

BOOKS RECEIVED / LIVRES REÇUS

P. AGHA, *Human Rights Between Law and Politics, The Margin of Appreciation in Post-National Contexts*, Hart Publishing, Oxford and Portland, Oregon, 2017, Modern Studies In European Law, Volume 76, 1 vol. (VII-201 pp.), ISBN: 978-1-8494-6865-7

Human rights, characterized by norms or ethic principles, describe certain standards of human behavior. The most important principles are universality and equality. They are regulated and protected by the *European Convention on Human Rights*.

The author discusses about human rights and the margin of appreciation in post-national contexts. The margin of appreciation is a doctrine with a wide scope in international human rights law. It was developed by the *European Court of Human Rights*, to judge if a state party should be sanctioned for derogations. This book analyzes this doctrine from several points of view: sociological, religious and based on dilemmas of prisoners. The first chapter "Universalism and Relativism in the Protection of Human Rights in Europe" deals with the dynamic equilibrium between politics and human rights.

The chapter "When Human Rights Clash in 'the Age of Subsidiarity'" refers to an overview on the margin of appreciation in human rights clashes. It is emphasized that, because of the clashes, there are tensions between human rights organizations and political class.

To sum up, this book is very interesting, with many great topics on the Human Rights subject.

A. Staruiala

A. AMATRUDO / R. RAUXLOH, *Law in Popular Belief: Myth and Reality*, Manchester University Press, Manchester, Great Britain, 2017, 224 pp., ISBN: 978-0-7190-9783-6

Law in Popular Belief explores the connection between statute law and legal practice, as everyday life and social interaction are based to

some degree on law, entailing a considerable growth in interest of the relationship between law and its public perceptions.

The book is divided into three parts which explore different approaches on the extent to which law itself creates and sustains myths, the authors analyzing from three perspectives - traditional media, other means and those at the fringe of society - a number of themes that are fundamental to examining ways of how law is understood by the wide public in contrast to the legal profession. This book offers a significant diversity and unique interdisciplinary approach to the reference between theory and practice.

Law in Popular Belief offers an interesting and comprehensive perspective to a number of various fields such as general law, criminology, legal theory, sociology and how the myths around them are created.

E. Frincu

M. BRKAN / E. PSYCHOGIOPOULOU, *Courts, Privacy and Data Protection in the Digital Environment*, Edward Elgar Publishing, Cheltenham, 2017, 272 pp., ISBN: 978-1-78471-870-1

European states have been generally more adaptive in making laws regarding digital technology than other parliaments, but still face challenges. This timely publication from Brkan and Psychogiopoulou examines European case studies of how states face emerging digital privacy issues. In doing so, they expose tensions faced by courts in balancing supranational decisions on privacy against existing domestic law. Each chapter examines privacy and data protection issues effectively, covering the European framework for privacy prior to initiatives like the GDPR. For instance, one state examined in detail is Belgium, and the tension between the Belgian *Cour de Cassation* and the CJEU. The book examines how the court did actually consider data protection rules from the Union in the *Manon* case, but ultimately disregarded them through a definitional decision made without consulting the CJEU. They instead focussed on the existing *Antigone* decision regarding illegal acts being acceptable for evidence admissibility if minor compared to the first offense. These ongoing tensions that emerge between na-

tional and supranational bodies as the privacy field changes rapidly are analyzed comprehensively in this book.

R. Cook

B. E. BUTLER, *The Democratic Constitution - Experimentalism and Interpretation*, The University of Chicago Press Ltd., 2017, 251 pp., ISBN-13: 978-0-226-47450-2

Written constitutions are seen as a guarantee of democracy in both Anglo-Saxon and European legal systems. The quality of democracy depends, of course, on the Constitution itself, however, the provisions of the Constitution are embodied by the judicial practice. Contrary to most European democracies, instead of separated constitutional courts, the constitutional jurisdiction is one of the most important competences of the Supreme Court in the US. By that, the guardian of democracy is also the Supreme Court of the United States.

This book approaches constitutional law from the perspective of the US constitutional system and through the protection of democracy which, according to the author, has to be one of the main purposes of constitutional law. The author does all this by presenting some of the relevant decisions of the Supreme Court, such as *Brown v. Board of Education*, *Citizens United*, *Lochner*, *Lucas*, *Mahon*, *Obergefell*, which view means a bridge between the scientific, theoretical approach of constitutional law and its practical appearance.

N. Tribl

A. DURBACH / L. LIXINSKI, *Heritage, Culture and Rights, Challenging Legal Discourses*, Bloomsbury Publishing, Hart Publishing, Oxford and Portland, Oregon, 2017, 1 vol. VI-301 pp., ISBN: 978-1-8494-6808-4

Heritage, Culture and Rights is a remarkable book which answers many questions the world faces these days and also addresses disputed topics about cultural studies and human law. This book is like

a mixture between discourses focusing on human rights, heritage, postcolonialism and sustainable development.

The authors debate some issues about communities or nations around the world that are constantly increasing today. It critically analyzes the meaning of heritage safeguarding in relationship with protecting human rights and also answers the main question: why do we need to protect it?

From another point of view, heritage had an incredible evolution that ended now as the product of a community, this being the only factor that manages his action. This volume also presents some facts about challenging legal discourses, like a necessary contribution that helps culture, rights and heritage to be more easily perceived by the public. However, it is an accessible book for anyone interested in rights or heritage, regardless of their legal background.

Overall, this book highlights the dialogue between heritage studies and human rights studies, combining the beauty of the law with the unmistakable and interesting cultures around the world, such as Chinese or South-east Asian culture.

R. Vranciu

H. C. H. HOFMAN / J. ZILLER, *Accountability in the EU. The Role of the European Ombudsman*, Edward Elgar Publishing, 2017, 285 pp., ISBN: 978-1-78536-730-4

The European Ombudsman is a less well-known institution than the main governing bodies of the EU and is certainly more limited in action, not being endowed with binding powers. However, it plays a not insignificant role in the modern European set-up, where transparency and the contact of institutions with citizens are central issues that have been discussed for several years. What the texts collected in this work have in common is to focus attention on the role of the Ombudsman to admonish the other European institutions, in order to guarantee a better service of these to the citizens. The relationship between the Ombudsman and the citizens thus emerges many times, in the sense of primary responsibility of the former in carrying out his/her work in the interests of the latter, not forgetting that it is a charge that does not bear partisan interests

(non-partisan does not mean non-political, a good analysis of what it means for the European Ombudsman to be political, based on the interpretation given by the current Ombudsman, being included in the text) and non-elective. If these are the points in common, for the rest the contributions provide differentiated points of view, some remaining on a general level, others analyzing particular profiles, others dealing with broader issues in which the Ombudsman plays an important role.

The combination of detailed and didactic elements and critical analysis make this book accessible both for those who are dedicated for the first time to the study of this institution, and for those who want to deepen its problematic traits.

A. Zappia

J. JOHNSON, *Anti-Corruption Strategies in Fragile States: Theory and Practice in Aid Agencies*, Edward Elgar Publishing, 2016, 268 pp., ISBN: 978-17-84-71970-8

Fragile states, characterized by conflict, poverty and poor governance, draw attention of the international community, particularly multilateral aid agencies to overcome the overwhelming corruption. Although it is almost universally agreed that corruption is detrimental, agencies have weak strategies to cope with it. The difficulties arise with the societal traumas, disorganized institutions, and deep distrust after long histories of violent conflicts that accompany the issue of corruption.

The author tackles the questions of how to fight corruption in fragile states in more efficient ways. The book is the first systematic comparative analysis. "The main claim is that bureaucratic pathologies within aid agencies have a profound impact on the way in which corruption is tackled in fragile states". Solving basic dysfunctional elements within aid agencies is essential. The book argues that multilateral aid agencies face the issues of both agreeing on the right strategy and having the capabilities to implement it. Thus, fighting corruption requires rearrangement of the functionality of the agencies themselves first.

The analysis is based on 58 interviews with managers of various aid agencies as well as consultants implementing reforms and government and civil society representatives. The author takes the perspectives of public administration and organization theory and develops a fresh view stemming from agency organization and the politics of reform rather economics only. The example of Afghanistan takes the reader through each element of theoretical analysis as an illustrative proof of the innovative arguments.

S. Shmyhlyk

A. MACNAB (ed.), *Bellamy & Child: Materials on European Union Law of Competition: Ninth Edition*, Oxford University Press, Oxford, 2016, 1565 pp., ISBN: 978-0-19-878644-3

One of the most rapidly growing areas of European Union law is competition law, and there has been a wealth of material published on the issue. Macnab's update to the Bellamy & Child series of materials continues the comprehensive coverage of the series of all core material and documents on EU competition law and guidelines. The book includes significant updates to bring it in line with the Lisbon Treaty's changes to fundamental rules and treaty references. It also includes citations for more comprehensive commentary on the different subject areas covered.

The most notable aspect of the book, despite the views of its authors, is the breadth of material included. Ranging from regulations on anti-trust and mergers, to issues including the interaction of agriculture, transport and insurance sectors with these laws, a wide array of topic areas are available for examination. This comprehensive array of documents, legislation and guidelines ensures that this book is a valuable compendium for anyone studying or practicing competition law in Europe today.

R. Cook