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ALLEGRA CRAWFORD, ASSISTANT EDITOR
Research Assistant, Victoria University of Wellington School of Law
allegra.crawford@vuw.ac.nz

LAURA LINCOLN, ASSISTANT EDITOR
Research Assistant, Victoria University of Wellington School of Law
laura.lincoln@vuw.ac.nz

JOHN PREBBLE, EDITOR
Professor of Law, Victoria University of Wellington, Gastprofessor, Institut für Österreichisches und Internationales Steuerrecht, Wirtschaftsuniversität Wien, Adjunct Senior Research Fellow, Monash University
john.prebble@vuw.ac.nz

Announcements

Special Issue: Law and Equality: Papers by Joel Colón-Ríos

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"Contemporary Theories of Equality: A Critical Review"
Revista Juridica Universidad de Puerto Rico, Vol. 74, p. 131, 2005
Victoria University of Wellington Legal Research Paper No. 15/2013

MARTIN HEVIA, Universidad Torcuato Di Tella - School of Law
Email: mhevia@utdt.edu
JOEL I. COLÓN-RÍOS, Victoria University of Wellington - Faculty of Law
Email: joel.colon-rios@vuw.ac.nz

By the time in which John Rawls' A Theory of Justice was first published in 1971, utilitarianism was the dominant philosophical conception. In a nutshell, the main aim of utilitarianism is to maximize aggregate welfare in society. For utilitarianism, the way in which such welfare is distributed among individuals is irrelevant: it does not matter whether a few have most of the resources available and most people have virtually nothing as long as that distribution is the best one from the perspective of the total amount of global welfare. A Theory of Justice can be seen as a reaction against this view. For Rawls, that unequal outcome is intuitively unacceptable. In clear contrast to utilitarianism, Rawls claims that both social inequalities, such as poverty and natural inequalities, such as differences in talents, are unjust and, thus, nobody is morally entitled to what those inequalities yield. Since Rawls' first book, most of the discussions in contemporary political philosophy shifted to the question of how to better understand these egalitarian premises. This is why A Theory of Justice remains the most influential book in political philosophy written in the last century.

Rawls' book gave rise to a first wave of egalitarian thought mainly concerned with what should be equalized. The main candidates for equalization were material resources, welfare, and opportunities. The first wave of egalitarian thought had liberal roots. Those origins imply that, although equality is important, the different egalitarian frameworks proposed are very respectful of individual choices. In other words, the theoretical agenda dealt with how to express concern of individual responsibility and equality at the same time. A second wave of egalitarian thought left behind the concern for what should be equalized and focused on a different sort of claim, not so obviously connected with economic inequality. This second strand is interested in those claims carried out by minority groups regarding cultural, racial, and gender inequalities. This wave gave raise to recognition claims that rest on the idea that inequalities refer not so much to the distributions of goods as to marginalization, domination and cultural imperialism.

It is still unclear what the connections between these two waves of egalitarian thought are. The aim of this paper, then, is to review critically both strands of egalitarian theories and find plausible connections between them. The paper is divided into two main parts. In the first part of the paper, we will concentrate on the family of liberal egalitarian theories, usually called luck egalitarianism because of their emphasis on the fact that differences arising from mere luck, that is, differences in social and natural inequalities, are unjust. The second part of the paper deals with recognition claims. We will then discuss how these two versions of egalitarian thought relate to each other and whether endorsing one of them implies ruling out the other.

"Law, Language, and the Latin American Constitutions"
Victoria University of Wellington Law Review, 2011

Victoria University of Wellington Legal Research Paper No. 16/2013

JOEL I. COLÓN-RÍOS, Victoria University of Wellington - Faculty of Law
Email: joel.colon-rios@vuw.ac.nz

Latin America has many languages and many constitutions. This article provides a general overview of the ways in which some constitutions of states of Latin America relate to the multi-lingual context in which they operate. After providing a brief account of Latin American constitutional history in Part I, the essay will thus consider the relationship between language and constitutions in three different contexts: the creation of new constitutions, constitutional protection of language rights, and the process of making a constitution accessible to speakers of a language different from the one in which it was originally written.

"The Legal Status of Puerto Rico and the Institutional Requirements of Republicanism"
Texas Hispanic Journal of Law and Policy, 2011
Victoria University of Wellington Legal Research Paper No. 17/2013

MARTIN HEVIA, Universidad Torcuato Di Tella - School of Law
Email: mhevia@utdt.edu
JOEL I. COLÓN-RÍOS, Victoria University of Wellington - Faculty of Law
Email: joel.colon-rios@vuw.ac.nz

It is clear that the relationship between Puerto Rico and the United States is problematic from the point of view of representative democracy. It is difficult to understand how a juridical arrangement in which a non-elected legislative assembly routinely creates civil and criminal laws that are applied by a non-elected executive may be justified from a democratic perspective. In light of this, it is striking that Puerto Rico's juridical order receives little if any attention in contemporary constitutional theory. With the exception of a few essays, American constitutional theorists have treated the case of Puerto Rico as a curious but unimportant anomaly in an otherwise democratic polity, therefore undeserving serious academic consideration. In this paper, we'd like to start changing this attitude. We want to suggest that there is a deep problem with this juridical arrangement and we propose to address it from the perspective of an old tradition in political philosophy: republicanism.

In this paper we will consider the juridical relationship between Puerto Rico and the United States from a republican perspective. In the first part of the essay, we provide a historical background of the juridical relationship at issue. With this historical background, we intend to show how the relationship actually works, and not merely to provide an account of what courts and politicians have said about it. We will then discuss some of the main themes in contemporary republicanism, and, finally, we will analyze Puerto Rico's current relationship with the United States in light of the insights provided by republican theory.

"From Redistribution to Recognition"
“De la Redistribución al Reconocimiento” [From Redistribution to Recognition] (with Martín Hevia) in El Derecho a la Igualdad: Aportes para un Constitucionalismo Igualitario (Vol. II) (Roberto Gargarella & Marcelo Alegre eds.) (Buenos Aires: Abeledo Perrot, 2012).
Victoria University of Wellington Legal Research Paper No. 18/2013

JOEL I. COLÓN-RÍOS, Victoria University of Wellington - Faculty of Law
Email: joel.colon-rios@vuw.ac.nz
MARTIN HEVIA, Universidad Torcuato Di Tella - School of Law

Email: mhevia@utdt.edu

This paper examines the 'second wave' of egalitarianism, which moved away from the traditional focus on economic injustices and redistribution claims, to an emphasis in cultural injustices and the politics of recognition. The first part of the paper introduces the 'first wave' of egalitarian thought, through a brief examination of the work of John Rawls and of the scholarship on luck egalitarianism. The second part, resting on the work of Charles Taylor, explores the historical roots of the politics of recognition. The third part focuses in the debate between Iris Marion Young and Nancy Fraser, which exemplifies the promises and limits of the second wave of egalitarian thought.
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About this eJournal

The Victoria University of Wellington was founded in 1899 to mark the Diamond Jubilee of the reign of Queen Victoria of Great Britain and of the then British Empire. Law teaching started in 1900. The Law Faculty was formally constituted in 1907. The first dean was Richard Maclaurin (1870-1920), an eminent scholar of both law and mathematics. Maclaurin went on to lead the Massachussetts Institute of Technology as President in its formative years. Early professors included Sir John Salmond (1862-1924), still one of the Common Law's leading scholars. His texts on jurisprudence and torts have gone through many editions and remain in print.

Alumni include Sir Robin Cooke (1926-2006), one of the leading judges of the British Commonwealth. As Baron Cooke of Thorndon, he sat on over 100 appeals to the Judicial Committee of the House of Lords, one of very few Commonwealth judges ever appointed to do so.

Since 1996 the Law School has occupied the Old Government Building in central Wellington. Designed by William Clayton and opened in 1876 to house New Zealand's then civil service, the building is a particularly fine example of Italianate neo-Renaissance style. Unusually among large colonial official buildings of the time it is constructed of wood, apart from chimneys and vaults.

The School is close to New Zealand's Parliament, courts, and the headquarters of government departments. Throughout Victoria's history, our law teachers have contributed actively to policy formation and to law reform. As a result, in addition to many scholarly articles and books, the Victoria SSRN pages include a number of official reports.

Victoria graduates approximately 230 LLB and LLB(Hons) students each year, and about 60 LLM students. The faculty has an increasing number of doctoral students. Ordinarily there are ten to twelve students engaged in PhD research.

Victoria University observes the British system of academic ranks. In North American terms, lecturers and senior lecturers are tenured doctrinal scholars, not legal writing teachers. A senior lecturer corresponds approximately to a North American associate professor in rank.

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BERNARD S. BLACK
Northwestern University - School of Law, Northwestern University - Kellogg School of Management, European Corporate Governance Institute (ECGI)
Email: bblack@northwestern.edu

RONALD J. GILSON
Stanford Law School, Columbia Law School, European Corporate Governance Institute (ECGI)
Email: rgilson@leland.stanford.edu

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