can coexist with *iura propria* but also that common laws can coexist with each other in the same territory. However, Glenn does not address the question of where the borrowing of discrete legal concepts ends and the adoption of a secondary common law begins. Many of his examples could perhaps best be explained as evidence of the former rather than of the latter.

As a final point, Glenn explicitly uses history normatively. He also uses it cavalierly, eliding historical periods and speaking in generalities so broad that a reader unfamiliar with the history risks being misled and a knowledgeable reader frustrated.

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Claire Valente, *The Theory and Practice of Revolt in Medieval England,* Aldershot and Burlington: Ashgate, 2003. Pp. vi + 276. $79.95 (ISBN 0-7546-0901-4).

During the later middle ages, the English were notorious across Europe as rebels against royal authority and killers of their own kings. Their reputation was deserved. Between 1215 and 1485, depositions were attempted against eight of the twelve kings who ruled (or, in the case of the uncrowned Edward V, should have ruled) England.