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Book Notes*

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CONSTITUTIONAL THEORY AND HISTORY

Bomhoff, Jacco, David Dyzenhaus, and Thomas Poole, eds. *The Double-Facing Constitution*. New York, NY: Cambridge University Press, 2020. Pp. viii + 433. $125.00 cloth.

Constitutional and legal theory often marginalize "foreign" elements, such as norms originating in other legal systems, the movement of individuals across borders, or the application of domestic law to foreign affairs. To contributors to Bomhoff, Dyzenhaus, and Poole's volume, these instances of boundary crossing lie at the heart of an alternative understanding of constitutions as permeable membranes, through which norms can and sometimes must travel. Essays discuss the theoretical and historical foundations of this view—grounded in Kelsen, Hobbes, Locke, Rousseau, and others—and its contemporary relevance for areas such as migration law, conflict of laws, and foreign relations law.

Khosla, Madhav. *India's Founding Moment: The Constitution of a Most Surprising Democracy*. Cambridge, MA: Harvard University Press, 2020. Pp. xi + 219. $45.00 cloth.

Unlike the constitutional revolutions of the late eighteenth century, more recent constitutional revolutions have occurred in countries characterized by low levels of economic growth and education, where voting populations are deeply divided by race, religion, and ethnicity—and these countries have democratized at once, not gradually. Khosla analyzes the making of the Indian Constitution, which instituted universal suffrage amid poverty, illiteracy, social heterogeneity, and centuries of tradition, to respond to the problem of democratization under the most inhospitable conditions.

Petersen, Felix, and Zeynep Yanaşmayan, eds. *The Failure of Popular Constitution Making in Turkey: Regressing Towards Constitutional Autocracy*. New York, NY: Cambridge University Press, 2020. Pp. x + 416. $125.00 cloth.

Contributors to Petersen and Yanaşmayan's volume examine the failure of popular constitution making in Turkey from 2011 to 2013. They argue that, even in unfavorable conditions, constitution making that brings together different stakeholders can potentially lead to significant improvement of constitutional regimes. However, in the case of Turkey, they find that longstanding societal divides regarding cultural and religious diversity played a significant role in the failure of the process.

CRIMINAL JUSTICE AND SOCIAL CONTROL

Chase, Robert T. *We Are Not Slaves: State Violence, Coerced Labor, and Prisoners' Rights in Postwar America*. Chapel Hill, NC: University of North Carolina Press, 2019. Pp. xiv + 525. $37.50 cloth.

Drawing from three decades of legal documents compiled by prisoners, Chase narrates the struggle to change prisons from within. He focuses on prisoners who forged an alliance with the NAACP to contest the constitutionality of Texas prisons and on a coalition of Chicano Movement and Black Power organizations that initiated a prison-made civil rights revolution and labor protest movement. He finds that these insurgents won epochal legal victories but that their movement was overwhelmed by the increasing militarization of the prison system and empowerment of white supremacist gangs that, together, declared war on prison organizers.

Ciocchini, Pablo, and George Radics, eds. *Criminal Legalities in the Global South: Cultural Dynamics, Political Tensions, and Institutional Practices*. New York, NY: Routledge, 2019. Pp. xvi + 237. $155.00 cloth.

In Ciocchini and Radics's volume, academics from the Global South examine how the tension between the legal order and people's perceptions of it translates into an understanding of what constitutes "criminal" activity. Drawing on research from Singapore, the Philippines, Peru, Indonesia, India, the Dominican Republic, Burma, Brazil, Bangladesh, and Argentina, contributors explore

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behaviors that straddle social deviance and legal crimes, including extramarital affairs, gender-based violence, gambling, LGBTQ issues, and corruption, while also considering issues of inclusivity , modernity, and the globalization of capital versus cultural revivalism.

Farrall, Stephen, and Susanne Karstedt. *Respectable Citizens - Shady Practices: The Economic Morality of the Middles Classes*. New York, NY: Oxford University Press, 2020. Pp. xxiv + 302. $90.00 cloth.

Farrall and Karstedt explore crimes and near crimes that are committed by otherwise respectable citizens in the market arena. They look at the "grey zone" where illegal, unfair, unethical, and shady practices coalesce: retailers who see themselves as victims of customers who take unfair advantage of generous offers; consumers sold useless insurance and financial packages; and contracting parties defrauded by fine-print clauses. One concern is whether a predatory society is emerging from the central sphere of consumption.

Hermer, Joe. *Policing Compassion: Begging, Law and Power in Public Spaces*. Oxford, UK: Hart Publishing, 2019. Pp. xvi + 195. $110.00 cloth.

Drawing on the historical insight that public attitudes are a central problem of policing "beggars," Hermer examines how a quirky provincial experiment to stop people giving to beggars morphed into an unlikely movement across England. He ranges widely in his analysis, with discussions of "diverted giving" schemes, specialized police operations, activist efforts to repeal the Vagrancy Law, and begging-like activities such as busking, Big Issue vending, and flag day collections.

Lave, Tamara Rice, and Eric J. Miller, eds. *The Cambridge Handbook of Policing in the United States*. Cambridge, UK: Cambridge University Press, 2019. Pp. xviii + 595. $150.00 cloth.

Lave and Miller's volume offers essays on police and policing, written by a diverse group of international experts. It considers a range of experiences—from the police chief of a major metropolitan force to ordinary people targeted for policing on the street. Essays ask whether and why we need the police and analyze the law of policing, police use of force, and police violence, paying particular attention to the issue of discrimination against marginalized and vulnerable communities.

Meyler, Bernadette. *Theaters of Pardoning*. Ithaca, NY: Cornell University Press, 2019. Pp. xiv + 308. $29.95 paper.

Meyler traces the roots of contemporary understandings of the pardon power to tragicomic "theaters of pardoning" in seventeenth-century England. Analyzing works by William Shakespeare, John Ford, and Philip Massinger, along with political developments after the English Civil War, she finds a fundamental shift in the representation of pardoning on stage, in political tracts, and in parliament, reflecting a transition from a more monarchical form of the concept to a parliamentary and legislative vision of sovereignty. She concludes that this shift is the basis of current concerns about executive exercise of the pardon power and is central to the reinvigoration the pardon as a democratic practice.

Steiker, Carol S., and Jordan M. Steiker, eds. *Comparative Capital Punishment*. Northampton, MA: Edward Elgar Publishing, 2019. Pp. xiv + 426. $270.00 cloth.

Contributors to Steiker and Steiker's research handbook explore the forces behind recent rejections of the death penalty, as well as the changing shape of capital practices where it is retained. They address the social, political, economic, and cultural influences on both retention and abolition of the death penalty and consider the distinctive possibilities and pathways to worldwide abolition.

White, Michael D., and Aili Malm. *Cops, Cameras, and Crisis: The Potential and the Perils of Police Body-Worn Cameras*. New York, NY: New York University Press, 2020. Pp. x + 183. $25.00 paper.

Following the deaths of Eric Garner, Michael Brown, and others, interest in body-worn cameras for local, state, and federal law enforcement has skyrocketed in the US. White and Malm analyze this technology, consider its benefits and drawbacks for police departments, police officers, and members of the public, and assess whether it can address today's crisis in police legitimacy.

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DISPUTE RESOLUTION: JURIES AND CLASS ACTIONS

Chakravarti, Sonali. *Radical Enfranchisement in the Jury Room and Public Life*. Chicago, IL: University of Chicago Press, 2019. Pp. x + 148. $25.00 paper.

Chakravarti argues that juries provide an important site for democratic action by citizens and that their use should be revived. She sees the jury as potentially a forward-looking institution that nurtures the best democratic instincts of citizens but acknowledges that this requires a change in civic education regarding the skills that should be cultivated in jurors before and through the process of a trial. Being a juror, she concludes, might guide citizens in how to be thoughtful rule-breakers by changing their relationship to their own perceptions and biases and by making options for collective action salient.

Fitzpatrick, Brian T. *The Conservative Case for Class Actions*. Chicago, IL: University of Chicago Press, 2020. Pp. x + 271. $32.50 cloth.

Fitzpatrick starts from the premise that conservatives and libertarians believe that markets need at least some rules to thrive and that they consider the private sector to be superior to the government in most areas. He argues that the relatively little-discussed intersection of those two beliefs is where the benefits of class action lawsuits become clear: when corporations commit misdeeds, class action lawsuits enlist the private sector to intervene, resulting in a smaller role for the government, lower taxes, and, ultimately, more effective solutions.

LAW AND CORPORATE PERSONHOOD

Ripken, Susanna Kim. *Corporate Personhood*. Cambridge, UK: Cambridge University Press, 2019. Pp. xiii + 301. $105.00 cloth.

What does it mean to say that the corporation is a person, and why does it matter? Ripken addresses these questions and highlights the complexity of the corporate personhood concept. Incorporating law, economics, philosophy, sociology, psychology, organizational theory, political science, and linguistics, she explores the complex, multidimensional nature of corporate personhood and its implications for corporate rights and duties in the US.

LAW AND DISCRIMINATION

McClain, Linda C. *Who's the Bigot? Learning from Conflicts over Marriage and Civil Rights Law*. New York, NY: Oxford University Press, 2020. Pp. xii + 285. $39.95 cloth.

McClain argues that the differing views people hold about bigotry reflect competing understandings of what it means to be "on the wrong side of history" and the ways in which present forms of discrimination resemble or differ from past forms. She finds that we not only learn the meaning of bigotry by looking to the past, but we also use examples of bigotry on which there is now consensus as the basis for making new judgments about what constitutes bigotry and for coming to new understandings of both injustice and justice.

LAW AND THE ENVIRONMENT

Atapattu, Sumudu, and Andrea Schapper. *Human Rights and the Environment: Key Issues*. New York, NY: Routledge, 2019. Pp. xxvi + 358. $150 cloth.

Taking a sociolegal approach, Atapattu and Schapper work at the intersection of human rights and the environment; their focus is on the ways in which human rights law and institutions can be used to obtain relief for the victims of environmental degradation or of adverse effects of environmental

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policies. Their book examines climate change and climate policies to identify the pros and cons of using a human rights framework and to underscore its importance in the context of climate change.

LAW AND FAMILY RELATIONSHIPS

Margaria, Alice. *The Construction of Fatherhood: The Jurisprudence of the European Court of Human Rights*. New York, NY: Cambridge University Press, 2019. Pp. xiv + 191. $110.00 cloth.

Margaria considers the question of how the European Court of Human Rights is responding to shifting practices and ideas of fatherhood in a world that offers radical possibilities for the fragmentation of the conventional father figure. By tracing values and assumptions underpinning the Court's views on fatherhood, she seeks to highlight the expressive powers of the ECtHR and the Court's role in producing and legitimizing ideas about parenting and in influencing how family life is organized and regulated.

LAW AND FORGIVENESS

Minow, Martha. *When Should Law Forgive?* New York, NY: W.W. Norton & Co., Inc., 2019. Pp. x + 252. $27.95 cloth.

The US legal system is set up to punish, but what if the system were recalibrated to also weigh grounds for forgiveness? What if something like bankruptcy—a fresh start for debtors—were available to people convicted of crimes? Martha Minow explores the complicated intersection of the law, justice, and forgiveness, asking whether the law should encourage people to forgive, and if so, when courts, public officials, and specific laws should forgive. She concludes that there are certainly grounds for both individuals and societies to withhold forgiveness, but there are also cases where letting go of legitimate grievances can make the law more just.

LAW AND HATE SPEECH

Brown, Alexander, and Adriana Sinclair. *The Politics of Hate Speech Laws*. New York, NY: Routledge, 2019. Pp. xvi + 536. $155.00 cloth.

Brown and Sinclair answer "overlooked questions on the politics of hate speech laws," presenting "a body of new evidence, insights, arguments, theories and practical recommendations." Their primary focus is on the UK and the US, but other country contexts are also explored and compared, including Nigeria, Kenya, South Africa, India, China, Japan, Turkey, Germany, Hungary, and Italy. The authors draw on approaches and concepts from a range of academic disciplines including law and legal theory, political theory, applied ethics, political science, sociology, international relations theory, and international law.

LAW AND HUMANITIES

Stern, Simon, Maksymilian Del Mar, and Bernadette Meyler, eds. *The Oxford Handbook of Law and Humanities*. New York, NY: Oxford University Press, 2020. Pp. xx + 892. $175.00 cloth.

Stern, Del Mar, and Meyler seek to showcase the work of law and humanities scholars across disciplines, addressing methods, concepts and themes, genres, and areas of the law. The essays explore domains such as comics, videos, police files, form contracts, and paratexts and shed new light on traditional topics, such as free speech, intellectual property, international law, indigenous peoples, immigration, evidence, and human rights.

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LAW AND PROPERTY

Pistor, Katharina. *The Code of Capital: How the Law Creates Wealth and Inequality*. Princeton, NJ: Princeton University Press, 2019. Pp. xiii + 297. $29.95 cloth.

Pistor holds that with the right legal coding, any object, claim, or idea can be turned into capital—and that lawyers are the keepers of the code. She argues that lawyers choose among different legal systems and legal devices, selecting the ones that best serve their clients' needs, and she explores the different ways that debt, complex financial products, and other assets are coded to give financial advantage to their holders.

Stern, Stephanie M., and Daphna Lewinsohn-Zamir. *The Psychology of Property Law*. New York, NY: New York University Press, 2020. Pp. xii + 291. $40.00 paper.

Drawing on psychological research, Stern and Lewinsohn-Zamir consider whether the goals of property law could be achieved more successfully with different rules, and they highlight property laws and conflicts that offer productive areas for further behaviorally informed research. They identify several legal issues as especially ripe for psychological analysis, including ownership and possession, legal protections for residential and personal property, taking of property by the state, redistribution through property law, real estate transactions, discrimination in housing and land use, and remedies for injury to property.

LAW AND RACE

Quinn, Rand. *Class Action: Desegregation and Diversity in San Francisco Schools*. Minneapolis, MN: University of Minnesota Press, 2020. Pp. iv + 278. $30.00 paper.

San Francisco was among the first Northern cities to face court-ordered desegregation following the 1954 US Supreme Court decision *Brown v. Board of Education*, and it experienced the same demographic shifts that transformed other cities throughout the urban West. Drawing on archival research from court docket files to school district records, Quinn finds that the district's student assignment policies—including busing and other desegregative mechanisms—were transformative. This transformation was facilitated by the rise of school choice, persistent demand for neighborhood schools, evolving social and legal landscapes, and local community advocacy and activism.

LAW AND SEXUALITY

Jochelson, Richard, and James Gacek, eds. *Sexual Regulation and the Law: A Canadian Perspective*. Bradford, Ontario: Demeter Press, 2019. Pp. 345. $39.95 paper.

Contributors to Jochelson and Gacek's volume seek to forge links between the history of law and modern iterations of judgments pertaining to that law in Canada, with a focus on the "uncomfortable line between Victorian morality and modern regulation." Essays include a consideration of newer laws that recognize that sexual expression can be a means of violence, an analysis of modern sexual digital expression and its emerging jurisprudence, and an exploration of how legal regulation has responded.

LAW AND WOMEN

Ziegler, Mary. *Abortion and the Law in America: Roe v. Wade to the Present*. New York, NY: Cambridge University Press, 2020. Pp. xviii + 312. $29.99 paper.

In this history of law and abortion in the US, Ziegler argues that a significant aspect is overlooked: over time, pro-choice and pro-life advocates increasingly have disagreed about the basic facts.

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Drawing on unexplored records and interviews with key participants, she concludes that this finding complicates the view that the Supreme Court is responsible for the escalation of the conflict.

NAT TURNER

Tomlins, Christopher. *In the Matter of Nat Turner: A Speculative History*. Princeton, NJ: Princeton University Press, 2020. Pp. xx + 352. $29.95 cloth.

Tomlins challenges the traditional portrayal of Nat Turner to recover the "haunting persona" of this legendary American slave rebel. The book tells the stories of Turner's self-discovery and the dawning of his Christian faith, of an impossible task given to him by God, of redemptive violence and profane retribution, and of his immediate and broad impact on the American South. The book also undertakes a deeply critical examination of William Styron's 1967 novel, *The Confessions of Nat Turner*, and seeks to present new insight about the meaning and uses of history itself.

RIGHTS

MacMillan, Catharine, and Charlotte Smith, eds. *Challenges to Authority and the Recognition of Rights: From Magna Carta to Modernity*. New York, NY: Cambridge University Press, 2020. Pp. x + 351. $32.99 paper.

Contributors to MacMillan and Smith's volume assess different forms of challenges to legal authority—over time, geographical place, and subject matters both public and private. They explore how the myth of Magna Carta emerged and its role in the premodern world; how challenges to authority formed the basis of the recognition of rights in particular areas within England; and how challenges to authority resulted in the recognition of rights in the United States, Canada, Australia, and Germany.

SHARIA LAW AND SOCIETY

Peletz, Michael G. *Sharia Transformations: Cultural Politics and the Rebranding of an Islamic Judiciary*. Oakland, CA: University of California Press, 2020. Pp. xxii + 283. $34.95 paper.

This book is an ethnographic, historical, and theoretical study of the practice and lived entailments of sharia in Malaysia. The book focuses on the routine everyday practices of Malaysia's sharia courts and the changes that have occurred in court discourses and practices in recent decades. Peletz approaches Malaysia's sharia judiciary as a global assemblage and addresses issues in the humanistic and social scientific literature concerning how Malays and other Muslims engage ethical norms and deal with law, social justice, and governance in a rapidly globalizing world.

TRANSITIONAL JUSTICE

Selim, Yvette. *Transitional Justice in Nepal: Interests, Victims and Agency*. London, UK and New York, NY: Routledge, 2018. Pp. xiv + 235. $155.00 cloth.

Drawing on interviews with a diverse range of stakeholders, Selim presents the differing viewpoints, knowledge, attitudes, and preferences about transitional justice and other post-conflict issues in Nepal. She develops an actor typology and an action spectrum which can be used in Nepal and other post-conflict contexts and highlights who is making claims and on behalf of whom.

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US SUPREME COURT AND THE PRESIDENCY

Collins, Paul M., Jr., and Matthew Eshbaugh-Soha, eds. *The President and the Supreme Court: Going Public on Judicial Decisions from Washington to Trump*. New York, NY: Cambridge University Press, 2020. Pp. xviii + 267. $29.99 paper.

Collins and Eshbaugh-Soha argue that US presidents do not try to pressure the Supreme Court, but rather they discuss current cases to promote their own reelection, policy goals, and historical legacies, while attempting to affect the impact of Court decisions on the bureaucracy, Congress, the media, and the public. The book draws on data from all presidencies, from Washington to Trump.

WAR CRIMES

Crowe, David M., ed. *Stalin's Soviet Justice: "Show" Trials, War Crimes Trials, and Nuremberg*. London, UK: Bloomsbury Academic, 2019. Pp. ix + 245. $105 cloth.

Contributors to Crowe's volume examine the Soviet role in the Nuremberg trials through the prism of Soviet legal history. A particular focus of the book is the evolution of Stalin's ideas about the trial of Nazi war criminals. They find that, while Soviet prosecutors at Nuremberg were unable to deal comfortably with the complexities of an open, Western-style legal proceeding, they were able to present a significant body of evidence that underscored the brutal nature of Hitler's racial war in Russia from 1941–45. This theme became central to Stalin's efforts to redefine international criminal law after the war.

Jeffrey, Alex. *The Edge of Law: Legal Geographies of a War Crimes Court*. New York, NY: Cambridge University Press, 2020. Pp. x + 212. $110.00 cloth.

Using the example of the establishment of the War Crimes Chamber of the Court of Bosnia and Herzegovina, Jeffrey argues that legal processes constantly demarcate a line of inclusion and exclusion: materially, territorially, and corporally. Drawing on fieldwork in Bosnia and Herzegovina and focusing on the social and political consequences of the trials, he traces the fraught mechanisms that have been used by international and local political elites to convey their legitimacy.

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