

Justitiële verkenningen

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Scandinavië

Summaries

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Law and society in Scandinavia; some preliminary remarks

R.J.S. Schwitters

The author describes the relevance of the common cultural and legal history of the Scandinavian countries for present day tendencies within law and society in these countries. Attention is paid to the relatively weak influence of Roman law, the pragmatic character and the, especially in Norway and Sweden, paternal moralistic character of law. Much more than in the Netherlands laymen have a formal position in the courts. Norway has a long tradition of alternative judicial procedures and has recently established a new kind of mediation boards. Save the legal resemblances which might be attributed to political integration of the different Scandinavian countries from the fourteenth until the beginning of the twentieth century, the independent nations have a tradition of cooperation on legislation since the nineteenth century. This cooperation was formalized in 1953 with the establishment of the Nordic Council. Increasing globalization and (uneven) integration in Europe might be a threat for the special and shared identity of Scandinavian law and politics.

Scandinavian legal realism

J. Dalberg-Larsen

The theme of this article is Scandinavian legal realism, which emerged about 1920 as a critical legal movement and which has still many supporters both inside and outside Scandinavia. In the first section, the historical background of the movement is described, including its basis in a severe criticism of natural law and of the normative type of legal science at that time. Subsequently, the development of the movement in Sweden, Norway and Denmark is described as well as its importance for legal science and practical legal activities in these three countries. The following section discusses the general political and social importance of Scandinavian legal realism for the building of the Nordic welfare societies as well as the importance of the movement seen from an international point of view, both theoretically and as regards practical politics. In conclusion, the present importance of the movement is evaluated.

From growth to reforms; the changing Scandinavian welfare state

K. Andenaes

The author discusses the development and the future of the Scandinavian welfare states with a special emphasis on Norway. The development of the Scandinavian welfare states took place from the 1930's until the middle of the 1970's, the 1960's and 1970's being the golden period of the welfare state. Since then transformations and reductions have taken place. Internationalization, privatization and flexibilization are important cues in relation to the changes. The welfare states of Scandinavia are well known because of their generous and universalistic character and the strong intervention of the state. The author describes serious reductions of the welfare state but notices at the same time an improvement of the rights of individuals, as for example of the receivers of health care. Though, he doubts the effects: a shortage of material supplies might hinder the effectiveness of these juridification.

Contractual relations in Scandinavia; guarantees for basic requirements in theory and practice *U. Stridbeck*

The author describes changing cutting off-practices of Scandinavian electricity, telephone, gas and water companies when receivers are not able to pay their bills. These new practices presume new interpretations of contractual relations which build on other assumptions than the liberal contract ideology. The author discusses many propensities of these contracts which justify the introduction of social responsibilities in these contractual relations. He regards electricity, telephone, water and gas as basic requirements and pays attention to the strong position of electricity companies on the market (often public-institutions with a monopoly-position). Furthermore he describes the Finnish professor Thomas Wilhelmssons contract-theory in which social responsibilities are given a central position. The author maintains that electricity distribution is a clear example of a legal relationship where social considerations should be a part of the legal perspective. Finally he gives an overview of recent practices of Scandinavian electricity, telephone, water and gas companies and shows that social considerations are increasingly governing the relations among suppliers and consumers.

The legal position of women; some trends in Scandinavian family law and labour law *K. Ketscher*

The legal support pattern of women in the Scandinavian countries has seen dramatic changes within the last decades. The labour contract is now the most important legal base for women's support. Women like men must get their money support in the labour market. Legally this entails a labour market principle which has substituted the former house wife assumption: that a grown up woman was considered to support herself through the marriage contract. This new development has brought about a slimming of the legal effects of the marriage contract. Most notably a legal concept of parenthood has developed. Provision of necessary care support as a consequence is now a major part of and problem for the welfare law regulation with its scarce resources. The described change is a structural change, independent of an individual choice. To a certain extent immigrant women are left behind in this development.

Prostitution in Scandinavian perspective *R.H. Henum*

This article describes the legal control of prostitution. The author shows how prostitution is regulated in the Scandinavian countries, especially Norway and Sweden. The legal control in Scandinavian countries is compared with the regulation of prostitution in the Netherlands. The regulation of prostitution is divided into four major categories: Criminalization, decriminalization, regulation and legalization. Prostitution is not accepted in neither Norway or Sweden, and neither of the countries discusses the possibility of legalization. In contrast the Netherlands practice a very liberal policy towards prostitution. This article discusses possible explanations for these differences.

Drugpolicy in Sweden *T. Boekhout van Solinge*

Because of certain similarities between the Netherlands and Sweden (welfare State, social policy, aspects of foreign policy) Dutch people often think that Sweden would 'thus' also have a liberal drug policy. However, in 1977 Swedish parliament voted for the goal of a drug-free society, which is almost the opposite of the Dutch aim of normalisation of the drug problem. What both countries have in common is some kind of national conceit, which explains why the two stick to their policy so strongly. The article describes Swedish drug policy (prevention, treatment, control) and gives several reasons for its severeness, such as the alcohol use and alcohol policy, the 1965-67 experiment and its alleged catastrophic consequences, the influence of Nils Bejerot and popular movements, drugs as a scapegoat for social problems, and the recent function of the fight against drugs, as a symbol of the protection of the Swedish identity.

Crime and punishment in Scandinavia; an overview *H. von Hofer*

In this article the author gives an overview of trends in crime levels and penal systems in the Nordic countries. It indicates that the crime level in Scandinavia (as regards traditional offences) is on a par with or lower than that of other European countries. Drug abuse too appears to be less widespread in the Nordic countries. Increases in crime rates during the postwar period have been very substantial in the Nordic countries just as they have been elsewhere in Europe. The 1990s may have witnessed a stabilisation in theft rates, albeit at a high level. Increasing equality between the sexes has probably contributed to an increase in the reporting of violent and sexual offences against women (and children), making these offences more visible. The system of formal control in the Nordic countries is characterised by relatively low police density, a falling clear up rate, the imposition of fines in a high proportion of criminal cases and low prison populations. The international crime victims surveys (no data being available for Denmark and Norway) indicate that fear of crime is comparatively low in Finland and Sweden; and that (for this reason) people do not feel the need to take special precautions against the possibility of crime to any great extent. Respondents appear to be fairly satisfied with the performance of the police and also support limits on the use of prison sentences.

The police as public prosecutor

P. Kruize

The police in Denmark and Norway is not only investigating but also prosecuting crime. This in contrast to Sweden and Finland, where investigation and prosecution activities are placed in two separate organizations. The attunement between police officers and public prosecutors is better when they are placed under the same roof, despite the fact that attorneys and police officers speak a different language. Especially the informal contact between prosecutors and police officers improves mutual understanding. There is a potential risk that (too) close cooperation between prosecution and CID leads to illegal investigation methods. Practice shows however, that this risk is limited in Denmark, probably due to Danish police culture.