

Book Notes*

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

CRIMINAL JUSTICE AND SOCIAL CONTROL

Dagan, David, and Steven M. Teles. 2016. *Prison Break: Why Conservatives Turned Against Mass Incarceration*. New York: Oxford University Press. Pp. xiii + 240. \$29.95 cloth.

Over the last few years, a small cadre of conservative leaders has reversed course to advocate curbing US prison growth. Dagan and Teles examine how this turnaround occurred, speculate on how it will affect mass incarceration, and consider what it teaches us about achieving policy breakthroughs in a polarized age. In a challenge to the conventional wisdom, they argue that the fiscal pressures brought on by recession are only a small part of the explanation, overshadowed by Republicans' increasing antistatism, the waning efficacy of "tough on crime" politics, and the increasing engagement of evangelicals.

Goodman, Philip, Joshua Page, and Michelle Phelps. 2017. *Breaking the Pendulum: The Long Struggle Over Criminal Justice*. New York: Oxford University Press. Pp. xii + 219. \$24.93 paper.

The history of criminal justice in the United States is often described as a pendulum, swinging back and forth between strict punishment and lenient rehabilitation. Through a reanalysis of more than two hundred years of penal history, Goodman, Page, and Phelps offer an alternative approach, arguing that punishment expands, contracts, and morphs because of contestation between real people in real contexts, not a mechanical "swing" of the pendulum. They conclude that this alternative framework is more accurate and empowering than metaphors that ignore or downplay the importance of struggle in shaping criminal justice.

Gray, David. 2017. *The Fourth Amendment in an Age of Surveillance*. New York: Cambridge University Press. Pp. xi + 305. \$29.99 paper.

Gray considers the original meaning of the Fourth Amendment to the US Constitution, with a focus on how its historical guarantees of collective security against threats of "unreasonable searches and seizures" can provide concrete solutions for the heightened surveillance activities of the US government.

Norris, Robert J. 2017. *Exonerated: A History of the Innocence Movement*. New York: New York University Press. Pp. x + 289. \$35.00 cloth.

Norris presents the history of the US innocence movement through interviews with key leaders such as Barry Scheck and Rob Warden as well as use of archival and field research into the major cases that brought awareness to wrongful convictions in the United States. He also examines how and why the innocence movement took hold, arguing that while it did not begin as an organized campaign, scientific, legal, and cultural developments led to a widespread understanding that new technology and renewed investigative diligence could both catch the guilty and free the innocent.

Zaloznaya, Marina. 2017. *The Politics of Bureaucratic Corruption in Post-Transitional Eastern Europe*. New York: Cambridge University Press. Pp. xi + 214. \$110.00 cloth.

Using a mix of ethnographic, survey, and comparative historical methodologies, this book offers insight into the corruption economies of Ukrainian and Belarusian universities, hospitals, and secondary schools. Zaloznaya rejects the dominant paradigm that attributes corruption to ongoing political transition, and instead argues for a more nuanced approach that appreciates the complexity of corruption economies in non-Western societies, embraces the local meanings and functions of corruption, and recognizes the stability of new post-transitional regimes in Eastern Europe and beyond.

Zimring, Franklin E. 2017. *When Police Kill*. Cambridge, MA: Harvard University Press. Pp. xii + 305. \$35.00 cloth.

Drawing on data from federal records, crowd-sourced research, and investigative journalism, Zimring examines how, when, where, and why police resort to deadly force. Of the 1,100 killings by police in the United States in 2015, he finds that 85 percent were fatal shootings and 95 percent of victims were male; death rates for African Americans and Native Americans are twice their share of the population. He concludes with policy prescriptions for reducing killings by police without risking the lives of officers, with a focus on administrative rule making.

HUMAN RIGHTS

Corradi, Giselle, Eva Brems, and Mark Goodale, eds. 2017. *Human Rights Encounter Legal Pluralism: Normative and Empirical Approaches*. Portland, OR: Hart Publishing. Pp. viii + 255. \$68.00 cloth.

Corradi, Brems, and Goodale's collection examines how human rights law and practice acquire meaning in relation to legal pluralism, that is, the coexistence of more than one regulatory order in a same social field. Drawing on experiences from Latin America, Sub-Saharan Africa, Europe, Asia, and the Middle East, contributors analyze how different configurations of legal pluralism interact with the legal and social life of human rights, as well as how human rights law and practice influence interactions that are subject to regulation by more than one normative regime.

INTERNATIONAL LAW

Benton, Lauren A., and Lisa Ford. 2016. *Rage for Order: The British Empire and the Origins of International Law*. Cambridge, MA: Harvard University Press. Pp. 282. \$39.95 cloth.

Benton and Ford argue that the origins of international law in the late nineteenth century lie in empires, especially in the British Empire's sprawling efforts to refashion the imperial constitution and use it to order the world in the early part of that century. Tracing the lost history of Britain's global empire of law through colonial conflicts and bureaucratic dispatches, they argue that attempts to refashion the British imperial constitution touched on all the controversial issues of the day, from slavery to revolution, and created the precursor to modern international law.

ISSUES IN RESEARCH ON LAW AND BEHAVIOR

Becker, Howard S. 2017. *Evidence*. Chicago: University of Chicago Press. Pp. x + 223. \$20.00 paper.

Becker argues that social researchers do not take questions about the usefulness of their data as evidence for their ideas seriously enough—for example, researchers have long used the occupation of a person's father as evidence of the family's social class, while this is likely a flawed measure. He delineates a series of these types of errors and suggests ways to avoid them, or even to turn them into research topics in their own right. He concludes strongly that because no data-gathering method produces totally reliable information, a big part of the research job—whether qualitative, quantitative, or archival—consists of reducing error.

Martin, John Levi. 2017. *Thinking Through Methods: A Social Science Primer*. Chicago: University of Chicago Press. Pp. ix + 269. \$29.98 paper.

In this user's guide to sociological research, Martin teams up with the reader to think through and with methods. He focuses on the practical decisions that researchers need to make—for

example, where the data being worked with come from and how those data relate to all the possible data that could have been gathered. He acknowledges that as human beings researchers are prone to the same cognitive limitations and distortions found in their subjects, and proposes ways to compensate for these limitations. He also forcefully argues for principled symmetry, contending that bad ethics makes for bad research, and vice versa.

JURISPRUDENCE AND SOCIOLEGAL THEORY

Tamanaha, Brian Z. 2017. *A Realistic Theory of Law*. New York: Cambridge University Press. Pp. viii + 202. \$34.99 paper.

This book develops a holistic theory of law as a social institution with varying forms and functions, tracing law from hunter-gatherer societies to the modern state and beyond. Tamanaha's theory—which revives a largely forgotten theoretical perspective on law that runs from Montesquieu through the legal realists to the present—accounts for social influences on law, legal influences on society, law and domination, multifunctional governmental uses of law, legal pluralism, international law, and other legal aspects he sees as largely overlooked in jurisprudence.

LAW AND FAMILY RELATIONSHIPS

Birge, Bettine. 2017. *Marriage and the Law in the Age of Khubilai Khan: Cases from the Yuan dianzhang*. Cambridge, MA: Harvard University Press. Pp. vii + 324. \$27.95 cloth.

The Mongol conquest of China in the thirteenth century and Khubilai Khan's founding of the Yuan dynasty brought together under one government people of different languages, religions, and social customs. Chinese law evolved rapidly to accommodate these changes, as reflected in the great compendium *Yuan dianzhang*. Through an annotated translation of the cases in one chapter of this seminal text, Birge examines lawsuits over adultery, divorce, rape, wife-selling, marriages of runaway slaves, and other conflicts.

LAW AND IMMIGRATION

Gonzalez, Roberto. 2016. *Lives in Limbo: Undocumented and Coming of Age in America*. Oakland: University of California Press. Pp. xxvi + 287. \$29.95 paper.

Drawing on a twelve-year study that followed 150 undocumented young adults in Los Angeles, this book examines the failures of a system that integrates children into K–12 schools but ultimately denies them the rewards of their labor. Gonzalez finds that highly educated undocumented youth share similar work and life outcomes with their less-educated peers, despite the fact that higher education is touted as the path to integration and success in the United States.

LAW AND LANGUAGE

Slocum, Brian G., ed., 2017. *The Nature of Legal Interpretation: What Jurists Can Learn About Legal Interpretation from Linguistics and Philosophy*. Chicago: University of Chicago Press. Pp. 292. \$50.00 cloth.

Contributors to Slocum's volume argue that the meaning of language is crucial to the interpretation of legal texts such as statutes, constitutions, and contracts. Thus expert analysis of

language from linguists, philosophers, and legal scholars should influence how courts interpret those texts. They consider such questions as: Should a judge feel confident in defining common words without the aid of a linguist? How is the meaning communicated by the text determined? Should the communicative meaning of texts be decisive, or at least influential?

LAW AND LITERATURE

Chapman, Alison A. 2017. *The Legal Epic: "Paradise Lost" and the Early Modern Law*. Chicago: University of Chicago Press. Pp. ix + 291. \$40.00 cloth.

Chapman situates the great poet and polemicist John Milton at the center of late-seventeenth-century legal history, arguing that his *Paradise Lost* sits at the apex of the early modern period's long fascination with law and judicial processes. Milton's world saw law and religion as linked disciplines and thought therefore that in different ways both law and religion should reflect the will of God. Law informs Milton's attempt to "justify the ways of God to men" and points readers toward the types of legal justice that should prevail on Earth.

LAW AND RACE

Frymer, Paul. 2017. *Building an American Empire: The Era of Territorial and Political Expansion*. Princeton, NJ: Princeton University Press. Pp. xi + 292. \$34.98 cloth.

This book details how, during the period of western expansion, the US government asserted authority over the direction of expansion by engineering the pace and patterns of settlement and controlling the movement of populations. At times, the government mobilized populations for compact settlement in strategically important areas of the frontier; at other times, policies were designed to actively restrain settler populations in order to prevent violence, international conflict, and breakaway states. Frymer argues that these settlement patterns helped construct a dominant racial vision for the United States by incentivizing and directing the movement of white European settlers onto indigenous and diversely populated lands.

Paschel, Tianna S. 2016. *Becoming Black Political Subjects: Movements and Ethno-Racial Rights in Colombia and Brazil*. Princeton, NJ: Princeton University Press. Pp. ix + 311. \$39.50 cloth.

Drawing on archival and ethnographic research, Paschel argues that over a short period in the late 1980s and 1990s, black movements and their claims in Colombia and Brazil went from being marginalized to becoming institutionalized into the law, state bureaucracies, and mainstream politics. She also examines the consequences of these reforms, including the institutionalization of certain ideas of blackness, the reconfiguration of black movement organizations, and the unmaking of black rights in the face of reactionary movements.

LAW AND SLAVERY

McKinley, Michelle. 2016. *Fractional Freedoms: Slavery, Intimacy, and Legal Mobilization in Colonial Lima, 1600–1700*. New York: Cambridge University Press. Pp. xii + 282. \$99.00 cloth.

Drawing on extensive archival research, McKinley examines how thousands of slaves in colonial Peru were able to secure their freedom, keep their families intact, negotiate lower self-purchase prices, and arrange transfers of ownership by filing legal claims. In doing so she seeks to complicate the way we think about life under slavery and to situate enslaved women as legal actors who had overlapping identities. Although the outcomes of their lawsuits varied, she

concludes that enslaved women used channels of affection and intimacy to press for liberty and prevent the generational transmission of enslavement to their children.

LAW AND THE USE OF HISTORY

Gordon, Robert W. 2017. *Taming the Past: Essays on Law in History and History in Law*. New York: Cambridge University Press. Pp. xiii + 424. \$39.99 paper.

In this collection of his writings over a forty-year career, Gordon argues that lawyers and judges often make arguments based on history—on the authority of precedent and original constitutional understandings—both to preserve the inspirational, heroic past and to discard its darker pieces. He examines how lawyers approach the past and the strategies they use to recruit history for present use while erasing or keeping at bay its threatening or inconvenient aspects, taming “the unruly, ugly, embarrassing elements of the past, smoothing them into reassuring tales of progress.”

LEGAL EDUCATION

Pan, Yung-yi Diana. 2017. *Incidental Racialization: Performative Assimilation in Law School*. Philadelphia, PA: Temple University Press. Pp. viii + 221. \$29.95 paper.

Through interviews with more than 100 law students and participant observations at two US law schools, Pan examines how racialization happens alongside professional socialization. She investigates how pan-ethnic students negotiate their identities, race, and gender in an institutional context and how their lived experiences factor into their student organization association choices and career paths. She discusses how race operates in a law school setting both for students of color and in the minds of white students.

LEGAL PROFESSION

Wilkins, David B., Vikramaditya S. Khanna, and David M. Trubek, eds. 2017. *The Indian Legal Profession in the Age of Globalization: The Rise of the Corporate Legal Sector and Its Impact on Lawyers and Society*. New York: Cambridge University Press. Pp. xv + 756. \$170.00 cloth.

Contributors to Wilkins, Khanna, and Trubek’s volume detail the emergence of a new corporate legal sector in India, including large law firms, in-house legal departments, and legal process outsourcing companies. They find that this new legal sector is reshaping other parts of the Indian legal profession, including legal education, the development of pro bono and corporate social responsibility, the regulation of legal services, and gender, communal, and professional hierarchies within the bar.

LEGAL SCHOLARSHIP

van Gestel, Rob, Hans-W. Micklitz, and Edward L. Rubin, eds. 2017. *Rethinking Legal Scholarship: A Transatlantic Dialogue*. New York: Cambridge University Press. Pp. xiii + 543. \$155.00 cloth.

Transnational contributors to van Gestel, Micklitz, and Rubin’s volume call for a debate on what unites legal academics on both sides of the Atlantic. Should legal scholarship aspire to the status of a science and gradually adopt more and more of the methods, (quality) standards, and practices of other (social) sciences? Should it be separate from legal practice? What sort of

methods do we need to study law in its social context, and how should legal scholarship deal with the challenges posed by globalization?

RIGHTS/EQUALITY UNDER LAW

Berrey, Ellen, Robert L. Nelson, and Laura Beth Nielsen. 2017. *Rights on Trial: How Workplace Discrimination Law Perpetuates Inequality*. Chicago: University of Chicago Press. Pp. 351. \$30.00 paper.

Drawing on interviews with participants and on an original national data set on case outcomes, Berrey, Nelson, and Nielsen find that in discrimination cases, the adversarial character of litigation imposes considerable personal and financial costs that make plaintiffs feel like they have lost regardless of the outcome of the case, while employer defendants also often feel “held up” by what they see as frivolous cases. They conclude that, overall, contemporary law perversely reinforces the very hierarchies that antidiscrimination laws were created to redress.

Burbank, Stephen B., and Sean Farhang. 2017. *Rights and Retrenchment: The Counterrevolution Against Federal Litigation*. New York: Cambridge University Press. Pp. xxi + 275. \$34.97 paper.

Using archival evidence, Burbank and Farhang locate the origins of the counterrevolution against private enforcement of federal law in the first Reagan Administration and examine its trajectory in the elected branches, court rule making, and the US Supreme Court. They find that although the counterrevolution largely failed in more democratic lawmaking sites, in a long series of cases little noticed by the public, an increasingly conservative and ideologically polarized Supreme Court has transformed federal law, making it less friendly, if not hostile, to the enforcement of rights through lawsuits.

Havelková, Barbara. 2017. *Gender Equality in Law: Uncovering the Legacies of Czech State Socialism*. Portland, OR: Hart Publishing. Pp. xxviii + 337. \$94.00 cloth.

Havelková examines three “fundamental intellectual and conceptual difficulties faced by gender equality law” in Czechia: essentialist understanding of gender differences, a notion that equality and antidiscrimination law is incompatible with freedom, and a perception that existing laws are objective and neutral, while any new gender-progressive regulation of social relations would interfere with the “natural social order.”

Sperti, Angioletta. 2017. *Constitutional Courts, Gay Rights and Sexual Orientation Equality*. Portland, OR: Hart Publishing. Pp. xxviii + 220. \$88.00 cloth.

Sperti argues that judicial cross-fertilization helps courts in increasing the acceptability of gays' and lesbians' rights in public opinion and politics. Courts discuss changes in the social perception of marriage and family at national and international levels and at the same time confirm and reinforce them, forging the legal debate over sexual orientation equality. She concludes that by promoting the political reception of the achievements of foreign gay movements in their own jurisdictions, courts play an essential role in breaking the political stalemate.

Tschalaer, Megnia Hong. 2017. *Muslim Women's Quest for Justice: Gender, Law and Activism in India*. New Delhi: Cambridge University Press. Pp. xv + 257. \$110.00 cloth.

Drawing on ethnographic study of several activist Muslim women's organizations in northern India, Tschalaer seeks to shift the focus of women's protection from the state legal system. The book examines how organized groups of Muslim women's rights activists contest marginalizing forces present in the family and criminal courts, Shariat courts, local mosques, workplace,

legislature, and legal documents, and it argues against the assumptions that Islam is incompatible with ideas of women's rights and that the state is the only dispenser of justice.

TRANSITIONAL JUSTICE

White, Cheryl S. 2017. *Bridging Divides in Transitional Justice: The Extraordinary Chambers in the Courts of Cambodia*. Portland, OR: Intersentia. Pp. xxiii + 335. \$84.00 cloth.

White considers the transitional justice proceedings in the Extraordinary Chambers in the Courts of Cambodia (ECCC). Drawing on transcripts of the proceedings and exchanges between trial participants—including witnesses, civil parties, and the accused—she engages with the dissonance between the expressivism of idealized international criminal trials and their communicative or discursive value within the societies most affected by their operation. She examines the limits of expressivism and explores the communicative dynamics of ECCC trial procedure that have precipitated substantial local debate and reflection on the violence of the Khmer Rouge.

US STATES AS LEGAL LABORATORIES

Ranney, Joseph A. 2017. *Wisconsin and the Shaping of American Law*. Madison: University of Wisconsin Press. Pp. x + 309. \$49.95 cloth.

Ranney considers the role of states as legal laboratories in establishing American authority west of the Appalachians, in both implementing and limiting Jacksonian reforms and in navigating legal crises before and during the Civil War—including Wisconsin's invocation of sovereignty to defy federal fugitive slave laws. He also surveys judicial revolts, the reforms of the Progressive era, and legislative responses to struggles for civil rights at the state level by immigrants, women, Native Americans, and minorities in the nineteenth and twentieth centuries.

US SUPREME COURT

Baum, Lawrence. 2017. *Ideology in the Supreme Court*. Princeton, NJ: Princeton University Press. Pp. xviii + 261. \$35.00 cloth.

Baum analyzes the process by which the ideological stances of US Supreme Court justices translate into their positions on the issues that the Court addresses, and argues that these positions reflect the development of shared understandings among political elites and include the justices' attitudes about social or political groups, such as the business community and the Republican and Democratic parties. The book probes these sources by analyzing three issues on which the relative positions of liberal and conservative justices changed between 1910 and 2013: freedom of expression, criminal justice, and government "takings" of property.