

## Abstracts

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### Remissyttrande över betänkande (SOU 2002:37) Osmo Vallo – utredning om en utredning

HÅKAN HYDÉN

May 31st 1995 Osmo Vallo died when he was arrested by the police. Preliminary investigation was initiated against those cops who took the action. Two police men were prosecuted. They were later sentenced to pay a minor fine. The case was disputed. Different opinions about the cause of death occurred despite many medico-legal investigations were made. The suspicion that the actions by the cops had caused the death of Osmo Vallo arose.

This case brought about extensive investigations in order both to clarify the circumstances around what was happening when Osmo Vallo was arrested and to evaluate the actions taken by different authorities. The

Swedish government even set up a committee to make an investigation about the different investigations. In this issue of *Retfærd* the comments by the Department of Sociology of law at Lund university on the proposals from the mentioned committee are published. The final conclusion in the comments is that the main problem of injustice before the court, as for immigrants, is not that some people are condemned differently, but that they are perceived in another way and thereby getting a discriminatory (legal) judgement. The problem is as much a cognitive as a normative one. This aspect is very much missing in legal education and research.

## Behovet for et felles rettslig overprøvingsorgan på velferdsrettens område – i en Sosialdomstol

ASBJØRN KJØNSTAD

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The article is questioning the rule of law in Norwegian welfare systems. It proposes a new court system, where only social issues would be handled. Members of the court should not only be judges, but medical doctors, psychologists, social workers etc.

## A New Map for a Shrinking World: Comparative and Private International Law in Finland

TUULIKKI MIKKOLA

For a Finnish lawyer, the English trust concept is hard to grasp. It is very difficult to understand how it straddles both the law of property and the law of personal obligations. But of course, without trying, understanding is even more difficult. To this day, Finnish scholars have not expressed any particular interest in obtaining information about trusts in any jurisdiction.

In the 21st century, Finnish lawyers have to comprehend the core content of the trust and to clarify the public policy limits upon

it. Cases heard by the Finnish courts in dealing with Finnish assets owned by foreign trustees of trusts governed by foreign laws will come up and then courts must have some tools they can use to solve these cases with. At the moment there are no such tools. Without information – the aid of legal scholars – there is a risk that Finnish courts might regard the foreign trust concept automatically repugnant to civil law regime and insolvency principles or contrary to public policy.

## Sustainable carnation? The use of "sustainable development" as standard in the Norwegian Gene Technology Act

JENS PLAHTÉ

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It has been shown that in spite of the high ambitions of Norwegian authorities to be a forerunner in the implementation of 'sustainable development' in national legislation, the concept has proven to be of little significance as a standard in the Norwegian Gene Technology Act. In this article it is argued that one reason why 'sustainable development' has played a minor role in the administration of the Act could be that the concept gives rise to a paradox which the Norwegian

authorities so far seems to have been unable to resolve. If the intention of the Act to cover social aspects is respected, one rather inevitably ends up with questions that are neither meaningful nor scientifically manageable. It is only by limiting 'sustainable development' to purely ecological and technical issues that meaningful questions arise. However, if this is done, the intentions of the Act are not entirely fulfilled.

## D(en)ying Life: The Sanctity of Life Doctrine in English Law

RICHARD HUXTABLE

English law has long claimed to support the right to, or sanctity of, life. In this article, it will nevertheless be argued that there has been a retreat from this position, as evidenced in a number of important recent rulings. Although English law is therefore under examination here, it is hoped that these developments will be of wider interest.

The article begins by examining the nature of the 'sanctity of life' position and its place in English law and then proceeds to analyse the recent rulings. It will be argued that two rival ethical positions, premised on 'quality of life' concerns and respect for 'pati-

ent autonomy' have increasingly come to the fore. Quality of life evaluations are already recognisable in those rulings that authorise instances of 'allowing to die'. Importantly, however, such evaluations have now also been invoked to justify the active killing of a patient, in the decision to separate the Maltese conjoined twins. The popular appeal to patient autonomy has also been brought into focus by two cases. In the case of 'Ms B', a patient was allowed to have life support withdrawn at her request, despite the inevitable result that she would die; in contrast, Dianne Pretty was denied the right to (acti-

ve) assistance in suicide. This latter decision therefore implies that the sanctity of life position still commands some respect; quite

how long that position will and should remain, however, ought to generate further debate.

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## Terror, War and Law Enforcement: Conceptual Muddles and Moral Challenges

VIDAR HALVORSEN

Are various conceptions of terrorism doomed to merely reflect the subjective preferences of political agents? Reflecting on the atrocities of September 11, it is argued that there is a common conceptual core, yet that it cannot be established without moral argument. Moreover, an attempt is made to ade-

quately situate the events of September 11 in a more comprehensive framework. It is concluded that the strictness of conditions under which a war against terrorism can be justifiably waged serve to illustrate the primacy of the paradigm of law enforcement and criminal justice.