

Book Notes*

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

CIVIL LIBERTIES

Tushnet, Mark V., Alan K. Chen, and Joseph Blochner, eds. 2017. *Free Speech Beyond Words: The Surprising Reach of the First Amendment*. New York: New York University Press. Pp. vii + 261. \$28.00 cloth.

The US Supreme Court has unanimously held that Jackson Pollock's paintings, Arnold Schönberg's music, and Lewis Carroll's poem "Jabberwocky" are "unquestionably shielded" by the First Amendment. Nonrepresentational art, instrumental music, and nonsense: all receive constitutional coverage as "the freedom of speech," even though none involves what we typically think of as speech. Contributors to Tushnet, Chen, and Blochner's volume explore the murky premises of this approach, and its implication for the possibilities and limitations of law and expression.

CRIMINAL JUSTICE AND SOCIAL CONTROL

Ankumah, Evelyn A., ed. 2017. *The International Criminal Court and Africa: One Decade On*. Portland, OR: Intersentia. Pp. xxxvii + 676. \$114.00 paper.

While the International Criminal Court (ICC) can be said to contribute to criminal justice in Africa, the relationship between the Court and the continent has been troublesome. The ICC has been accused of targeting Africa, and many African states do not seem willing to cooperate with the Court. Contributors to Ankumah's volume recognize the problems and criticisms, yet do not side with pessimists who conclude that the Court and international criminal justice are doomed to fail.

Caimari, Lila. 2017. *While the City Sleeps: A History of Pistoleros, Policemen, and the Crime Beat in Buenos Aires Before Perón*. Oakland: University of California Press. Pp. xi + 229. \$29.95 paper.

In the late nineteenth century, Buenos Aires saw a massive population boom and large-scale urban development. With these changes came an increase in crime, a chaotic environment in the streets, and intense class conflict. In response, the state expanded institutions that were intended to bring about social order and control. Caimari mines police records and "true crime reporting" to bring to life the underworld pistoleros, the policemen who fought them, and the crime journalists who brought the conflicts to light.

Eason, John M. 2017. *Big House on the Prairie: Rise of the Rural Ghetto and Prison Proliferation*. Chicago: University of Chicago. Pp. xii + 236. \$34.96 paper.

Situating prisons within dynamic shifts that rural economies are undergoing in the United States, Eason finds that towns like Forrest City, Arkansas (the site for his study) choose to build prisons not simply in hopes of landing jobs or promoting economic well-being, but also to protect and improve their reputations. Analyzing the decision-making meetings and tracking the impact of prisons on economic development, poverty, and race, he considers how groups of elite whites and black leaders share power.

Hernández, Kelly Lytle. 2017. *City of Inmates: Conquest, Rebellion, and the Rise of Human Caging in Los Angeles, 1771–1965*. Chapel Hill: University of North Carolina Press. Pp. 301. \$28.00 cloth.

Marshaling more than two centuries of historical data, Hernandez finds that native elimination, immigrant exclusion, and black disappearance drove the rise of mass incarceration in Los Angeles from the Spanish colonial era to the outbreak of the 1965 Watts Rebellion. At the same time, she finds resilience and rebellion, arguing that targeted peoples and communities

always fought back, busting out of jail, forcing Supreme Court rulings, advancing revolution across bars and borders, and, as in the summer of 1965, setting fire to the belly of the city.

Owen, Barbara, James Wells, and Joycelyn Pollock. 2017. *In Search of Safety: Confronting Inequality in Women's Imprisonment*. Oakland: University of California Press. Pp. xi + 260. \$29.95 paper.

Owen, Wells, and Pollock examine the intersectional inequalities and cumulative disadvantages at the root of conflict and violence in women's prisons, and argue that women must negotiate these inequities by developing forms of prison capital—social, human, cultural, emotional, and economic—to ensure their safety while inside. They also analyze how conflict and subsequent violence result from human rights violations that occur within the gendered context of substandard prison conditions, inequalities of capital among those imprisoned, and relationships with correctional staff.

Perlin, Michael L., and Heather Ellis Cucolo. 2017. *Shaming the Constitution: The Detrimental Results of Sexual Violent Predator Legislation*. Philadelphia, PA: Temple University Press. Pp. xi + 309. \$37.95 paper.

Perlin and Cucolo argue that US sex offender laws and policies that shame and vilify offenders—and sometimes penalize trivial infractions—are unconstitutional, counterproductive, and partly the result of a “moral panic” created by the media. They draw on law, behavioral sciences, and other disciplines to argue that many of the solutions to penalizing sexually violent predators are wrong.

Rush, Stephen. 2017. *Federal Intervention in American Police Departments*. New York: Cambridge University Press. Pp. xi + 298. \$29.99 paper.

Drawing on interviews, court documents, statistical data, and media reports, Rush seeks to provide the first comprehensive account of federal intervention in US police departments, a phenomenon that dates from legislation permitting intervention by the US Attorney General in 1994. He finds that, under the right circumstances, federal intervention is uniquely effective at combating misconduct, but that it is far from perfect.

Simmons, Lizbet. 2017. *The Prison School: Educational Inequality and School Discipline in the Age of Mass Incarceration*. Oakland: University of California Press. Pp. ix + 206. \$29.95 paper.

Simmons studies a public school created in 2002 by the sheriff of New Orleans, Louisiana, which enrolled low-income African American boys who had been removed from regular public schools because of nonviolent disciplinary offenses such as insubordination. Examining this school in the local and national context, she argues that young black males are in the liminal state of losing educational affiliation while being caught in the net of correctional control. She asks how schools and prisons became so intertwined, what this means for society, and how they might be untwined.

Trainum, James L. 2016. *How the Police Generate False Confessions: An Inside Look at the Interrogation Room*. Lanham, MD: Rowman & Littlefield. Pp. xix + 308. \$36.00 cloth.

Trainum, a retired US police detective, offers an inside look at false confessions. He discusses how innocent people can become suspects and can confess, even when they have not committed a crime. Drawing on actual cases, he looks at the inherent coerciveness of the interrogation process and why so many false confessions contain details that only the true perpetrator would know. He also examines how these same processes corrupt witness and victim statements and create lying informants and cooperators.

Wahl, Rachel. 2017. *Just Violence: Torture and Human Rights in the Eyes of the Police*. Stanford, CA: Stanford University Press. Pp. xv + 246. \$25.95 paper.

Through interviews with police in India, Wahl details the beliefs that motivate police who use and support torture. Although on the surface, officers' subversion of human rights may seem to be a case of "local culture" resisting global norms, officers see human rights as in keeping with their religious and cultural traditions—and view Western countries as the primary human rights violators. However, the police do not condemn the United States for violations; on the contrary, for Indian police, Guantanamo Bay justifies torture in New Delhi.

FAMOUS TRIALS

Golsan, Richard J., and Sarah M. Misemer, eds. 2017. *The Trial That Never Ends: Hannah Arendt's Eichmann in Jerusalem in Retrospect*. Toronto: University of Toronto Press. Pp. viii + 255. \$60.00 cloth.

The contributors to Golsan and Misemer's volume assess the contested legacy of Hannah Arendt's famous book and the issues she raised: the "banality of evil," the possibility of justice in the aftermath of monstrous crimes, the right of Israel to kidnap and judge Eichmann, and the agency and role of victims. The contributors also interrogate Arendt's own ambivalent attitudes toward race and critically interpret the nature of the crimes Eichmann committed in light of newly discovered Nazi documents.

JUDICIAL POWER AND DECISION MAKING

Anleu, Sharyn Roach, and Kathy Mack. 2016. *Performing Judicial Authority in the Lower Courts*. New York: Palgrave Macmillan. Pp. xiii + 228. \$109.00 cloth.

Anleu and Mack examine the components of the legitimate performance of judicial authority. Drawing on data from Australia, their central theoretical and empirical finding is the incomplete fit between conventional norms of judicial performance—which emphasize detachment and impersonality—and the practical, day-to-day judicial work in high-volume, time-pressured lower courts. Understanding the judicial officer as the crucial link among formal abstract law, the legal institution of the court, and the practical tasks of the courtroom generates a theory of judicial legitimacy.

JURIES

Kovera, Margaret Bull, ed. 2017. *The Psychology of Juries*. Washington, DC: American Psychological Association. Pp. xiii + 309. \$69.95 cloth.

In an attempt to reinvigorate scholarship on the jury, contributors to Kovera's volume identify understudied topics at the intersection of psychology and law, review research currently available on the topics, suggest new research questions, and evaluate the relative salience of research methods that emphasize generalizability versus tight experimental control.

LAW AND ANTHROPOLOGY

Goodale, Mark. 2017. *Anthropology and Law: A Critical Introduction*. New York: New York University Press. Pp. xv + 290. \$35.00 paper.

Goodale seeks to provide a comprehensive overview of the anthropology of law in the post-Cold War era. He introduces the central problems of the field and builds on the legacy of its intellectual history, while a foreword by Sally Engle Merry highlights the challenges of using the law to seek justice on an international scale. The book's chapters cover a range of intersecting areas, including language and law, history, regulation, indigenous rights, and gender.

LAW AND CULTURE

Provost, René, ed. 2017. *Culture in the Domains of Law*. New York: Cambridge University Press. Pp. xiv + 437. \$140.00 cloth.

Contributors to Provost's volume see the encounter of law and culture as a polycentric relation, and address issues that draw attention to law and legal institutions as one site of encounter warranting further investigation. They seek to map the place of culture in the domains of law by relying on the insights of law, anthropology, politics, and philosophy.

LAW AND DISABILITY

Rose, Sarah F. 2017. *No Right to Be Idle: The Invention of Disability, 1840s–1930s*. Chapel Hill: University of North Carolina Press. Pp. xiii + 382. \$39.95 paper.

Rose's historical inquiry integrates disability history and labor history to examine how, during the late nineteenth and early twentieth centuries in the United States, people with disabilities lost access to paid work and acquired the status of morally questionable dependents in need of permanent rehabilitation. Before that shift, people with disabilities had contributed as they were able in homes, on farms, and in the wage labor market, reflecting the fact that Americans had long viewed productivity as a spectrum that varied by age, gender, and ability.

LAW AND DISASTERS

Herwig, Alexia, and Marta Simoncini, eds. 2017. *Law and the Management of Disasters: The Challenge of Resilience*. New York: Routledge. Pp. xii + 279. \$135.00 cloth.

Recently, "resilience" has emerged as a key concept in effective disaster management policies and strategies, aiming at minimizing the impact of events, so that the normal functioning of society and the state can be preserved. Contributors to Herwig and Simoncini's volume analyze the contribution of law to resilience building by looking at law's role in the different phases of the disaster regulatory process, and considering how law can effectively contribute to resilience-oriented disaster management policies.

LAW AND FAMILY RELATIONSHIPS

Maclean, Mavis, ed. 2017. *Delivering Family Justice in Late Modern Society in the Wake of Legal Aid Reform*. New York: Routledge/Taylor and Francis. Pp. ix + 167. \$155.00 cloth.

Contributors to Maclean's volume examine the impact of the curtaining of state support for the legal needs of the poor in Britain. Legal aid for family cases in private law—mainly divorce and separation—and for welfare and immigration cases ended with the Legal Aid Sentencing and Punishment of Offenders Act in 2013. The National Audit Office reported in 2014 that although the Ministry of Justice had saved considerable funds, it had failed to investigate or understand the impact of these cuts on the individuals concerned and society as a whole.

LAW AND GENDER

MacKinnon, Catherine A. 2017. *Butterfly Politics*. Cambridge, MA: Harvard University Press. Pp. 490. \$29.95 cloth.

MacKinnon argues that seemingly minor interventions in the legal realm can have a butterfly effect that generates major social and cultural transformations. Her volume includes both previously published and new work on the concerns of gender inequality, sexual harassment, rape, pornography, and prostitution that have defined her intellectual, legal, and political pursuits, and seeks to provide a model for principled, effective, socially conscious engagement with law.

LAW AND INTELLECTUAL PROPERTY

Bracha, Oren. 2016. *Owning Ideas: The Intellectual Origins of American Intellectual Property, 1790–1909*. New York: Cambridge University Press. Pp. viii + 324. \$49.99 cloth.

Bracha examines the intellectual origins of the US concept of private property through historical study of patent and copyright. He concludes that the modern notion of owning ideas emerged when the ideals of eighteenth-century possessive individualism at the heart of early patent and copyright were subjected to the forces and ideology of late-nineteenth-century corporate liberalism.

Darling, Kate, and Aaron Perzanowski, eds. 2017. *Creativity Without Law: Challenging the Assumptions of Intellectual Property*. New York: New York University Press. Pp. vi + 280. \$30.00 paper.

Contributors to Darling and Perzanowski's book seek to challenge US intellectual property orthodoxy, and find that incentives for creative production often exist in the absence of, or in disregard for, formal legal protections. Drawing on examples from tattoo artists to medical researchers and Nigerian filmmakers to roller derby players, they conclude that creativity can thrive without legal incentives, and that some creative communities prefer, and thrive, in environments defined by self-regulation rather than legal rules.

Parthasarathy, Shobita. 2017. *Patent Politics: Life Forms, Markets and the Public Interest in the United States and Europe*. Chicago: University of Chicago Press. Pp. 290. \$25.00 cloth.

Comparing battles over patents on animals, human embryonic stem cells, human genes, and plants in the United States and Europe, Parthasarathy examines how political culture, ideology, and history shape patent system politics. She finds that clashes over whose voices and which values matter in the patent system, as well as what counts as knowledge and whose expertise is important, look quite different in these two venues.

LAW AND LANGUAGE

Lunny, Allyson M. 2017. *Debating Hate Crime: Language, Legislatures, and the Law in Canada*. Vancouver: University of British Columbia Press. Pp. viii + 237. \$32.95 paper.

Lunny examines the language used by parliamentarians, senators, and committee witnesses to debate Canada's hate laws. Drawing on discourse analysis, semiotics, and critical psychoanalysis, she explores how the tropes, metaphors, and other linguistic signifiers used in these debates expose the particular concerns, trepidations, and anxieties of Canadian lawmakers and the expert witnesses called before their committees.

Mertz, Elizabeth, William K. Ford, and Gregory Matoesian, eds. 2016. *Translating the Social World for Law: Linguistic Tools for a New Legal Realism*. New York: Oxford University Press. Pp. vi + 299. \$99.00 cloth.

Contributors to Mertz, Ford, and Matoesian's volume use linguistic analysis to understand how attempts to translate between law and the social sciences can misfire in systematic ways. They find that while experts in law and in social science may understand intellectually that they

differ regarding their fundamental assumptions and uses of language, they may nonetheless consistently underestimate the degree to which they are actually talking past one another. This problem takes on real-life significance when one of the fields is law, where how knowledge is conveyed can affect how justice is meted out.

LAW AND LITERATURE

Aristodemou, Maria, Fiona Macmillan, and Patricia Tuitt, eds. 2017. *Crime Fiction and the Law*. New York: Birkbeck Law Press. Pp. viii + 181. \$140.00 cloth.

Contributors to Aristodemou, Macmillan, and Tuitt's volume consider the ways in which the relationship between law and violence is formulated in literature, television, and film. Through the lens of critical legal theory, they consider such topics as the relationship between crime fiction, legal reasoning, and critique; the relationship between law and justice; gender issues; the legal, political, and social impacts of fictional representations of crime and justice; postcolonial perspectives on crime fiction; and the impact of law itself on the development of crime fiction.

Raffield, Paul. 2017. *The Art of Law in Shakespeare*. Portland, OR: Hart Publishing. Pp. xiv + 275. \$99.00 cloth.

Through an examination of five plays by Shakespeare, Raffield analyzes the contiguous development of common law and poetic drama during the first decade of Jacobean rule. The broad premise of the book is that the "artificial reason" of law was a complex art form that shared the same rhetorical strategy as the plays of Shakespeare—common law and Shakespearean drama of this period employed various aesthetic devices to capture the imagination and the emotional attachment of their respective audiences. Each chapter investigates a particular aspect of the common law, seen through the lens of a specific play by Shakespeare.

LAW AND MARKETS

Oman, Nathan B. 2016. *The Dignity of Commerce: Markets and the Moral Foundations of Contract Law*. Chicago: University of Chicago Press. Pp. xi + 299. \$50.00 cloth.

Oman argues that well-functioning markets are morally desirable in and of themselves and thus a fit object of protection through contract law. Markets, he holds, require people to view the world from another's point of view, and this inculcates key virtues that support a liberal society; they provide a context in which people can peacefully cooperate in the absence of political, religious, or ideological agreement; and the material prosperity generated by commerce has an ameliorative effect on a host of social ills.

Sokol, D. Daniel, and Roger D. Blair, eds. 2017. *The Cambridge Handbook of Antitrust, Intellectual Property, and High Tech*. New York: Cambridge University Press. Pp. xvii + 518. \$200.00 cloth.

Contributors to Sokol and Blair's volume assess the theory and practice of antitrust, intellectual property, and high tech through the lens of law and economics and from a global perspective.

LAW AND SEXUALITY

Ball, Carlos A. 2017. *The First Amendment and LGBT Equality: A Contentious History*. Cambridge, MA: Harvard University Press. Pp. 349. \$39.95 cloth.

Ball finds that between the 1950s and 1980s, when many US courts were still openly hostile to sexual minorities, they nonetheless recognized the freedom of gay and lesbian people to express themselves and associate with one another. Successful First Amendment cases protected LGBT publications and organizations, protests and parades, and individuals' right to come out. He concludes that as progressives fight the First Amendment claims of religious conservatives and other LGBT opponents today, they should take care not to erode the very safeguards of liberty that allowed LGBT rights to exist in the first place.

LAW AND SURVEILLANCE

Miller, Russell A., ed. 2017. *Privacy and Power: A Transatlantic Dialogue in the Shadow of the NSA-Affair*. New York: Cambridge University Press. Pp. xxiv + 786. \$190.00 cloth.

Contributors to Miller's volume argue that Edward Snowden's leaks regarding the US National Security Agency exposed fundamental differences in US and European approaches. They hold that Snowden's revelations require rethinking of prevailing theories concerning privacy and intelligence gathering; explain the differences and uncertainty regarding those aspects; and document the NSA Affair's fundamentally transnational dimension, which they see as the real location of the transatlantic dialogue on privacy and intelligence gathering.

LAW AND WOMEN

Sanger, Carol. 2017. *About Abortion: Terminating Pregnancy in Twenty-First-Century America*. Cambridge, MA: Harvard University Press. Pp. xv + 304. \$29.95 cloth.

Sanger argues that laws regulating abortion patients and providers treat abortion not as an acceptable medical decision—let alone a right—but as something disreputable, immoral, and chosen by mistake. To refine the public discourse on abortion, she distinguishes between abortion privacy, a form of nondisclosure based on a woman's desire to control personal information, and abortion secrecy, a woman's defense against the many harms of disclosure.

POLITICAL TRIALS

Meierhenrich, Jens, and Devin O. Pendas, eds. 2016. *Political Trials in Theory and History*. New York: Cambridge University Press. Pp. x + 439. \$120.00 cloth.

Contributors to Meierhenrich and Pendas's volume examine the broad phenomena of political trials, viewing them as a sociolegal phenomenon. Drawing on methods ranging from archival research to participant observation, and theoretical perspectives from linguistic anthropology to game theory, they analyze the logic of the political in the courtroom and consider what political trials are, how they work, and why they matter.

US LEGAL HISTORY

White, G. Edward. 2016. *Law in American History, Volume 2: From Reconstruction Through the 1920s*. New York: Oxford University Press. Pp. x + 662. \$39.95 cloth.

This second volume of White's history of law in the United States covers 1865–1929, a period that encompasses Reconstruction, rapid industrialization, a huge influx of immigrants, the rise of Jim Crow, the emergence of a US territorial empire, World War I, and the booming yet xenophobic 1920s. As in the first volume, he connects legal developments to the major

political, economic, cultural, social, and demographic developments of the era, drawing on social scientific as well as historical sources.

US SUPREME COURT

Kalman, Laura. 2017. *The Long Reach of the Sixties: LBJ, Nixon, and the Making of the Contemporary Supreme Court*. New York: Oxford University Press. Pp. xv + 468. \$34.95 cloth.

Kalman studies the efforts of Presidents Johnson and Nixon to mold the US Supreme Court. Using newly released recordings of their telephone conversations, she roots their efforts in their desire to protect their presidencies. Moreover, she finds that the fear of another “Warren Court” has changed the appointment process forever. Drawing from sources in the Ford, Reagan, Bush I, and Clinton presidential libraries, as well as the justices’ papers, she concludes that this has politicized appointments by an order of magnitude.