

Summaries

The Law of the Information Age – Manuel Castells avoids Legal Issues but Challenges Legal Thinking

Jonas Ebbesson

Manuel Castells' trilogy, *The Information Age: Economy, Society and Culture* (1996–1998), covers most aspects of societal changes in what Castells refers to as the Information Age. However, despite providing a wide coverage of the catalysts for and effects of these changes, Castells completely avoids any discussion of legal matters. Even so, some of his descriptions shake our bases for legal thinking, in particular with respect to the relation of law and the nation-state. The nation-state has hitherto been critical in the conception and legitimacy of law, but the changing societal structures imply the question of how law becomes legitimate beyond the nation-state. Castells introduces the notion of «network state», which he applies to the European Union. While he elaborates on the means for achieving a European «project identity», Castells does not discuss the critical factors for making the EU and its legislation legitimate. However, Castells' description of societal developments reveals the need for re-thinking the relation between international and national law. It also provides a map of new areas, e.g. concerning the international responsibility of multinationals, which have not yet been subject to international regulation.

On Castells' Thesis on Patriarchy

Karin Widerberg

One of Castells' theses is that patriarchy – defined as grounded in the family structure – is not only challenged but actually in the process of being dissolved by the increase of women in paid labour and changes in women's consciousness. In this article, it is argued that neither the «proof» – statistics from different countries – nor the thesis are unquestionable. Rather, they are very questionable. Changes in women's employment and consciousness might very well go hand in hand with patriarchy. Moreover, economic and technological developments can be argued to dissolve not only patriarchal structures but matriarchal structures as well, which the case of several African countries can illustrate. Although global in aspiration, Castells' perspectives and understandings (of the family, the position of women, etc) are not only highly local but also too one-sided to be fruitful as a theoretical and political frame of reference.

Conflict Resolution as an Alternative to Judicial Procedure

Vibeke Vindeløv

In this article, conflict resolution procedures focussing on reconciliation and forgiveness are analyzed in contrast to traditional court hearings. Forgiveness is seen as a process within the individual which can be either facilitated or complicated but never demanded by the institution offering the framework. Especially three elements are identified as necessary in order to bring about forgiveness. These elements are knowledge of what happened, a willingness to forgive and restitution of dignity obtained by, among other things, the victim receiving some kind of reparation from the perpetrator. Examples are given from the author's work in South Africa and former Yugoslavia.

The Fiction of Justice and the Justice of Fiction. Ethical and Aesthetic Perspectives on *diké* and *adikia*

Helen Andersson

With a point of departure in the concepts of *diké* (justice) and *adikia* (injustice), this article discusses the difference between legal justice and *ideal* justice, i.e. the tension between human conditions and the unconditional Law. Legal justice provides legal satisfaction, which does not satisfy the individual who hungers for real justice. The problem is that democracy operates as if the two were identical.

Law can be described as a «symbolic fiction». Legal, moral and religious values are literally fictions. They do not exist anywhere; they have no substantial ontological existence. They are present only as symbolic rituals that perform them. Through developing our ethical and aesthetical *sensibility*, we learn to understand what ideal justice is and what lies behind the human manifestations of legal justice.

A literary example is given with the central figure of C.J.L. Almqvist's novel *Drottningens juvelsmycke* (1832), Tintomara, who is seen as an aesthetic manifestation that cannot be captured in medical, juridical, scientific or religious categories. A philosophical distinction, applied in the article, is Kant's distinction between different types of judgement: determinant and reflective (aesthetic) judgement. Determinant judgment is the application of general, given concepts to the perceived objects. Reflective judgment, however, starts with the perception of a particular object and derives a general idea from it. Ethics, or ideal justice, must be disinterested and «unprejudiced».

Accordingly, the nature of justice must not be denial of new possibilities yet to be imagined, but *prescriptive*. Prescriptive justice demands ending the erasure of those whose claims do not fit the system. It does not deny possibilities that have yet to be articulated. Hence ideal justice is an ethics that works from a moral position and a «poetic» vision – or fiction – that offers resistance to the material world as it «is».

Development Agreements and Planning

Eija Mäkinen

According to Finnish law, the municipality cannot recover from land owners the costs of infrastructure or the increase in land value accrued from planning. The municipalities have, however, made agreements with land owners to achieve these ends. The new Land Use and Building Act (in force 1.1.2000) includes a provision on such agreements. Interactive planning and public participation are among the main objectives of the new Act, as required by the new Constitution. In practice, an agreement made in the early phase of planning procedure is an obstacle to interaction and public participation.

The article discusses the conflict between, on the one side, the public power which is entrusted to the municipalities when given the planning monopoly and, on the other side, the contractual principles. The author claims that the principle of freedom of contract cannot be invoked in this context because the competence to exercise public power cannot be contracted away, according to the principles of the «Rechtstaat». Agreements can be used for specific purposes but clearly not to buy building volume. The author claims that the law should be clarified to specify if and to what extent recovery of the costs of infrastructure and, perhaps, the appreciation of the value, could be possible.

Katrine Fangen

En bok om nynazister

Boken tar oss med inn i det nynazistiske miljøet i Norge. Den beskriver forfatterens møte med nynazistene og de etiske, metodiske og analytiske overveielser som hennes arbeid baserer seg på. I tillegg beskrives nynazistmiljøets historiske utvikling og deltageres ideologi. Fangen diskuterer også hvem deltagerne er, hva som trekker dem til miljøet, og hva som skal til for å få dem ut av det.

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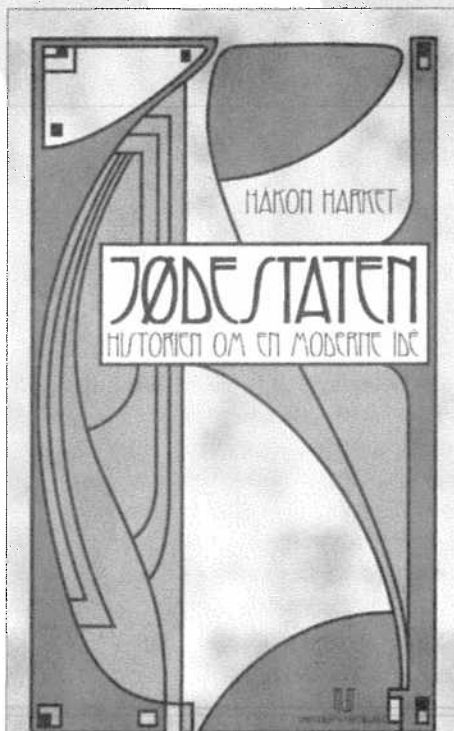
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Historien om en moderne idé

I 1896 offentliggjorde Theodor Herzl (1860-1904) – journalist, jurist og teatermann – sin plan om en egen stat for det jødiske folk. Den ble virkeliggjort med etableringen av Israel i 1948. Herzl var en legendarisk skikkelse allerede mens han levde og fremsto for mange østeuropeiske jøder som en messiansk frelser. *Jødestaten* er den første boken om Theodor Herzl på norsk.

Boken forteller samtidig om sionismens opprinnelse i 1800-tallets Europa. Da Herzl utga pamfletten *Der Judenstaat*, var sionismen allerede et etablert begrep i Europa. Håkon Harket følger ideen i antisemittismens kjølvann – gjennom paradokser og katastrofer.

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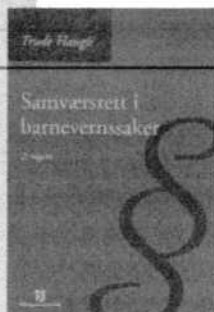
Trude Haugli

Samværsrett i barnevernssaker

Denne boken handler om barn som er under offentlig omsorg, og deres rett til samvær med sine biologiske foreldre. Framstillingen fokuserer særlig på forholdet mellom en psykologisk og en juridisk tilnærming av temaet.

Boken er ajourført med de lovendringer som er foretatt siden forrige utgave.

Trude Haugli er ansatt som førsteamanuensis ved Det juridiske fakultet, Universitetet i Tromsø. Hun har arbeidet ved fakultetet siden 1991, og hennes forskningsområde dreier seg om barns rettigheter i et vidt perspektiv.



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