

Book Notes*

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

CIVIL JUSTICE SYSTEMS

Hendley, Kathryn. 2017. *Everyday Law in Russia*. New York: Cornell University Press. Pp. xvi + 285. \$45.00 cloth.

This book challenges the prevailing common wisdom that Russians cannot rely on their law and that Russian courts are hopelessly politicized and corrupt. Drawing on extensive observational research in Russia's new justice of the peace courts as well as on focus groups and interviews, Hendley finds that any reluctance on the part of ordinary Russian citizens to use the courts is driven primarily by their fear of the time and cost—measured in both financial and emotional terms—of the judicial process. Russian judges pay close attention to the law in mundane disputes, which are quite unlike the political cases that garner the most attention.

Kirkland, Anna. 2016. *Vaccine Court: The Law and Politics of Injury*. New York: New York University Press. Pp. xi + 273. \$40.00 cloth.

The vaccine court is a small special court in the US Court of Federal Claims that handles allegations of harm from vaccines. Kirkland draws on the trials of the vaccine court to explore how legal institutions resolve complex scientific questions. Although many scholars argue that it is foolish to let judges and lawyers decide medical claims about vaccines, Kirkland argues that our political and legal response to vaccine injury claims shows how well legal institutions can handle specialized scientific matters.

CIVIL LIBERTIES

Weinrib, Laura. 2016. *The Taming of Free Speech: America's Civil Liberties Compromise*. Cambridge, MA: Harvard University Press. Pp. 461. \$45.00 cloth.

Weinrib traces Americans' understanding of civil liberties to conflict between 1910 and 1940 over workers' right to strike. As self-proclaimed partisans in a class war, the founders of the American Civil Liberties Union promoted a bold vision of free speech that encompassed unrestricted picketing and boycotts. Over time, however, it subdued its rhetoric to attract adherents and prevail in court. At the height of the New Deal, many liberals opposed the ACLU's litigation strategy, fearing it would legitimize a judiciary friendly to corporations and hostile to the administrative state. Conversely, conservatives eager to insulate industry from government regulation pivoted to embrace civil liberties, despite their radical roots. The resulting transformation in constitutional jurisprudence—often understood as a triumph for the left—was in fact a calculated bargain.

CRIMINAL JUSTICE AND SOCIAL CONTROL

Comaroff, Jean, and John L. Comaroff. 2016. *The Truth About Crime: Sovereignty, Knowledge, Social Order*. Chicago: University of Chicago Press. Pp. xix + 347. \$27.50 paper.

The Comaroffs argue that it is not by arts, politics, or science that we understand ourselves—it is by our crimes. Looking at recent transformations in the triangulation of capital, the state, and governance that have led to an era where crime and policing are ever more complicit, they offer a global criminal anthropology that attests to criminality as the constitutive fact of contemporary life, the vernacular by which politics are conducted, moral panics voiced, and populations ruled.

Dzur, Albert W., Ian Loader, and Richard Sparks, eds. 2016. *Democratic Theory and Mass Incarceration*. New York: Oxford University Press. Pp. xi + 343. \$74.00 cloth.

Contributors to Dzur, Loader, and Sparks's collection seek to deepen the dialogue between democratic theory and punishment policy. Rather than viewing punishment as a natural reaction to crime, contributors argue that crime and punishment are institutions that reveal unmet demands for public oversight and democratic influence. They explore theoretical paths toward de-carceration and alternatives to prison, suggest ways in which democratic theory can strengthen recent reform movements, and offer new alternatives to mass incarceration.

Jauregui, Beatrice. 2016. *Provisional Authority: Police, Order, and Security in India*. Chicago: University of Chicago Press. Pp. ix + 205. \$35.00 paper.

In this ethnographic study of the day-to-day lives of police officers in India's most populous state, Uttar Pradesh, Jauregui confronts the puzzle of police authority in contemporary India and its relationship to social order, democratic governance, and security. She finds that police authority is provisional in several senses: shifting across time and space, subject to the availability and movement of resources, and dependent on shared moral codes and relentless instrumental demands.

Jiang, Jue. 2016. *Criminal Reconciliation in Contemporary China: An Empirical and Analytical Enquiry*. Northampton, MA: Edward Elgar. Pp. x + 292. \$135.00 cloth.

In China, the process of criminal reconciliation allows the alleged perpetrators and victims of certain crimes to resolve criminal cases through reconciliation or mediation. Drawing on case file examination and interviews with judges, prosecutors, lawyers, and individual parties in three cities in Mainland China, Jiang analyzes these programs and relates flaws in the criminal reconciliation program to wider problems in the Chinese criminal justice system.

LaChance, Daniel. 2016. *Executing Freedom: The Cultural Life of Capital Punishment in the United States*. Chicago: University of Chicago Press. Pp. xiii + 260. \$35.00 cloth.

Drawing on an array of sources, including congressional hearings and campaign speeches, true crime classics, and films, LaChance finds that attitudes toward the death penalty in the United States have reflected broader shifts in Americans' thinking about the relationship between the individual and the state. Emerging from the height of 1970s disillusion, the simplicity and moral power of the death penalty became a potent symbol for many Americans of what government *could* do—and he argues, the failure of capital punishment to live up to that mythology could prove its eventual undoing in the United States.

Lynch, Mona. 2016. *Hard Bargains: The Coercive Power of Drug Laws in Federal Court*. New York: Russell Sage Foundation. Pp. xiv + 206. \$29.95 paper.

Drawing on field research in three US federal court districts, Lynch argues that the convergence of tough-on-crime politics, stiffer sentencing laws, and jurisdictional expansion in the 1970s and 1980s increased the powers of federal prosecutors in unprecedented ways. She finds that prosecutors use punitive federal drug laws to coerce guilty pleas and that the highly discretionary ways in which federal prosecutors work with law enforcement—and how these vary by district—have led to significant racial disparities in federal courts.

O'Hear, Michael. 2016. *Wisconsin Sentencing in the Tough-on-Crime Era: How Judges Retained Power and Why Mass Incarceration Happened Anyway*. Madison: University of Wisconsin Press. Pp. xv + 266. \$44.95 cloth.

Drawing on archival research, original public opinion polling, and interviews with dozens of key policy makers, O'Hear argues that the dramatic increase in US prison populations since the 1970s is not just the result of punitive laws such as mandatory sentencing. An analysis of incarceration in Wisconsin—a state where judges have considerable discretion in sentencing—explores alternative reasons for the ballooning prison population.

Ramirez, Mary Kreiner, and Steven A. Ramirez. 2017. *The Case for the Corporate Death Penalty: Restoring Law and Order on Law Street*. New York: New York University Press. Pp. xiv + 255. \$30.00 cloth.

Ramirez and Ramirez argue that an unprecedented breakdown in the rule of law occurred in the United States after the 2008 financial collapse, where large banks settled securities fraud claims with the Securities and Exchange Commission for failing to disclose the risks of subprime mortgages they sold to the investing public. They find that by merely accepting corporate fines, rather than breaking up the megabanks, the government essentially punished innocent shareholders instead of the banks' senior leaders, allowing them to walk away from criminal responsibility.

Salter, Michael. 2017. *Crime, Justice and Social Media*. New York: Routledge. Pp. 186. \$42.95 paper.

Salter argues that online abuse is not discontinuous with established patterns of inequality but rather intersects with and amplifies them. Embedded within social media platforms are inducements to abuse and harass other users, who are rarely provided with the tools to protect themselves or interrupt the abuse of others. He concludes that there is a relationship between the values that shape the technological design and administration of social media, and those that inform the use of abuse and harassment to exclude and marginalize diverse participants in public life.

Strange, Carolyn. 2016. *Discretionary Justice: Pardon and Parole in New York from the Revolution to the Depression*. New York: New York University Press. Pp. x + 323. \$55.00 cloth.

Drawing on a wide variety of archival material, Strange analyzes the history of pardon and parole in New York State from the Revolution to the Depression. She draws on governors' papers and private correspondence to probe their approach to clemency, and uses qualitative and quantitative methods to profile petitions for mercy, highlighting controversial cases. Political pressure to render the use of discretion less personal grew stronger over the nineteenth century, reaching its height in the Progressive Era. Yet New York's legislators left the power to pardon in the governor's hands, where it remains today.

ENDOGENEITY OF LAW

Edelman, Lauren B. 2016. *Working Law: Courts, Corporations, and Symbolic Civil Rights*. Chicago: University of Chicago. Pp. xii + 349. \$30.00 paper.

Edelman argues that one reason for the persistence of race and gender inequality in the US workplace is that managers interpret ambiguous legal rules in ways that incorporate business interests and values. The result is often policies and procedures that are largely symbolic and fail to dispel longstanding patterns of discrimination. Even more troubling, through a process she calls legal endogeneity, forms of compliance that become widespread within companies eventually make their way into the legal domain, inconspicuously influencing lawyers for both plaintiffs and defendants and even judges, regulators, and legislators. Law becomes endogenous as legal institutions condone symbolic civil rights.

EVIDENCE

Feigenson, Neal. 2017. *Experiencing Other Minds in the Courtroom*. Chicago: University of Chicago Press. Pp. 243. \$45.00 cloth.

Feigenson seeks to turn the courtroom into a forum for exploring the philosophical, psychological, and legal ramifications of our efforts to know what other people's conscious experiences are truly like. Drawing on disciplines ranging from cognitive psychology to psychophysics to

media studies, he presents examples of digitally simulated subjective perceptions to explain how the epistemological value of this evidence is affected by who creates it, how it is made, and how it is presented.

HISTORY OF THE ADVERSARY SYSTEM

Kessler, Amalia D. 2017. *Inventing American Exceptionalism: The Origins of American Adversarial Legal Culture, 1800–1877*. New Haven, CT: Yale University Press. Pp. xi + 449. \$35.00 paper.

In this historical analysis, Kessler argues that it was only in the turbulent decades before the Civil War that adversarialism became a defining US legal practice and ideology, displacing judge-driven approaches to procedure. She finds that the emergence of the American adversarial legal culture was a product not only of developments internal to law, but also of wider socioeconomic, political, and cultural debates over whether and how to undertake market regulation and pursue racial equality. As a result, adversarialism came to play a key role in defining American legal institutions and practices, as well as national identity.

HUMAN RIGHTS

Engle, Karen, Zinaida Miller, and D. M. Davis, eds. 2016. *Anti-Impunity and the Human Rights Agenda*. New York: Cambridge University Press. Pp. x + 389. \$34.99 paper.

Contributors to Engle, Miller, and Davis's volume question what they see as the accepted view that criminal punishment is a legal, political, and pragmatic imperative for addressing human rights violations. They conclude that a laser focus on anti-impunity has created blind spots in both practice and scholarship that result in a constricted response to human rights violations, a narrowed conception of justice, and an impoverished approach to peace.

Kahana, Tsvi, and Anat Scolnicov, eds. 2016. *Boundaries of State, Boundaries of Rights: Human Rights, Private Actors, and Positive Obligations*. New York: Cambridge University Press. Pp. x + 330. \$110.00 cloth.

Contributors to Kahana and Scolnicov's volume examine the relationship between two legal and political phenomena: the shrinking of the state as a monopoly of power in favor of the expansion of power over individuals in private hands, and the change in the nature of rights. They discuss the implications of the changing boundaries of state power, the legal responses to this development, its application to human rights, and the reconceptualization of public life as obligations are handed over to private hands.

Savelsberg, Joachim J. 2015. *Representing Mass Violence: Conflicting Responses to Human Rights Violations in Darfur*. Oakland: University of California Press. Pp. xix + 341. \$34.95 paper.

Focusing on the case of Darfur, Savelsberg analyzes more than 3,000 news reports and opinion pieces and interviews leading newspaper correspondents, NGO experts, and foreign ministry officials from eight countries to show the dramatic differences in the framing of mass violence around the world and across social fields. He considers such questions as: How do interventions by the UN Security Council and the International Criminal Court influence representations of mass violence? What images arise instead from the humanitarianism and diplomacy fields? How are these competing perspectives communicated to the public via mass media?

LAW AND THE ADMINISTRATIVE STATE

Vermeule, Adrian. 2016. *Law's Abnegation: From Law's Empire to the Administrative State*. Cambridge, MA: Harvard University Press. Pp. 254. \$39.95 cloth.

Vermeule argues that over time, the arc of US law has bent steadily away from the judiciary and toward deference to the administrative state. In area after area, he finds that the judiciary, working out the logical implications of legal principles, has come to believe that administrators should be granted broad leeway to set policy, determine facts, interpret ambiguous statutes, and even define the boundaries of their own jurisdiction, and that agencies have greater democratic legitimacy and technical competence to confront many issues than lawyers and judges do.

LAW AND FAMILY RELATIONSHIPS

Thomas, Tracy A. 2016. *Elizabeth Cady Stanton and the Feminist Foundations of Family Law*. New York: New York University Press. Pp. xiii + 309. \$55.00 cloth.

This book considers Elizabeth Cady Stanton's intellectual contributions to—and personal experiences with—family law in the United States. Stanton's work on family issues has been overshadowed by her work (especially with Susan B. Anthony) on woman's suffrage. However, throughout her fifty-year career, Stanton emphasized reform of the private sphere of the family as central to achieving women's equality. Using feminist legal theory as a lens to interpret Stanton's work on the family, Thomas argues that Stanton's positions on divorce, working mothers, domestic violence, child care, and many other topics were strikingly progressive for her time.

LAW AND GENOCIDE

Hinton, Alexander Laban. 2016. *Man or Monster? The Trial of a Khmer Rouge Torturer*. Durham, NC: Duke University Press. Pp. viii + 350. \$26.95 paper.

During the Khmer Rouge's reign in Cambodia during the mid-to-late 1970s, a man named Duch served as the commandant of a center where as many as 20,000 victims were tortured and executed. In 2009, Duch stood trial for these crimes. Hinton uses fieldwork, interviews, and his experience attending Duch's trial to analyze Duch, the tribunal, the Khmer Rouge, and the after-effects of Cambodia's genocide. He adapts Hannah Arendt's notion of the "banality of evil" to consider how the potential for violence is embedded in the everyday ways people articulate meaning and comprehend the world.

Ingelaere, Bert. 2016. *Inside Rwanda's Gacaca Courts: Seeking Justice After Genocide*. Madison: University of Wisconsin Press. Pp. xvi + 234. \$64.95 cloth.

After the 1994 genocide in Rwanda, victims, perpetrators, and the country as a whole struggled to deal with the legacy of the mass violence. The government responded by creating a new version of a traditional grassroots justice system called *gacaca*. Drawing on interviews, trial testimony, and his observation of 2,000 *gacaca* trials, Ingelaere analyzes how the *gacaca* shifted over time from confession to accusation, and from restoration to retribution.

Stover, Eric, Victor Peskin, and Alexa Koenig. 2016. *Hiding in Plain Sight: The Pursuit of War Criminals from Nuremberg to the War on Terror*. Oakland: University of California Press. Pp. x + 487. \$32.95 cloth.

Beginning with the flight of tens of thousands of Nazi war criminals and their collaborators after World War II, moving on to the question of justice following the recent Balkan wars and the Rwandan genocide, and ending with the establishment of the International Criminal Court and America's pursuit of suspected terrorists in the aftermath of 9/11, Stover, Peskin, and Koenig explore the range of diplomatic and military strategies—both successful and unsuccessful—that states and international courts have adopted to pursue and capture war crimes suspects.

LAW AND IMMIGRATION

Miller, Banks, Linda Camp Keith, and Jennifer S. Holmes. 2015. *Immigration Judges and U.S. Asylum Policy*. Philadelphia: University of Pennsylvania Press. Pp. 238. \$69.95 cloth.

Miller, Keith, and Holmes investigate more than 500,000 asylum cases decided by US immigration judges between 1990 and 2010. They find that facts determined to be legally relevant tend to be treated similarly by judges of different political ideologies, while facts considered extralegal are treated subjectively. In addition, local economic and political conditions as well as congressional reforms affect outcomes.

LAW AND MARKETS

Patterson, Mark R. 2017. *Antitrust Law in the New Economy: Google, Yelp, LIBOR, and the Control of Information*. Cambridge, MA: Harvard University Press. Pp. viii + 317. \$49.95 cloth.

This book examines the range of ways in which data can be manipulated for competitive advantage and exploitation of consumers and considers novel issues like “confusopoly” and sellers’ use of consumers’ personal information in direct selling. Patterson argues that consumer protection law is poorly suited for these problems in the information economy and that anti-trust law, designed to regulate powerful firms and prevent collusion among producers, is a better choice. He concludes that antitrust law can and should be adapted for the information economy and provides examples of how this might be done.

Sokol, D. Daniel, ed. 2017. *Patent Assertion Entities and Competition Policy*. New York: Cambridge University Press. Pp. viii + 206. \$110.00 cloth.

Contributors to Sokol’s collection address issues related to patent assertion entities (“patent trolls”) around the world, integrating economic theory with economic and legal reality to examine how the entities function and their impact on competition. Contributors address the situation in the United States, Europe, Korea, Taiwan, Japan, and China, offering empirical accounts of the entities’ economic consequences and their use of litigation and argue that they are used as a means of legal extortion against many of the most innovative companies in the world, from startups to multinationals.

LAW AND RELIGION

Ali, Shaheen Sardar. 2016. *Modern Challenges to Islamic Law*. New York: Cambridge University Press. Pp. xxii + 303. \$39.99 paper.

Ali explores the operation of Islamic law in Muslim daily life, combining theoretical perspectives with investigation into how local understandings impact the application of law. Topics covered include Islamic constitutionalism, Islamic finance, human rights, and Internet fatwas.

Beckwith, Francis. 2015. *Taking Rites Seriously: Law, Politics, and the Reasonableness of Faith*. New York: Cambridge University Press. Pp. xiv + 225. \$28.99 cloth.

Covering three general topics—reason and motive, dignity and personhood, nature and sex—Beckwith addresses a variety of legal and cultural questions over which religious and nonreligious citizens often disagree, including religiously motivated legislation, abortion and embryonic stem cell research, reproductive rights and religious liberty, and the nature of marriage. In the process, he responds to leading critics of public faith as well as to religiously conservative critics of secularism.

LEGAL AUTHORITY

Godfrey, Mark, ed. 2016. *Law and Authority in British Legal History, 1200–1900*. New York: Cambridge University Press. Pp. xiii + 343. \$110.00 cloth.

Contributors to Godfrey's collection offer perspectives on the way that ideas of authority underpinned the conceptualization and interpretation of legal sources over time and became embedded in British legal institutions. Among other issues, the contributors explore the basis of the authority of particular sources of law—such as legislation or court judgments—and highlight how this was affected by shifting ideas relating to concepts of sovereignty, religion, political legitimacy, the nature of law, equity, and judicial interpretation.

LEGAL EDUCATION

Espeland, Wendy Nelson, and Michael Sauder. 2016. *Engines of Anxiety: Academic Rankings, Reputation, and Accountability*. New York: Russell Sage Foundation. Pp. xii + 281. \$35.00 paper.

Drawing on observational data and over 200 in-depth interviews with US law students, university deans, and other administrators, Espeland and Sauder track how rankings, such as those by *U.S. News & World Report*, permeate every aspect of legal education: prospective students rely on the rankings to evaluate school quality; admissions officers face pressure to admit applicants with high test scores over lower-scoring candidates who possess other favorable credentials; and law firms use school rankings to recruit and screen job candidates, perpetuating a cycle in which highly ranked schools enjoy increasing prestige.

LEGAL PLURALISM

Adams, Wendy A. 2016. *Popular Culture and Legal Pluralism: Narrative as Law*. Burlington, VT: Ashgate Publishing Co. Pp. 218. \$149.95 cloth.

Drawing on theories of critical legal pluralism and psychological theories of narrative identity, Adams argues for an understanding of popular culture as legal authority, unmediated by translation into state law. She finds that a pluralist legal analysis allows examination of a much broader subject matter than is possible through the perspective of state law alone, and considers whether presumptively illegal acts might actually be instances of a reimagined, alternative legality.

LEGAL PROFESSION

Liu, Sida, and Terence C. Halliday. 2016. *Criminal Defense in China: The Politics of Lawyers at Work*. New York: Cambridge University Press. Pp. xix + 200. \$28.99 paper.

Drawing on over 300 interviews and other materials, Liu and Halliday analyze the everyday work and the interweaving of politics and practice in five segments of the criminal defense bar from 2005 to 2015. Viewing criminal defense as a political project, they draw on propositions from scholarship on lawyers and political liberalism across the world—from seventeenth-century Europe to late-twentieth-century Korea and Taiwan—to examine the strategies and constraints of lawyer mobilization in China.

Snyder, Laura. 2016. *Democratizing Legal Services: Obstacles and Opportunities*. Lanham, MD: Lexington Books. Pp. xxxi + 307. \$100.00 cloth.

Snyder argues that the problems plaguing legal services in the United States can be addressed only by a radical overhaul of the rules that govern how legal services may be delivered, as well as radical changes to who exercises the power to make those rules. Drawing on interviews with those with experience with alternative legal service providers, she discusses the formidable obstacles and opportunities for change.