

## Book Notes\*

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

## CONSTITUTIONAL THEORY AND HISTORY

Bisarya, Sumit, and Tom Ginsburg, eds. *Constitution Makers on Constitution Making: New Cases*. New York: Cambridge University Press, 2022. Pp. xiii + 276. \$110.00 cloth.

Contributors to Bisarya and Ginsburg's volume are scholars and practitioners close to the process of constitution-making in countries with recently written constitutions; they illuminate how participants in the process see constitutional options, how deadlocks are broken, and how changes are achieved. The volume also draws lessons concerning the role of courts in policing the process, on international involvement, and on public participation.

Ginsburg, Tom, and Benjamin Schonthal, eds. *Buddhism and Comparative Constitutional Law*. Cambridge, MA: Harvard University Press, 2022. Pp. xix + 384. \$125.00 cloth. Available Open Access on Cambridge Core.

Contributors to Ginsburg and Schonthal's volume focus on the entanglements of Buddhism and constitutional law in Sri Lanka, Myanmar, Thailand, Cambodia, Vietnam, Tibet, Bhutan, China, Mongolia, Korea, and Japan. They offer a portrait of "the Buddhist-constitutional complex," highlighting the intricate and powerful ways in which Buddhist and constitutional ideas merged, interacted, and co-evolved. They also consider the ways in which Buddhist actors have (re)conceived Western liberal ideals such as constitutionalism, rule of law, and secularism.

## COURTS AND AUTOCRACY

Shen-Bayh, Fiona Feiang. *Undue Process Persecution and Punishment in Autocratic Courts*. New York: Cambridge University Press, 2022. Pp. xv + 222. \$34.99 paper.

This book argues that, contrary to the notion that courts constrain arbitrary power, judicial processes can be used to legitimize dictatorship, repress political challengers, institutionalize punishment, and undermine the rule of law. Focusing on sub-Saharan Africa since independence, Shen-Bayh draws on archival data on regime threats and state repression to argue that political trials are often political purges in disguise, providing legal cover for the persecution of regime rivals.

## CRIMINAL JUSTICE AND SOCIAL CONTROL

Bakken, Tim. *The Plea of Innocence: Restoring Truth to the American Justice System*. New York: New York University Press, 2022. Pp. ii + 237. \$30.00 cloth.

Bakken argues for a fundamental reform of the US adversarial system: plausibly innocent people would be able to require the government to search for exonerating facts; in return, the accused defendant would waive their right to remain silent, speak to government agents, and participate in a search for truth. He concludes that while it is improbable that all the facts in any case will ever be known, the acquisition of facts will almost always benefit an innocent person who has been accused of a crime.

Behnken, Brian D. *Borders of Violence and Justice: Mexicans, Mexican Americans, and Law Enforcement in the Southwest, 1835-1935*. Chapel Hill, NC: University of North Carolina Press, 2022. Pp. xx + 312. \$29.95 paper.

Behnken offers a sweeping examination of the interactions between Mexican-origin people and law enforcement—both legally codified police agencies and extralegal justice—across the US Southwest from the 1830s to the 1930s. Representing a broad, colonial regime, police agencies and extralegal groups policed and controlled Mexican-origin people to maintain state and racial power in the region, treating them as a foreign population that they deemed suspect and undesirable. The book

also details the many ways in which Mexicans and Mexican Americans responded to violence, including the formation of self-defense groups and advocacy organizations.

Capers, Bennet, Sarah Deer, and Corey Rayburn Yung, eds. *Feminist Judgments: Rewritten Criminal Law Opinions*. New York: Cambridge University Press, 2022. Pp. xix + 306. \$49.99 paper.

Contributors to Capers, Deer, and Yung's volume rewrite judicial opinions that implicate US criminal law jurisprudence—from sexual assault law to provocation to cultural defenses to the death penalty—from a feminist perspective. A major focus is on the fact that, despite mass incarceration, sexual assaults are rarely prosecuted, domestic violence remains pervasive, and the distribution of punishment, and by extension justice, is raced, classed, and gendered.

Crewe, Ben, Andrew Goldsmith, and Mark Halsey, eds. *Power and Pain in the Modern Prison: The Society of Captives Revisited*. New York, NY: Oxford University Press, 2022. Pp. xxxiv + 373. \$99.00 cloth.

Contributors to Crewe, Goldsmith, and Halsey's volume combine reflections on authority, power, and governance in modern US prison institutions with reflections on Gresham Sykes's classic work, *The Society of Captives*. They discuss such matters as the pains of imprisonment, penal order, staff-prisoner relationships, and the everyday world of the prison, drawing on and critiquing Sykes's theories and insights, and placing them in historic and contemporary context.

Garcia-Hallett, Janet. *Invisible Mothers: Unseen Yet Hypervisible after Incarceration*. Oakland, CA: University of California Press, 2022. Pp. v + 239. \$34.95 paper.

Drawing on interviews in New York City, this book presents the traditionally silenced voices of formerly incarcerated mothers of color and portrays the difficult realities they face when reentering the community and navigating motherhood. A key focus is on the paradox of visibility: social institutions treat mothers of color as invisible by restricting them from equal opportunities, and simultaneously as hypervisible by penalizing them for the ways they survive their marginalization. Garcia-Hallett seeks to reveal and contest their marginalization and to highlight how mothers of color perform motherwork on their own terms.

Norton, Matthew. *The Punishment of Pirates: Interpretation and Institutional Order in the Early Modern British Empire*. Chicago: University of Chicago Press, 2022. Pp. iii + 228. \$30.00 paper.

As the British empire grew from being a collection of far-flung territories into a consolidated economic and political enterprise dependent on long-distance trade, pirates increasingly became a destabilizing threat. Norton develops a framework for understanding the cultural mechanisms involved in dividing, classifying, and constructing institutional order by tracing the transformation of piracy from a situation of cultivated ambiguity to a criminal category with violently patrolled boundaries, ending with its eradication as a systemic threat to trade in the empire.

Rader, Nicole E. *Teaching Fear: How We Learn to Fear Crime and Why It Matters*. Philadelphia, PA: Temple University Press, 2023. Pp. x + 216. \$32.95 paper.

Rader examines social learning about crime in the United States, tracing the ways that families, schools, and the media have become obsessed with crime myths, especially regarding girls and women. She finds a gender-fear paradox: although women are less likely to be victims of most crimes other than sexual assault, their fear of crime is greater. She argues that this results in girls and women, especially White women, being taught to fear the wrong things and given impossible tools to prevent victimization.

## e4 LAW & SOCIAL INQUIRY

Slobogin, Christopher. *Virtual Searches: Regulating the Covert World of Technological Policing*. New York: New York University Press, 2022. Pp. x + 259. \$30.00 cloth.

This book argues that a host of technologies—among them digital cameras, drones, facial recognition devices, night-vision binoculars, automated license plate readers, GPS, geofencing, DNA matching, datamining, and artificial intelligence—have enabled police to carry out much of their work without leaving the office or squad car, in ways that do not easily fit the traditional physical search and seizure model envisioned by the framers of the US Constitution. Slobogin develops a typology for sorting through this array of policing techniques and lays out a framework for regulating their use that expands the Fourth Amendment's privacy protections without blindly imposing its warrant requirement.

## LAW AND COLONIAL LEGACIES

Berda, Yael. *Colonial Bureaucracy and Contemporary Citizenship*. New York: Cambridge University Press, 2022. Pp. xx + 269. \$99.99 cloth.

Focusing on the former British colonies of India, Cyprus, and Israel/Palestine, Berda explores how postcolonial states use their inherited administrative legacies to distinguish between loyal and suspicious subjects and manage the movement of populations, thus shaping the practical meaning of citizenship and belonging within their new boundaries. She concludes that routine bureaucratic practices and persistent colonial logics continue to shape unequal political status to this day.

## LAW AND CORPORATIONS

Choike, Anne M., Usha R. Rodrigues, and Kelli Alces Williams, eds. *Feminist Judgments: Corporate Law Rewritten*. New York: Cambridge University Press, 2022. Pp. xxx + 458. \$130.00 cloth.

Contributors to Choike, Rodrigues, and Williams's volume imagine how US corporate law might look from a feminist perspective, emphasizing the importance of power dynamics, equity, community, and diversity. Essays rewrite foundational corporate law cases and provide commentary that situates each opinion in context, explains the feminist theories applied, and explores the impact the rewritten opinion might have had on the subsequent development of corporate law, business, and society.

## LAW AND INTELLECTUAL PROPERTY

Erlmann, Veit. *Lion's Share: Remaking South African Copyright*. Durham, NC: Duke University Press, 2022. Pp. xii + 386. \$29.95 paper.

Although the South African government tied the reform of the intellectual property system to its postapartheid agenda of redistributive justice and a turn to a postindustrial knowledge economy, Erlmann argues that the persistence of structural racism and Euro-modernist conceptions of copyright threaten the viability of the reform project. Drawing on a wide variety of case studies, he follows the intricacies of musical copyright through the criminal justice system, parliamentary committees, and the offices of a music licensing and royalty organization. He concludes that copyright law is inextricably entwined with race, popular music, postcolonial governance, and indigenous rights.

## LAW AND PROPERTY

Monson, Rebecca. *Gender, Property, and Politics in the Pacific*. New York: Cambridge University Press, 2022. Pp. xvii + 277. \$110.00 cloth.

This study of land tenure in Solomon Islands challenges the assumption that the state is capable of securing rights to land and addressing gender inequality in land tenure. Monson finds that territorial disputes have given rise to a legal system characterized by state law, custom, and Christianity, and that the legal construction and regulation of property has deepened gender inequalities and other forms of social difference. She concludes that these processes have concentrated formal land control in the hands of a small number of male leaders and reproduced the state as a hypermasculine domain.

## LAW AND RACE

Backhouse, Constance. *Reckoning with Racism: Police, Judges, and the "RDS" Case*. Vancouver, BC: University of British Columbia Press. Distributed by University of Chicago Press, 2023. Pp. x + 256. \$75.00 cloth.

In the 1997 RDS case, the Supreme Court of Canada considered a complaint of judicial racial bias for the first time. A white police officer had arrested a Black teenager, placed him in a choke hold, and charged him with assaulting an officer and obstructing arrest. In acquitting the teen, Judge Corrine Sparks, who is Black, wrote that police sometimes overreacted when dealing with nonwhite youth, which challenged the time-honored tradition that the legal system was presumptively non-racist. Backhouse assesses the case, the people who took it to court, the dramatic effects on those involved, and the significance for the Canadian legal system.

## LAW AND TERRORISM

Rajah, Jothie. *Discounting Life: Necropolitical Law, Culture, and the Long War on Terror*. New York: Cambridge University Press, 2022. Pp. xi + 347. \$34.99 paper.

This book focuses on the extrajudicial, extraterritorial killings of War on Terror adversaries by the United States, which, despite the absence of law's conventional sites, processes, and actors, are celebrated as the "realization of justice." Rajah argues that meanwhile, images, narrative, and affect do the work of law, authorizing and legitimizing the discounting of some lives so that others—implicitly, US nationals—may live. She concludes that the long War on Terror illuminates the profound continuities and many guises for racialized, imperial violence informing the contemporary discounting of life.

Suresh, Mayur S. *Terror Trials: Life and Law in Delhi's Courts*. New York: Fordham University Press, 2022. Pp. xiv + 255. \$32.00 paper.

Where India's terror trials have come to be understood by way of the expansion of the security state and displays of Hindu nationalism, Suresh elaborates how they are experienced by defendants in a quite different way, through a minute engagement with legal technicalities. Amid the grinding terror trials—which are replete with stories of torture, illegal detention and fabricated charges—defendants school themselves in legal procedures, became adept petition writers, build friendships with police officials, cultivate cautious faith in the courts, and express a deep sense of betrayal when this trust is belied.

## LEGAL PROFESSION

Ariens, Michael S. *The Lawyer's Conscience: A History of American Lawyer Ethics*. Lawrence, KS: University Press of Kansas, 2023. Pp. x + 388. \$38.95 cloth.

This book examines the history of American lawyer ethics, from the mid-eighteenth century to the "professionalism" crisis facing lawyers today. Ariens argues that US lawyers became integral to the exercise of political power and that they have defended the exercise of this power from the Revolution to the present by arguing that their work is channeled by the profession's standards of ethical behavior. The book is the story of power and the limits of ethical constraints to ensure such power is properly wielded.

Whelan, Christopher. *The Bodyguards of Lies: Lawyers' Power and Professional Responsibility*. London, UK: Bloomsbury Press, 2022. Pp. xxix + 325. \$80.50 cloth.

Whelan uses real-world examples, case studies, and commentary from practitioners to examine the many and varied strategies American and English lawyers use to protect truth, highlighting the "tragic choices" lawyers make through their "power of decision." He concludes that lawyers are "bodyguards of lies" when they use their "tricks of the trade" not only to keep clients' secrets but to construct a reality that is far from real.

## RIGHTS

Agrawal, Sandeep, ed. *Rights and the City: Problems, Progress, and Practice*. Alberta, CN: University of Alberta Press, 2022. Pp. xxvii + 244. \$34.99 paper.

Contributors to Agrawal's volume examine rights struggles and progress in cities by exploring the tensions that exist between different concepts of rights, in particular the paradoxes that planners and municipal governments face when attempting not only to combat discriminatory practices, but also advance a human rights agenda. Drawing on empirical evidence and examples, they seek to translate the philosophical and legal aspects of rights into more practical terms and applications. In doing so, they draw on municipalities from across Canada while also making broad international comparisons.

## STATE COMPLIANCE WITH INTERNATIONAL RULES

Peritz, Lauren J. *Delivering on Promises: The Domestic Politics of Compliance in International Courts*. Chicago: University of Chicago Press, 2022. Pp. ii + 336. \$35.00 paper.

This book draws on empirical analysis that traces the domestic politics of compliance with the decisions of two international economic courts: the World Trade Organization's dispute settlement mechanism and the Court of Justice of the European Union. Peritz finds that these courts are only effective under certain conditions: states are less likely to comply with international rules and court decisions when domestic industries have the political ability to obstruct compliance.