

Book Notes*

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

CAPITAL PUNISHMENT

Gould, Jon B., and Maya Pagni Barak. *Capital Defense: Inside the Lives of America's Death Penalty Lawyers*. New York: New York University Press, 2019. Pp. v + 287. \$35.00 cloth.

Drawing on in-depth personal interviews with a cross-section of capital defense teams in the United States, Gould and Barak offer an up-close perspective on the capital litigation process and its impact on the people who participate in it. Employing a sociolegal lens, the authors address such topics as dirty work, personal and professional identity, gender and racial distinctions, and, most centrally, the call for criminal justice reform.

CONCEPTS OF JUSTICE

Johnson, Jessica, and George Hamandishe Karekwaivanane, eds. *Pursuing Justice in Africa: Competing Imaginaries and Contested Practices*. Athens, OH: Ohio University Press, 2018. Pp. ix + 332. \$74.99 cloth.

Building on recent work in sociolegal studies that foregrounds justice over concepts such as human rights and legal pluralism, contributors to Johnson and Karekwaivanane's collection engage alternative approaches to the concept of justice and its relationship with law, morality, and rights. The chapters are grounded in local experiences, but also attend to the ways in which national and international actors and processes influence local experiences and understandings of justice.

CONSTITUTIONAL THEORY AND HISTORY

Ackerman, Bruce. *Revolutionary Constitutions: Charismatic Leadership and the Rule of Law*. Cambridge, MA: Harvard University Press, 2019. Pp. 457. \$35.00 cloth.

Ackerman examines the origins, successes, and threats to revolutionary constitutionalism in India, South Africa, Italy, France, Poland, Burma, Israel, and Iran. He finds that despite their many differences, populist leaders such as Nehru, Mandela, and de Gaulle encountered similar dilemmas at critical turning points, and each chose to use their charismatic leadership not to retain power, but instead to confer legitimacy to the citizens and institutions of constitutional democracy.

Hendrianto, Stefanus. *Law and Politics of Constitutional Courts: Indonesia and the Search for Judicial Heroes*. New York: Routledge, 2018. Pp. xix + 291. \$140.00 cloth.

This book considers different models of judicial leadership in Indonesia to examine the impact that individual chief justices can have on the development of constitutional courts. Hendrianto considers three leadership styles: prudential-minimalist, where the chief justice enhances the Court's authority while fortifying its status by playing a minimalist role in policy areas; bold and aggressive, where the chief justice employs an ambitious constitutional interpretation; and soldier, where the chief justice is seen as a subordinate of the Executive and Legislature. The author concludes that a cautious initial approach is the most effective.

Ip, Eric C. *Hybrid Constitutionalism: The Politics of Constitutional Review in the Chinese Special Administrative Regions*. New York: Cambridge University Press, 2019. Pp. xii + 288. \$110.00 cloth.

This book examines the divergence between the Hong Kong Court of Final Appeal and Macau's *Tribunal de Última Instância* over their constitutional jurisprudence, with the former repeatedly invalidating unconstitutional legislation and the latter having never challenged the constitutionality of legislation at all. This divergence is remarkable because the two regions feature constitutional frameworks that are nearly identical and also share considerable history, ethnicity, culture, and

language. Drawing on political science and economics, Ip locates the cause of the anomaly in their disparate levels of political transaction costs.

Kersch, Ken I. *Conservatives and the Constitution: Imagining Constitutional Restoration in the Heyday of American Liberalism*. New York: Cambridge University Press, 2019. Pp. xxi + 407. \$34.99 paper.

Kersch argues that ritualized opposition between a conservative “originalism” and a liberal “living constitutionalism” has obscured an aggressively contested tradition of arguments for constitutional restoration and redemption within the broader postwar conservative movement in the United States. By looking at stories told by identity groups or about flashpoint topics in the postwar period, he seeks to capture the developmental and integrative nature of postwar constitutional conservatism. In doing so he challenges conservatives and liberals to more clearly understand both themselves and their presumed political and constitutional opposition.

Shaffer, Gregory, Tom Ginsburg, and Terence C. Halliday, eds. *Constitution-Making and Transnational Legal Order*. New York: Cambridge University Press, 2019. Pp. xiii + 320. \$110.00 cloth.

Shaffer, Ginsburg, and Halliday argue that while constitutions have been seen as an embodiment of national values and identity, individuals, ideas, and institutions from abroad have always influenced them, so their origins are better described as transnational. Moreover, in recent years a dominant transnational legal order for constitutions has emerged, with its own norms, guidelines, and shared ideas. Contributors to their volume—from the United States, Europe, Latin America, and Asia—address the actors, networks, norms, processes, and the related challenges involved in constitution-making from a transnational and comparative perspective.

CRIMINAL JUSTICE AND SOCIAL CONTROL

Bosworth, Mary, Alpa Parmar, and Yolanda Vázquez, eds. *Race, Criminal Justice, and Migration Control: Enforcing the Boundaries of Belonging*. New York: Oxford University Press, 2018. Pp. xxii + 253. \$81.00 cloth.

Contributors to Bosworth, Parmar, and Vázquez’s volume examine how race shapes and complicates mobility and how racism is enabled and reanimated when criminal justice and migration control coalesce. Topics include a conceptual analysis of race, borders, and social control; analysis of the institutions that make up and shape the criminal justice and migration complex; and examination of policing, courts, and punishment, seen as the key sites where criminal justice and migration control intersect.

Carlson, Kerstin. *Model(ing) Justice: Perfecting the Promise of International Law*. New York: Cambridge University Press, 2018. Pp. xvi + 244. \$110.00 cloth.

The International Criminal Tribunal for the former Yugoslavia (ICTY) was the first and most celebrated of a wave of international criminal tribunals (ICTs) created in the 1990s and designed to advance liberalism through international criminal law. Carlson examines the practice and case law of the ICTY to identify structural flaws inherent in ICTs as institutions, which in turn inhibit their contribution to social peace and prosperity. Drawing on this analysis she develops proposals for how international organizations can perform and disseminate the goals articulated by political liberalism.

Chase, Robert T., ed. *Caging Borders and Carceral States: Incarcerations, Immigration Detentions, and Resistance*. Chapel Hill, NC: University of North Carolina Press, 2019. Pp. xi + 427. \$29.95 paper.

Contributors to Chase’s volume present case studies of the detention, deportation, and incarceration of citizens and migrants in the US South and West, and the relationship of these practices to state building, converging and coercive legal powers, and national sovereignty. The studies depict the institutional development and state scaffolding of overlapping carceral regimes, as well as the resistance of prisoners and immigrants who drew on the transnational politics of human rights and liberation.

Chiao, Vincent. *Criminal Law in the Age of the Administrative State*. New York: Oxford University Press, 2019. Pp. xv + 270. \$99.00 cloth.

Chiao argues that the core purpose of the criminal law is not to respond to moral wrongdoing, but rather to sustain social cooperation with public institutions. Starting with the political morality of public institutions rather than the interpersonal morality of private relationships, his account holds that the criminal law is continuous with the modern administrative and welfare state and is answerable to the same political virtues. He sketches a democratic egalitarian account of those virtues, centered on a form of freedom-effective access to central capabilities as its currency of evaluation.

Dagger, Richard. *Playing Fair: Political Obligation and the Problems of Punishment*. New York: Oxford University Press, 2018. Pp. xii + 300. \$65.00 cloth.

Dagger seeks to provide a unified theory of political obligation and the justification of punishment that takes its bearings from the principle of fair play. He argues that the members of a reasonably just polity have an obligation to obey its laws because they have an obligation of reciprocity, or fair play, to one another.

Greenspan, Rosann, Hadar Aviram, and Jonathan Simon. *The Legal Process and the Promise of Justice: Studies Inspired by the Work of Malcolm Feeley*. New York: Cambridge University Press, 2019. Pp. viii + 392. \$110.00 cloth.

Contributors to Greenspan, Aviram, and Simon's work assess the legacy of Malcolm Feeley's theoretical innovations, put his findings to the test of time, and provide historical and international perspectives for his insights. The collection also highlights the ideas of others who, inspired by Feeley, have explored the everyday workings of courts and the legal process.

Marat, Erica. *The Politics of Police Reform: Society against the State in Post-Soviet Countries*. New York: Oxford University Press, 2018. Pp. ix + 249. \$74.00 cloth.

Marat argues that as a powerful state organ, the militarized police in post-Soviet nations have resisted change despite democratic transformations in the overall political context, including rounds of competitive elections and growing civil society. She examines reform efforts in Ukraine, Georgia, Kyrgyzstan, Kazakhstan, and Tajikistan, and concludes that bottom-up public mobilization is likely to emerge in the aftermath of transformative violence, when the usual patterns of policing are interrupted with unprecedented brutality against vulnerable individuals.

Mosher, Clayton James, and Scott Atkins. *In the Weeds: Demonization, Legalization, and the Evolution of US Marijuana Policy*. Philadelphia, PA: Temple University Press, 2019. Pp. xvi + 294. \$39.22 paper.

Mosher and Atkins examine the historical, legal, social, and political implications of marijuana policy reform in the United States. They consider the effects, medicinal applications, and possible harms of marijuana, discuss the argument that youth will be heavy users of legalized cannabis, and argue that "weed" is demonized by exaggerations of the drug's risks and claims of its lack of medicinal value. They also report on the paths to the legalization of recreational marijuana in the United States and other countries.

Zozula, Christine. *Courting the Community: Legitimacy and Punishment in a Community Court*. Philadelphia, PA: Temple University Press, 2019. Pp. xiv + 200. \$29.95 paper.

Community courts handle a city's low-level offenses and quality-of-life crimes, such as littering, loitering, or public drunkenness. Whereas traditional courts might dismiss these cases or administer a small fine, community courts aim to meaningfully punish offenders to avoid disorder that might escalate. In her ethnography of a US community court, Zozula describes how residents and businesses participate in meting out justice—such as through community service, treatment, or other

sanctions— and concludes that these practices make sanctions more emotional, less detached, and more legitimate in the eyes of stakeholders.

HUMAN RIGHTS

Handmaker, Jeff, and Karin Artz, eds. *Mobilising International Law for “Global Justice.”* New York: Cambridge University Press, 2018. Pp. xi + 252. \$110.00 cloth.

Contributors to Handmaker and Artz’s volume examine the roles played by state and civic actors in pursuing human rights through mobilizing international law at local and international levels. Topics include attempts to hold states, corporations, or individuals accountable for violations of international law; how enforcement of international law creates particular challenges for intergovernmental regulators seeking to manage tensions between incompatible legal systems; and how international law has local resonance, whereby, for example, cities have sought to give effect to the spirit of treaties that national governments have failed to implement or ratify.

LAW AND COMMUNITY ECONOMIC DEVELOPMENT

Dyal-Chand, Rashmi. *Collaborative Capitalism in American Cities: Reforming Urban Market Regulations.* New York: Cambridge University Press, 2018. Pp. ix + 283. \$110.00 cloth, \$34.99 paper.

Dyal-Chand finds that collaborative capitalism—the sharing among businesses of key resources and risk—can produce a particularly stable form of economic growth for the businesses, their employees, and the urban cores where they are located. She argues that this can allow US businesses to remain competitive while returning more wealth to their workers, thereby helping to solve problems of underdevelopment and poverty. She concludes that with reforms in such diverse areas as zoning, banking, and antitrust, law can play a crucial role in creating space and support for collaborative capitalism.

LAW AND HOUSING

Sullivan, Esther. *Manufactured Insecurity: Mobile Home Parks and Americans’ Tenuous Right to Place.* Oakland, CA: University of California Press, 2018. Pp. xv + 270. \$99.00 cloth.

Sullivan examines the social, legal, geospatial, and market forces that intersect to create housing insecurity for a class of low-income residents in the United States. Drawing on ethnographic data collected before, during, and after mobile home park closures and community-wide evictions in Florida and Texas—the two states with the largest mobile home populations—the author asks how people access and retain secure housing in the face of widespread poverty, deepening inequality, and scarce legal protection.

LAW AND IMMIGRATION

García, Angela S. *Legal Passing: Navigating Undocumented Life and Local Immigration Law.* Oakland, CA: University of California Press, 2019. Pp. xii + 267. \$29.95 paper.

García compares restrictive and accommodating immigration measures in various US localities and finds that place-based inclusion and exclusion unfold in seemingly contradictory ways. For example, instead of fleeing restrictive localities, undocumented Mexicans often react by presenting themselves as “legal,” to avoid local police and federal immigration enforcement. Ironically, the restrictive laws coerce assimilation, because as legal passing becomes habitual and embodied, immigrants distance themselves from their ethnic and cultural identities.

Kubal, Agnieszka. *Immigration and Refugee Law in Russia: Socio-Legal Perspectives*. New York: Cambridge University Press, 2019. Pp. xxii + 205. \$110.00 cloth.

Kubal examines the “on the ground” workings of immigration and refugee law in Russia. Her primary focus is on people, their stories, and experiences: migrants, asylum seekers, refugees, immigration lawyers, Russian judges, and the Federal Migration Service officers. In doing so she seeks to highlight the complexity and nuance of everyday experiences of the law, breaking away from the portrayal of Russia as a legal and ideological monolith.

LAW AND LABOR

Strang, Dean A. *Keep the Wretches in Order: America's Biggest Mass Trial, the Rise of the Justice Department, and the Fall of the IWW*. Madison, WI: University of Wisconsin Press, 2019. Pp. xxii + 322. \$36.95 cloth.

Strang argues that before World War I, the reaction to US labor dissent had been local, ad hoc, and quasi-military, but when the United States entered the conflict, the Department of Justice embarked on a sweeping new effort, systematically targeting the Industrial Workers of the World—aka the IWW or Wobblies—resulting in the largest mass trial in US history. The author concludes that this case laid the groundwork for a fundamentally different strategy to stifle radical threats and had a major role in shaping the modern Justice Department.

LAW AND MEDICINE

Livne, Roi. *Values at the End of Life: The Logic of Palliative Care*. Cambridge, MA: Harvard University Press, 2019. Pp. x + 341. \$45.00 cloth.

Livne combines historical analysis with observation of terminally ill patients, their families, and caregivers negotiating treatment in three US hospitals. He describes the conflicted moments when people articulate and act on their moral intuitions about dying. Drawing on interviews with medical staff, he identifies the strategies clinicians use to help families understand their options, and finds that clinicians advance the idea that invasive, expensive hospital procedures often compound a patient's suffering and that affluent, educated families were more readily persuaded by this moral calculus than those of less means.

Shapiro, Susan P. *Speaking for the Dying: Life-and-Death Decisions in Intensive Care*. Chicago: University of Chicago Press, 2019. Pp. ix + 336. \$30.00 paper.

Drawing on over two years of daily observations in two intensive care units in a diverse urban US hospital, Shapiro pinpoints the limited role of legal advance directives—e.g., powers of attorney for health care—in structuring results when patients lack the capacity to make medical decisions in the final days of their lives. She recounts how substitute decision makers are selected, the interventions they consider, the information they seek, the values and memories they draw on, the criteria they weigh, the outcomes they choose, the conflicts they become embroiled in, and the challenges they face.

LAW AND RACE

Tell, Dave. *Remembering Emmett Till*. Chicago: University of Chicago Press, 2019. Pp. xiv + 308. \$25.00 cloth.

This book provides five accounts of the commemoration of the murder of Emmett Till, a 14-year-old African American who was lynched in Mississippi in 1955. Tell argues that these memorials have

altered the Delta's physical and cultural landscape, drawing potent connections between the dawn of the civil rights era and current concerns for racial justice.

LAW IN EVERYDAY LIFE

Constable, Marianne, Leti Volpp, and Bryan Wagner, eds. *Looking for Law in All the Wrong Places: Justice Beyond and Between*. New York: Fordham University Press, 2019.

Using perspectives from the humanities, contributors to Constable, Volpp, and Wagner's collection look for law in the "wrong places." Some essays look for law where there appears to be none; they find not only reflections and remains of law, but also rules and practices that seem indistinguishable from law and raise challenging questions about law's location, meaning, and function. Others do the opposite, looking at statutes and courtrooms from perspectives that are usually presumed to have nothing to say about law.

LEGAL CULTURE

Fernandez, Angela. *Pierson v. Post, The Hunt for the Fox: Law and Professionalization in American Legal Culture*. New York: Cambridge University Press, 2018. Pp. xvi + 377. \$125.00 cloth.

The 1805 New York foxhunting case *Pierson v. Post*, one of the most famous cases in US property law, has long been used in US property law classes to introduce students to the concept of first possession by asking how one establishes possession of a wild animal. Fernandez recounts the history of the case, from its origins as a squabble between two wealthy young men in Long Island through its appeal to the New York Supreme Court and entry into legal treatises, casebooks, and journal articles, where it still occupies a central place.

LEGAL EDUCATION

Young, Kathryn M. *How to Be Sort of Happy in Law School*. Stanford, CA: Stanford University Press, 2018. Pp. xv + 290. \$20.00 paper.

Combining her own observations and experiences with the data from hundreds of alumni, dropouts, and law professors and a survey of over 1,000 law students from a myriad of US law schools, Young offers advice to students on how best to survive law school. Along the way, sections on race, gender, class, and sexual orientation in law school add to the literature on the legal education experience.

REGULATION

Baker, Jonathan B. *The Antitrust Paradigm: Restoring a Competitive Economy*. Cambridge, MA: Harvard University Press, 2019. Pp. 349. \$45.00 cloth.

Drawing on empirical and theoretical economics to defend the benefits of antitrust, Baker argues that Chicago-style reforms intended to unleash competitive enterprise have instead inflated market power and harmed the welfare of workers and consumers, squelched innovation, and reduced overall economic growth. Drawing on empirical and theoretical economics to defend the benefits of antitrust, he concludes that enforcement and jurisprudence can be updated for the high-tech economy.

Merriman, Ben. *Conservative Innovators: How States Are Challenging Federal Power*. Chicago: University of Chicago Press, 2019. Pp. x + 239. \$32.50 paper.

Merriman examines strategies used by conservative state governments in the United States to resist federal regulations, including coordinated lawsuits by state attorneys general, refusals to accept federal funds and spending mandates, and the creation of programs designed to restrict voting rights. He concludes that through this combination of strategies, state officials weakened or halted major parts of the Obama Administration's healthcare, environmental protection, and immigration agendas and eroded federal voting rights.

Newman, Abraham, and Elliot Posner. *Voluntary Disruptions: International Soft Law, Finance, and Power*. New York: Oxford University Press, 2018. Pp. ix + 224. \$34.95 cloth.

Newman and Posner argue that far from the world of treaties and state-to-state diplomacy, economic governance increasingly relies on soft law—voluntary standards, best practices, and recommended guidance created by an assortment of international organizations. They focus on the ways soft law shapes outcomes by providing political resources to favored groups and alternating the sites of contestation and the actors who participate in them. They conclude that soft law, typically viewed as limited by its voluntary nature, in fact disrupts and transforms the politics of economic governance.

Potter, Rachel Augustine. *Bending the Rules: Procedural Politicking in the Bureaucracy*. Chicago: University of Chicago Press, 2019. Pp. xiv + 244. \$30.00 paper.

Potter argues that federal administrative rulemaking in the United States is an intensely political activity. Because rulemaking occurs in a separation of powers system, bureaucrats are not free to implement their preferred policies unimpeded: the president, Congress, and the courts can all get involved in the process, often at the bidding of affected interest groups. However, rather than capitulating to demands, bureaucrats routinely employ “procedural politicking,” using their deep knowledge of the process to strategically insulate their proposals from political scrutiny and interference.

WRITING ABOUT RESEARCH

McCloskey, Deirdre N. *Economical Writing: Thirty-Five Rules for Clear and Persuasive Prose*. Chicago: University of Chicago Press, 2019. Pp. ix + 153. \$14.00 paper.

McCloskey presents pithy rules for making writing clear, concise, and effective. Proceeding from big-picture ideas to concrete strategies for improvement at the level of the paragraph, sentence, or word, she argues that good writing is a product of adept intuition and a rigorous revision process.