RECENT PUBLICATIONS

LAWSUITS IN A MARKET ECONOMY: THE EVOLUTION OF CIVIL LITIGATION. By Stephen C. Yeazell. Chicago, Ill.: University of Chicago Press. 2018. Pp. ix, 134. $25.00. In 1906, Roscoe Pound diagnosed a problem with the American legal system: too many trials. One hundred years later, trials have all but vanished. Professor Stephen Yeazell sets out to explain this change by examining the development of civil litigation in the past century. Yeazell begins by exploring how constitutional constraints and the American market economy have served as anchors for the development of civil litigation; neither is entirely insulated from change, but these two forces have historically constrained the development of civil litigation. Changes in procedural rules, which have shifted the burden of investigating lawsuits from courts to lawyers and the costs from public to private parties, created a market for legal services and "a new culture of civil litigation" (p. 34). New mechanisms for financing litigation, like contingency fees, spread the costs of litigation and gave parties a better understanding of their likelihood of victory at trial. Although the American system may be imperfect when compared against an imagined ideal, Yeazell suggests that it is a system with the capacity to conclude a remarkable number of disputes in a way that observers consider to be generally fair and accurate — an accomplishment that should be acknowledged.

SHARIAH: WHAT EVERYONE NEEDS TO KNOW. By John L. Esposito & Natana J. DeLong-Bas. New York, N.Y.: Oxford University Press. 2018. Pp. xii, 334. $16.95. Professors John Esposito and Natana DeLong-Bas have set out to answer essential questions and address common misconceptions about what Shariah is. Organized as a collection of self-contained questions and answers, each of the eleven chapters covers a distinct aspect of Shariah, Islam, and the effect of Shariah law on daily life. Chapter topics range from an explanation of the Five Pillars of Islam, to an exploration of Shariah court procedure, to a discussion of war and jihad in modern Shariah doctrine. Written in an accessible, easy-to-digest style, *Shariah* distills a complicated topic into bite-size pieces that address not only the details of specific Shariah doctrines but also Islam's underlying philosophy and values. By grounding the particulars of each area of law in the broader principles of Shariah, the book creates a coherent picture of Shariah's legal structure. Importantly, *Shariah* also explains how the traditional doctrines have collided with modern life and how this tension has shaped our contemporary understanding of Shariah law. With a clever structure and unassuming language, this book successfully delivers the information that "everyone needs to know."

GOVERNANCE FEMINISM: NOTES FROM THE FIELD. Edited by Janet Halley, Prabha Kotiswaran, Rachel Rebouché & Hila Shamir. 2019. Pp. xxxviii, 599. $35.00. *Governance Feminism: Notes from the Field* begins with the premise that "feminists now walk the halls of power" (p. xii). This book — a companion volume to the earlier *Governance Feminism: An Introduction* — attempts to answer the question, "How should feminists wield that power?" Nineteen chapters, written by leading feminist scholars and activists, gather examples from around the world to evaluate modern feminism's interaction with state, state-like, and non-state power. This interdisciplinary and diverse collection of essays explores how feminism has interacted — and will continue to interact — with governing in four main ways: it explores how crime and punishment have played a role in governance feminism projects; how bureaucratic tools can generate leverage for feminists; how feminists negotiate political dynamics, strategy and tactics, and ethical challenges; and how feminists operate in a postcolonial order. With such a broad scope and wide-ranging slate of authors, *Governance Feminism* gathers voices that are at turns critical, thought-provoking, and hopeful.

COMMUNITY PARALEGALS AND THE PURSUIT OF JUSTICE. Edited by Vivek Maru & Varun Gauri. New York, N.Y.: Cambridge University Press. 2018. Pp. xv, 269. $110.00. Across the world, community paralegals are an invaluable yet underexplored part of the legal ecosystem. Such persons — "barefoot lawyers," as they're sometimes called — work directly with persons to help solve legal problems in legal systems where help would otherwise be lacking. Here, Vivek Maru and Varun Gauri have compiled six essays by a host of authors, which offer deep dives into how community paralegals operate around the world — in particular, in South Africa, the Philippines, Indonesia, Kenya, Sierra Leone, and Liberia. As Maru and Gauri explain, community paralegals are generally tasked with three kinds of problems: "disputes among people, grievances by people against state institutions, and disputes between people and private firms" (p. 3). As the experience of the Philippines has shown, "[p]aralegal practice was born out of the need for social mobilization of the poor and marginalized to creatively engage the state in favor of the defense and protection of their human and legal rights" (p. 129). In short, the book offers useful insights into an area of law that heretofore has not received a similarly comprehensive treatment.

IS RACIAL EQUALITY UNCONSTITUTIONAL? By Mark Golub. New York, N.Y.: Oxford University Press. 2018. Pp. xv, 210. $65.00. What does the Constitution have to say about race? And, more specifically, can racial equality be achieved within our current constitutional framework? In this provocative new book, Professor Mark Golub suggests that it cannot. In doing so, he traces two strands of American political and constitutional thought. One view — typically articulated by conservatives — is that the very act of classifying an individual based on race is demeaning; after all, race-based classifications have enabled slavery, segregation, and other forms of invidious discrimination, all of which are antithetical to the Constitution. Likewise, the Constitution forbids race-based affirmative action and requires the state to be formally colorblind, treating citizens alike without regard to their race. Golub rejects that view. In doing so, he also rejects the mainstream progressive view, which argues that a postracial America can only be achieved by color-conscious measures. Situating himself within the Critical Race Theory movement, Golub argues that colorblindness is itself a project of racial subordination, not a transcendence of race. Therefore, to the extent that courts insist on interpreting the Constitution with colorblindness in mind — either as an aspiration or as an affirmative constitutional command — they move the nation further and further away from a racial egalitarian ideal.

HEALTHISM: HEALTH-STATUS DISCRIMINATION AND THE LAW. By Jessica L. Roberts & Elizabeth Weeks. New York, N.Y.: Cambridge University Press. 2018. Pp. xi, 220. $34.99. In this book, Professors Jessica Roberts and Elizabeth Weeks introduce the concept of "healthism" — "health-status discrimination by government and private actors" (p. 2) — and illustrate the myriad ways it appears in the United States. From privacy and antidiscrimination law to health insurance law and private law, Roberts and Weeks argue that our current legal system does not adequately explain what forms of differentiation constitute a "normative wrong" (p. 176) and often does not go far enough to bar such discrimination. As a solution, they propose treating health status as a legally protected class, akin to race, sex, religion, and age. They articulate a new framework for identifying "good" health-based differentiation that justifiably promotes healthy behavior from the "bad" health-based discrimination that they seek to prohibit. Relying on concepts of health welfare, health liberty, health equality, and health justice, they apply their methodology to several common types of health-status discrimination. Although Roberts and Weeks acknowledge that the distinction between acceptable and unacceptable differentiation is not always clear, they seek in this book to start a conversation that can ultimately promote increased protection against healthism.

AMERICAN JUSTICE 2018: THE SHIFTING SUPREME COURT. By Todd Ruger. Philadelphia, Pa.: University of Pennsylvania Press. 2018. Pp. 138. $24.95. Todd Ruger, a legal affairs staff writer, writes about the Supreme Court's October Term 2017, the role that Justice Kennedy played, and the consequences of his departure for the future of the Court and law in the United States. Each chapter takes a different case from the Term and uses it as a vehicle through which to examine Justice Kennedy's impact on a different area of the law. Ruger covers gerrymandering, religious freedom, stare decisis, privacy, presidential power, and freedom of speech. He devotes one chapter to the role that Justice Gorsuch has played on the Court since he arrived in April 2017. Ruger devotes another chapter to the impact that the election of President Donald Trump has had on the policies and positions of the Department of Justice, as well as the implication of shifting positions on issues before the Court. The book closes with an epilogue that opines on how the Court will approach cases in the years to come without Justice Kennedy occupying the center of the Court.

CORPORATIONS ARE PEOPLE TOO (AND THEY SHOULD ACT LIKE IT). By Kent Greenfield. New Haven, Conn.: Yale University Press. 2018. Pp. xv, 280. $28.00. Corporate personhood has a long history — notwithstanding the backlash when Mitt Romney, astride a bale of hay at the 2011 Iowa State Fair, proclaimed that "corporations are people, my friend." In *Corporations Are People Too*, Professor Kent Greenfield seeks to "set out a unified theory of the corporation" (p. xv) by considering corporate law, the history of corporate constitutional rights, and the furious response to *Citizens United*. Greenfield argues that "corporations are people some of the time" (p. 6) — in other words, corporations must enjoy a basic suite of constitutional rights in order to do business, but they should be presumed not to have rights unrelated to their economic purpose. For instance, while a corporation should be able to challenge a governmental taking (to protect its capital), it should not enjoy a right against self-incrimination (which might prevent disclosures essential to the market). As to hotly contested corporate speech rights, this heuristic does some of the work, but courts should be prepared to further limit corporate speech to protect democratic values. Greenfield proposes a crucial internal limit, too: corporations should be made accountable not just to shareholders but to employees and other stakeholders. Forcing "corporations to take seriously their public commitments" (p. 226) in this way would make them "behave more like people" (p. 28) and reduce concerns about their participation in public life.