Law & Social Inquiry
Journal of the American Bar Foundation

Law & Social Inquiry
Volume 43, Issue 1, 282–287, Winter 2018

Book Notes*

CONTENTS

Civil Liberties 283
Criminal Justice and Social Control 283
International Law 283
Judicial Independence 284
Judicial Selection 284
Law and Animal Rights 284
Law and Children 284
Law and Contemporary Slavery 284
Law and Employment 285
Law and Family Relationships 285
Law and Native Peoples 285
Law and Poverty 285
Law and Race 286
Law and The Sense of Justice 286
Law and Social Norms 286
Law and War Crimes 286
Legal Education 287
Litigation and Social Policy 287
Transitional Justice 287
Voting Rights 287

*Book Notes are adapted from promotional material provided by the publishers.

© 2018 American Bar Foundation.

https://doi.org/10.1111/lsi.12345 Published online by Cambridge University Press

CIVIL LIBERTIES

Magarian, Gregory P. *Managed Speech: The Roberts Court's First Amendment*. New York: Oxford University Press, 2017. Pp. xxii + 269. $90.00 cloth.

Magarian argues that the Roberts Court's free speech decisions protect "managed speech," which empowers stable, responsible public and private institutions to manage public discussion, and that disfavors First Amendment claims from social and political outsiders. Examining the forty-plus free speech decisions of the US Supreme Court between 2005 and 2016, he finds that, taken together, those decisions aggressively advance stability at a steep cost to robust public debate. He proposes an alternative approach—"dynamic diversity"—that would aim to increase the range of ideas and voices in public discussion.

CRIMINAL JUSTICE AND SOCIAL CONTROL

Feld, Barry C. *The Evolution of the Juvenile Court: Race, Politics, and the Criminalizing of Juvenile Justice*. New York: New York University Press, 2017. Pp. x + 397. $34.98 cloth.

Feld argues that conservative politicians' use of coded racial appeals to advocate get-tough policies have been mitigated by recent US Supreme Court decisions that draw on developmental psychology and neuroscience research to conclude that youth have reduced criminal responsibility and diminished competence. In light of this evidence, he has reevaluated his prior call for abolition of juvenile courts and concluded that separate, but reformed, juvenile courts are necessary to protect children who commit crimes and facilitate their successful transition to adulthood.

Guthrie Ferguson, Andrew. *The Rise of Big Data Policing: Surveillance, Race, and the Future of Law Enforcement*. New York: New York University Press, 2017. Pp. vii + 259. $28.00 cloth.

Ferguson argues that new "big data" technologies have been eagerly adopted by police departments hoping to distance themselves from claims of racial bias and unconstitutional practices; after a series of high-profile police shootings and federal investigations into systemic police misconduct, and in an era of law enforcement budget cutbacks, data-driven policing has been billed as a way to "turn the page" on racial bias. But he concludes that difficult questions remain about racial discrimination and the potential to distort constitutional protections.

Sarat, Austin, ed. *Final Judgments: The Death Penalty in American Law and Culture*. New York: Cambridge University Press, 2017. Pp. xi + 179. $110.00 cloth.

Contributors to Sarat's volume consider the idea of finality in US capital cases as a legal, political, and cultural fact. Questions addressed include: How does an awareness of finality shape the experience of the death penalty for those condemned to die as well as for capital punishment's public audience? What are the relative weights accorded to finality versus the need for error correction in legal and political debates? How does the meaning of finality differ in capital and noncapital cases?

INTERNATIONAL LAW

Scarfi, Juan Pablo. *The Hidden History of International Law in the Americas: Empire and Legal Networks*. New York: Oxford University Press, 2017. Pp. xxxvi + 239. $90.00 cloth.

This book is an intellectual history of the idea of American international law in the Americas, focusing principally on the evolution of the American Institute of International Law (AIIL). Scarfi examines the debates sparked by the AIIL over American international law, intervention and nonintervention, Pan-Americanism, the codification of public and private international law, and the

https://doi.org/10.1111/lsi.12345 Published online by Cambridge University Press

nature and scope of the Monroe Doctrine, and argues that American international law, as advanced primarily by the AIIL, was driven by a US-led imperial aspiration of "civilizing" Latin America.

JUDICIAL INDEPENDENCE

Redish, Martin H. *Judicial Independence and the American Constitution: A Democratic Paradox*. Stanford, CA: Stanford University Press, 2017. Pp. ix + 260. $55.00 cloth.

Redish argues that the US system of countermajoritarian constitutionalism requires the vesting of final powers of constitutional interpretation and enforcement in the one branch of government expressly protected by the Constitution from direct political accountability: the judiciary. He concludes that the current framework of American constitutional law has been unwisely allowed to threaten or undermine this core precept.

JUDICIAL SELECTION

Baum, Lawrence, David Klein, and Matthew J. Streb. *The Battle for the Court: Interest Groups, Judicial Elections, and Public Policy*. Charlottesville: University of Virginia Press, 2017. Pp. xii + 170. $45.00 cloth.

Baum, Klein, and Streb investigate the effects of interest group involvement in the election of state supreme court judges in Ohio. Focusing on personal injury law, the issue that has played the most substantial role in spurring interest group activity in judicial elections, the authors detail how interest groups mobilize in response to unfavorable rulings by state supreme courts, how their efforts influence the outcomes of elections, and how those outcomes in turn effectively reshape public policies.

LAW AND ANIMAL RIGHTS

Donahue, Jesse, ed. *Increasing Legal Rights for Zoo Animals: Justice on the Ark*. Lanham, MD: Rowman & Littlefield, 2017. Pp. vii + 190. $90.00 cloth.

Contributors to Donahue's volume find that companion animals and nonhuman primates used as research subjects have gained substantial rights that begin to approach personhood and citizenship. Focusing on zoo law and politics in the United States, New Zealand, and Southeast Asia, this book examines how zoo animals could benefit from that revolution.

LAW AND CHILDREN

Becker, Jo. *Campaigning for Children: Strategies for Advancing Children's Rights*. Stanford, CA: Stanford University Press, 2017. Pp. ix + 220. $24.95 paper.

Becker traces the last twenty-five years of the children's rights movement, including the evolution of international laws and standards to protect children from abuse and exploitation. Drawing on case studies of the organizations, strategies, and campaigns, she seeks to tease out broader lessons for effective social change in the field of children's rights.

LAW AND CONTEMPORARY SLAVERY

Bunting, Annie, and Joel Quirk, eds. *Contemporary Slavery: Popular Rhetoric and Political Practice*. Vancouver: University of British Columbia Press, 2017. Pp. xvi + 377. CAN $34.95 paper.

https://doi.org/10.1111/lsi.12345 Published online by Cambridge University Press

Contributors to Bunting and Quirk's volume examine how the history and iconography of contemporary slavery has been invoked to support a series of government interventions, activist projects, legal instruments, and rhetorical performances. They find that however well-intentioned these interventions might be, they remain subject to a host of limitations and complications. They conclude that these efforts are too often sensationalist, self-serving, and superficial, and therefore end up failing the crucial test of speaking truth to power.

LAW AND EMPLOYMENT

Seiner, Joseph A. *The Supreme Court's New Workplace: Procedural Rulings and Substantive Worker Rights in the United States*. New York: Cambridge University Press, 2017. Pp. xviii + 194. $34.99 paper.

This book argues that the US Supreme Court's recent changes in procedural requirements create legal obstacles for civil rights litigants, undermining their substantive rights. Seiner presents a framework that practitioners can use to navigate these murky waters to allow workers a better chance of prevailing with their claims, and applies the framework to the emerging on-demand industry.

LAW AND FAMILY RELATIONSHIPS

Hacker, Daphna. *Legalized Families in the Era of Bordered Globalization*. New York: Cambridge University Press, 2017. Pp. x + 385. $36.99 paper.

Hacker explores the interrelations between globalization, borders, families, and the law. She considers the role of international, multinational, and religious laws in shaping the lives of the millions of families that are affected by the opportunities and challenges created by globalization, and the ongoing resilience of national borders and cultural boundaries.

LAW AND NATIVE PEOPLES

Richotte, Keith Jr. *Claiming Turtle Mountain's Constitution: The History, Legacy, and Future of a Tribal Nation's Founding Documents*. Chapel Hill: University of North Carolina Press, 2017. Pp. xii + 289. $32.95 paper.

In North Dakota in 1932, the Turtle Mountain Band of Chippewa Indians was asked to adopt a tribal constitution that limited tribal governmental authority. Richotte finds that the decision to accept the constitution in that form—based on statements from white authorities that the proposed constitution was a necessary step in bringing a lawsuit against the federal government over a longstanding land dispute—has shaped tribal governance on the reservation ever since that day.

LAW AND POVERTY

Ranasinghe, Prashan. *Helter-Shelter: Security, Legality, and an Ethic of Care in an Emergency Shelter*. Toronto: University of Toronto Press, 2017. Pp. x + 272. $29.92 paper.

This book is an ethnographic account of the governance of a Canadian shelter for homeless people. Ranasinghe focuses on how the founding ethos of the shelter—an ethic of care—is diluted and adulterated because of two other important logics—security and legality—which take precedence, resulting in disorder and confusion.

https://doi.org/10.1111/lsi.12345 Published online by Cambridge University Press

LAW AND RACE

Goldstein, Leslie F. *The U.S. Supreme Court and Racial Minorities: Two Centuries of Judicial Review on Trial*. Northampton, MA: Edward Elgar, 2017. Pp. xvii + 461. $165.00 cloth.

Goldstein examines treatment of four racial minorities (Indians, blacks, Asians, and Hispanics) in this investigation of the US Supreme Court's willingness to protect racial minorities, as compared to the efforts of other branches of government. She finds that judicial review, while no panacea, did help America's racial minorities: when the Court was willing to help, it was particularly willing to act to check state-level oppressive policies and federal-level administrative abuses.

LAW AND THE SENSE OF JUSTICE

Brunnegger, Sandra, and Karen Ann Faulk, eds. *A Sense of Justice: Legal Knowledge and Lived Experience in Latin America*. Stanford, CA: Stanford University Press, 2016. Pp. xi + 228. $25.95 paper.

Contributors to Brunnegger and Faulk's volume explore the complex dynamics of justice production across Latin America, arguing that understanding the dynamic processes of constructing justice is essential to creating cooperative rather than oppressive forms of law. Chapters examine (in)justice as it is lived and imagined and what it means for those who claim and regulate its parameters, including the Brazilian police force, the Permanent Peoples' Tribunal in Colombia, and the Argentine Supreme Court.

LAW AND SOCIAL NORMS

Likhovski, Assaf. *Tax Law and Social Norms in Mandatory Palestine and Israel*. New York: Cambridge University Press, 2017. Pp. xviii + 335. $120.00 cloth.

This book describes how a social norms model of taxation rose and fell in British-ruled Palestine and the State of Israel in the mid-twentieth century. This model, in which nonlegal means were used to foster compliance, appeared in the tax system created by the Jewish community in 1940s Palestine and in the new Israeli state in the 1950s, then gradually disappeared. By describing the historical interplay between formal and informal tools for creating compliance, Likhovski seeks to shed new light on our understanding of the relationship between law and other methods of social control, and to reveal the complex links between taxation and citizenship.

LAW AND WAR CRIMES

Plesch, Dan. *Human Rights After Hitler: The Lost History of Prosecuting Axis War Crimes*. Washington, DC: Georgetown University Press, 2017. Pp. xix + 241. $29.95 paper.

This book examines UN War Crimes Commission files that recently became available as a result of lobbying by Plesch and others. The files include indictments of perpetrators of the Holocaust made while the death camps were still operating, which confounds the conventional wisdom that there was no official Allied response to the Holocaust at the time. They also cover US and Allied prosecutions of torture, including "water treatment," wartime sexual assault, and crimes by foot soldiers who were "just following orders," yielding precedents for prosecuting war crimes today.

https://doi.org/10.1111/lsi.12345 Published online by Cambridge University Press

LEGAL EDUCATION

Tejani, Riaz. *Law Mart: Justice, Access, and For-Profit Law Schools*. Stanford, CA: Stanford University Press, 2017. Pp. xiii + 272. $24.95 paper.

Tejani argues that the rise of for-profit law schools shows the limits of a market-based solution to US access to justice. He finds that for-profit law schools marketed themselves directly to ethnoracial and socioeconomic minority communities, relaxed admission standards, increased diversity, and shook up established curricula, but saw student success rates plummet. He concludes that their premium tuition, financed upfront through federal loans, has contributed to a dramatic rise in US law student debt burdens.

LITIGATION AND SOCIAL POLICY

Bennett, Daniel. *Defending Faith: The Politics of the Christian Conservative Legal Movement*. Lawrence: University Press of Kansas, 2017. Pp. x + 218. $34.95 cloth.

Bennett discusses the growth of the Christian legal movement into a powerful legal community and the development of legal advocacy as a tool of social and political engagement. On one level a book about how the Christian Right mobilized and organized an effective presence in courtroom battles over social policy, it is also a case study of a variety of Christian interest groups that pursued common goals while maintaining unique identities.

TRANSITIONAL JUSTICE

Rowen, Jamie. *Searching for Truth in the Transitional Justice Movement*. New York: Cambridge University Press, 2017. Pp. xii + 182. $32.99 paper.

Rowen argues that transitional justice is an idea around which a loosely structured movement emerged and professionalized, making truth commissions a standard response to mass violence. By exploring how this movement developed, as well as efforts to create truth commissions in the Balkans, Colombia, and the United States, she explains different processes through which political actors translate new legal ideas into political action and how the malleability of transitional justice and truth commissions is both an asset and a liability for those hoping to ensure accountability, improve survivor well-being, and prevent future violence.

VOTING RIGHTS

Rhodes, Jesse H. *Ballot Blocked: The Political Erosion of the Voting Rights Act*. Stanford, CA: Stanford University Press, 2017. Pp. x + 264. $27.95 paper.

Rhodes argues that, regarding US voting rights policy making, conservatives have adopted a paradoxical strategy in which they acquiesce to expansive voting rights protections in Congress—where decisions are visible—while simultaneously narrowing the scope of federal enforcement via administrative and judicial maneuvers, which are less visible. He concludes that repeated exercise of this strategy has enabled a conservative Supreme Court to exercise preponderant influence over the scope of federal voting rights enforcement.

https://doi.org/10.1111/lsi.12345 Published online by Cambridge University Press