

BOOKS RECEIVED / LIVRES REÇUS

R. CAHILL-O'CALLAGHAN, *Values in the Supreme Court: Decisions, Division and Diversity*, Hart Publishing, Oxford, 2020, 232 pp., ISBN: 978-15-09921-86-7

It has long been argued among legal scholars and practitioners that judicial decisions in cases where no precedent or statute gives a clear result may be dictated by extra-legal factors. In this book, the author focuses on the role which personal values play in influencing judges' decision-making and rates of disagreement with the majority, focusing in particular on the UK Supreme Court. Thanks to its comprehensive empirical nature drawing from psychological theories, this work will enable the reader to discover the covert dimension of diversity amongst UK Justices and how diverse life experiences influence judicial discretion, with wide-ranging implications for the administration of justice as a whole. Through extensive coding across the tenure of three Court Presidents and the analysis of judgments and speeches, the author highlights correlations between values and individual Justices, discusses how these subconscious beliefs influence judicial discretion in 'hard cases', and presents the extent to which shared value priorities amongst different configurations of Justices can lead judges to dissenting or falling in line with a majority judgment.

*E. Di Franco*

D. CUBIE, *International Legal Protection of Persons in Humanitarian Crises: Exploring the Acquis Humanitaire*, Bloomsbury Publishing Plc, Hart, 2017, 348 pp., ISBN: HIB: 978-1-84946-800-8

This monograph takes the concept of 'humanitarian crisis' as a starting point for examining how international law, policy and practice regarding such events are evolving. Part I first examines the notion of 'humanitarianism' from a theoretical and operational perspective and it introduces the concept of *Acquis humanitaire*, which is a 'body of laws, policies and practices relating to the protection of

persons in humanitarian crises'. Fundamental for this, it is the application of the principle of 'protection'. Part II of the book maps out the normative content of the *acquis humanitaire* through the five bodies of international law of which it is composed: international human rights law, the law of armed conflict, international criminal law, international disaster law, and refugee and displaced persons law. The central argument of this book is that there are important commonalities between the general fundamental principles underlying humanitarian activities in armed conflicts, forced displacement and natural or human-made disasters, and the resultant measures adopted by States and other humanitarian actors. Moreover, this monograph sets out key elements of the substantive content of the *acquis humanitaire*, that is fundamental for the humanitarian imperative to alleviate suffering wherever it may be found.

*A. Nappi*

D. DAVITTI, *Investment and Human Rights in Armed Conflict - Charting an Elusive Intersection*, Hart Publishing, 2019, 268 pp., ISBN: 978-1-50991-166-0

This book allows us to access an analysis of the actual context of natural resources extraction, which is one of the most important current international problems because of the many conflicts it causes worldwide. Due to these circumstances, the International Investment Law (IIL) and International Human Rights Law (IHRL) have a major role in the rebalancing of the situation. In fact, the activity of extraction generates a lot of tension and has many impacts on various aspects of the life of local communities on an economic, social and cultural level. IIL works to prevent these negative impacts through a legal assistance for foreigners in a context of armed conflicts. One of the most important problems is the access to water, which is one of the main topics of the treatment by outlining the legal foundations and the normative content of this right. D. DAVITTI focuses his considerations on this problem by speaking of the concrete example of the water conflict in Afghanistan. The situation of this country represents perfectly the worse-case scenario in

terms of both protection of human rights and the needed foreign investments for an economic growth.

*M.C. Agresti*

M. DRUMBL / J. BARRETT, *Research Handbook on Child Soldiers*, Edward Elgar Publishing Limited, Cheltenham, 2019, 576 pp., ISBN: 978-1-78811-447-9

Deterring the practice of child soldiers and promoting transitional justice and reintegration are issues which have received substantial policy attention over the years. However, the current understanding of child soldiers has remained limited and the phenomenon inadequately explored, partly due to the limited methodological approach taken to study the topic. With this collection of essays, the authors attempt to fill this gap in literature by integrating several different research methodologies to the study of child soldiers, combining the political-legal dimension together with trauma studies, psychology, anthropology, feminist theories, and many more. This enables the research handbook to create a comprehensive construction of all the facets which compose the child soldier, complementing theory with practical case studies from a variety of countries, from Sierra Leone to the UK. This geographical scope allows the authors to challenge the traditional perception of 'child soldier' as merely children engaged in armed conflicts in the Global South and to promote creative thinking when considering issues of reintegration and the interactions between these children and criminal justice systems.

*E. Di Franco*

TIMO KIVIMÄKI, *The Failure to Protect: The Path to and Consequences of Humanitarian Interventionism*, Edward Elgar Publishing, Cheltenham, 2019, 225 pp., ISBN: 978-1788111003

The focus of this book is to analyze the military interventions of Western powers, especially those that have the objective of protecting civilians from dictators and criminals in fragile states.

The author's approach is pragmatic: with a number of examples of conflicts, including Afghanistan, Iraq, and Syria, TIMO KIVIMÄKI

argues that humanitarian interventions worsen the situation. The interventionism era after 1999, indeed, has been associated with an increase in conflict fatalities and States become more fragile and violent than before the intervention. The reason for this failure lies in the selfish nature of Western military action, the West's unilateral approach to intervention, and the 'militarism' and 'power-centricity' of Western approaches to protection.

The author offers a remedy to this problem, supplanting the power-centric militaristic discourse by 'neo-cosmopolitanism', an approach that focuses on 'mutual restraint' rather than power. Such a suggestion is borrowed from the feminist theory of international relations. The book concludes that protection is vitiated by militaristic stereotypical masculinity and power bias. For this reason, "Democratic Patriotism" is needed: an approach that emphasizes women's experience in dealing with violence.

*A. Nappi*

H. KRÜGER, *European Energy Law and Policy*, Edward Elgar Publishing Limited, Cheltenham, 2016, 235 pp., ISBN: 978-1-78643-035-9

Energy is present in our daily life; without it we cannot meet most of our current needs. The issue treated in this book is that we use a lot of non-renewable energies, which are limited resources and are dangerous for the environment and climate. *European Energy Law and Policy* is an attempt to create common energy policy and a corpus of common and harmonized legal rules, over most of the European countries. H. KRÜGER tries to show a frame of the work of the twenty-eight members of the European Union and Euratom (which is a supranational organization dedicated to nuclear energy policy) established over the years.

E.U. policy and energy laws are fundamental for our system, but it is more and more complicated to implement them especially in the recent years. The concept of European energy policy includes energy-related strategies as well as the activities of the two previously mentioned organizations: the European Union and Euratom. Both have the same member States and share the same institutions

responsible for defining and implementing energy policies. However, from a political point of view Euratom must be distinguished from the European Union.

*M.C. Agresti*

MARK MCBRIDE (ed.), *New Essays on the Nature of Rights*, Hart Publishing, Oxford and Portland, Oregon, 2017, 239 pp., ISBN: 9781509910144

These eleven essays by A. Halpin, V. Aj Kurki, M. Kramer, S. Cabuela May, J. Penner, G. Sreenivasan, M. McBride, R. Cruft, S. Van Duffel, A.-K. Andersson, and H. Steiner gathered by M. McBride not only aim to find a definition of the nature of rights, but are also an open and ongoing debate among the essayists, who respond and criticize each other through their writings. Indeed, the nature of law and rights has long been of interest to philosophers, jurists and researchers.

The editor has chosen to separate these essays into three parts: (i) common grounds, (ii) debates on theories of law, and (iii) extension to the political realm. Within these essays we can see that there are understandings among the essayists, but also contradictions and critics, as well as questions that are still unanswered. The understanding of the nature of rights is achieved through different points of view, and through the authors' analyses of various areas of law; from global theories on law with, for example, M. McBride's essay, *The Tracking Theory of Rights*, which takes up the previous essays and synthesizes them while bringing in his opinion; to theories on the right of individuals such as G. Sreenivasan's, *Public Goods, Individual Rights and Third-Party Benefit*, which deals with the capacity of individuals to claim a public right good.

All of these essays focus on the Interest Theories (IT) and Will Theories (WT) of each of the essayists, which articulate the debates and ideas in this book.

*J. Cornilleau*