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Book Notes*

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CONSTITUTIONAL THEORY AND HISTORY

Albert, Richard, ed. *Revolutionary Constitutionalism: Law, Legitimacy, Power*. Oxford, UK: Hart Publishing, 2020. Pp. viii + 424. £45.00 cloth.

Contributors to this volume critique Bruce Ackerman's *Revolutionary Constitutions: Charismatic Leadership and the Rule of Law*, and Ackerman comments. Contributors argue that the book resets the terms of debate on central topics in constitutionalism including the promise and perils of populism, the causes and consequences of democratic backsliding, the optimal models of constitutional design, the forms and limits of constitutional amendment, the role of courts in politics, and how one identifies when the "people" have spoken.

Purcell, Edward A., Jr. *Antonin Scalia and American Constitutionalism: The Historical Significance of a Judicial Icon*. New York, NY: Oxford University Press, 2020. Pp. xviii + 310. $34.95 cloth.

This book reviews and criticizes the general jurisprudential theory of conservative US Supreme Court Justice Antonin Scalia, contending that he failed to produce either the objective method he claimed or the correct constitutional results he promised. Purcell argues that Scalia applied his jurisprudential theories in inconsistent and contradictory ways and often ignored, distorted, or abandoned the interpretive methods he proclaimed in order to reach the results he sought, results that were aligned with and supported by the post-Reagan Republican coalition in the US.

CRIMINAL JUSTICE AND SOCIAL CONTROL: CAPITAL PUNISHMENT

Kaufman, Sarah Beth. *American Roulette: The Social Logic of Death Penalty Sentencing Trials*. Oakland, CA: University of California Press, 2020. Pp. ix + 248. $85.00 cloth.

Kaufman draws on ethnographic and documentary research—including hundreds of hours of courtroom observation in seven states, interviews with participants, and analyses of newspaper coverage—to examine how the US justice system decides who deserves the most extreme punishment. She finds that capital trials ultimately depend on performance and politics, resulting in the enactment of deep biases and utter capriciousness. She concludes that the liberal, democratic ideals of criminal punishment cannot be enacted in the current criminal justice system, even under the controlled decision-making processes dictated by Supreme Court mandates.

Morisi, Ève. *Capital Letters: Hugo, Baudelaire, Camus, and the Death Penalty*. Evanston, IL: Northwestern University Press, 2020. Pp. xiv + 265. $99.95 cloth.

Working at the intersection of poetics, ethics, and law, Morisi finds a transhistorical dialogue on both the modern death penalty and the ends and means of literature after the French Revolution. Through textual analysis, contextualization, and the critique of violence forged by Giorgio Agamben, Michel Foucault, and René Girard, she finds that, despite their differences, Hugo, Baudelaire, and Camus converge in questioning France's humanitarian redefinition of capital punishment dating from the late eighteenth century. She also argues that the study of capital justice leads all three writers to interrogate the functions, tools, and limits of their art.

Prosperi, Adriano. *Crime and Forgiveness: Christianizing Execution in Medieval Europe*. Cambridge, MA: Harvard University Press, 2020. Pp. xiii + 621. $39.95 cloth.

In this investigation of the death penalty in Europe from the fourteenth to the eighteenth century, Prosperi identifies a period when legal concepts of vengeance and justice merged with Christian beliefs in repentance and forgiveness. Because the time of death was known, the condemned person could be comforted and prepared for the next life through confession and repentance immediately

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before death and, in return, receive a Christian burial. As this practice spread across Europe, it offered political authorities an opportunity to legitimize the death penalty and encode into law the right to kill and exact vengeance.

CRIMINAL JUSTICE AND SOCIAL CONTROL: THE CARCERAL STATE

Bonner, Michelle D. *Tough on Crime: The Rise of Punitive Populism in Latin America*. Pittsburgh, PA: University of Pittsburgh Press, 2019. Pp. xi + 204. $40.00 cloth.

Bonner presents a comparative analysis of punishment in Argentina and Chile, based on over 190 in-depth interviews, and engaging the Euro-American literature on punitive populism. She argues that a neoliberal media system and the resulting everyday practices used by journalists, state, and civil actors are central to explaining the dominance of tough-on-crime discourse in Latin America.

Gruber, Aya. *The Feminist War on Crime: The Unexpected Role of Women's Liberation in Mass Incarceration*. Oakland, CA: University of California Press, 2020. Pp. xii + 288. $29.95 cloth.

Gruber argues that in their quest to secure protection from domestic violence and rape, feminists in the US have become soldiers in the war on crime by emphasizing white female victimhood, expanding the power of police and prosecutors, and touting the problem-solving power of incarceration. In particular, mandatory arrests, no-drop prosecutions, forced separation, and incarceration embroil poor women of color in a criminal justice system that is historically hostile to them. She concludes that feminists should fight violence against women without reinforcing the American prison state.

Marceau, Justin. *Beyond Cages: Animal Law and Criminal Punishment*. New York, NY: Cambridge University Press, 2019. Pp. vi + 293. £74.99 cloth.

For all the diversity of views among supporters of animal protection, there is a general consensus about the need for severe criminal justice interventions against animal abusers. Breaking from this mold, Marceau argues that a focus on "carceral animal law" puts the animal rights movement at odds with other social justice movements and may be bad for humans and animals alike. He concludes that animal protection efforts need to move toward systemic solutions if the movement hopes to be true to its defining ethos of increased empathy and resistance to social oppression.

CRIMINAL JUSTICE AND SOCIAL CONTROL: GENERAL

Ewing, Keith, Joan Mahoney, and Andrew Moretta. *MI5, the Cold War, and the Rule of Law*. New York, NY: Oxford University Press, 2020. Pp. xii + 511. $105.00 cloth.

Ewing, Mahoney, and Moretta argue that during the Cold War, MI5, the British counter-espionage agency, acted without statutory authority and with no obvious form of statutory accountability. They detail how MPs became targets of surveillance, the surveillance methods that were used on lawyers, and the ways surveillance data were used to exclude people from employment, all without accountability.

Mayeux, Sara. *Free Justice: A History of the Public Defender in Twentieth-Century America*. Chapel Hill, NC: The University of North Carolina Press, 2020. Pp. xi + 271. $26.95 paper.

Mayeux presents a history of the public defender—state-provided lawyers who represent indigent defendants—in the US. She argues that the crisis of the system—that it is underfunded and that overworked defenders provide inadequate representation—is not a contemporary development.

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Rather, these conditions have deep roots in the intertwined histories of constitutional doctrine, big philanthropy, professional in-fighting, and Cold War culture.

Tonry, Michael, ed. *American Sentencing: What Happens and Why?* Chicago, IL: University of Chicago Press, 2019. Pp. viii + 535. $100.00 cloth.

Contributors to Tonry's volume offer an overview of US state and federal efforts to make sentencing fairer, reduce overuse of imprisonment, and help offenders live law-abiding lives. They address a variety of topics and themes related to sentencing and reform, including racial disparities, violence prediction, plea negotiation, case processing, federal and state guidelines, California's historic "realignment," and more.

CRIMINAL JUSTICE AND SOCIAL CONTROL: POLICING

Baer, Andrew S. *Beyond the Usual Beating: The Jon Burge Police Torture Scandal and Social Movements for Police Accountability in Chicago*. Chicago, IL: University of Chicago Press, 2020. Pp. vi + 303. $45.00 cloth.

After being exposed in 1989, the extreme practices of Chicago police commander Jon Burge became a symbol of police brutality and the unequal treatment of people of color; the persistent outcry against him led to reforms such as the abolition of the death penalty in Illinois. Baer recounts the social movement that surrounded the exposure of Burge's atrocities and finds that the popular resistance movements that rallied in his wake predated Burge's exposure but cohered with unexpected power due to the galvanizing focus on his abuses.

Lokaneeta, Jinee. *The Truth Machines: Policing, Violence, and Scientific Interrogations in India*. Ann Arbor, MI: University of Michigan Press, 2020. Pp. xii + 250. $95.00 cloth.

Police in postcolonial India have been accused of using torture, but they argue that lie detectors, brain scans, and the use of "truth serum" represent a paradigm shift away from physical torture, and most state high courts in India have upheld this rationale. Drawing on case studies and fieldwork, Lokaneeta explores the workings of law, science, and policing in the everyday context to generate a theory of state power and legal violence. Theorizing a concept of the Contingent State, she emphasizes the disaggregated and decentered nature of state power and legal violence, and the possibility of intervention.

Mason, Marianne, and Frances Rock, eds. *The Discourse of Police Interviews*. Chicago, IL: University of Chicago Press, 2019. Pp. xii + 375. $40.00 paper.

Contributors to Mason and Rock's volume on language and law examine how police interviews are constructed and used to investigate and prosecute crimes. Among other topics, the book explores the sociolegal, psychological, and discursive framework of popular police interview techniques employed in the United States and the United Kingdom, such as PEACE and Reid, and the discursive practices of institutional representatives like police officers and interpreters that can influence the construction and quality of linguistic evidence.

Ralph, Laurence. *The Torture Letters: Reckoning with Police Violence*. Chicago, IL: University of Chicago Press, 2020. Pp. xxiv + 242. $75.00 cloth.

Ralph chronicles the history of police torture in Chicago—with a particular focus on atrocities committed by former Police Commander Jon Burge, the burgeoning activist movement against police violence, and the American public's complicity in perpetuating torture at home and abroad. Combining insights from fourteen years of research on torture with testimonies of victims of police

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violence, retired officers, lawyers, and protesters, this collection of collection of open letters written to protesters, victims, students, and others indicts police violence and challenges Americans to demand an end to the systems that support it.

Stoughton, Seth W., Jeffrey J. Noble, and Geoffrey P. Alpert. *Evaluating Police Uses of Force*. New York, NY: New York University Press, 2020. Pp. xii + 327. $60.00 cloth.

Stoughton, Noble, and Alpert examine the question of how society evaluates police use-of-force incidents. They pursue the question from four perspectives—constitutional law, state law, administrative regulation, and community expectations—and provide information about police tactics and force options that are implicated within each framework. They seek to situate readers within broader conversations about governmental accountability, the role that police play in modern society, and how officers should go about fulfilling their duties.

HUMAN RIGHTS

Boyd, Lydia, and Emily Burrill, eds. *Legislating Gender and Sexuality in Africa: Human Rights, Society, and the State*. Madison, WI: University of Wisconsin Press, 2020. Pp. xi + 213. $79.95 cloth.

Contributors to Boyd and Burrill's volume find that legal efforts regarding gender and sexual justice in Africa can be moralizing enterprises and illuminate how these processes are closely tied to notions of ethics, personhood, and citizenship. Chapters investigate such issues as marriage legislation in Mali, family violence experienced by West African refugees, sex education in Uganda, and statutes criminalizing homosexuality in Senegal.

ISLAMIC LAW AND SOCIETY

Halevi, Leor. *Modern Things on Trial: Islam's Global and Material Reformation in the Age of Rida, 1865–1935*. New York, NY: Columbia University Press, 2019. Pp. xiv + 367. $75.00 cloth.

This book tells the story of Islamic trials regarding technological and commercial innovations in the late nineteenth and early twentieth centuries. It focuses on the communications of Rashid Rida, an entrepreneurial Syrian interpreter of the shari'a, who became a renowned reformer by responding to the demand for authoritative and authentic religious advice. Through an analysis of Rida's international correspondence, Halevi argues that religious entanglements with new commodities and technologies were the driving forces behind local and global projects to reform the Islamic legal tradition.

JUDICIAL SELECTION

Kritzer, Herbert M. *Judicial Selection in the States: Politics and the Struggle for Reform*. New York, NY: Cambridge University Press, 2020. Pp. xviii + 382. $125.00 cloth.

Using detailed case studies of the relevant US states, Kritzer examines the process and politics of how states select and retain judges. He considers whether the focus in choosing judges should be on future judicial decisions or on the court processes by which those decisions are reached, and whether the emphasis should be on political or professional credentials. Key findings are that since 2000, political concerns have surpassed professionalism concerns and that voters have been more supportive of professionalism in selecting appellate judges than in selecting trial judges.

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LAW AND CHILDREN

Peleg, Noam. *The Child's Right to Development*. New York, NY: Cambridge University Press, 2019. Pp. vii + 256. $110.00 cloth.

Peleg argues that conceptions of childhood that focus either the child's future as an adult, or on their life in the present, overlook the hybridity of children's lived experiences. He proposes a new conception, "hybrid childhood," which accommodates respect for children's agency and human dignity in the present, in the process of growth, and in the outcomes of this process when the child becomes an adult. He considers the consequences of his perspective for the right to development under the UN Convention on the Rights of the Child.

LAW AND IMMIGRATION

Olivas, Michael A. *Perchance to DREAM: A Legal and Political History of the DREAM Act and DACA*. New York, NY: New York University Press, 2020. Pp. xi + 333. $35.00 cloth.

This book presents a history of the DREAM Act, which made its initial congressional appearance in 2001, and Deferred Action for Childhood Arrivals (DACA), the discretionary program established by President Obama in 2012 out of Congressional failure to enact comprehensive immigration reform. Olivas follows the political participation of DREAMers, highlights the many twists and turns that the legislation has taken, suggests why it has not gained the required traction, and offers pathways that "could turn this darkness to dawn."

LAW AND INEQUALITY

Einstein, Katherine Levine, David M. Glick, and Maxwell Palmer. *Neighborhood Defenders: Participatory Politics and America's Housing Crisis*. New York, NY: Cambridge University, Press, 2019. Pp. xiv + 218. $29.99 paper.

Einstein, Glick, and Palmer examine the dominance of land use politics by "neighborhood defenders"—individuals who strongly oppose new housing projects and who are likely to be privileged on a variety of dimensions. They find that neighborhood defenders participate disproportionately and use land use regulations to restrict the construction of multifamily housing. They conclude that the result is diminished housing stock, higher housing costs, and the reproduction of inequality.

LAW AND LABOR

McCann, Michael W., and George I. Lovell. *Union by Law: Filipino American Labor Activists, Rights Radicalism, and Racial Capitalism*. Chicago, IL: University of Chicago Press, 2020. Pp. xxiii + 487. $105.00 cloth.

McCann and Lovell construct a history of struggles by Filipino immigrants against the injustices of racial capitalism. The analytical narrative begins with US colonial subjugation of the Philippines and follows displaced Filipino workers who were conscripted for low-wage labor on the West Coast of the metropole, organized into unions, and fought persistently for social justice. The book explores the many ways that American law authorized violent repression of the workers and how, at the same

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time, labor activists mobilized legal institutions and egalitarian rights claims to challenge hierarchy and promote democratic socialist transformation.

Munkholm, Louise. *Re-Inventing Labour Law Enforcement: A Socio-legal Analysis*. Oxford, UK: Hart Publishing, 2020. Pp. x + 196. £65.00 cloth.

Combining documentary, interview, and observational data, Munkholm applies theories of legal culture and legal development to labor law enforcement in Prato, Italy, particularly as it relates to small clothing factories run by Chinese migrants. She analyzes the strategies and practices employed by three local enforcement actors (inspectors, unionists, and a new type of labor law consultant) in their efforts to assist Chinese firms in improving their level of compliance.

LAW AND RACE

Sarra, Janis, and Cheryl L. Wade. *Predatory Lending and the Destruction of the African-American Dream*. New York, NY: Cambridge University Press, 2020. Pp. xvii + 309. $28.99 paper.

Since the Great Recession of 2008, the racial wealth gap between black and white Americans has continued to widen. Sarra and Wade locate the reasons for this failure in the economic exploitation of African Americans, focusing on predatory practices in the home mortgage context and the failure of reform and litigation efforts. In particular, they pinpoint what they find to be the intentionally obfuscating settlement terms of cases brought by the US Department of Justice, states attorneys, and municipalities.

LAW AND TIME

Ranchordás, Sofia, and Yaniv Roznai, eds. *Time, Law, and Change: An Interdisciplinary Study*. Oxford, UK: Hart Publishing, 2020. Pp. xii + 394. £75.00 cloth.

Contributors to Ranchordás and Roznai's volume consider how time considerations and social, political, and technological change affect the legislative process, the interpretation of laws, the definition of the powers of the government and the ability of legal orders to promote innovation. Among the topics they consider are legal, theoretical, and historical perspectives on the relationship between time and law; how time shapes law and influences legal interpretation and constitutional change; how courts approach the impact of time on law; the influence of law over time; and how legislation and the legislative process addresses time and change.

LAW AND WOMEN

Goodwin, Michele. *Policing the Womb: Invisible Women and the Criminalization of Motherhood*. New York, NY: Cambridge University Press, 2020. Pp. xiv + 323. $29.99 cloth.

Goodwin expands the reproductive health and rights debate to include criminalization of women for miscarriages, stillbirths, and threatening the health of their pregnancies; often the women most affected are poor and of color. She examines how prosecutors may abuse laws and infringe women's rights in the process, sometimes with the complicity of medical providers who disclose private patient information to law enforcement; in some states, pregnancy has become a bargaining chip with prosecutors offering reduced sentences in exchange for women agreeing to be sterilized.

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Jefferson, Renee Knake, and Hannah Brenner Johnson. *Shortlisted: Women in the Shadows of the Supreme Court*. New York, NY: New York University Press, 2020. Pp. xiv + 187. $30.00 cloth.

Jefferson and Johnson weave together materials from presidential libraries and private archives to portray the professional and personal lives of nine women who appeared on presidential lists of possible US Supreme Court nominees, dating back to the 1930s.

LAW ON THE GROUND: RUSSIA

Kirmse, Stefan B. *The Lawful Empire: Legal Change and Cultural Diversity in Late Tsarist Russia*. New York, NY: Cambridge University Press, 2020. Pp. xiv + 342. $99.99 cloth.

The Russian Empire and its legal institutions have often been associated with arbitrariness, corruption, and the lack of a "rule of law." Kirmse challenges these assumptions in this study of empire-building, minority rights, and legal practice in late Tsarist Russia, arguing that legal reform transformed ordinary people's interaction with state institutions from the 1860s to the 1890s. One focus is the degree to which the courts served as instruments of integration: the integration of former borderlands with the imperial center and the integration of the empire's internal "others" with the rest of society.

LEGAL PLURALISM

Pearson, Trais. *Sovereign Necropolis: The Politics of Death in Semi-Colonial Siam*. Ithaca, NY: Cornell University Press, 2020. Pp. xii + 233. $49.94 cloth.

This is a study of sociolegal practices related to fatal injuries in Bangkok during the late nineteenth and early twentieth centuries. Pearson seeks to develop a new perspective on the interconnections among technological and economic developments, international political tensions, elite-subaltern relations, forensic medicine, and legal change. Based on a neglected cache of inquest files, official correspondence, and newspaper accounts, he disinters the stories of those who died "unnatural deaths" during this period and documents the work of the Siamese (now Thai) state to assert their rights in a pluralistic legal arena.

REGULATION

Gulotty, Robert. *Narrowing the Channel: The Politics of Regulatory Protection in International Trade*. Chicago, IL: University of Chicago Press, 2020. Pp. viii + 233. $97.50 cloth.

Gulotty argues that globalization and globalized firms can paradoxically hinder rather than foster economic cooperation, as larger firms seek to protect their markets through strict product regulations. He illustrates the problem through an analysis of contemporary rulemaking in the United States and the European Union in the areas of health, safety, and environmental standards.

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