

Book Notes*

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

CRIMINAL JUSTICE AND SOCIAL CONTROL

DeFalco, Randle C. *Invisible Atrocities: The Aesthetic Biases of International Criminal Justice*. New York: Cambridge University Press. 2022. Pp. xi + 300. \$110.00 cloth.

DeFalco examines how associations between atrocity commission and the production of horrific spectacles shape the processes through which international crimes are identified and conceptualized; the result is the foregrounding of certain forms of mass violence and the backgrounding or complete invisibilization of others. He concludes that the failure to address these 'invisible atrocities' represents a major flaw in the current international criminal justice system, one that produces a host of problematic repercussions and undermines the legal legitimacy of international criminal law itself.

del Pozo, Brandon. *The Police and the State: Security, Social Cooperation, and the Public Good*. New York: Cambridge University Press. 2022. Pp. viii + 251. \$99.00 cloth.

Invoking his experience as over two decades as a New York City police officer and Vermont chief of police, del Pozo presents a normative account of what it means to police a pluralist democracy. He recasts order maintenance as brokering and enforcing the fair terms of social cooperation in our public spaces, for the protection of minority interests, and for a society where diverse conceptions of the good can flourish.

Grunewald, Ralph. *Narratives of Guilt and Innocence: The Power of Storytelling in Wrongful Conviction Cases*. New York: New York University Press 2023. Pp. x + 288. \$45.00 cloth.

Grunewald asks how it is possible that prosecutors can convince themselves and juries of the guilt of an innocent defendant, often even against strong exculpatory evidence. He addresses this question by focusing on how the power of narrative influences how police, prosecutors, juries, and judges construct legal reality and the evidence for it. Applying a comparative perspective, he finds that the narrative desire as a human trait has a universal power with a persistence that transcends the regulatory and procedural setup of a given system.

Gunderson, Anna. *Captive Market: The Politics of Private Prisons in America*. New York, NY: Oxford University Press, 2023. Pp. ix + 190. \$27.95 paper.

Gunderson argues that the growth of private prisons in the U.S. is an unintended consequence of the legal rights revolution for prisoners; privatization limits legal and political accountability for inmate lawsuits.

Kochel, Tammy Rinehart. *Policing Unrest: On the Front Lines of the Ferguson Protests*. New York: New York University Press. 2023. Pp. iii + 269. \$30.00 paper.

Drawing on interviews with dozens of personnel who policed the protests in and around Ferguson, Missouri following the fatal shooting of Michael Brown by a police officer, Kochel explores the officers' shared experiences. Topics covered include police-community relationships and community policing principles; how factors such as police subculture and organizational culture stacked up against social identity during this crisis; the role of an officer's characteristics, especially an officer's race, play in an officer's self-legitimacy; and the implications for police recruitment and training.

Lidén, Moa. *Confirmation Bias in Criminal Cases*. New York, NY: Oxford University Press, 2023. Pp. ix + 288. \$115.00 cloth.

Confirmation bias is the subconscious tendency to search selectively for and emphasize information that is consistent with a hypothesis or preferred conclusion. Since confirmation bias can be present at all stages of criminal investigations and proceedings, it constitutes a serious risk of error, resulting in both wrongful convictions and wrongful acquittals. Lidén argues that a good starting point for mitigating bias is found in the cognitive, emotional and motivational, social and organizational psychology, including measures such as changing decision-makers, contextual information management, linear sequential unmasking, and structured evaluations of evidence.

O'Donnell, Ian. *Prison Life: Pain, Resistance, and Purpose*. New York: New York University Press. 2023. Pp. xiii + 285. \$30.00 paper.

Drawing on case studies from Africa, Europe and the US, O'Donnell explores the life of prisoners. He contrasts the "soul-destroying isolation" of the federal supermax in Florence, Colorado with the crowded conviviality of an Ethiopian prison where men and women cook their own meals, seek opportunities to generate an income, elect a leadership team, and live according to a code of conduct that they devise and enforce. In Northern Ireland he explores life on prison wings controlled by the Irish Republican Army, who saw their incarceration as politically-motivated and acted in perpetual defiance of the authorities.

Shdaimah, Corey S., Chrysanthi S. Leon, and Shelly A. Wiechelt. *The Compassionate Court?: Support, Surveillance, and Survival in Prostitution Diversion Programs*. Philadelphia, PA: Temple University Press, 2023. Pp. xi + 189. \$29.95 paper.

Drawing on interviews and observations, Shdaimah, Leon, and Wiechelt provide case studies of two U.S. prostitution diversion programs (PDPs) that offer to "rehabilitate" people arrested for street-based sex work as an alternative to incarceration. They find that the PDPs often fail to provide sustainable alternatives to their clients, who are subjected to constant surveillance and obligations; this creates a paradox of responsibility in conflict with the system's logic of rescue.

Smiley, Calvin John. *Purgatory Citizenship: Reentry, Race, and Abolition*. Oakland, CA: University of California Press, 2023. Pp. xiv + 223. \$29.95 paper.

Making use of life-history interviews, focus groups, and ethnographic fieldwork with low-income urban residents of color, primarily Black men, in the U.S., Smiley finds that reentry requires recently released prisoners to negotiate a web of disjointed and often contradictory systems that serve as an extension of the carceral system. No longer behind bars but not fully free, released prisoners navigate a state of limbo that deprives them of opportunity and support while leaving them locked in a cycle of perpetual punishment. Arguing that reformist efforts that only serve to further entrench carceral systems, he advocates for abolitionist solutions.

JUDICIAL POWER AND DECISION MAKING

Tiede, Lydia. *Judicial Vetoes: Decision-making on Mixed Selection Constitutional Courts*. New York: Cambridge University Press. 2023. Pp. xviii + 305. \$110.00 cloth.

Using empirical evidence from the constitutional courts of Chile and Colombia, Tiede develops a framework for understanding the factors, external and internal to courts, which lead individual judges, as well as the courts in which they work, to veto a law. While existing literature on constitutional courts tends to focus on how judicial behaviour is motivated by judges' political preferences, she finds that under mixed judicial selection—in which institutions choose different types of judges who represent different approaches to constitutional adjudication—there is a higher propensity to strike down laws.

JURISPRUDENCE AND SOCIOLEGAL THEORY

Tamanaha, Brian Z. *Sociological Approaches to Theories of Law*. New York: Cambridge University Press 2023. Pp. iii + 70. \$22.00

Tamanaha applies empirical insights to examine theories of law proffered by analytical jurists, finding that on a number of central issues, analytical jurists assert positions inconsistent with the social reality of law. Topics covered include artifact legal theory, law as a social construction, idealized accounts of the function of law, the dis-embeddeness of legal systems, the purported guidance function of law, the false social efficacy thesis, missteps in the quest to answer ‘What is law?’, and the relationship between empiricism and analytical jurisprudence.

LAW AND AUTHORITARIANISM

Chen, Weitseng and Fu, Hualing eds. *Regime Type and Beyond: The Transformation of Police in Asia*. New York: Cambridge University Press. 2023. Pp. xiv + 394. \$135.00 cloth.

Contributors to Chen and Fu’s volume explore the nature of authoritarian policing and how it has transformed and developed the rule of law throughout East and Southeast Asia. Essays examine the evolution of the police as a key political institution from a historical perspective and offer comparative insights into the potential of democratic policing and the resilience of authoritarian policing. Case studies focus on Singapore, Thailand, Hong Kong, Vietnam, China, Taiwan, Japan and South Korea.

Lee, Haiyan. *A Certain Justice: Toward an Ecology of the Chinese Legal Imagination*. Chicago: University of Chicago Press. 2023. Pp. xii + 338. \$32.50 paper.

China often is seen as a realm of Oriental despotism where law is at best window dressing and at worst an instrument of coercion and tyranny. Lee contends that this image arises from a skewed understanding of China’s political-legal culture, particularly the failure to distinguish “high justice” and “low justice.” In the Chinese legal imagination, justice is a vertical concept, with low justice between individuals firmly subordinated to the high justice of the state. Also, China’s political-legal culture is marked by a mistrust of law’s powers, and as a result, it privileges substantive over procedural justice.

Hendley, Kathryn, and Peter H. Solomon, Jr. *The Judicial System of Russia*. Oxford, UK: Oxford University Press, 2023. Pp. v + 256. \$30.00 paper.

Hendley and Solomon examine the courts of Putin’s Russian Federation, how they work in practice, and what shapes the behavior of its judges. They stress the dual nature of a judicial system, where ordinary cases are for the most part handled according to the written law, but cases of interest to powerful persons are subject to influence—a common situation in authoritarian states. They also pay close attention to the struggles of reformers to make the courts fairer and more efficient, along with the measures taken to ensure that judges conform to the expectations of their political masters.

LAW AND CITIZENSHIP

Marglin, Jessica M. *The Shamama Case: Contesting Citizenship across the Modern Mediterranean*. Princeton, NJ: Princeton University Press, 2022. Pp. xviii + 363. \$35.00 cloth.

In the winter of 1873, Nissim Shamama, a wealthy Jew from Tunisia, died suddenly in his palazzo in Livorno, Italy, triggering a fierce lawsuit over his large estate. Marglin brings to life a Dickensian array of individuals involved in the case: family members who hoped to inherit the estate; Tunisian government officials; an Algerian Jewish fixer; rabbis in Palestine, Tunisia, and Livorno; and some

of Italy's most famous legal minds. Drawing from a wealth of correspondence, legal briefs, rabbinic opinions, and court rulings, the book seeks to reimagine how we think about Jews, the Mediterranean, and belonging in the nineteenth century.

LAW AND FAMILY RELATIONSHIPS

Li, Ke. *Marriage Unbound: State Law, Power, and Inequality in Contemporary China*. Stanford, CA: Stanford University Press, 2022. Pp. xvi + 324. \$30.00 cloth.

Li's book on the politics of divorce cases in contemporary China follows a group of women seeking judicial remedies for conjugal grievances and disputes. Drawing on archival and ethnographic data, paired with access to rural Chinese courtrooms, she portrays how these women navigate divorce litigation, and provides an in-depth account of the modern Chinese legal system. A particular focus is on the struggles between the powerful and the powerless at the front lines of dispute management; the complex interplay between culture and the state; and insidious statecraft that far too often sacrifices women's rights and interests.

LAW AND IMMIGRATION

Asad, Asad L. *Engage and Evade: How Latino Immigrant Families Manage Surveillance in Everyday Life*. Princeton, NJ: Princeton University Press, 2023. Pp. xvi + 321. \$33.00 cloth.

Drawing on interviews and surveys with Latino immigrants and their families and "up-close" observations of U.S. immigration officials, Asad examines how undocumented immigrants navigate complex dynamics of surveillance and punishment, providing a portrait of fear and hope on the margins. He describes how the immigrants engage with various institutions—for example, by registering with the IRS or enrolling their kids in public health insurance programs—that the government can use to monitor them, hoping that their record of engagement will help them prove to immigration officials that they deserve societal membership.

Barak, Maya Pagni. *The Slow Violence of Immigration Court: Procedural Justice on Trial*. New York: New York University Press, 2023. Pp. v + 223. \$30.00 paper.

Barak portrays the experiences of migrants from the "Northern Triangle" (Guatemala, Honduras, and El Salvador) as they navigate U.S. legal processes, deportation proceedings, immigration court, and the immigration system writ large. Her focus is on the stories of people facing deportation, the family members who support them, and the attorneys who defend them. She concludes that deportation and family separation are not abhorrent anomalies, but are a routine, slow form of violence at the heart of the U.S. immigration system.

Kenny, Kevin. *The Problem of Immigration in a Slaveholding Republic*. New York, NY: Oxford University Press, 2023. Pp. x + 325. \$29.95 cloth.

Kenny reports that throughout the U.S. antebellum era, immigration was controlled by the states; defenders of slavery feared that if Congress controlled immigration, it could also regulate the movement of free black people and the interstate slave trade. The Civil War removed the political and constitutional obstacles to a national immigration policy, and under a national policy admission remained the norm for European immigrants until the 1920s. However, beginning in the 1870s, the federal government excluded Chinese laborers, deploying techniques of registration, punishment, and deportation first used against free black people in the antebellum South.

LAW AND THE PANDEMIC

Parmet, Wendy E. *Constitutional Contagion: COVID, The Courts, and Public Health*. New York: Cambridge University Press., 2023. Pp. xii + 235. \$24.99 paper.

Parmet explores the history of U.S. public health laws, the nature of liberty and individual rights, and the forces that make a nation more or less vulnerable to contagion. She finds that the Supreme Court departed from past practice to stymie efforts to mitigate the COVID-19 pandemic and argues that pre-pandemic court decisions helped to shatter social contracts, weaken democracy, and perpetuate the inequities that made the country especially vulnerable when COVID-19 struck. She concludes that the Constitution does not compel the stark individualism and disregard of public health that characterizes contemporary constitutional law decisions.

LAW AND PROPERTY

Chang, Yun-chien. *Property Law: Comparative, Empirical, and Economic Analyses*. New York: Cambridge University Press, 2023. Pp. xxv + 425. \$135.00 cloth.

Working a data set on nearly 300 dimensions on the substance of property law in 156 jurisdictions, Chang analyzes property institutions and uses machine learning methods to categorize jurisdictions into ten legal families, challenging existing paradigms in economics and law. Using economic efficiency as both a positive and normative criterion, he evaluates which jurisdictions have the most efficient property doctrines; he concludes that the common law is not more efficient than the civil law. Data and documentation are publicly available on the author's website.

Edwards, Laura F. *Only the Clothes on Her Back: Clothing and the Hidden History of Power in the Nineteenth-Century United States*. New York, NY: Oxford University Press, 2022. Pp. xiii + 432. \$34.95 cloth.

Edwards argues that textiles—dresses, bedlinens, waistcoats, pantaloons, shoes, and kerchiefs—tell a revealing story of how ordinary people made use of their material goods' economic and legal value in the period between the U.S. Revolution and the Civil War; they were a unique form of property that people without rights could own and exchange. The value of textiles depended on law, and it was law that turned these goods into a secure form of property for marginalized people, who not only used these textiles as currency, credit, and capital, but also as entree into the new republic's economy and governing institutions.

LAW AND REGIONAL INTEGRATION

Cabatingan, Lee. *A Region among States: Law and Non-sovereignty in the Caribbean*. Chicago: University of Chicago Press. 2023. Pp. iv + 194. \$32.50 paper.

Based on long-term ethnographic fieldwork at the Caribbean Court of Justice, Cabatingan explores the possibility of constituting a region on a geopolitical and ideological terrain dominated by the nation-state. She examines how the Court positions itself vis-à-vis the Caribbean region and the world, and explores whether the Court—and, perhaps, the region itself as an overarching construct—might ever achieve a real measure of popular success. She concludes that in their quest for an accepting, eager constituency, the Court is undertaking a project of extrajudicial region building that borrows from the toolbox of the nation-state.

LAW AND RELIGION

Akande, Rabi'at. *Entangled Domains: Empire, Law and Religion in Northern Nigeria*. New York: Cambridge University Press. 2023. Pp. x + 317. \$125.00 cloth.

Set in Colonial Northern Nigeria, this book confronts a paradox: the state insisted on its separation from religion even as it governed its multireligious population through what remained of the precolonial caliphate. Akande grapples with this history to offer an account of secularism as a contested yet contingent mode of governing religion and religious difference. Drawing on detailed archival research, she illustrates constitutional struggles triggered by the colonial state's governance of religion and interrogates the legacy of that governance agenda in the postcolonial state.

Awass, Omer. *Fatwa and the Making and Renewal of Islamic Law*. Cambridge, UK: Cambridge University Press. 2023. Pp. xii + 294. \$110.00 cloth.

Awass examines the formation, history, and transformation of the Islamic legal discourse and institutions through the lens of a particular legal practice: the issuance of fatwas (legal opinions), which he conceptualizes as the 'atomic units' of Islamic law. Tracing the growth of Islamic law over a broad geographical expanse (from Andalusia to India) and a long temporal span (from the 7th to the 21st century), he argues that fatwas have been a crucial element in the establishment of an Islamic legal tradition.

LAW AND SOCIAL CHANGE

Boutcher, Steven A., Shdaimah, Corey S., and Yarbrough, Michael W. eds. *Research Handbook on Law, Movements and Social Change*. Northampton, MA: Edward Elgar Publishing, Inc, 2023. Pp. xvii + 443. \$265.50 cloth.

Contributors to Boutcher, Shdaimah, and Yarbrough's Handbook—scholars with an interest in global perspectives on social movements, democracy, and authoritarianism—ask why movements succeed or fail, and more broadly, how law and movements become conduits for entrenching or resisting power. Through this analysis, they seek to frame a more global, dynamic, reflexive, and contextualized phase of social movement studies. Chapters focus on democratic and authoritarian rule, social movement strategies, identities, social positions, and the relationship between narratives and power.

Rosenberg, Gerald N. *The Hollow Hope: Can Courts Bring About Social Change?* (3rd Ed.) Chicago, IL: University of Chicago Press. 2023. Pp. xxii + 713. \$35.00 paper.

In this new edition of his classic study, Rosenberg asks anew whether U.S. courts can spur political and social reform, finding that the answer is still a resounding no. For example, he argues that Congress, the White House, and a determined civil rights movement did far more than *Brown* to advance desegregation, while pro-choice activists invested too much in *Roe* at the expense of political mobilization. The third edition includes new data and updated analyses of civil rights, abortion rights and access, women's rights, and marriage equality, and additional evidence challenging the common assumption that even unsuccessful litigation can advance a cause by raising its profile.

LAW AND TAXATION

Upham-Bornstein, Linda. "Mr. Taxpayer versus Mr. Tax Spender": *Taxpayers' Associations, Pocketbook Politics, and the Law During the Great Depression*. Philadelphia, PA: Temple University Press, 2023. Pp. xi + 204. \$32.95 paper.

During the Great Depression, the proliferation of local taxpayers' associations was dramatic and unprecedented in the U.S. Upham-Bornstein chronicles the ways these associations organized as well as the tools they used—constructive economy, political efforts, tax strikes, and tax revolt through litigation—to achieve their objectives. She concludes that collective tax resistance in the 1930s connects to the populist tradition in American politics and to other broad impulses in American political and legal history.

TRANSFORMATION OF LEGAL SYSTEMS

Travers, Robert. *Empires of Complaints: Mughal Law and the Making of British India, 1765-1793*. New York: Cambridge University Press. 2022. Pp. xv + 280. \$85.39 paper.

Drawing on English and Persian sources, Travers seeks to reimagine the origins of British India by foregrounding the late Mughal context for colonial state-formation, with a focus on the ways that British rulers reinterpreted and reconstituted Persianate forms of statecraft to suit their new empire. Recasting the origins of the pivotal 'Permanent Settlement' of the Bengal revenues in 1793, Travers explores the gradual production of a new system of colonial taxation and civil law through the selective adaptation and reworking of Mughal norms and precedents.

Yannakakis, Yanna. *Since Time Immemorial: Native Custom and Law in Colonial Mexico*. Durham, NC: Duke University Press, 2023. Pp. xviii + 318. \$28.95 paper.

Yannakakis traces the invention of Native custom, a legal category that Indigenous litigants used in disputes over marriage, self-governance, land, and labor in colonial Mexico. She outlines how, in the hands of Native litigants, the European category of custom—social practice that through time takes on the normative power of law—acquired local meaning and changed over time. She concludes that Indigenous claims to custom, which on the surface aimed to conserve the past, provided a means to contend with historical change and produce new rights for the future.

U.S. SUPREME COURT

Eisler, Jacob. *The Law of Freedom: The Supreme Court and Democracy*. New York: Cambridge University Press, 2023. Pp. xiii + 329. \$39.99 cloth.

Eisler questions why the U.S. Supreme Court has the moral authority to shape democracy at all. Analyzing cases through the lens of philosophy and social science, he argues that the soul of election law is a battle between two philosophical understandings of democratic freedom and popular self-rule. He concludes Court's battle over democracy has shaped how Americans rule themselves, marking election law as the most dramatic judicial intervention in constitutional history.

Kalman, Laura. *FDR's Gambit: The Court Packing Fight and the Rise of Legal Liberalism*. New York, NY: Oxford University Press, 2022. Pp. xii + 424. \$34.95 cloth.

After winning the greatest U.S. presidential victory ever in 1936, Franklin Roosevelt proposed to greatly expand the number of justices on the Supreme Court. He was accused of “court packing,” dictatorial ambitions, and undercutting judicial independence; his proposal was soundly defeated and scholars have portrayed the court bill as the ill-fated brainchild of a president made overbold by victory. Kalman challenges this conventional wisdom by telling the story as it unfolded; she finds that Roosevelt came very close to getting additional justices, and that the court itself changed course. She concludes that acumen, not arrogance, accounted for Roosevelt’s actions.