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## Book Notes\*

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

## RIGHTS/EQUALITY UNDER LAW

Dupre, Anne Proffitt. 2008. *Speaking Up: The Unintended Costs of Free Speech in Public Schools*. Cambridge MA: Harvard University Press. Pp. viii + 289. \$29.95 cloth.

This book argues that US Supreme Court decisions concerning the freedom of speech of high school students have pitted students—and their litigious parents—against schools, undermining the schools' necessary disciplinary authority. Dupre examines cases dealing with political protest, speech codes, student newspapers, book banning in school libraries, and the long-standing struggle over school prayer.

Garcia, Ignacio M. 2008. *White but Not Equal: Mexican Americans, Jury Discrimination and the Supreme Court*. Tucson: University of Arizona Press. Pp. xii + 239. \$55.00 cloth; \$24.95 paper.

This book examines *Hernández v. Texas*, the first US Supreme Court case to recognize discrimination against Mexican Americans, holding that Mexican Americans should be treated under the Fourteenth Amendment as a "class apart." Garcia analyzes the case in the context of the Anglo-Mexican relationship, and concludes that the case was important in the development of the concepts of Latino identity and political action.

Lombardo, Paul A. 2008. *Three Generations, No Imbeciles: Eugenics, the Supreme Court, and Buck v. Bell*. Baltimore, MD: Johns Hopkins University Press. Pp. xiv + 365. \$29.95 cloth.

This book chronicles the 1927 US Supreme Court case *Buck v. Bell*, which approved laws allowing states to perform surgery in order to prevent "feeble-minded and socially inadequate" people from having children. Lombardo argues that *Buck* set the stage for more than sixty thousand operations in the United States; it was cited at the Nuremberg trials in defense of Nazi sterilization experiments and has not been reversed. He brings to bear a wide variety of materials, including Carrie Buck's medical records and the honor roll grade book of her daughter, to argue that the case was a fraud, initiated to hide the shame of a poor girl who became pregnant after she had been raped.

Policzer, Pablo. 2009. *The Rise & Fall of Repression in Chile*. Notre Dame, IN: University of Notre Dame. Pp. xviii + 242. \$30.00 paper.

Between 1977 and 1978 the governing junta in Chile replaced the secret police organization known as the *Dirección de Informaciones Nacional* (DINA) with a different institution, the *Central Nacional de Informaciones* (CNI). Policzer's study seeks to account for the creation of DINA, its rise to become the most powerful repressive institution in the country, and its sudden replacement with the CNI, which carried out repression in a markedly more restrained manner. One element in his explanation is what he finds to be surprising intersections with the efforts by human rights groups to monitor and resist the regime's practices.

Stacy, Helen M. 2009. *Human Rights for the 21st Century: Sovereignty, Civil Society, Culture*. Stanford, CA: Stanford University Press. Pp. xi + 260. \$21.95 paper.

Stacy argues that critiques of global human rights fall into three categories: sovereignty, culture, and civil society, which have long been debated as part of the legal philosophical tradition. Recasting this tradition in contemporary light, she proposes new approaches to fill the gaps in current thinking: relational sovereignty, reciprocal adjudication, and regional human rights.

## COURTS AND SOCIAL CHANGE

Price, Polly J. 2009. *Judge Richard S. Arnold: A Legacy of Justice on the Federal Bench*. Amherst, NY: Prometheus Books. Pp. v + 466. \$25.98 cloth.

Through internal court documents, interviews with judges and law clerks, and diaries, Price traces Judge Richard Arnold's life, career, and political transformation from an elite Southerner with deep misgivings about *Brown v. Board of Education* to a modern champion of civil rights who was one of the United States' most widely respected federal judges. Her analysis includes Arnold's decisions in civil rights, the death penalty, and claims of individuals against government wrongdoing, with particular attention to his resolution of desegregation in Little Rock, Arkansas, long infamous for the Central High School crisis of the 1950s.

## CRIMINAL JUSTICE AND SOCIAL CONTROL

Cain, Maureen, and Adrian, Howe, eds. 2008. *Women, Crime, and Social Harm: Towards a Criminology for the Global Era*. Oñati International Series in Law and Society. Oxford: Hart Publishing. Pp. viii + 219. \$95.00 cloth, \$46.00 paper.

Cain and Howe's collection challenges criminological theory by focusing on the harms to which women are subjected as a result of global social processes and women's efforts to take control of their own futures. A second theme addresses human rights from the standpoint of indigenous women, minority women, and those seeking refuge, arguing that a politics of human rights is central to achieving legal and political equality and protection from individual violence.

Corsianos, Marilyn. 2009. *Policing and Gendered Justice: Examining the Possibilities*. Toronto, ON: University of Toronto Press. Pp. xiv + 236. \$36.95 paper.

This book is a critical feminist examination of policing and a comparative analysis of women in policing in Canada and the United States. Corsianos seeks to bridge the gap between theory and practice, offers a unique account of women police officers' experiences, and explores the role that feminist analyses can play in providing greater justice.

Dennis, Donna. 2009. *Licentious Gotham: Erotic Publishing and Its Prosecution in Nineteenth-Century New York*. Cambridge, MA: Harvard University Press. Pp. vii + 386. \$29.95 cloth.

In this historical study, Dennis argues that in nineteenth-century New York the business of erotic publishing and the legal attacks on obscenity developed in tandem, with each activity shaping and even promoting the pursuit of the other. Obscenity prohibitions, rather than curbing salacious publications, inspired innovative new styles of forbidden literature; obscenity prosecutions spurred purveyors of lewd materials to devise novel schemes to evade local censorship; and these subterfuges in turn triggered far-reaching transformations in strategies for policing obscenity.

Johnson, David T., and Franklin E. Zimring. 2009. *The Next Frontier: National Development, Political Change, and the Death Penalty in Asia*. New York: Oxford University Press. Pp. xix + 522. \$35.00 paper.

Drawing on detailed case studies, Johnson and Zimring assess the likelihood of change in capital punishment policy in Asia, where the overwhelming majority of executions in

the world now take place. They find a clear trend away from reliance on state execution and that only the authoritarian regimes of China, Vietnam, Singapore, and North Korea execute with any frequency. They conclude that the idea that “Asian values” support the death penalty is a myth and that politics, rather than culture or tradition, is the major obstacle to abolishment.

Kannabiran, Kalpana, and Ranbir Singh. 2008. *Challenging the Rule(s) of Law: Colonialism, Criminology and Human Rights in India*. New Delhi: Sage Publications India Pvt. Ltd. Pp. xix + 495. \$49.95 cloth.

Kannabiran and Singh’s collection seeks to contest assumptions of the rule of law in India, to open avenues for radical study of criminal law in the country, and to map ways in which interdisciplinary research and human rights activism might effectively inform legal praxis. Contributors consider the problem of criminal law from the early colonial period to the present, focusing on situations of overt violence by state actors and their compliance with dominant private actors.

Miller, Lisa L. 2008. *The Perils of Federalism: Race, Poverty, and the Politics of Crime Control*. New York: Oxford University Press. Pp. v + 254. \$39.95 cloth.

Miller argues that crime in the United States has a disproportionate impact on poor and minority communities—which typically connect crime and violence to broader social and economic inequities at the local level—but that the real control in policy making lies with the state and federal governments. She finds that at these levels single-issue advocates are able to shape policy over the heads of the people most affected by the issue, and she discusses how this is opposite to the situation in the civil rights era, when it seemed that higher levels of government—and the federal level in particular—best served the disadvantaged.

Mühlhahn, Klaus. 2009. *Criminal Justice in China: A History*. Cambridge, MA: Harvard University Press. Pp. xii + 365. \$29.95 cloth.

Drawing on research in Chinese archives, prisoner testimonies, witness reports, and interviews, Mühlhahn examines the broad contours of criminal justice from late imperial China to the Deng reform era and details the underlying values, successes and failures, and ultimate human costs of the system. He discusses the movement from severe physical punishment in late imperial China to the major legal reforms influenced by Western pressure after 1905, followed by the people’s tribunals, “reform through labor,” and the crime of counterrevolution under the Communist regime after 1949.

Nolan, James L., Jr. 2009. *Legal Accents, Legal Borrowing: The International Problem-Solving Court Movement*. Princeton, NJ: Princeton University Press. Pp. x + 250. \$35.00 cloth.

Drawing on ethnographic research in six countries, Nolan examines the spread of problem-solving courts—for example, drug courts and domestic violence courts that do not simply adjudicate offenders but try to solve the problems underlying criminal behavior—from the United States to England, Scotland, Ireland, Canada, and Australia. He finds that while adopting countries often see themselves as adapting the American courts to suit local conditions, they may actually be taking in more aspects of American law and culture than they realize or desire, and problem-solving courts may in fact fundamentally challenge traditional ideas about justice.

Raphael, Steven, and Michael A. Stoll, eds. 2009. *Do Prisons Make Us Safer? The Benefits and Costs of the Prison Boom*. New York: Russell Sage Foundation. Pp. viii + 254. \$39.95 cloth.

Raphael and Stoll's collection considers the causes and consequences of the large expansion of the US prison system over the past several decades. Contributors report that criminal behavior itself accounts for only a small fraction of the prison boom, that long-term benefits of imprisonment such as overall crime reduction or individual rehabilitation are not clear cut, that placement in a high-security penitentiary leads to increased rates of violence, that children who have had a parent serve prison time exhibit more behavioral problems than their peers, and that alternative social welfare policies such as education and employment programs for at-risk youth may lower crime just as effectively as prisons.

Sullivan, Winnifred Fallers. 2009. *Prison Religion: Faith-Based Reform and the Constitution*. Princeton, NJ: Princeton University Press. Pp. x + 305. \$35.00 cloth.

Drawing on her experience as an expert witness for the plaintiffs challenging the constitutionality of a faith-based residential rehabilitation program in an Iowa state prison, Sullivan examines the interrelationship of law and religion in the United States today. She argues that the plaintiffs' case unintentionally shows that separation of church and state is no longer possible because religious authority has radically shifted from institutions to individuals, making it difficult to define religion, let alone disentangle it from the state.

Wender, Jonathan M. 2008. *Policing and the Poetics of Everyday Life*. Urbana: University of Illinois Press. Pp. xii + 243. \$40.00 cloth.

This book develops a phenomenological interpretation of police-citizen encounters, examining the grounding principles that inform the bureaucratic approach to human predicaments. Wender, a former police sergeant, draws on the work of Martin Heidegger to argue that "praxis is poetry" and from this standpoint interprets all social action as intentional creation. He applies this perspective to case studies of police-citizen encounters in the United States, including cases of domestic violence, contacts with juveniles, drug-related situations, instances of mental and emotional crisis, and death.

## CIVIL JUSTICE SYSTEM

Redish, Martin H. 2009. *Wholesale Justice: Constitutional Democracy and the Problem of the Class Action Lawsuit*. Stanford, CA: Stanford Law Books. Pp. x + 317. \$27.95 paper.

This book examines the modern class action in the United States through the lenses of American political and constitutional theory. Redish argues that the modern class action undermines foundational constitutional principles, including procedural due process and separation of powers, and has been improperly transformed from its origins as a complex procedural device into a means for altering controlling substantive law in highly undemocratic ways.

## PUBLIC REGULATION

O'Malley, Pat. 2009. *The Currency of Justice: Fines and Damages in Consumer Societies*. New York: Routledge-Cavendish. Pp. xi + 187. \$125.00 cloth; \$42.95 paper.

This book examines the differing rationalities, aims, and assumptions built into the use of money as a dimension of punishment, compensation, denunciation, or regulation.

O'Malley raises questions about the extent to which money appears as an abstract universal or whether it takes on more particular meanings when deployed in various areas of law and examines the implications of the "monetization of justice."

## TRIALS

Burns, Robert P. 2009. *The Death of the American Trial*. Chicago: University of Chicago Press. Pp. viii + 183. \$29.00 cloth.

Burns argues that as a practice that is adapted for modern times yet rooted in ancient wisdom, the trial is uniquely suited to balance the tensions—between idealism and reality, experts and citizens, contextual judgment and reliance on rules—that define American culture. He concludes that many observers make a grave mistake by taking a positive or even complacent view of the trial's demise—which he sees as dramatic—and that the consequences of losing an institution that so perfectly embodies democratic governance would be catastrophic.

## US SUPREME COURT

Brenner, Saul, and Joseph M. Whitmeyer. 2009. *Strategy on the United States Supreme Court*. New York: Cambridge University Press. Pp. xi + 196. \$65.00 cloth; \$19.99 paper.

In this review of research on strategic decision making on the US Supreme Court, Brenner and Whitmeyer argue that the justices often do not cast their certiorari votes in accord with the outcome-prediction strategy, that the other members of the conference coalition rarely bargain successfully with the majority opinion writer, and that most of the fluidity in voting on the Court is nonstrategic.

Collins, Paul M., Jr. 2008. *Friends of the Supreme Court: Interest Groups and Judicial Decision Making*. New York: Oxford University Press. Pp. xiii + 234. \$60.00 cloth.

Drawing on statistical data and theories of judicial choice, Collins presents an analysis of how organized interests influence the decision making in the US Supreme Court through the filing of *amicus curiae* ("friend of the court") briefs.

Knowles, Helen J. 2009. *The Tie Goes to Freedom: Justice Anthony M. Kennedy on Liberty*. Lanham, MD: Rowman and Littlefield Publishing Group, Inc. Pp. xxii + 285. \$44.95 cloth.

This book analyzes the work of US Supreme Court Justice Anthony M. Kennedy and challenges the conventional wisdom that his jurisprudence is inconsistent or incoherent. Examining his opinions on cases involving privacy rights, race, and free speech, Knowles argues that Kennedy forcefully articulates a libertarian constitutional vision that is compatible with an activist judicial role.

Lindquist, Stefanie, and Frank B. Cross. 2009. *Measuring Judicial Activism*. New York: Oxford University Press. Pp. xii + 176. \$52.00 cloth.

Lindquist and Cross seek to move beyond subjective debates about judicial activism on the US Supreme Court by conceptualizing activism in nonideological terms, identifying specific empirical dimensions to the concept, and measuring those dimensions using systematic techniques. Examining the Court's exercise of judicial review to invalidate legislative and executive action and the justices' willingness to expand the Court's

power by granting litigants increased access to the courts, they assess the relative activism of recent justices on the Court.

Marshall, Thomas R. 2008. *Public Opinion and the Rehnquist Court*. Albany: State University of New York Press. Pp. v + 269. \$85.00 cloth.

Marshall analyzes more than two thousand nationwide public opinion polls during Chief Justice Rehnquist's tenure on the US Supreme Court and finds that the Rehnquist Court, like its recent predecessors, was a majoritarian institution. He argues that the Court represents American attitudes when public opinion is well informed on a dispute and when the US solicitor general takes a position agreeing with poll majorities, that the Court uses its review powers over the state and federal courts to bring judicial decision making in line with public opinion, and that unpopular Supreme Court decisions do not endure as long as popular decisions.

Powe, Lucas A., Jr. 2009. *The Supreme Court and the American Elite, 1789–2008*. Cambridge, MA: Harvard University Press. Pp. x + 421. \$29.95 cloth.

In this review of key US Supreme Court decisions from *Marbury v. Madison* to the War on Terror, Powe argues that the Court's most controversial decisions seem far less controversial when set within the politics of the time. He finds that while the Court has deftly framed its decisions in constitutional terms, it has, in fact, been part of a ruling regime and done its best to implement the regime's policies.

## LEGAL PROFESSION

Abel, Richard L. 2008. *Lawyers in the Dock: Learning from Attorney Disciplinary Proceedings*. New York: Oxford University Press. Pp. x + 573. \$60.00 cloth.

Drawing on detailed records of six disciplinary proceedings and on an extensive body of theoretical literature, Abel considers the structural causes of systemic moral failure in the legal profession. He argues that typical measures to deal with ethical lapses by lawyers are ineffective and concludes that the monopoly power enjoyed by attorneys in the United States must be drastically contracted.

## PUBLIC INTEREST LAW

Shdaimah, Corey S. 2009. *Negotiating Justice: Progressive Lawyering, Low-Income Clients, and the Quest for Social Change*. New York: New York University Press. Pp. xiv + 224. \$45.00 cloth.

This book explores how left-progressive lawyers and their clients negotiate the dissonance between personal idealism and the realities of the US legal system. Drawing on over fifty interviews with urban legal service lawyers and their clients, Shdaimah examines how different notions of practice can present significant barriers for both clients and lawyers working with limited resources and how lawyers deal with their concerns for autonomy, collaboration, transformation, and social change.

## TRANSFORMATION OF LEGAL SYSTEMS

Hallaq, Wael B. 2009. *Sharī'a: Theory, Practice, Transformations*. New York: Cambridge University Press. Pp. ix + 614. \$135.00 cloth; \$69.00 paper.

Hallaq argues that in recent years, Islamic law, or Shari'a, has been appropriated as a highly politicized tool of modernity in the Muslim world and in the West, while in premodern Islamic societies it functioned as a moral imperative. He seeks to present a more refined analysis by examining the doctrines and practices of Islamic law within the context of its history, from its beginnings in seventh-century Arabia, through its development and transformation under the Ottomans, and across diverse lands to the present.

## SOCIOLEGAL THEORY

Hertogh, Marc, ed. 2009. *Living Law: Reconsidering Eugen Ehrlich*. Oñati International Series in Law and Society. Portland, OR: Hart Publishing. Pp. x + 280. \$44.00 paper.

Hertogh's collection considers the historical and theoretical context of the work of Eugen Ehrlich, an Austrian legal theorist considered by many as one of the founders of modern sociology of law. Topics covered include the main concepts of Ehrlich's sociology of law; the reception of his work in the German-speaking world, the United States, and Japan; the relationship of Ehrlich's work to that of his contemporaries, including Roscoe Pound and Hans Kelsen; and the relevance of his work for current sociolegal studies.

## LAW AND LANGUAGE

Bhatia, Vijay, Christopher N. Candlin, and Paola Evangelisti Allori, eds. 2008. *Language, Culture and the Law: The Formulation of Legal Concepts across Systems and Cultures*. New York: Peter Lang Publishers. Pp. xv + 342. \$87.95 paper.

Bhatia, Candlin, and Allori present a set of invited papers based on analyses of legal discourse drawn from international contexts where English language and legal culture has had to adjust to foreign legal concepts. Substantive topics include arbitration rules, commercial law, international trade, the European Union constitution, and consumer contracts.

## LAW AND INEQUALITY

Edwards, Laura F. 2009. *The People and Their Peace: Legal Culture and the Transformation of Inequality in the Post-Revolutionary South*. Chapel Hill: University of North Carolina Press. Pp. xvi + 430. \$32.50 cloth.

Drawing on archival research in North and South Carolina, Edwards argues that in the half-century following the US Revolutionary War, the logic of inequality underwent a profound transformation within the Southern legal system. She finds that following the Revolution, ordinary people were central to the working of an intensely local legal system; those without rights—even slaves—had influence within the system because of

their positions of subordination, not in spite of them. By the 1830s, however, state leaders had secured support for a more centralized system that excluded people who were not specifically granted individual rights.

## LAW AND CULTURE

Foblets, Marie-Claire, and Alison Dundee-Renteln, eds. 2009. *Multicultural Jurisprudence: Comparative Perspectives on the Cultural Defense*. Oñati International Series in Law and Society. Portland, OR: Hart Publishing. Pp. xiv + 378. \$46.50 paper.

This collection brings together examples of the cultural defense—a litigant’s argument that cultural background should be taken into account in evaluating his or her behavior—in disputes in Western Europe, North America, and elsewhere. Foblets and Dundee-Renteln argue that these examples show the ubiquity of the defense, contrary to the impression that it has been invoked principally in the United States. The examples deal with criminal culpability in situations like honor crimes or provocation based on “loss of face,” as well as with the use of the defense in cases involving such matters as asylum jurisprudence, family law, and housing policy.

## LAW AND AUTONOMY

Chander, Anupam, Lauren Gelman, and Margaret Jane Radin, eds. 2008. *Securing Privacy in the Internet Age*. Stanford, CA: Stanford University Press. Pp. vi + 376. \$39.95 paper.

The academics, litigators, and public policy advocates who contribute to Chander, Gelman, and Radin’s volume focus on the need for US law to combine issues of privacy, which are typically framed as protecting individuals from snooping corporations, and issues of security, which typically involve protection of corporations from snooping individuals.

Sclater, Shelley Day, Fatemeh Ebtehaj, Emily Jackson, and Martin Richards, eds. 2009. *Regulating Autonomy: Sex, Reproduction and Family*. Portland, OR: Hart Publishing. Pp. xiv + 267. \$70.00 paper.

The essays in Sclater, Ebtehaj, Jackson, and Richards’s collection explore the nature and limits of individual autonomy in law, policy, and the work of regulatory agencies. Contributors consider the nature and scope of the regulation of private lives and explore the arguments used to create and maintain the boundaries of autonomy—for example, the protection of the vulnerable, public goods of various kinds, and the maintenance of tradition and respect for cultural practices.

## LAW AND FAMILY RELATIONSHIPS

Quraishi, Asifa, and Frank E. Vogel, eds. 2009. *The Islamic Marriage Contract: Case Studies in Islamic Family Law*. Cambridge, MA: Harvard University Press. Pp. xiii + 375. \$29.95 cloth.

While marriage in Islamic law is generally understood to be a civil contract rather than a sacrament, it is nonetheless a profound concern of the Islamic scriptures of the Qur’an and Sunna. Quraishi and Vogel’s collection includes papers from a variety of disciplines

examining the Muslim marriage contract, considering the doctrine of marriage contracts, legal analysis of the contract in various historical periods, comparisons with Jewish and canon law, contemporary legal and social practice, and projects of activists for women worldwide.

## LAW AND RACE

Jones, Bernie D. 2009. *Fathers of Conscience: Mixed-Race Inheritance in the Antebellum South*. Athens: University of Georgia Press. Pp. xiv + 197. \$59.95 cloth; \$24.95 paper.

This book examines high-court decisions in the antebellum American South that involved wills in which white male planters bequeathed property or freedom—or both—to women of color and their mixed-race children. The planters, whose wills were contested by their white relatives, used trusts and estates law to give their slave partners and children official recognition and thus circumvent the law of slavery. Jones analyzes the differing judicial opinions in these contests to show the development of a struggle within the elite over race, gender, and class.

Pascoe, Peggy. 2008. *What Comes Naturally: Miscegenation Law and the Making of Race in America*. New York: Oxford University Press. Pp. xi + 404. \$34.95 cloth.

Based on archival research, this book traces the origins, spread, and demise of laws that banned interracial marriage and sex, most often between whites and members of other races, in the United States. Pascoe finds that these laws were enacted and applied not just in the South but throughout much of the country, beginning in the Reconstruction era and ending with the landmark 1967 US Supreme Court case of *Loving v. Virginia*. She concludes with a consideration of the implications of ideas of colorblindness that replaced them.

Smith-Pryor, Elizabeth M. 2009. *Property Rites: The Rhinelander Trial, Passing, and the Protection of Whiteness*. Chapel Hill: University of North Carolina Press. Pp. xiii + 391. \$65.00 cloth; \$24.95 paper.

Smith-Pryor makes extensive use of trial transcripts, contemporary newspaper coverage, and archival sources to explore why Leonard Rhinelander—a New Yorker who in 1925 sued for dissolution of his marriage on the grounds that his spouse did not reveal her nonwhite racial background—was allowed his day in court, even though New York had not outlawed interracial marriage. She presents a day-by-day narrative of the trial itself and analyses of the trial's place in the culture of the 1920s North to examine the intertwining of notions of race, property, and the law.

## LAW AND DISABILITY

Schweik, Susan M. 2009. *The Ugly Laws: Disability in Public*. New York: New York University Press. Pp. xii + 431. \$35.00 cloth.

Drawing on cultural materials ranging from police reports and court dockets to popular fiction and reformist exposes, Schweik examines the murky history behind “ugly laws”—municipal laws targeting “unsightly beggars” that sprung up in many US cities in the late-nineteenth and early-twentieth centuries. Through this analysis she seeks to join the history of the disabled and the poor; present a deeper understanding of the ugly laws

and the cities where they were generated; locate the laws at an intersection of evolving and unstable concepts of race, nation, sex, class, and gender; explore the history of resistance to the ordinances; and analyze the their shifting cultural memory.

## WOMEN AND THE LAW

Souaiaia, Ahmed. 2008. *Contesting Justice: Women, Islam, Law, and Society*. Albany: State University of New York Press. Pp. xiv + 195. \$70.00 cloth.

Souaiaia argues that laws regarding the status of women in Muslim society were not methodically derived from legal sources, but rather are the preserved understandings and practices of the early ruling elite. Drawing on quantitative, linguistic, and normative analyses of Qur'anic texts, he critically explores the way religion is transformed into a social control mechanism that transcends legal reform, gender-sensitive education, or radical modernization.

## LAW AND MARKETS

Birla, Ritu. 2009. *Stages of Capital: Law, Culture, and Market Governance in Late Colonial India*. Durham, NC: Duke University Press. Pp. xi + 346. \$23.95 paper.

Between 1870 and 1930, the British regime in India implemented a wide range of commercial and contract laws directed at the free circulation of capital. Birla argues that this legal infrastructure institutionalized a new object of sovereign management—the market—and along with it, a colonial concept of the public that was in fundamental conflict with everyday business life. Focusing on the story of the Marwaris, a powerful business group renowned as a key part of India's capitalist class, Birla argues that colonial law governed vernacular capitalists as rarefied cultural actors, rendering them illegitimate as economic agents.

Gessner, Volkmar, ed. 2009. *Contractual Certainty in International Trade: Empirical Studies and Theoretical Debates on Institutional Support for Global Economic Exchanges*. Oñati International Series in Law and Society. Portland, OR: Hart Publishing. Pp. xii + 357. \$90.00 cloth; \$44.00 paper.

In this volume, Gessner seeks to add empirical evidence to ongoing debates regarding enabling structures for international business and to critically review propositions regarding the effects of the internationalization of markets on market coordination institutions and on the role of the state. One key focus is the apparent paradox presented by cultural/institutional diversity and contractual efficiency in cross-border business transactions. Contributors approach the topic from a wide range of perspectives, including Weberian theory, new institutional economics, and comparative economic sociology.

Mulhaupt, Curtis J., and Katharina Pistor. 2008. *Law and Capitalism: What Corporate Crises Reveal about Legal Systems and Economic Development Around the World*. Chicago: University of Chicago Press. Pp. vi + 272. \$39.00 cloth.

This book examines contemporary corporate governance crises in six countries, to shed light on the interaction of legal systems and economic change. Using comparative case studies that address the United States, China, Germany, Japan, Korea, and Russia,

Milhaupt and Pistor argue that a disparate blend of legal and nonlegal mechanisms have supported economic growth around the world; that law and markets evolve together in a “rolling relationship”; and that legal systems, including those of the most successful economies, therefore differ significantly in their organizational characteristics.

## LAW AND POLITICS

Silverstein, Gordon. 2009. *Law's Allure: How Law Shapes, Constrains, Saves, and Kills Politics*. New York: Cambridge University Press. Pp. xiii + 316. \$80.00 cloth; \$23.99 paper.

Silverstein argues that Americans have increasingly turned away from the political tools of negotiation, bargaining, and persuasion to embrace what they have come to believe is a more effective, efficient, and just world of formal rules and judicial decision making. Drawing on about a dozen controversial case studies, he seeks to draw a roadmap of the motives and incentives that encourage efforts to legalize, formalize, and judicialize American public policy, as well as the risks and rewards these choices can generate.

## LAW AND THE TRANSMISSION OF WEALTH

Friedman, Lawrence M. 2009. *Dead Hands: A Social History of Wills, Trusts, and Inheritance Law*. Stanford, CA: Stanford Law Books. Pp. 230. \$22.95 paper.

In this social history of the transfer of property at death in the United States, Friedman examines how these transfers reflect changing values and priorities in American families and society. His analysis focuses particularly on the decline in formal rules, the ascendancy of will substitutes over classic wills, social changes like the rise of the family of affection, changing ideas of acceptable heirs, and the potential disappearance of the estate tax.

## LAW AND INNOVATION

Burk, Dan L., and Mark A. Lemley. 2009. *The Patent Crisis and How the Courts Can Solve It*. Chicago: University of Chicago Press. Pp. viii + 220. \$45.00 cloth.

Burk and Lemly argue that as the US patent system currently stands, diverse industries are governed by the same rules even though they innovate very differently, resulting in a situation where patents calibrated to the needs of one industry wreak havoc on others. They believe that the solution is for courts to tailor patent law, through interpretations and applications, to suit the needs of various types of businesses.

## LAW AND SCIENCE

Harris, Rebecca C. 2008. *Black Robes, White Coats: The Puzzle of Judicial Policymaking and Scientific Evidence*. Piscataway, NJ: Rutgers University Press. Pp. viii + 200. \$24.95 paper.

Combining political analysis, scientific reasoning, and an in-depth study of state supreme court cases, this book examines the practice of deciding the admissibility of novel scientific evidence in US trials. Harris examines judicial policy making in three areas—forensic DNA, polygraphs, and psychological syndrome evidence—and

concludes that US judges are well positioned to render appropriate rulings and determine the acceptability of harnessing a particular science for legal purposes.

## TRANSITIONAL JUSTICE

McEvoy, Kieran, and Lorna McGregor, eds. 2008. *Transitional Justice From Below: Grass-roots Activism and the Struggle for Change*. Portland, OR: Hart Publishing. Pp. xiv + 254. \$56.70 paper.

McEvoy and McGregor's collection seeks to offer new perspectives on the subject of transitional justice, emphasizing the need for solutions custom fit to different transitions. Contributors write from a "bottom up" perspective, focusing on the role of human rights in transition, the continuing usefulness of perspectives from above, and the still contested meanings of "transition."

## LAW AND TERRORISM

Honigsburg, Peter Jan. 2009. *Our Nation Unhinged: The Human Consequences of the War on Terror*. Berkeley: University of California Press. Pp. xix + 311. \$27.50 cloth.

In this critical look at the legal response of the Bush administration to 9/11, Honigsburg chronicles the negative effects of this response on the US system of constitutional rights and assesses the implications for the future.

## LAW IN EARLY AMERICA

Nelson, William E. 2008. *The Common Law of Colonial America. Vol. 1: The Chesapeake and New England 1607–1660*. New York: Oxford University Press. Pp. ix + 198. \$35.00 cloth.

In this first volume of a four-volume project, Nelson discusses how the law of the American Chesapeake colonies—Virginia and Maryland—diverged sharply from that of the New England colonies—Massachusetts Bay, Connecticut, New Haven, Plymouth, and Rhode Island—and traces the roots of these dissimilarities from their initial settlement until approximately 1660. He focuses on laws relating to religion, price and labor regulations, crimes, public morals, the status of women, and the enforcement of contractual obligations.