
RECENT PUBLICATIONS

A PARENT-PARTNER STATUS FOR AMERICAN FAMILY LAW. By Merle H. Weiner. New York, N.Y.: Cambridge University Press. 2015. Pp. vii, 644. \$150.00. When two people get married, their legal relationship changes. But when two people have a child, the legal relationship between the two parents stays remarkably the same. In *A Parent-Partner Status for American Family Law*, Professor Merle Weiner makes the case for the creation of new parent-to-parent legal responsibilities — duties of each parent to the other, in addition to those duties both parents already have to their child. Weiner pitches this “parent-partner status” as a way to improve family and societal outcomes — using the law to encourage thoughtful and lasting co-parenting relationships — at a time when many couples are unmarried or divorced. Weiner posits five possible legal obligations that could accompany “parent-partner status”: “a duty to aid; a duty not to abuse; a duty to engage in relationship work . . . ; a duty of loyalty when contracting; and a duty to prevent unfairly disproportionate caregiving” (p. 3). This work presents a thorough discussion of shortcomings in the law’s current treatment of parenting relationships, potential positive outcomes for which the law should aim, and a host of ways the legal system could get us there.

AFTER *ROE*: THE LONG HISTORY OF THE ABORTION DEBATE. By Mary Ziegler. Cambridge, Mass.: Harvard University Press. 2015. Pp. xxx, 367. \$39.95. If *Roe v. Wade* remains the great polarizer of American politics, Professor Mary Ziegler contends, this position owes less to the actual decision and more to the social movements in its wake. In her book, an examination of pro- and anti-abortion activism from 1973 to 1983, Ziegler argues against perceptions that “*Roe* not only realigned the priorities of each movement but also fundamentally changed the interactions between those on opposing sides” (p. 157). Ziegler’s expansive temporal lens instead shows significant fluidity between and within the now-static pro-choice and pro-life camps. Drawing upon oral histories and extensive archival work, Ziegler traces surprising evolutions in activists’ understandings of *Roe*’s justifications or lack thereof, approaches to partisan politics, and views on courts’ interpretive roles. Most intriguing, perhaps, is Ziegler’s attempt to portray a moment missed: that there were “efforts to forge creative compromises on other issues involving women’s rights,” yet by the mid-1980s, “solutions that had once appeared within reach began to seem politically impossible” (p. 189). Such divisiveness, arguably contingent but certainly enduring, offers *Roe*’s most notable legacy — for Ziegler and for us all.

THE BEGINNING AND END OF RAPE: CONFRONTING SEXUAL VIOLENCE IN NATIVE AMERICA. By Sarah Deer. Minneapolis, Minn.: University of Minnesota Press. 2015. Pp. xxiv, 207. \$22.95. For decades we have known that American Indian and Alaska Native women have been more likely to be victims of rape and violence than virtually any other group living in the United States. In her latest book, Professor Sarah Deer examines the historical and legal roots of this problem, identifying them in the pervasive and enduring legacy of colonialism. In spite of the enormity of the problem, Deer's response is not one of despair. Instead, it provides portraits of Native resilience, including the political campaigns that led to the Tribal Law and Order Act and the 2013 amendments to the Violence Against Women Act. Not content with the partial solutions offered by federal law, Deer also advocates a robust approach toward tribal criminal jurisprudence that avoids homogeneous solutions and respects distinct tribal identities and traditions. The heat and light that Deer's passionate indignation and concrete proposals bring to this ongoing tragedy give hope that Native women will eventually earn the respect and rights that they deserve.

JUDICIAL REPUTATION: A COMPARATIVE THEORY. By Nuno Garoupa & Tom Ginsburg. Chicago, Ill.: University of Chicago Press. 2015. Pp. xii, 273. \$45.00. A good reputation is a valuable asset; it opens doors, simplifies transactions, and enhances one's power to persuade. Professors Nuno Garoupa and Tom Ginsburg have undertaken an illuminating analysis of how reputational considerations influence the actions of judges and the design of judicial institutions. Central to the inquiry is the use of the "agency model" to explain the relationship between a society and its judiciary (p. 2); society, the authors suggest, can be conceived of as a principal, with judges as its agents. Within this framework, the reputation of individual judges and of the judiciary as a whole plays an important role in defining the limits of judges' power. Employing case studies, cross-country descriptive statistics, and regression analysis, Garoupa and Ginsburg apply their approach to such issues as judicial organization, the selection of judges, and competition between judiciaries. Their perspective constitutes an exciting departure from approaches to comparative law rooted in legal history. Garoupa and Ginsburg's work represents a novel, persuasive, and thought-provoking contribution to the study of judicial organization and is worthy of sustained and serious engagement.

TEST TUBES FOR GLOBAL INTELLECTUAL PROPERTY ISSUES: SMALL MARKET ECONOMIES. By Suzy Frankel. Cambridge, U.K.: Cambridge University Press. 2015. Pp. xv, 230. \$110.00. How should policymakers and theorists be thinking about a global intellectual property regime for the modern era? For many scholars, the

focus has been on balancing the competing interests of “developed countries” — which generally advocate a system that affords substantial intellectual property (IP) protections — and those of “developing countries” — which typically think that increased IP protections will hinder their economic and technological developments. In her insightful new book, Professor Suzy Frankel reframes the discussion by examining small market economies. Looking at innovative IP laws and policies in Singapore, New Zealand, and Israel, Frankel argues that these small market economies share characteristics of both developed and developing countries and thus “often display ingenuity in balancing competing interests in the intellectual property field” (p. 2). She explains that small market economies seek to balance local innovation with both access to international products and a commitment to international obligations. Small market economies might not always strike the right balance, but, Frankel contends, they are “fertile testing grounds from which the global community can draw information and lessons” and remind us that a “one-size-fits-all intellectual property model is unsound” (p. 208).

THE CASE OF THE PIGLET’S PATERNITY: TRIALS FROM THE NEW HAVEN COLONY, 1639–1663. By Jon C. Blue. Middletown, Conn.: Wesleyan University Press. 2015. Pp. 282. \$22.95. During its brief existence in the seventeenth century, the deeply religious New Haven Colony played host to a wide range of trials reported in unusual and evocative detail. The records of those trials had long been relegated to obscurity, with some even omitted from nineteenth-century reprinting due to their risqué subject matter. Judge Blue of the Connecticut Superior Court endeavors to rescue thirty-three of these cases from the dustbin of history in *The Case of the Piglet’s Paternity*. After providing useful background information on the New Haven Colony, Judge Blue delves into the cases, providing summaries of each one in language friendly to contemporary readers, followed by insightful analysis and contextualization. The cases span a variety of subject matters and areas of the law — including sexuality, products liability, and arson — and often display dark and disturbing sides of humanity. This collection provides incomparable insight into an early colonial legal system thoroughly influenced by Biblical interpretations in a manner sure to appeal to legal historians and casual readers alike. Judge Blue’s self-professed goal is to “make these historic treasures accessible to the general public” (p. 23). He aptly accomplishes this, and in the process, “enable[s] these endlessly interesting cases to come to life again” (p. 25).

LESSONS IN CENSORSHIP. By Catherine J. Ross. Cambridge, Mass.: Harvard University Press. 2015. Pp. 356. \$39.95. Against the backdrop of the Second World War, the Supreme Court in *West Virginia*

State Board of Education v. Barnette articulated a robust vision of freedom of speech within the schoolhouse, holding that children could not be forced to pledge allegiance to the flag of the United States of America. In her recent book *Lessons in Censorship*, Professor Catherine Ross explores just how far the Court has retreated from that conception of student speech. Tracing the evolution of constitutional doctrine across more than sixty years, Ross does not shy away from detailed analysis of the key cases. However, her adept handling of the doctrinal nuances and refusal to fall into legal gobbledygook makes the piece accessible to lawyers and educators alike. That readability is key, given the lower courts' current confusion surrounding the application of the Supreme Court's ever more fractured jurisprudence — which Ross ably documents. *Lessons in Censorship* makes a strong argument that the judicial branch is not doing enough to prevent the chilling of speech behind the classroom door.

BEYOND DEPORTATION: THE ROLE OF PROSECUTORIAL DISCRETION IN IMMIGRATION CASES. By Shoba Sivaprasad Wadhia. New York, N.Y.: New York University Press. 2015. Pp. xv, 233. \$55.00. Beatles front man John Lennon might strike some as an unlikely pioneer of the immigrant rights movement. Yet his deportation case — and the strategy his lawyer (and contributor of this book's foreword), Leon Wildes, deployed to bring prosecutorial discretion in immigration to the public's attention — cast new light on the now-familiar practice. It is the history of this practice that Professor Shoba Sivaprasad Wadhia catalogues in *Beyond Deportation*. Tracing prosecutorial discretion from Lennon's case in the 1970s through the Deferred Action for Childhood Arrivals policy that President Obama announced in 2012, Wadhia explores such topics as the parallels between prosecutorial discretion in the immigration context relative to the criminal context, as well as the contours of judicial review of deferred action. Although Wadhia focuses primarily on one specific aspect of immigration law and policy, she is quick to emphasize that prosecutorial discretion is not a cure-all: the problems plaguing our country's immigration system "demand a legislative solution" (p. 5). Nevertheless, "the role of immigration prosecutorial discretion is critical to ensuring that individuals with compelling equities . . . are protected from removal" (p. 6).