how we might undertake the dual strategy of both showing how the law shapes geological life, and how the lawful relations emerge out of and work in concert with planetary processes and systems. Clark and Szerszynski's important book, which develops new strategies for social theory in the context of today's climate crisis, helps establish the coordinates at stake in taking up 'the Anthropocene challenge' for law. As the climate crisis continues to intensify and political mobilisations for climate justice gain traction, taking up this challenge within socio-legal studies remains an urgent task.

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TT ARVIND AND JENNY STEELE (eds), *Contract Law and the Legislature: Autonomy, Expectations, and the Making of Legal Doctrine*. Oxford/New York: Hart Publishing, 2020, pp. v-472 inc. index, ISBN 978-1-50992-610-7, £100 (hbk).

The chapters in this collection derive from a workshop held at York Law School in January 2019. Much like its earlier counterpart, *Tort Law and the Legislature*:

Common Law, Statute and the Dynamics of Legal Change this edited collection of essays places (contract) statutes at the core of the analysis. As the editors TT Arvind and Jenny Steele, point out, scholarship has tended to 'sideline' (p. 2) contract statutes by placing statutes on the periphery of the development of contract law (p. 4), thereby creating a reductionist picture 'of what exactly it is contract law seeks to do in relation to the social phenomenon of contracting and the social role of markets' (p. 14). The effect is a narrowed range of conceptual underpinnings and values with the party autonomy paradigm retaining its dominant position in how contracting is understood and the role of law in that process. This collection therefore offers a timely and valuable contribution as it reconceptualises contract theory not by purporting to reinvent the wheel; but rather by probing deeper into our perceptions and assumptions as legal scholars which forces us to revisit how and why we understand contract theory in the way that we do.

The book is structured in four Parts. Parts I–III consist of chapters by the many excellent contributors covering different themes (which I shall return to) on the statutory role of contract law. Given the breadth that can be captured by these themes, the editors usefully aim for a balancing of chapters in each Part. In Part II the chapters by Jonathan Morgan and James Davey (chapters 9 and 13 respectively) demonstrate areas where the role of statutes has been well recognised, whereas Juliet Kostritsky in chapter 12 discusses the convergence between common law and statutes, and David Campbell in chapter 7 conversely shows that such a convergence may not always be positive as common flaws may be present. Parts I–III can be dipped into as the reader pleases depending on the reader's area of interest but the Introduction and Conclusion (in Part IV) were particularly thought-provoking.

Some might say that reading the end ruins the story, but the introduction set the scene by claiming that the reductionist approach to contract statutes and the reliance on existing dichotomies is rooted in the perceptions and assumptions of legal actors (not market actors) on contracting and 'the socioeconomic or normative underpinnings of contract' (p. 436). The Introduction therefore left one eager to see how the editors delivered on their conclusion to propose a new analytical model which maps these different perceptions in a way that could encompass a broader range of conceptual and normative underpinnings of contract law and theory.

Returning to the three themes, the first theme in Part I (*Remaking the Law: The Purposes and Effects of Statutes*) considers the 'Long-Term Impact of Statutes'. There are two insightful historical narratives. The first by Catharine MacMillan on the Judicature Act considers the lessons learnt where statutes which may have no specific intent behind the enactment to regulate can impact the development of contract law. The second historical analysis by Arvind and Steele considers the Lord Cairn Act but the value of this chapter extends further as the authors draw on Karl Llewellyn's theory of juristic method where they say, the traditional focus on the impact of statutes on *parties* should rather be the impact of statutes on *courts* (p. 45). The element of juristic method (whether one agrees with the overall conclusions of the book) is nevertheless an excellent analytical lens through which to understand legal regulation – although there may indeed be a measure of overlap when one considers the impact on parties and courts. The chapters in Part I therefore engage with the critical interaction between courts and the legislature as Jeannie Patterson and Elise Bant (chapter 5) have considered

in relation to consumer protection, and as Andrew Burrows has considered in relation to the survival, preservation, and freezing of the common law (chapter 2).

No account of the interaction between statute and common law is complete without a discussion of law reform – often seen as the conduit between the legislature and courts. This aspect is addressed by Hector MacQueen in chapter 10 on the challenges of law reform in England, Wales, and Scotland. MacQueen's chapter links to the second theme 'Statutes, Principle and Method' which is covered in Part II (*Fairness, Commerciality and The Nature(s) of Contract*). It is hard to disagree with the editors that little attention has been paid to understanding the underlying normative and conceptual principles of statutes, rather than focusing on specific statutory provisions or the effects thereof. Again, it is true that where analysis has in fact progressed to the stage of understanding the type of legal regulation, it invariably reverts to the welfarist-autonomy paradigm – at least as a starting point.

Part II therefore brings to the fore the ever-present dichotomies in contract law; fairness/certainty, autonomy/welfarism, statutory norms/common law norms, regulatory public norms/private norms. Solène Rowan in chapter 11 provides an interesting perspective of the difficulty in reconciling the dichotomies (certainty and protectionism) in relation to the reforms of Code Civile in France. Steve Hedley similarly considers the dichotomy between public regulatory norms and contractual doctrine typically seen as grounded in private norms such as party autonomy (chapter 8). Hedley touches on an important and familiar aspect of the pull between the public-private divide in regulating contract law where there has been increasing criticism levelled at the curtailment of public norms beyond a statutory domain (e.g. Hugh Collins *Regulating Contracts* 2002, OUP). Davey in chapter 13 examines the more niche area of the regulation of pricing in consumer insurance contracts. He boldly claims that 'one of the great bastions of common law freedom of contract' is being eroded by 'administrative regulatory action' rather than legislative or judicial regulation (p. 294). In a similar vein Morgan in chapter 9, through the example of statutory implied terms in sale of goods contracts, offers a different perspective on the 'curbs on autonomy' (p. 192) by examining the theoretical default/mandatory rules dichotomy and how statutes and judges-made law differ in this respect.

The theme of 'dichotomies', therefore, links to the third theme on 'Contractual Contexts' addressed in Part III (*Contracts and Social Organisation*). The editors claim that the diversity of transactional environments (both common law and statute) is not adequately captured by extant contract law scholarship. This is a strength of the book as it gives explicit recognition to the diversity of contexts and the diversity of motives which underlies a single statute, hence why the editors claim that dichotomies offer a limited picture (p. 438). Importantly, it considers what does this recognition lead to in how to understand the role of statutes in contract law – and this foreshadows the editors reconceptualisation of contract theory. The chapters in Part III discuss the relationship between public and private purposes, and about the type of regulation necessary in certain markets. Charlotte Ellis in chapter 15 considers how a seemingly interventionist statute can address inequality in a commercial context – in this case construction contracts – thereby improving trust among market participants (what she refers to as 'system trust' p. 330). Stuart Bell in chapter 18 proposes 'relational regulation' in the context of management agreements, whereas Helen Carr and Rowan Alcock examine

the type of legislative regulation to protect residential tenants and how the need for regulation chaffs against traditional values such as freedom of contract (chapter 14).

The editors propose that the diverse contexts in which statutes apply should be the starting point to analyse the frameworks that underpin contract theories. Their discussion of the 'Statutory Trilemma' (based on Gunther Teubner's Regulatory Trilemma) is an excellent way to describe the problems suffered by statutes in a similar way to that of regulation. Notable that, statutes are contracted out of or around, that it can damage the integrity of the practice of the contracting community, or by damaging the integrity of law as a toll to regulate contracting (p. 12). The editors add that the negatives of the statutory trilemma arise from misconceptions of markets and one can agree with a key premise of this book that a certain understanding of markets and the role of law in those markets indeed underlies the different dichotomies (p. 437). While contract scholars recognise the limitations of the different contract theories, the value of this book is that it does not apply existing dichotomies but seeks to dissect why those dichotomies exist, their limits, and how they are used to analyse legal regulation. Yet one could argue that the dichotomies represent a way to address this very diversity; to give differing weight to different considerations based on the market and its participants as it is (or should be) accepted that 'there is no single unitary understanding of markets' (p. 439). An interesting drawback is that the book highlights that dichotomies provide a limited perspective and this requires a deeper understanding of our perceptions of markets.

In the Conclusion (Part IV) the editors set out their four perceptions of contracting and markets that underlie statutes mapped along two axes which is drawn from Mary Douglas's analytical scheme of grid-group model of cultural theory. This methodological approach draws on existing aspects of market expectations and social expectations and aims to show that there is a misconception of markets (e.g. the Misrepresentation Act 1967 discussed by Campbell in chapter 7) and that there is a misconceived perception 'that the values and beliefs that are expressed as integral to the law of contract (e.g. individualism, discreteness, party autonomy) may turn out to be integral only to a perception of contracting' (p. 440) – furthering the charge as to why party autonomy should not receive centre stage. The proposed model aims to capture the diversity of social practices and perceptions to accommodate 'a wider range of contractual underpinnings' (p. 436).

The final part of the book engages with the familiar concepts of party autonomy and parties' expectations, and the proposed model favours an expectations-centric approach as it more responsive to the diversity of values and perceptions mapped in that model. This book does not dispute that regulation differs in different markets and statutes pursue different regulatory objectives. The editors in highlighting the critical relationship between the legislature and judges have suggested that the emphasis should be on 'the empowering role of legislation' where statutes should be viewed as 'tools' to be developed by courts (p. 4). While some may point to the open-texturedness of an expectations-centric approach as a continuing obstacle in this approach (as the editors themselves have recognised that not all contract scholars will agree p. 3), there is no denying that this book is an excellent contribution to contract theory which leaves contract scholars and theorists with a better appreciation and understanding of our own perceptions and why we hold them.

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