

Book Notes*

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

COLONIAL LEGAL HISTORY

Mawani, Renisa. *Across Oceans of Law: The Komagata Maru and Jurisdiction in the Time of Empire*. Durham, NC: Duke University Press, 2018. Pp. xv + 336. \$27.95 paper.

In 1914 the steamship *Komagata Maru* left Hong Kong for Vancouver carrying 376 Punjabi migrants, but entry was denied. Through close readings of the ship, the manifest, the trial, and anti-colonial writings, Mawani argues that the attempted landing raised urgent questions regarding the jurisdictional tensions between the common law and admiralty law, and, ultimately, the legal status of the sea. She seeks to offer a novel method of writing colonial legal history by tracing British imperial power through racial, temporal, and legal contests.

CONSTITUTIONAL THEORY AND HISTORY

Blocher, Joseph, and Darrell A. H. Miller. *The Positive Second Amendment: Rights, Regulation, and the Future of Heller*. New York: Cambridge University Press, 2018. Pp. xi + 203. \$29.99 paper.

Blocher and Miller seek to provide a “positive” account of the Second Amendment to the U.S. Constitution—regarding the right to bear arms—and to show how this differs from a political account. They conclude that understanding the right to keep and bear arms as constitutional law will challenge many deeply held beliefs but may also provide a better way to negotiate the seemingly intractable issues in the debate over gun regulation in the United States.

Ginsburg, Tom, and Aziz Huq. *How to Save a Constitutional Democracy*. Chicago: University of Chicago Press, 2018. Pp. x + 295. \$35.00 cloth.

Ginsburg and Huq contend that, to a much greater extent than commonly realized, the U.S. Constitution’s design facilitates democratic erosion. The Constitution’s structural rigidity has had the unforeseen consequence of empowering the U.S. Supreme Court to fill in some details—often with doctrines that ultimately facilitate rather than inhibit the infringement of rights. Even bright spots like the First Amendment, they argue, may have perverse consequences in the hands of a deft communicator, who can degrade the public sphere by wielding hateful language that would be banned in many other democracies.

Magliocca, Gerard N. *The Heart of the Constitution: How the Bill of Rights Became the Bill of Rights*. New York: Oxford University Press, 2018. Pp. xii + 235. \$29.95 cloth.

Magliocca tells “the untold story” of the Bill of Rights of the U.S. Constitution. Among many little-known characteristics, he notes that until the twentieth century, few Americans called the first ten amendments the Bill of Rights, and when they did in the late eighteenth century through World War II, they usually did so to justify increased authority for the federal government. It was only in the 1950s that the Bill of Rights took on its modern form as a powerful symbol of the limits on government power.

CORPORATIONS AS PEOPLE

Greenfield, Kent. *Corporations Are People Too (And They Should Act Like It)*. New Haven, CT: Yale University Press, 2018. Pp. xv + 280. \$28.00 cloth.

Greenfield argues that blanket opposition to corporate personhood is misguided, since it is consistent with both the purpose of corporations and the U.S. Constitution itself that corporations can claim rights at least some of the time. The problem with the U.S. Supreme Court’s decision in *Citizens United* is not that corporations have a right to speak, but for whom they speak. He concludes that the solution is not to end corporate personhood but to require corporations to act more like citizens.

COURTS AND JUDGES

Baum, Lawrence, David Klein, and Matthew Streb, eds. *The Battle for the Court: Interest Groups, Judicial Elections, and Public Policy*. Charlottesville, VA: University of Virginia Press, 2017. Pp. xii + 170. \$45.00 cloth.

Baum, Klein, and Streb investigate the effects of interest group involvement in the election of judges in the United States. Focusing on personal injury law, they detail how interest groups mobilize in response to unfavorable rulings by state supreme courts, how their efforts influence the outcomes of supreme court elections, and how those outcomes in turn effectively reshape public policies. The authors draw on several decades' worth of data on campaign activity, voter behavior, and judicial policymaking in one representative state, Ohio.

Schudson, Charles Benjamin. *Independence Corrupted: How America's Judges Make Their Decisions*. Madison, WI: University of Wisconsin Press, 2018. Pp. xi + 272. \$44.95 cloth.

Drawing on his experience as a trial and appellate judge in Wisconsin, Schudson probes the judicial mind in trials and sentencing, appellate decision making, and the financial, political, personal, and professional pressures that threaten judicial ethics and independence.

CRIMINAL JUSTICE AND SOCIAL CONTROL

Bush, William S., and David S. Tanenhaus, eds. *Ages of Anxiety: Historical and Transnational Perspectives on Juvenile Justice*. New York: New York University Press, 2018. Pp. x + 193. \$49.00 cloth.

Focusing on magistrates, social workers, probation and police officers, and youth themselves, contributors to Bush and Tanenhaus's volume highlight the role of ordinary people as meaningful and consequential historical actors through a presentation of six case studies of juvenile justice policy in the twentieth century from around the world.

Feldman, Yuval. *The Law of Good People: Challenging States' Ability to Regulate Human Behavior*. New York: Cambridge University Press, 2018. Pp. xvii + \$110.00 cloth.

Feldman argues that current law enforcement is based on the idea that state should deal with "bad people" with laws that exact a price for misbehavior through sanctions and punishment. At the same time, behavioral ethics posits that "good people" are guided by cognitive processes and biases that enable them to bend the laws within the confines of their conscience. The book argues for a focus on misdeeds committed by normative citizens blinded by cognitive biases regarding their own ethicality.

Karpiak, Kevin G., and William Garriott, eds. *The Anthropology of Police*. New York: Routledge Taylor & Francis, 2018. Pp. xi + 235. \$140.00 cloth.

Contributors to Karpiak and Garriott's volume seek to mine the disciplinary legacies of anthropology to discover new conceptual tools, methods, and pedagogies, rework relationships between "police," "public," and "researcher" in ways that open up new avenues for exploration, and retrace a hauntology that, through interactions with individuals and collectives, constitutes a body politic through the figure of police.

CRITICAL LEGAL HISTORY

Jagodinsky, Katrina, and Pablo Mitchell, eds. *Beyond the Borders of the Law: Critical Legal Histories of the North American West*. Lawrence, KS: University of Kansas Press, 2018. Pp. xiii + 368. \$29.95 paper.

Combining the insights of critical legal studies and western/borderlands history, contributors to Jagodinsky and Pablo's collection argue that the North American West has been, and continues to be, a site of contradictory, overlapping, and overreaching legal structures and practices steeped in articulations of race, gender, and power. They conclude that the concept of legal borderlands is a productive framework for bringing clarity to a region characterized by lawful disorder and contradiction.

FREEDOM OF INFORMATION

Pozen, David E., and Michael Schudson, eds. *Troubling Transparency: The History and Future of Freedom of Information*. New York: Columbia University Press, 2018. Pp. viii + 339. \$30.00 paper.

Contributors to Pozen and Schudson's volume examine freedom of information policies in the United States and abroad, considering issues such as the day-to-day uses of the U.S. Freedom of Information Act (FOIA); its limitations for the requesters; its global influence; recent alternatives to the FOIA model raised by the emergence of "open data" and other approaches to transparency; and whether FOIA-type laws interfere with good governance, display a deleterious anti-public-sector bias, or are otherwise inadequate for the twenty-first century's challenges.

JURISPRUDENCE AND SOCIOLEGAL THEORY

Saiman, Chaim N. *Halakhah: The Rabbinic Idea of Law*. Princeton, NJ: Princeton University Press, 2018. Pp. xiv + 296. \$29.95 cloth.

Saiman traces how generations of rabbis have used concepts forged in Talmudic disputation to do the work that other societies assign not only to philosophy, political theory, theology, and ethics but also to art, drama, and literature. He concludes that in the multifaceted world of *halakhah* where everything is law, law is also everything, and even laws that serve no practical purpose can, when properly studied, provide surprising insights into timeless questions about the very nature of human existence.

JUSTICE IN RUSSIA

Kurkchiyan, Marina, and Agnieszka Kubal. *A Sociology of Justice in Russia*. New York: Cambridge University Press, 2018. Pp. xii + 289. \$110.00 cloth.

Drawing on field research, observations in courts, and interviews with judges and other legal professionals as well as lay actors, contributors to Kurkchiyan and Kubal's volume argue that the Russian justice system is much more complex and nuanced than is commonly supposed. They introduce the concept of the "administerial model of justice" to illuminate some of the less obvious layers of the Russian legal tradition including: file-driven procedure, extreme legal formalism combined with informality of the pre-trial proceedings, followed by ritualistic format of the trial.

LAW AND IMMIGRATION

Statz, Michele. *Lawyering an Uncertain Cause: Immigration Advocacy and Chinese Youth in the U.S.* Nashville: Vanderbilt University Press, 2018. Pp. xv + 235. \$27.95 paper.

The proportion of undocumented minors in the United States who come from China is small, but Statz argues that the image of the "vulnerable Chinese child" powerfully legitimates legal claims and attorneys' efforts. Drawing on three years of fieldwork, she finds that youths' maneuvers belie attorneys' reliance on racialized discourses of childhood and the Chinese family, and reveal broad uncertainties around legal frameworks and institutional practices. Her book highlights the complex and

often contradictory rights, responsibilities, and expectations that motivate global youth and the U.S. attorneys who work on their behalf.

LAW AND LANGUAGE

Matoesian, Gregory, and Kristin Enola Gilbert. *Multimodal Conduct in the Law: Language, Gesture and Materiality in Legal Interaction*. New York: Cambridge University Press, 2018. Pp. xiii + 246. \$110.00 cloth.

Matoesian and Gilbert address the role of gesture and how it integrates with language in the law, through an investigation of language and multimodal conduct. Using audio-video tapes from a famous rape trial, they examine legal identity and impression management in the sociocultural performance of precedent, expert testimony, closing argument, exhibits, reported speech, and trial examination. They conclude that the poetic function inheres not only in language but multimodal conduct generally.

LAW AND PERFORMANCE

Sarat, Austin, Lawrence Douglas, and Martha Merrill Umphrey, eds. *Law and Performance*. Amherst, MA: University of Massachusetts Press, 2018. Pp. ix + 250. \$29.95 paper.

In considering law through the lens of performance studies, the contributors to Sarat, Douglas, and Umphrey's volume emphasize the embodied, affective, and reiterative qualities that move law off the printed page and into the thick world of lived experience. They consider the blurring of lines between performance and the enactment of law, the transformative exchanges between the law and its many and varied stagings, and the impact or resonance of performativity in situations where innocence and guilt may be determined.

LAW AND RACE

Kahn, Jonathan. *Race on the Brain: What Implicit Bias Gets Wrong About the Struggle for Racial Justice*. New York: Columbia University Press, 2018. Pp. x + 291. \$35.00 cloth.

Kahn argues that the concept of implicit bias has grown into a master narrative of race relations in the United States, with profound, if unintended, negative consequences for law, science, and society. He recognizes the significance of implicit social cognition but cautions against seeing it as a panacea for addressing longstanding racial problems.

Katerí Hernández, Tanya. *Multiracials and Civil Rights: Mixed-Race Stories of Discrimination*. New York: New York University Press, 2018. Pp. xvii + 193. \$39.29 cloth.

Some advocates argue that traditional U.S. civil rights laws built on a strict black/white binary need to be reformed to account for discrimination against those identifying as mixed-race. Katerí Hernández rejects this idea, and draws on court cases to argue that multiracials face the same types of discrimination as other racial groups. She finds that people of mixed race are primarily targeted for discrimination due to their non-whiteness, and concludes that these cases highlight the need to support the existing legal structures instead of calling for a new understanding.

Turner, James P. *Selma and the Luizzo Murder Trials: The First Modern Civil Rights Convictions*. Ann Arbor, MI: University of Michigan Press, 2018. Pp. xvi + 110. \$19.95 paper.

Within hours after the famous Montgomery, Alabama Freedom March in 1965, members of the Ku Klux Klan killed one of the marchers, Viola Liuzzo. Turner offers an insider's view of the trials that resulted in the conviction of the killers. Despite eyewitness testimony by an FBI informant who was

riding in the car with the killers, two all-white state juries refused to convict. Federal lawyers from the U.S. Department of Justice Civil Rights Division, led by John Doar, eventually secured conviction of the Klansmen.

LAW AND TERRORISM

Abel, Richard L. *Law's Wars: The Fate of the Rule of Law in the US "War on Terror."* New York: Cambridge University Press, 2018. Pp. xxvi + 906. \$74.99 cloth.

Abel deploys a law and society perspective to construct and analyze detailed narratives of the roles of victims, whistleblowers, the media, NGOs, lawyers, doctors, politicians, military personnel, foreign governments, and international organizations in defending the rule of law against the U.S. "War on Terror." He considers responses to abuses in Abu Ghraib, efforts by Guantánamo Bay detainees to improve conditions of confinement and win release, exposés of and efforts to end torture and electronic surveillance, and civilian casualties on the battlefield, including targeted killings.

SOCIALIST LAW

Hualing, Fu, John Gillespie, Pip Nicholson, and William Partlett, eds. *Socialist Law in Socialist East Asia.* New York: Cambridge University Press, 2018. Pp. xiv + 448. \$125.00 cloth.

Since China's reform and opening started in 1978 and Vietnam's Doi Moi reforms were initiated in 1986, these two East Asian economies have adopted capitalistic models of development while retaining and reforming their socialist legal systems. Contributors to Hualing, Gillespie, Nicholson, and Partlett's volume analyze the history, development, and impact of socialist law reforms in these two states, pinpointing unique features of socialist law and arguing that it should be given greater attention.

SURVEILLANCE

Brown, JPat, B. C. D. Lipton, and Michael Morisy. *Writers Under Surveillance: The FBI Files.* Cambridge, MA: The MIT Press, 2018. Pp. xvi + 375. \$24.95 paper.

Brown, Lipton, and Morisy present material on dissident writers, including Hannah Arendt, Allen Ginsberg, Ernest Hemingway, Susan Sontag, and Hunter S. Thompson, obtained from FBI files under the Freedom of Information Act; everything in the book is directly from investigatory files, edited for length and clarity. The editors report: "Some investigations lasted for years, others just a few days. Some are thrilling narratives. Others never really go anywhere. Some are funny, others quite harrowing."

TRANSFORMATION OF LEGAL SYSTEMS

Owensby, Brian P., and Richard J. Ross, eds. *Justice in a New World: Negotiating Legal Intelligibility in British, Iberian, and Indigenous America.* New York: New York University Press, 2018. Pp. viii + 330. \$30.00 paper.

Contributors to Owensby and Ross's volume examine how natives and settlers in the British and Iberian New World empires struggled to use the other's ideas of law and justice as political, strategic, and moral resources. Indigenous people and settlers each appealed to imperfect understandings of their interlocutors' notions of justice and advanced their own conceptions during workaday negotiations, disputes, and assertions of right. Settlers' and indigenous peoples' legal presuppositions shaped and sometimes misdirected their attempts to employ each other's law.