

Keeping Up with New Legal Titles*

Compiled by Amy Atchison** and Laura Cadra***

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List of Contributors

Jennifer L. Behrens Reference Librarian and Lecturing Fellow Duke University Law Library Durham, North Carolina <i>Books on Trial: Red Scare in the Heartland</i>	578
Aslihan Bulut Reference Librarian Arthur W. Diamond Law Library	

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** Director, Reference & Research Services, Hugh & Hazel Darling Law Library, UCLA School of Law, Los Angeles, California.

*** Head of Reference Services/Foreign and International Law Librarian, William M. Rains Law Library, Loyola Law School, Los Angeles, California.

Columbia University School of Law
 New York, New York
Introduction to Middle Eastern Law 571

A. Hays Butler
 Associate Professor & Librarian
 Rutgers University Law Library—Camden
 Camden, New Jersey
The Michigan Affirmative Action Cases 572

Deborah Dennison
 Head of Bibliographic Access
 The Judge Ben C. Green Law Library
 Case Western Reserve University School of Law
 Cleveland, Ohio
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Kris Henderson
 Law Librarian
 Seattle, Washington
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June Kim
 Reference Librarian
 Hugh and Hazel Darling Law Library
 UCLA School of Law
 Los Angeles, California
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Paul Moorman
 Law Librarian—Research Services/Foreign & International Law
 University of Southern California Law Library
 Los Angeles, California
*Law, Legitimacy and the Rationing of Health Care: A Contextual
 and Comparative Perspective* 577

Dana Neacsu
 Reference Librarian
 Columbia Law School Library
 New York, New York
*Privacy and Human Rights 2006: An International Survey of Privacy
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Ryan Saltz

Circulation Librarian

Florida Coastal School of Law

Jacksonville, Florida

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or Break Your Business 569

Lauren E. Schroeder

Reference/Research Librarian

O'Quinn Law Library

University of Houston Law Center

Houston, Texas

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Battin, Margaret P., et al. *Drugs and Justice: Seeking a Consistent, Coherent, Comprehensive View*. New York: Oxford University Press, 2008. 279p. \$21.95, paper.

Reviewed by June Kim

¶1 *Drugs and Justice* is ambitious in scope (to examine the full spectrum of drugs from an interdisciplinary, integrative perspective), in purpose (to achieve greater justice in the way the world manages drugs), and in creation (written jointly by seven core authors and four contributors).

¶2 One can hardly fault such laudable ambitions. Indeed, this book is thought-provoking and, as the authors attest, unique in its interdisciplinary examination of the full spectrum of drugs (p.xxiv).

¶3 In addition, the subject of *Drugs and Justice* is topical. Drugs touch nearly every aspect of modern life. One takes over-the-counter cold medicine to treat a stuffy nose and cough. The pediatrician prescribes antibiotics for a daughter's ear infection. Moreover, drugs are often discussed publicly, in politics or in the news, and the consequences of drug use are experienced not only by the individual, but by society as a whole. Considering that the authors also include within their purview caffeine, alcohol, and tobacco as "common use drugs," alternative medicines and dietary supplements, religious-use drugs (e.g., peyote and ayahuasca), performance enhancement drugs, and illegal recreational drugs in their discussion, one cannot dispute the authors' assertion that "[d]rugs are everywhere, both figuratively and literally" (p.3).

¶4 Certainly, the authors are experts in their respective fields. They include professors of pharmacy, psychiatry, health promotion and education, family and preventative medicine, philosophy, and law as well as a retired judge, lawyer, and medical director of a county jail. This book, however, is not a collection of essays in which each chapter is separately written by individuals from various profes-

sional fields and academic disciplines. Such a format would defeat the authors' efforts to expose and explore "the depth of disciplinary disagreements about drugs . . . [which] made it imperative to avoid formats that reinforce territorial, discipline-bound approaches to a problem" (p.xix).

¶5 Rather, *Drugs and Justice* is "a multi-authored volume designed to speak with a single, integrative voice . . . resolutely interdisciplinary, a monograph rather than a volume of discrete, individual papers" (p.xix). The desired effect is to facilitate interdisciplinary and interagency dialogue, communication between academics, policymakers, practitioners, and clinicians in order to achieve or at least strive for greater justice in the management and regulation of drugs.

¶6 Following this integrated approach, the authors look at all drugs in all classes and examine them from the perspective of all fields that have an interest in drugs, including medicine, law, pharmaceuticals, philosophy, criminology and criminal justice, addiction research, and many other related fields in academia as well as in government and private practice. Furthermore, the authors do not argue for or against specific policies or principles, but rather "sketch the broad alternatives for theoretical frameworks that theoreticians, policymakers, and practitioners should keep in mind when discussing drug issues" (p.xxi).

¶7 The authors' major contention is that the insularity or "silo mentality" of various professional, academic, and policy spheres inhibits the development of a consistent, coherent, and comprehensive body of drug theory, policy, and practice. The silo mentality, referenced throughout the book, refers to the compartmentalized spheres in which groups develop their own vocabulary and operate under specific assumptions, which are not well known or understood by nonmembers of that group. *Drugs and Justice*, hence, takes a very broad view of the issues related to drugs, in order to expose the numerous inconsistencies and apparent incoherence in current drug theory, policy, and practice.

¶8 Chapters 1 and 2 establish the groundwork for the authors' approach to drug management and regulation. Chapter 1 discusses the pervasiveness of drugs in "culture and life" (p.3) and identifies the changes required to achieve justice in drug theory, policy, and practice. Chapter 2 briefly surveys U.S. drug policy and practice, which has, according to the authors, "a troubled history, riddled with apparent inconsistencies that have their roots in a variety of historical events, including policymaking influenced by racism, xenophobia, and other reactions to political incidents" (p.xxi).

¶9 Chapter 3 reviews the principal federal government departments and agencies in the United States involved with drug issues and delves into conceptual issues, such as autonomy, consequentialism, moralism, beneficence, paternalism, procedural justice, compensatory justice, and distributive justice. This chapter also contemplates the "apparent" incompatibilities between the underlying rationales for the existence and operations of each of the federal agencies as well as the "apparent" inconsistencies in the federal classifications of drugs.

¶10 Chapters 4 and 5 examine in greater detail the concepts of “addiction” and “harm”—the two most central issues in drug theory and policy. Medical and pain management professionals, the authors note, define addiction in subtly different yet crucially important ways from mental health professionals. These different definitions contribute substantially to the disconnect between the medical and mental health fields, which have a vested interest in achieving smooth discourse and concerted action over drugs.

¶11 Chapter 6 follows with twelve case studies that exemplify the practical dilemmas of drug management and control and are intended to inspire in-depth contemplation of the issues. Chapter 7 then posits five possible alternative solutions to the central question of whether a consistent, coherent, and comprehensive approach to drug theory, policy, and practice is achievable. These scenarios, according to the authors, “are laid out to stimulate further discussion within and among the different disciplines and between the governed and their governments. This book is a beginning, not an end” (p.227).¹

¶12 Despite this book’s many strengths and admirable goals and ambitions, *Drugs and Justice* is only recommended for academic libraries that support interdisciplinary programs in medicine and the law, public policy, and other graduate programs that study drug theory, policy, and practice. As this review intimates, the intended audience for *Drugs and Justice* is those individuals who work or study in the various fields that relate to the management and regulation of drugs.

¶13 This book is not recommended to those new to the study of drugs, drug use, or drug policy, theory, and practice. Not only does it include challenging factual material and theoretical concepts for those unfamiliar with the issues that surround the vast subject of drugs, but the chapters are dense with facts and concepts and lack footnotes, a notes section, or list of recommended readings that would refer the neophyte to further information on the topic.

¶14 Finally, the writing style of *Drugs and Justice* may discourage nonexperts in the field from reading it. Perhaps exacerbated by the neutral tone of the authors, the writing is rather dull and uninspired. This is not surprising, considering that it was written by a committee of no less than seven individuals. Especially when compared with the liveliness of the foreword written by Peter J. Cohen, one cannot help but wonder if the book would have benefited from the persuasive power of a single, impassioned voice.

1. In addition to its seven main chapters, *Drugs and Justice* includes an eleven-page bibliography and a nine-page index.

Electronic Privacy Information Center and Privacy International. *Privacy and Human Rights 2006: An International Survey of Privacy Laws and Developments*. Washington, D.C.: EPIC, 2007. 9th ed. 1104p. \$75, paper.

Reviewed by Dana Neacsu

¶15 Effective long-range communication with large numbers of people has become both easily affordable and manageable. Thus, we live in an era of uncontrolled and uncontrollable information flow. Unlike in the past, where the tools of information flow required large investments, and the persons using and controlling them were easily identifiable, monitoring their use today is practically impossible. This means that monitoring those responsible for surveillance is often equally impossible. So what safeguards do citizens have against, for example, government surveillance? This is the question *Privacy and Human Rights 2006* attempts to answer in its survey of privacy laws from seventy-eight countries.

¶16 The report is co-authored and co-published by Electronic Privacy Information Center (EPIC), a U.S.-based public interest research center, and by Privacy International (PI), a British human rights group. From the acknowledgements, we learn that “knowledgeable individuals from academia, government, human rights groups and other fields were asked to submit reports and information.” Those reports were then supplemented with research done by the EPIC and PI staff.

¶17 While this report is available for sale at www.epic.org/phr06, Privacy International also makes the information freely and easily accessible from its home page (www.privacyinternational.org).

¶18 The authors define the compilation as an annual “report [that] outlines legal protections, new challenges, and important issues and events relating to privacy” (Executive Summary). They also add that “*Privacy and Human Rights 2006* is the most comprehensive report on privacy and data protection ever published” (Executive Summary). Though the report is informative and easy to use, it is also hard to compare with similar products: there are none.

¶19 The aim of the book is completeness and ease of access, and the style is clear and unpretentious. It is worth noting, however, that there is no information on Cuba, Albania, and North Korea.

¶20 Entries for each country include a summary of its constitutional framework and of specific legislation. Additionally included is insightful information on the country’s international obligations, although no such obligations are mentioned for the United States.

¶21 *Privacy and Human Rights* ends with two finding aids. One is a dictionary of abbreviations, identified as a Glossary, and the other is a useful list of domestic law portals and other resources for privacy law research. These are additional reasons for practitioners, researchers, and librarians to be aware of this source and purchase it either electronically or in print.

Goldstein, Paul. *Intellectual Property: The Tough New Realities That Could Make or Break Your Business*. New York: Penguin Group, 2007. 244p. \$27.95.

Reviewed by Ryan Saltz

¶22 *Intellectual Property: The Tough New Realities That Could Make or Break Your Business* offers a thorough analysis of intellectual property issues for the nonlegal professional. Author Paul Goldstein, who is also responsible for giving us *Goldstein on Copyright*,² has done a good job of presenting exceptionally dry material in an easy-to-read format. Each topic within the intellectual property (IP) realm has been broken down into its own chapter, which makes the book's legal concepts easy to follow for even novice readers.

¶23 *Intellectual Property* is divided into seven chapters plus an introduction, and separate acknowledgments, sources, and index sections. In the first chapter, Goldstein presents the case of *Polaroid Corp. v. Eastman Kodak Co.*³ to illustrate the importance patents hold for companies. The case also illustrates what Goldstein frequently refers to as the "intellectual property paradox," which is that "without property rights [intellectual] assets will be under produced, but with property rights they will be under used" (p. 36).

¶24 Chapters 2–5 are devoted individually and respectively to patents, copyrights, trademarks, and trade secrets, and provide a concise, easy-to-understand overview of each topic. Chapter 6, "Intellectual Assets on the Internet," examines IP law as it applies to Internet technologies. Comparisons are drawn between the freedom of access provided by the Internet and the dilemmas faced by the motion picture studios when the VCR was introduced, illustrating that "once habits of free use become entrenched, they cannot be reversed by legislation" (p.152). The Internet's rapid evolution has created the need for IP law to evolve at a similarly rapid pace.

¶25 This discussion of Internet issues provides a perfect segue into the final chapter, "Intellectual Assets in International Markets." The Internet opened the floodgates to globalization. The fact that different countries developed different laws governing IP rights necessitated treaty agreements to iron out these issues. This chapter follows the evolution of various treaties, including the Berne Convention⁴ and the Trade-Related Aspects of Intellectual Property Rights (TRIPS) agreement.⁵

¶26 This book would be a perfect addition to any legal or business academic collection. It provides for the enthusiastic novice a great introduction to the IP field, presenting legal case analysis in plain English and providing just enough

2. PAUL GOLDSTEIN, *GOLDSTEIN ON COPYRIGHT* (3d ed. 2005).

3. 641 F. Supp. 828 (D. Mass. 1986).

4. Berne Convention for the Protection of Literary and Artistic Works, Sept. 6, 1886, S. Treaty Doc. No. 99-27, 1161 U.N.T.S. 3.

5. Agreement on Trade-Related Aspects of Intellectual Property Rights, Apr. 15, 1994, 1869 U.N.T.S. 299.

information to assist business owners with protecting and managing their own intellectual assets. With a price of only \$27.95, *Intellectual Property: The Tough New Realities That Could Make or Break Your Business* is a must read.

Harries, Jill. *Law and Crime in the Roman World*, Cambridge: Cambridge University Press. 2007. 148p. \$29.99, paper.

Reviewed by Lauren E. Schroeder

¶27 The Roman legal system and its approach to constructing law continues to influence the world thousands of years later. In *Law and Crime in the Roman World*, author Jill Harries, a professor of ancient history at the University of St. Andrews in Scotland, examines the Roman definition of “crime,” and how Roman law dealt with criminal offenses throughout Rome’s evolution from city to empire. Because of the breadth of this topic, Harries decides to focus on three themes: the Roman legal tradition’s relationship to the social values of its people; how litigants and judicial opinions influenced legal changes in the Empire; and how non-legal specialists perceived crime (p.ix).

¶28 The first three chapters of *Law and Crime in the Roman World* describe how law worked within Roman society; the basic process used to bring a case to court and the role that statutes played in that process; and the use of *cognitio* (a hearing in front of a judge). The remaining six chapters detail how the Roman legal system dealt with particular types of crime, including theft and other property offenses, political extortion and corruption, damaging the “greatness” of the state (with treason being the most extreme example), family law (emphasizing sexual offenses), violence in society, and murder.

¶29 Harries’ analysis of Roman law draws on her own expertise as well as the expertise of ancient authors (such as Quintilian, Gellius, and Apuleius) and modern scholars. Even though she does not limit her audience to those in the legal field, several aspects of *Law and Crime in the Roman World* are relevant to those studying modern law. Prior knowledge of the Roman period is certainly helpful, but is not crucial to understanding the discussions.

¶30 Similarities between Roman society and present time are evident throughout, such as skilled advocates “fooling” a jury into acquitting a defendant through the use of clever oratory (p.5), and prior judicial opinions influencing judges’ rulings, although they generally “did not create formal precedents” (p.13). The Romans also had distinct procedures that an accuser needed to follow before his case could be brought to court, and the accuser’s presence was required from the beginning of a case to its conclusion.

¶31 Some Roman practices are still a cause of debate today, such as the employment of judicial torture discussed in chapter 3. Originally applied to slaves, over time torture was extended to all except the highest members of society (even women). To the Romans, torture was a viable method for learning the truth behind a case, but they were also aware of its questionable accuracy, so any evidence

derived from torture had to be corroborated through other means before an accused could be sentenced. Then, as now, those in power found themselves in the uneasy position of deciding whom to torture and when torture was “suitable” to use.

¶32 Although there is much to recommend in *Law and Crime in the Roman World*, it contains some deficiencies. Many of the chapters contain too much material, with some of it only tangentially related to the chapter’s topic. While the topic of chapter 9, for example, is murder, it includes a long discussion devoted to magic and deviance in Roman society, which would have been better presented in a chapter of its own. Because Harries frequently, and sometimes confusingly, shifts between different time periods, *Law and Crime in the Roman World* would also have benefited from the inclusion of reader aids, such as a timeline of laws passed by the government. Additionally, footnotes or endnotes instead of in-text parenthetical citations should be considered for a future edition. The parentheticals contain abbreviations and a minimal amount of information, making it difficult to determine the sources that are being cited.

¶33 *Law and Crime in the Roman World* also lacks a glossary. As can be expected, Harries employs Latin terminology throughout the entire text, but a particular Latin word or phrase is only defined when it first appears. If it is repeated later and the reader needs to be reminded of its meaning, she must consult the index and then refer back to the pages listed therein. A glossary would have made this process much easier.

¶34 Because of its subject matter and scholarly nature, *Law and Crime in the Roman World* is best suited to an academic law library.

Mallat, Chibli. *Introduction to Middle Eastern Law*. New York: Oxford University Press. 2007. 455p. \$110.

Reviewed by Aslihan Bulut

¶36 *Introduction to Middle Eastern Law* is a timely endeavor, which aims to introduce a primarily academic audience to the history and legal systems of the Middle East. It is an indispensable and valuable addition to any academic library collection with a foreign or international law focus.

¶37 In the first third, and most challenging part, of the volume, author Chibli Mallat addresses the history of Middle Eastern law with a comprehensiveness that keeps the Western reader in mind. He thoroughly discusses legal concepts, such as *shari’a*, *fiqh*, and *qanun* (each means ‘law’), that can be confusing and complex to the Western scholar. The subsequent two sections on public and private modern Middle Eastern law are written with the conflicted history of the region in mind.

¶38 Chapter 3, “The Contemporary Middle East: A Historical Primer,” in particular, is essential for readers interested in the modern history of the region. Mallat then relates the development of criminal law, administrative law, and constitutional law and review. Islamic constitutional law is discussed at length within the context of the political history of the region, and useful analogies to famous cases in United

States constitutional history, such as *Marbury v. Madison*⁶ and *Gomillion v. Lightfoot*.⁷ Most importantly, he bravely addresses the arbitrariness of the rule of law in chapter 6's discussion of judicial review.

¶39 The third section on private law examines civil, commercial, and family law with reference in the latter section to the feminist critique of the latest reforms in family law (p.373–77). Islamic banking, company law, capital markets, and commercial arbitration are also addressed in this section.

¶40 Selectors considering this book as a reference source will appreciate the table of cases, legislation, verses, and *hadith* (collections of the traditions of Muhammad). The index and the twenty-three-page bibliography also add to the reference value of this volume.

¶41 One final note is on the choice of terms. Mallat attempts to define the “Middle East”(p.129) but neglects to sufficiently address the prejudicial/imperial history of this term.⁸ Similarly, terms like *Muhammadan*, a pejorative misnomer, are not defined well, although Western sources using these terms are cited in describing the history of the region (p.36, n.98). Mallat clearly states that this is not a political book (p.7); however, as an introductory text on the law of the region, setting the foundation by defining basic terms and, ideally, including a glossary would have served a Western audience well. Nevertheless, this should not detract from the reference value of this book, which is a fine introduction to “Middle Eastern” law.

Perry, Barbara A. *The Michigan Affirmative Action Cases*. Lawrence, Kan.: University Press of Kansas, 2007. 178p. \$35.

Reviewed by A. Hays Butler

¶42 *Gratz v. Bollinger*⁹ and *Grutter v. Bollinger*¹⁰ are landmark U.S. Supreme Court decisions establishing the Court's jurisprudence governing affirmative action in higher education. The Court found, in both cases, that the educational institution's challenged affirmative action policy did not violate the Constitution's Equal Protection Clause. Both cases applied strict scrutiny to the affirmative action policies governing admissions to the University of Michigan undergraduate school and law school respectively.¹¹

6. 5 U.S. 137 (1803).

7. 364 U.S. 339 (1960) (holding that the redrawing of electoral boundaries violated the Fifteenth Amendment).

8. See, e.g., ROGER ADELSON, *LONDON AND THE INVENTION OF THE MIDDLE EAST* (1995); Hassan Hanafi, “*The Middle East, in Whose World?*,” in *THE MIDDLE EAST IN A GLOBALIZED WORLD 1* (Bjørn Olav Utvik & Knut S. Vikør, eds. 2000); Pinar Bilgin, *Inventing Middle East? The Making of Regions through Security Discourses*, in *id.* at 10.

9. 539 U.S. 244 (2003).

10. 539 U.S. 306 (2003).

11. Strict scrutiny means that racial “classifications imposed by the government are constitutional only if they are narrowly tailored to further compelling governmental interests.” *Id.* at 326.

¶43 To summarize, in *Grutter*, the Supreme Court held that student body diversity is a compelling interest that justifies the law school's affirmative action policies. The benefits of diversity, as Justice O'Connor noted in her opinion for the Court, are important because classroom discussion is livelier, more spirited, and simply more enlightening when the students are from the greatest possible variety of backgrounds. Moreover, the Court found that diversity better prepares the student body for an increasingly diverse workforce and society.

¶44 An equally significant aspect of the Court's holding in *Grutter* was that the law school's admission policies were "narrowly tailored" to further this compelling interest and did not constitute a quota. The law school's policy at issue in *Grutter* was to review each application individually and to consider the applicant's racial background as a "plus factor" in the context of individualized consideration of each applicant. In contrast, the Court found the undergraduate school's admission policy at issue in *Gratz* was indeed a quota.

¶45 Barbara Perry, the book's author, provides an excellent accounting of the story behind these cases. She begins by discussing the evolution of the Court's affirmative action jurisprudence in employment cases and other fields. She follows with the development of the University of Michigan's affirmative action policies both for the undergraduate and the law schools and the stories of the two rejected applicants deciding to challenge these policies.

¶46 Each case's progress from the lower courts to the Supreme Court is set forth in great detail. In her analysis of the oral arguments before the Court and the process by which the Court decided each case, Perry emphasizes the conflict between the conservative and liberal factions of the Court. Indeed, *The Michigan Affirmative Action Cases* is an excellent primer not only for understanding how the Court's affirmative action jurisprudence developed, but also for gaining a deeper appreciation of the process by which the Supreme Court decides cases. The accounting of how the Court arrived at its finding in *Grutter*, that diversity is a compelling state interest, is one of the more intriguing aspects of the narrative.

¶47 Written in nontechnical language, *The Michigan Affirmative Action Cases* will appeal to attorneys, law students, and laypeople. All kinds of law libraries, both academic and nonacademic, should include this book in their collections.

Posner, Steve C. *Privacy Law and the USA PATRIOT Act*. Newark, N.J.: LexisNexis, 2007. \$213.

Reviewed by Kristin A. Henderson

¶48 I knew that the federal government had the ability to gather and share tremendous amounts of information on individuals, but I didn't know the half of it until I read *Privacy Law and the USA PATRIOT Act*.

¶49 As its title indicates, this one-volume, loose-leaf treatise examines the USA PATRIOT Act's¹² effect on privacy. Written by Steve C. Posner, a Colorado attorney, it purports to be the first major treatise dealing solely with the PATRIOT Act, and I found nothing to indicate the contrary.

¶50 The intended audience is practicing attorneys, although not every chapter is aimed at the same practitioner audience. Some chapters will primarily be of interest to criminal attorneys, while others will interest business or immigration attorneys. Because of the breadth and complexity of the subject matter and the depth of its treatment, this title should be a useful addition to any academic, court, law firm, or public law library.

¶51 In the foreword, Posner states that all of the privacy-related PATRIOT Act provisions allow the government to do one or more of these three things: obtain more information, share more information, or keep more information—about people. Because he believes that the debate over the PATRIOT Act focuses too often on the government's ability to get information without further considering what happens to the information once the government has it, Posner also discusses the information systems that implement the law.

¶52 Posner begins with a discussion of how the PATRIOT Act came to be, a quick (and long) list of the federal laws affected by the Act, the organization of the Act, and an admittedly rough guide to the regulations that implement the Act. The regulations, as well as other sources of pertinent law, are further discussed in later chapters.

¶53 Posner then provides an overview of the right to privacy. I found this chapter a bit confusing, largely because of the large amount of information packed into it. Then again, privacy is a huge subject. Posner articulates the types of legal privacy, one of which is the focus of the book: "The right to keep individually identifiable information about oneself from disclosure, access, and use by others" (§ 2.43).

¶54 The remaining chapters correspond to the subject matter of the titles of the PATRIOT Act, for example, property seizure, surveillance, financial records, immigration, and national security letters. Posner discusses only the provisions that impact privacy, which are most of the Act's provisions. The only title of the PATRIOT Act that is not discussed is Title VI, which provides for victims of terrorism, public safety officers, and their families.

¶55 These chapters explain the Act's privacy-related provisions, and are heavily footnoted with references to primary authority, secondary sources, news reports, and interviews. As noted above, the pertinent information systems are also described. In addition, the author identifies constitutional and other infirmities in

12. Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT) Act of 2001, Pub. L. No. 107-56, 115 Stat. 272 (2001).

some provisions and provides frameworks of analysis and checklists that would be helpful in advising a client.

¶56 Posner encourages an understanding of the Act as a whole, rather than merely focusing on its individual provisions. To that end, he encourages the practitioner to read the whole work, not just the sections of particular interest. I see the wisdom of this advice. For example, a theme that Posner identifies and that emerges from reading the work in its entirety is the degree to which the wall between criminal investigation and investigation of terrorism is crumbling (*see, e.g.*, §§ 4.06, 4.08, 7.03). This, however, is not an easy read, which is hardly surprising given the sheer number and complexity of statutes that were amended or added by the Act and the later amendments, as well as the attendant regulations, court decisions, and information systems.

¶57 *Privacy Law and the USA PATRIOT Act* includes an index, which appears generally adequate but could be improved. For example, I looked for entries about library records. I found a reference to a discussion of section 215 of the Act, often referred to as the “library provision.” This discussion says that “it appears that when the FBI seeks library records under the PATRIOT Act, it prefers to issue national security letters pursuant to § 505. . . .” (§ 4.20[2]). In turn, section 505 of the Act, pertaining to gathering library records, is discussed in chapter 7, but there is no reference in the index that would lead the reader to this discussion.

¶58 Further, while *Privacy Law and the USA PATRIOT Act* includes two appendixes—the text of the USA PATRIOT Act and the text of extensions and significant amendments—the index refers to Appendixes C, D, and E, which were not in the copy submitted to this reviewer. The review copy was current through the April 2007 release. According to the publisher, the title is to be updated annually or as needed, and the next release is contemplated in April or May 2008.

¶59 All in all, I highly recommend this treatise.

Schuetz, Jannice. *Communicating the Law: Lessons from Landmark Legal Cases*. Long Grove, Ill.: Waveland Press, Inc. 2007. 339p. \$30.

Reviewed by Deborah Dennison

¶60 Interesting on several levels, *Communicating the Law: Lessons from Landmark Legal Cases* demonstrates the importance and role of communication in law and legal advocacy. While broadly about how to communicate effectively, it also serves as an introduction to the practice of law and to landmark legal decisions.

¶61 Saying that good communication skills are important may be stating the obvious; effective communication instruction is often overlooked in many law school curriculums. Even schools fortunate to have good writing programs often do not include a rhetoric or speech component in these programs. Author Jannice Schuetz acknowledges this gap between “communication theory and legal advocacy,” and her objective with *Communicating the Law* is to fill it (pp.xi, xii).

¶62 The first chapter explains communication theory by describing various communication techniques, including narrative, discourse, and argumentation. Subsequent chapters then expound on each of these techniques. The second chapter offers an overview of the U.S. legal system, including the Constitution, statutes, court hierarchies, and trial procedures. Professional conduct and protocol are also briefly discussed, as both figure in subsequent chapters. Chapters 3 through 11 each focus on a particular landmark case, which, according to Schuetz, represents a specific type of communication technique.

¶63 Chapters are organized by topic rather than by case date. Given the subject range and dates of cases included (from the Lindbergh baby kidnapping to the Minnesota Tobacco case; the 1920s to present day), I would have been interested in the author's case selection methodology (admittedly, this is likely not an issue for most readers).

¶64 The analysis of each case includes considerable background research. Each chapter includes a case summary, the legal issues raised in each case, and case opinions. Typically included are multiple opinions about the case's outcome. Most importantly, given the book's objective, cases are framed within a specific communication perspective and described within their cultural and historical milieus.

¶65 One chapter analyzes the still relevant and intriguing Sacco-Vanzetti trial (1921). Eerily similar to our current cultural climate ("the fear of foreign nationals, the threats of violence against Americans, and the creation of restrictive national laws" (p.162)), this chapter is interesting, albeit disconcerting. The "unconventional" cross-examination of defendant Sacco and the subsequent turn from a murder case to one of treason (p.178) are unsettling.

¶66 Another chapter outlines the complex legal history of *Brown v. Board of Education*.¹³ What is typically thought of as one Supreme Court case was actually "five appeals consolidated by the Supreme Court given the generic title *Brown v. Board of Education*" (p.245). After discussing the fundamentals of oral arguments, the chapter segues into an analysis of specific applications of oral argument techniques used in the case's various components.

¶67 Because prior legal decisions were overturned in the course of this case, readers are also introduced to the doctrine of precedents and landmark cases leading up to *Brown*. (Disturbingly, the editors let "star decisis" slip by uncorrected in both the text and index.)

¶68 *Communicating the Law: Lessons from Landmark Legal Cases* has no concluding chapter, ending somewhat abruptly after the final case study. It includes an extensive bibliography and index, but a suggestion for future editions would be to include a separate table of cases.

13. *Brown v. Bd. of Educ.*, 347 U.S. 483 (1954); *Brown v. Bd. of Educ.*, 349 U.S. 294 (1955).

¶69 Other than the title page indicating that the author is affiliated with the University of New Mexico, there is nothing to indicate author Jannice Schuetz's authority. Her biography, however, is available at the University of New Mexico's web site,¹⁴ indicating she has a Ph.D., teaches in the communications and journalism department, and has numerous publications in the field as well.

¶70 Schuetz deems her book appropriate for "advanced undergraduate students with interests in legal communication" (p.xi), and I agree. Community colleges and undergraduate academic libraries might reasonably consider adding this book to their collections.

Syrett, Keith. *Law, Legitimacy and the Rationing of Health Care: A Contextual and Comparative Perspective*. Cambridge Law, Medicine and Ethics, No. 6. Cambridge: Cambridge University Press, 2007. 252p. \$115.

Reviewed by Paul Moorman

¶71 Rationing of limited health-care resources is a reality in most countries. In countries where the majority of the population receive their health-care treatment through publicly funded systems, decisions about the allocation of limited health-care resources, i.e. rationing, occur at governmental and administrative levels. In countries where health care is privately funded and market-based, such as the United States, decisions about what kind of health-care treatment patients receive are usually determined by the patient's ability to pay for treatment, insurance coverage, or both. Keith Syrett's new book, *Law, Legitimacy and the Rationing of Health Care*, explores how governments and health-care policymakers can best handle health-care rationing decisions in publicly funded health-care systems, particularly in what Syrett calls the "developed world" (p.13).

¶72 Most health-care policy experts and scholars agree that rationing is the inevitable result of limited health-care resources. The debate is not so much about whether rationing should occur, but rather who should be making health-care rationing decisions and how these decisions are made. Experts consider this rationing's "legitimacy problem" (p.95). In *Law, Legitimacy and the Rationing of Health Care*, Syrett tackles this problem. His thesis is that rationing decisions must be explicit, public, and deliberative in order to be legitimate. To this end, he contends that the legal system can play an important role in solving rationing's legitimacy problem.

¶73 The first part of *Law, Legitimacy and the Rationing of Health Care* examines the scholarly literature on health-care rationing, noting that rationing is considered inevitable and necessary in all health-care systems. Because the term is so politically unpalatable, health-care administrators and politicians in publicly

14. Univ. of N.M., Dep't of Commc'n & Journalism, Jan Schuetz, Ph.D., <http://www.unm.edu/~cjdept/department/profiles/schuetz.html> (last visited Apr. 21, 2008).

funded health-care systems usually deny it occurs. Rationing decisions are often hidden behind terms such as “priority-setting” (p.20).

¶74 The second part discusses rationing’s legitimacy problem and how it can be remedied through the deliberative process of the legal system. This is the heart of Syrett’s thesis. Scholars and public policy experts are, he contends, too quick to dismiss the legal system’s role as ill-advised, slow, and cumbersome for most rationing decisions. Instead, he argues, the legal system’s role as a neutral arbiter of conflicts should play an important role in addressing rationing’s legitimacy problem and making rationing decisions more palatable to the general public.

¶75 The last chapters apply Syrett’s thesis to practice by looking at three common law court systems—England, Canada, and South Africa—and how they have handled rationing decisions. These countries were chosen because they have similar court and health-care systems but have handled rationing cases differently. Syrett acknowledges, after examining these systems, that his basic thesis remains unanswered. He hopes, nonetheless, that his analysis will give health-care policy-makers additional ammunition to address the problems associated with health-care rationing.

¶76 *Law, Legitimacy and the Rationing of Health Care* includes an index and a table of cases, and while heavily footnoted, a bibliography or list of works cited would also have been useful. Because much of the book surveys the literature on rationing, a bibliography would have provided further research resources for readers.

¶77 *Law, Legitimacy and the Rationing of Health Care* is an important contribution to the scholarly literature on health-care rationing. It is highly recommended for any academic law library, especially one with an international or foreign health law collection. It would also be an excellent selection for a general academic library with a collection in international health-care policy.

Wiegand, Shirley A., and Wayne A. Wiegand. *Books on Trial: Red Scare in the Heartland*. Norman, Okla.: University of Oklahoma Press, 2007. 286pp. \$24.95.

Reviewed by Jennifer L. Behrens

¶78 In the summer of 1940, Oklahoma City police raided a small bookstore that had known ties to the Communist Party. Under the pretext of searching for bootlegged liquor, officers seized boxes of Party literature, as well as hundreds of mainstream literary works like *The Grapes of Wrath* and *War and Peace*. Nearly two dozen people were detained on suspicion of “criminal syndicalism,” or advocating the overthrow of government through speeches, writings, or distribution of literature. Bookstore proprietor Bob Wood, his wife Ina, and two associates eventually stood trial for these charges. All faced a ten-year prison sentence for the content of the seized materials, which many commentators noted could also be found in most academic or public libraries at the time (p.168). The defendants became a *cause*

célèbre for free speech advocates, attracting the attention of prominent authors and musicians, the American Civil Liberties Union, and even First Lady Eleanor Roosevelt (who donated \$25 to the defense fund). However, national press attention faded as World War II took over the headlines, and the story of the Progressive Bookstore raid was nearly lost to history.

¶79 Marquette law professor emeritus Shirley A. Wiegand and husband Wayne A. Wiegand, an American Studies and Library and Information Studies professor at Florida State University, first discovered the case while perusing back issues of *Wilson Library Bulletin*. They spent the next six years reviewing trial transcripts and FBI files, interviewing the surviving players, and bringing this incredible true story to life. Thanks to the rich narrative detail, *Books on Trial* progresses almost like a novel; in fact, it is not difficult to envision the story becoming a feature film.

¶80 The Wiegands begin with a vivid description of the August 1940 raid, and the mistreatment faced by the twenty detainees. Most were jailed for days without being informed of the charges against them, nor were their families informed of their whereabouts. In the most extreme example, police detained three members of the Lewis family but were reluctant to arrest teenage Wilma, so the young girl was simply left on the street while her parents and brother were inexplicably taken to jail (p.5). Detainees were held under false names, denied access to lawyers, and could post bail only at the absurdly high sums of \$50,000–\$100,000 (in 1940 dollars!). As the media caught wind of the story, bonds were reduced and charges dismissed, but the Woods and their two associates were left to stand trial.

¶81 Following this absorbing introduction, the Wiegands go back in time to place this Oklahoma “red scare” into appropriate historical context. Chapter 2 explores the development of the Communist Party in Oklahoma in the two decades leading up to the raid. This chapter reads more like a history textbook, and mildly disrupts the book’s narrative flow; like a child hearing a bedtime story, the reader longs to return to the “good parts.” But this section does effectively illustrate the political hostility faced by the bookstore defendants, and the motivation on the part of the prosecutors, both of whom were suspected of exploiting the case for their political ambitions (p.110).

¶82 These early chapters expose the sole weakness in *Books on Trial*: the downside of such meticulous research is a tendency at times to include entirely too much information (for example, it may not have been necessary to inform us of each detainee’s height and weight). Fortunately, the book fully recovers its stride by the time the first trial begins in chapter 3. These chapters draw effectively from the primary sources to paint the portrait of local injustice and national outrage: even after all four convictions were overturned on appeal, most still questioned how the defendants could have been convicted at all.

¶83 Although there are obvious parallels to be drawn between the government’s actions in *Books on Trial* and today’s climate of heightened “national security,” the

Wiegands never belabor this analogy. Thanks to its accessible tone, *Books on Trial* is recommended for law school and general academic libraries, and may also appeal to public libraries with strong collecting interests in legal history and civil rights.