Abstracts

The teachers exemption and the right of possession in the new medical and natural science. An interview study of the scientists' conception of justice.

STEFAN THORPENBERG

The changes of the research landscape are often described in terms of trans-disciplinarity and collaborations with different financiers and social users. With this development at hand it's necessary to ask if the traditional norms for researchers being independent to particular interests, and also having an opportunity for social critique, is still on the agenda. The medical researchers are interesting to study in these terms, since they are state university researchers, but often also work at county council hospitals, they have for long been collaborating with the Pharmaceutical industry, and has recently often started to build up their own small firms. In Sweden and some other European countries a so called »teachers exemption« give the researcher the full rights to research products developed at the universities – but in the categories above only the university researchers have a teachers exemption. An interview-study found a high number of respondents arguing for a preservation of the teachers exemption, and that the norms of the traditional independent researchers were still valid. A surprise in the study was the high number of respondents using the alienation concepts as an argument for a preservation of the teachers exemption, i.e. with lesser control over the research results and their further use, the researcher was thought to have lesser interest for innovations. These arguments should be noticed if the Swedish judicial system is to be changed, since the researchers probably will play an important role for the development of society in a longer perspective.

Conflict-ridden legal globalization. Boaventura Santos on globalization, interlegality and emancipation

FREDERIK THUESEN PEDERSEN

Based on the work *Toward a New Legal Common Sense*, 2002, the article discusses the socio-legal theories of the Portuguese legal scholar Boaventura Santos. It exposes Santos' concept of postmodern law implying that modern societies can be described as legal constellations characterized by legal pluralism. Santos argues that diverging concepts of law have different normative and political implications, and that his own – broad – notion of law aims at furthering radical democracy. On a local level, this is exemplified through informal legal orders emerging in the *favelas* and in factories. Santos' use of world systems theory raises a discussion of his analysis of globalization of law and the phenomenon *interlegality* respectively. I use the notion of emancipatory legality to sum up the main arguments in Santos' socio-legal theories. Finally, while criticizing Santos' broad concept of law, I argue at the same time that his analysis identifies important lines of conflict in relation to legal globalization. This also implies a new understanding of the relationship between law and politics.

Deconstruction, Law and Justice. On Jacques Derrida's concept of justice and the example of Josef K.

BJØRN CHRISTER EKELAND

It is normal, predictable and desirable, says Jacques Derrida in 1990, that deconstructive studies should end up in the field of law and justice. For most jurists and lawyers deconstruction is none the less still a relatively unfamiliar term, but it plays an important role for the literary theorists in Norwegian law and literature studies. Derrida deconstructs the image of law as something *a priori* just and points to an opposite view: that law is *never* just in itself. His deconstruction of a typical western concept of law is in itself bound to a *glissement* between two types of justice: legitimate justice on the one side, and deconstructive justice on the other. The first type is concrete, a coherence between the judgement and the law by which the judgement is made, while the second is abstract and beyond the law and can only be shown or read by something equally abstract, i.e. fic-

tion. Fiction is the story of what is, but is not. The deconstructive justice is that which the law and the court inevitably violates, and by this token also that which gives the law as law a trait of the absurd, a trait which is portrayed splendidly in the fiction of Josef K., in Kafka's *The Trial*.

Introduction to the legal history of the Union between Norway and Sweden

DAG MICHALSEN

Next year, in 1905, the union between Norway and Sweden was dissolved in a peaceful manner. This has inaugurated research on a rather neglected part of Nordic legal history. The union had been the result of the vicissitudes of the Napoleonic wars, as Sweden lost Finland to Russia (1808) and Denmark lost Norway to Sweden (1814). But before Sweden could take possession of Norway, Norway declared its independence through a new constitution and a new King. Even though this politics failed, it structured the character of the future union which was defined only through a common king and common foreign policy, but otherwise the two states remained independent.

Although the legal framework of the union was limited, the legal history of the union gives rise to a number of interesting issues. The author points out six themes concerning the history of the Norwegian-Swedish Union and which reflect general patterns of 19th Century legal development as well as some interests of contemporary legal science: The union between Norway and Sweden was the arena of conflicts of law, nationalism and unionism, being formed in the language of law and politics. The legal sciences of the two countries were forced to combine and organize legal research and political activism. The last decade of union coincided with interesting new trends in international law. The legal discourses on the Norwegian-Swedish union were part of complex legal cultural patterns in the Nordic legal communities. And eventually, the one sided and radical Norwegian dissolution of the union in June 1905 remains an interesting case study for constitutional reflections.