

Book Notes*

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

COURTS AND JUDGES

Hazelton, Morgan L.W., Hinkle, Rachel K. and Michael J. Nelson. *The Elevator Effect: Contact and Collegiality in the American Judiciary*. New York, NY: Oxford University Press, 2023. Pp. xviii + 283. \$110.00 cloth.

Hazelton, Hinkle, and Nelson argue that, compared to their colleagues on trial courts, U.S. appellate justices face a significant constraint on their power: their colleagues. They find that more frequent interpersonal contact among judges diminishes the role of ideology in judicial decision-making to the point where it is both substantively and statistically imperceptible, and that collegiality affects both the language that judges use to express their disagreement with one another and the precedents they choose to support their arguments.

CRIMINAL JUSTICE AND SOCIAL CONTROL

Brooks, Emily M. *Gotham's War Within a War: Policing and The Birth of Law-And-Order Liberalism in World War II-Era New York City*. Chapel Hill, NC: University of North Carolina Press, 2023. Pp. xi + 244. \$99.00 cloth.

Throughout the late nineteenth and early twentieth centuries, members of the NYPD had worked to enforce partisan political power rather than focus on crime. That changed when Mayor Fiorello La Guardia took office in 1934 and shifted the city's priorities toward liberal reform. Brooks finds that La Guardia's approach to policing anticipated later trends in law enforcement, including "broken windows" policing, "stop and frisk," and vice control, and that the perceived threat of Black New Yorkers, youth, and working-class women intensified with the mobilization for World War II.

Deambrogio, Chloé. *Judging Insanity, Punishing Difference: A History of Mental Illness in the Criminal Court*. Stanford, CA: Stanford University Press, 2023. Pp. xii + 286. \$70.00 cloth.

Using Texas as a case study, Deambrogio examines how new psychiatric notions of the mind and its readability, legal doctrines of insanity and diminished culpability, and cultural stereotypes about race and gender shaped the ways in which legal professionals, mental health experts, and lay witnesses approached mental disability evidence over the course of the twentieth century. She finds that despite mounting pressures from advocates of "rehabilitative penology," Texas courts maintained a punitive approach towards defendants, while allowing for moralized views about personalities, habits, and lifestyle to influence psycho-legal assessments, in potentially prejudicial ways.

Devereaux, Simon. *Execution, State and Society in England, 1660–1900*. New York: Cambridge University Press. 2023. Pp. xviii + 391. \$130 cloth.

This book provides an account of execution practices in England and their extraordinary transformation from 1660 to 1900. In the 17th century, incredibly gory and agonizing public execution rituals were common for both traitors and common criminals. Two centuries later, only murderers and traitors were executed – both by hanging – and they died alone, usually quickly, and behind prison walls. Devereaux argues that urban growth, and the unique public culture it produced, challenged and largely displaced those traditional elites who valued the old 'Bloody Code' as an instrument of their rule.

Halushka, John M. *Getting the Runaround: Formerly Incarcerated Men and the Bureaucratic Barriers to Reentry*. Oakland, CA: University of California Press, 2023. Pp. xiv + 232. \$29.95 paper.

Drawing on three years of ethnographic fieldwork and forty-five in-depth interviews with formerly incarcerated men returning to New York City, Halushka finds that the institutions charged with facilitating the transition from incarceration to community life perversely undermine reintegration

by imposing a litany of bureaucratic obstacles. He argues that this “runaround” is not merely a series of inconveniences but rather an extension of state punishment that exacerbates material poverty and diminishes citizenship rights.

Norris, Robert J., William D. Hicks, and Kevin J. Mullinix. *The Politics of Innocence: How Wrongful Convictions Shape Public Opinion*. New York: NYU Press, 2023. Pp. ix + 237. \$30.00 paper.

Norris, Hicks, and Mullinix explore the political dynamics that have shaped the proliferation of innocence-related policies across the United States and the ways in which wrongful convictions affect public opinion about the criminal legal system. Although it has been suggested that this issue transcends ideological divisions, they argue that public opinion and the policies that address wrongful convictions are a product of the political landscape. Drawing on data they collected, they find that political ideology influences awareness of the issue, affects support for policy reform, and, in particular electoral contexts, influences state policy adoption.

Pavlich, George. *Thresholds of Accusation: Law and Colonial Order in Canada*. New York: Cambridge University Press. 2023. Pp. xix + 246. \$130 cloth.

This critical history probes pretrial accusations through which colonial criminal law forged social orders for settler-colonialism across western Canada, focusing on Alberta, 1874–1884. In this period, the Northwest Mounted Police deployed accusatory theaters to receive information about crimes, arrest suspects, and decide whom to send to trial. Pavlich draws on exemplary performances of colonial accusation to show how police officers and justices of the peace translated local social lore into criminal law. These performances reflected intersecting powers of sovereignty, disciplinarily, and biopolitics; they held accused individuals culpable for crimes and obscured social upheavals that settlers brought.

Steinberg, Justin. *Law and Mimesis in Boccaccio’s Decameron: Realism on Trial*. New York: Cambridge University Press. 2023. Pp. vii + 245. \$39.99 cloth.

This book examines the literary, philosophical, and ethical questions that Boccaccio raises in the *Decameron’s* numerous trials. In Boccaccio’s time (the mid-14th century), the Italian city-state began to take on a much more proactive role in prosecuting crime – one which superseded a largely communitarian, private approach. Steinberg finds that this emergence of the state-sponsored inquisitorial trial indeed haunts the legal proceedings in the *Decameron*. How, he asks, does this significant shift alter our perspective on Boccaccio’s much-touted realism and literary self-consciousness? What can it tell us about how he views his predecessor, Dante, perhaps the world’s most powerful inquisitorial judge?

Wozniak, Kevin H. *The Politics of Crime Prevention: Race, Public Opinion, and the Meaning of Community Safety*. New York: NYU Press, 2023. Pp. iii + 314. \$30.00 paper.

Wozniak examines US public opinion about crime prevention, with a focus on how average citizens would choose to prioritize resources between the criminal justice system and community-based institutions. He analyzes differences of opinion across lines of race, social class, and political partisanship, and investigates whether people’s willingness to invest in communities depends upon the kind of communities that would receive money. He concludes that politicians profoundly underestimate the American public’s desire to prioritize community investment.

HUMAN RIGHTS

Meili, Stephen. *The Constitutionalization of Human Rights Law*. Oxford, UK: Oxford University Press, 2022. Pp. ix + 205. \$125.00 cloth.

This book analyses how lawyers representing refugees use human rights provisions in national constitutions to close the gap between law and its implementation, focusing on lawyers in Colombia, Mexico, South Africa, Uganda, the United States. Meili provides qualitative evidence that human rights treaties achieve greater significance when incorporated into national constitutions, international protections for refugees become stronger when domestic lawyers enforce them through national constitutions, and constitutionalized human rights law is an important tool used by refugee lawyers to protect their clients.

Prasse-Freeman, Elliott. *Rights Refused: Grassroots Activism and State Violence in Myanmar*. Stanford, CA: Stanford University Press, 2023. Pp. xxix + 329. \$95.00 cloth.

Prasse-Freeman argues that a close look at Burmese grassroots sentiments reveals a significant schism between elite human rights cosmopolitans and subaltern Burmese subjects maneuvering under brutal and negligent governance. He documents the activities of grassroots political activists who advocate for workers and peasants across Burma, covering not only the “democratic transition” from 2011-2021, but also the 2021 military coup that ended that experiment and the ongoing mass uprising against it. He discusses practices as varied as courtroom immolation, occult cursing ceremonies, and land reoccupations, and concludes that Burmese subaltern politics compel us to reconsider how rights frameworks operate everywhere.

SOCIOLEGAL THEORY

Alces, Peter A. *Trialectic: The Confluence of Law, Neuroscience, and Morality*. Chicago: University of Chicago Press, 2023. Pp. x + 300. \$35.00 paper.

Alces argues that as emerging neuroscientific insights change our understanding of what it means to be human, the law must grapple with monumental questions, both metaphysical and practical; if all sentient beings are the coincidence of mechanical forces, as science suggests, then it follows that the time has come to reevaluate laws grounded in theories dependent on the immaterial that distinguish the mental and emotional from the physical.

de Sousa Santos, Boaventura. *Law and the Epistemologies of the South*. New York: Cambridge University Press, 2023. Pp. xxiv + 788. \$39.99 paper.

de Sousa Santos offers a radical critique of the law and develops a paradigm of sociolegal studies which is based on the historical experience of the Global South. He traces the history of modern law as abyssal law—law that is theoretically invisible yet implements profound exclusions in practice. He argues that an abyssal line has been the key procedure used by modern modes of domination – capitalism, colonialism, and patriarchy – to divide people into the metropolitan and the colonial, or the fully human and the sub-human. Yet he rejects “decadent pessimism” and offers alternatives that seek to make post-abysal legal utopias a reality.

LAW AND CONTRACTS

Ramseyer, J. Mark. *Contracting in Japan: The Bargains People Make When Information is Costly, Commitment is Hard, Friendships are Unstable, and Suing is Not Worth It*. New York: Cambridge University Press, 2023. Pp. xi + 217. \$29.99 paper.

Ramseyer examines five sets of negotiations and unusual contractual arrangements among non-specialist business people in Japan, exploring such relationships as how sake brewers were able to obtain and market the necessary, but difficult-to-grow, sake rice that captured the local terroir, and

how Buddhist temples tried to compensate for rapidly falling donations by negotiating unusual funerary contracts. He examines how these entrepreneurs structured contracts, made credible commitments, obtained valuable information, and protected themselves from adverse consequences to create, maintain, strengthen, and leverage the social networks in which they operated.

LAW AND ECONOMICS

Bayern, Shawn. *The Analytical Failures of Law and Economics*. New York: Cambridge University Press, 2023. Pp. xvii + 183. \$34.99 paper.

Using law-and-economics methods against the leading arguments in that field, Bayern argues that economic thinking fails to explain or justify most rules in the common law. He reviews law-and-economics arguments in tort, contract, and property law and finds them to be fragile, self-contradictory, or otherwise problematic; he concludes that those who accept that efficiency is important should not be persuaded by the kind of law-and-economics arguments that have remained in vogue among legal scholars for decades.

LAW AND EMPIRE

Burset, Christian R. *An Empire of Laws: Legal Pluralism in British Colonial Policy*. New Haven, CT: Yale University Press, 2023. Pp. iv + 262. \$75.00 cloth.

Burset finds that, after the Seven Years' War (1754–63), Britain adopted a strategy of legal pluralism: some colonies remained under English law, while others, including parts of India and former French territories in North America, retained much of their previous legal regime. Imperial policymakers thought English law could turn any territory into an anglicized, commercial colony; legal pluralism, in contrast, would ensure a colony's economic and political subordination. Among other implications, he concludes that this helps explain American colonists' reverence for the common law: it expressed and preserved their equal status in the empire.

LAW AND FAMILY RELATIONSHIPS

Biland, Emilie. *Family Law in Action: Divorce and Inequality in Quebec and France*. Chicago: University of Chicago Press, 2023. Pp. viii + 309. \$99.00 cloth.

Drawing on empirical research conducted on their respective court and welfare systems, Biland analyzes how men and women in Quebec and France encounter family in ways that affect their personal and professional lives. She finds that gender inequality is less pronounced in Quebec than in France, and class inequality is starker, but in both contexts inequalities after breakups are driven by the same mechanisms: access to the law and justice, interactions with legal professionals, and the ways these two factors shape lifestyle and standard of living.

Huntington, Clare, Christine von Bary and Courtney G. Joslin, eds. *Social Parenthood in Comparative Perspective*. New York: NYU Press, 2023. Pp. viii + 258. \$45.00 cloth.

Around the world, same-sex couples are raising children, parents are creating blended families, and children are living with grandparents and other caregivers. In these situations, there is often an adult who acts like a parent but who is unconnected to the child through biogenetics, marriage, or adoption. In many countries, this person is called a "social parent." Contributors to Huntington, von Bary and Joslin's volume consider how the law does and does not—and how it should—recognize social parenthood, drawing on the expertise of legal scholars in nine countries in North America and Europe.

LAW AND IMMIGRATION

Tosh, Sarah. *The Immigration Law Death Penalty: Aggravated Felonies, Deportation, and Legal Resistance*. New York: NYU Press, 2023. Pp. iv + 236. \$89.00 cloth.

This book chronicles the rise of the “immigration law death penalty”—the use of the aggravated felony charge (which includes relatively minor offenses such as check fraud and shoplifting) to criminalize and then deport immigrants from the US. Immigrants convicted of aggravated felonies can be detained for months or even years without bond, are not guaranteed lawyers, and can be deported without an opportunity to plead their case in court. Tosh finds that the resulting severe and racially disparate outcomes have been met with innovative legal responses, bolstered by networks of community-based resistance.

LAW AND THE LGBTQIA+ COMMUNITY

Wuest, Joanna. *Born This Way: Science, Citizenship, and Inequality in the American LGBTQ+ Movement*. Chicago: University of Chicago Press, 2023. Pp. ii + 287. \$99.00 cloth.

Wuest recounts how a biologically-based understanding of gender and sexuality became central to LGBTQ+ advocacy. Starting in the 1950s, activists sought out mental health experts to combat the pathologizing of homosexuality; these relationships were forged in subsequent decades alongside two broader, concurrent developments: the rise of an interest-group model of rights advocacy and an explosion of biogenetic and bio-based psychological research.

LAW AND THE PANDEMIC

Sterett, Susan M. *Litigating the Pandemic: Disaster Cascades in Court*. Philadelphia: University of Pennsylvania Press, 2023. Pp. iv + 216. \$39.95 paper.

The United States, like other countries, governs partly through litigation, and litigation is one way of seeing the multiple governance failures during the COVID pandemic. Drawing on databases of cases filed, news reports, and the websites of advocacy groups and law firms, Sterett argues that governing during the pandemic—or in any disaster—must include the human institutions intertwined with the effects of the virus. Failures in private insurance as a way of governing risk, and conflicts about the primacy of religion, government authority, and health, are problems that predated the pandemic and will persist in future disasters.

LAW AND PROPERTY

di Robilant, Anna. *The Making of Modern Property: Reimventing Roman Law in Europe and its Peripheries 1789-1950*. New York: Cambridge University Press, 2023. Pp. x + 369. \$135.00 cloth.

Drawing from a wealth of primary sources, di Robilant outlines how a broad network of European jurists reinvented the classical Roman concept of property to support the process of modernization. She traces how changing class relations, economic policies, and developing ideologies converged to produce the basis of modern property law; she concludes that a largely fabricated version of Roman property law shaped and continues to shape debates concerning economic growth, sustainability, and democratic participation.

Lenon, Suzanne, and Daniel Monk, eds. *Inheritance Matters: Kinship, Property, Law*. New York, NY: Bloomsbury Publishing, 2023. Pp. ix + 326. \$120.00 cloth.

Drawing on historical, literary, sociological, and legal analysis, contributors to Lenon and Monk's volume argue that inheritance has always been about far more than the set of legal processes for the distribution of property at death. Contributions range from exploration of the intractable tensions underlying family disputes and the legal and political debates about taxation, to revisiting literary plots and presenting a contemporary artistic challenge to heirship. The collection seeks to reveal the complexity of ideas about 'passing on,' trouble some of the enduring consequences of 'charitable bequests,' 'family money,' and 'estate planning, and deepen the understanding of the intimate and political practices of inheritance.

LAW AND RACE

Foley, Lauren S. *On the Basis of Race: How Higher Education Navigates Affirmative Action Policies*. New York: NYU Press, 2023. Pp. x + 209. \$28 paper.

From *Brown v. Board of Education* in the mid-twentieth century to the current *Students for Fair Admissions v. Harvard* and *University of North Carolina*, Foley explores how US colleges and universities have resisted and complied with public policies regarding race-conscious admissions practices. She examines how admissions officers have creatively responded to affirmative action bans.

LAW AND SLAVERY

Perrone, Giuliana. *Nothing More than Freedom: The Failure of Abolition in American Law*. New York: Cambridge University Press, 2023. Pp. xv + 316. \$59.99 cloth.

From the ratification of the Thirteenth Amendment in 1865 until the end of Reconstruction in 1877, supreme courts in former US slave states decided approximately 700 lawsuits associated with the struggle for Black freedom and equal citizenship. This litigation triggered questions about American liberty and reassessed the nation's legal and political order following the Civil War. Judicial decisions set the terms of debates about racial identity, civil rights, and national belonging, and also established that slavery, as a legal institution and social practice, remained actionable in American law well after its ostensible demise.

LAW AND TECHNOLOGY

Friedman, Lawrence M. *Law, Science, and Technology: Historical and Social Context*. Lanham, MD: Rowman & Littlefield, 2023. Pp. vii + 186. \$95.00 cloth.

Through a series of historical analyses, Friedman explores the relationship between the legal system and the development of modern science and technology. He finds that the scientific revolution produced major changes in culture, and these in turn led to changes in government and law. The book covers, among other topics, the transportation revolution; the camera and the entertainment industry; the "germ theory" and its influence on modern society; and the role of culture and technology in the sexual revolution.

LAW AND TERRORISM

Nguyen, Nicole. *Terrorism on Trial: Political Violence and Abolitionist Futures*. Minneapolis: University of Minnesota Press, 2023. Pp. viii + 429. \$30.00 paper.

Nguyen examines the contemporary role that U.S. domestic courts play in the global war on terror and their use as a weapon of war: hunting, criminalizing, and punishing entire communities in the name of national security. She advocates for a rethinking of popular understandings of political violence and its

root causes, encouraging readers to consider anti-imperial abolitionist alternatives to the criminalization, prosecution, and incarceration of individuals marked as real or perceived terrorists.

LEGAL PROFESSION

Nelson, Robert L, Ronit Dinovitzer, Bryant G. Garth, Joyce S. Sterling, David B. Wilkins, Meghan Dawe, and Ethan Michelson. *The Making of Lawyers' Careers: Inequality and Opportunity in the American Legal Profession*. Chicago: University of Chicago Press, 2023. Pp. ix + 415. \$35.00 paper.

Nelson, et. al. offer a data-based look at the structure of the US legal profession and the inequalities that early-career lawyers face across race, gender, and class distinctions. Starting in 2000, they collected over 10,000 survey responses from more than 5,000 lawyers—following these lawyers through the first twenty years of their careers—and interviewed more than two hundred lawyers. They find that lawyers' careers both reflect and reproduce inequalities within society writ large, but also how individuals exercise agency despite these constraints.

RIGHTS

Alaattinoğlu, Daniela. *Grievance Formation, Rights and Remedies: Involuntary Sterilisation and Castration in the Nordics, 1930s–2020s*. New York: Cambridge University Press. 2023. Pp. xx + 269. \$125.00 cloth.

Alaattinoğlu investigates how laws and practices of involuntary, surgical sterilization and castration have been established, abolished and remedied in three Nordic states: Sweden, Norway and Finland. Developing a concept of grievance formation, she examines why some states have claimed public responsibility while others have not, and why some victim groups have mobilized while others have remained silent.

Willrich, Michael. *American Anarchy: The Epic Struggle Between Immigrant Radicals and the US Government at the Dawn of the Twentieth Century*. New York: Basic Books (Perseus Books Group), 2023. Pp. vii + 461. \$35.00 cloth.

In the early twentieth century, anarchists like Emma Goldman and Alexander Berkman championed a radical vision of a world without states, laws, or private property. Willrich argues that, determined to crush anarchist activism, US government officials launched a decades-long “war on anarchy,” a brutal program of spying, censorship, and deportation that set the foundations of the modern surveillance state. He finds that the lawyers who came to the anarchists' defense advanced groundbreaking arguments for free speech and due process, inspiring the emergence of the civil liberties movement.

U.S. SUPREME COURT

Cameron, Charles M. and Jonathan P. Kastellec. *Making the Supreme Court: The Politics of Appointments, 1930-2020*. New York, NY: Oxford University Press, 2023. Pp. xii+ 486. \$125.00 cloth.

Cameron and Kastellec examine 90 years of American political history to argue that the growth of federal judicial power from the 1930s onward inspired a multitude of groups struggling to shape judicial policy. These activists penetrated the national party system so that after about 1980, presidential candidates increasingly pledged to select and confirm nominees who conformed to specific policy and ideological litmus tests. They conclude that this new model gradually transformed how the Court itself operates, turning it into an ideologically driven and polarized branch.