

Book Review of Bignami, F. (Ed.). (2020). *EU Law in Populist Times: Crises and Prospects* (Cambridge: Cambridge University Press) doi:10.1017/9781108755641 by Ms. Andrea Manoli

EU Law in Populist Times edited by Francesca Bignami is an important addition to the understanding of EU law, populism, and its socio-legal impacts in various settings. With contributions by leading academics and policymakers, it offers a new important assessment on the particularly academically underdeveloped subject of populism by analysing rich narratives on the causes and consequences of populist manifestations and the EU toolbox to tackle populism. The editor of the book gathers information describing what populism is, in different legal and historico-socio-legal areas with careful attention to detail and rich evidence in providing a wide scope for examining populism, subsequent threats and solutions. While one may say that the field appears too broad, it hardly is. At a time when the term ‘populism’ is increasingly used inside and outside academia, the book clarifies that it essentially exists everywhere, it takes many forms and has one main effect: deteriorating the Rule of Law. In other words, the book offers a legal and historico-socio-legal retrospection of populism, in different forms and contemporary manifestations.

The book begins with an insightful and lucid introduction by Francesca Bignami. She gives an overview of the appearance of authoritarian and/or ethnonationalist and anti-immigration left and right-wing populist parties across the EU, beginning from the financial crisis to the most recent test of strength for populist parties in Britain during 2019. What is particularly interesting about the book is that it does not focus solely on an isolated example of populism but rather opts for a holistic approach that also touches on other issues, such as the legal architecture of the EU. It provides an analysis of populism in different countries and in different settings, such as economic policy, human migration, internal security and constitutional fundamentals. The introduction also contains a historico-socio-legal retrospective of the transition of the EU from a free-trade organization to a quasi-federal entity with extensive powers.

Part I of the book specifically evaluates populist manifestations with regards to economic policies of the Union within the post-crisis Eurozone governance. Populism is an interdisciplinary subject matter. Thus Matthias Ruffert draws from the political scenery in the Eurozone and links it to the courts, which emerge as full-fledged stakeholders in the governance of the Eurozone crisis. The particularly skeptical analysis by Philomila Tsoukala provides country-specific recommendations to enhance best practices and promote structural reforms in order to liberalise markets. The ambitious work of Nicolas Jabko recounts the post-2008 developments in European integration. While a complicated matter for a person whose expertise is criminal law and human rights, such as the current book reviewer, Jabko manages to offer an accessible and comprehensive analysis, which also provides experts food for thought. Of course, an analysis of the impact of the EU financial regulation could not be missing from such an edited volume. Hence, Elliot Posner engages in a legal and historico-socio-legal retrospective of the EU’s financial regulation while touching upon Brexit. The economic policy analysis section concludes with Renaud Dehousse’s examination of the impact of the Euro crisis in the political system of member states but also within the EU levels.

Acknowledging the strong connection of populism with human rights, Part II of the book examines human migration. This part begins with a historical and legal reflection on free

movement of persons and intra-EU migration through the lens of the ECJ. Ulf Oberg and Nathalie Leyns remind us of the very foundations of the European Union and leave us with a breath of hope about the future of the EU democracy. Undoubtedly, the vast migration flows created a fertile environment for populist parties to rise, thus Tsourdi's critical analysis concentrates on the Common European Asylum System and the responsibility of the member state of entry, while touching upon issues of cooperation and management. While this subject-matter is maybe one of the most developed areas academically wise, her analysis is well-built and on point. Niovi Vavoula moves on to challenge the proliferation of EU databases on third-country nationals. Nevertheless, her analysis is not abstract. She chooses three specific waves of databases alongside the relevant legislation and evaluates their production from a human rights perspective. More specifically she touches upon the everyday exercise of personal freedoms of third country nationals and the protection afforded to them with particular focus on personal data and privacy – a particularly refreshing approach to human migration of third country nationals and human rights. While one cannot expect from a book to cover every setting under which populism appears, this section could have been more extensive. While containing interesting and comprehensive pieces of work it could benefit from further discussions in areas such as populism and children rights. Generally, children rights constitute an underdeveloped area of legal research which interacts closely with many other legal aspects. Within the context of populism, an investigation on penal populism and/or hate crime by extreme wing parties and the impact of political organisation on youth could be particularly insightful.

Part III of the book is entitled internal security and focuses on counter-terrorism, judicial cooperation, and law enforcement. As with other parts of the book, this part begins with an historico-socio-legal retrospection of counter-terrorism written by Gilles de Kerchove and Christiane Hohn. This part critically assesses the exclusion of cooperation between domestic and foreign security services, while examining the far-reaching EU competence on counter-terrorism. The part moves on with the critical analysis of Valsamis Mitsilegas on counter-terrorism policies while analysing the blurred lines of police and criminal law on the subject-matter. Mitsilegas then proceeds to recommend a new more reflective approach aiming at protecting the Rule of Law and thus human rights. Jenifer Dascal's comparative approach of EU-US cooperation on counter-terrorism and other serious crimes provides an alternative analysis of the recent efforts to combat crime on a transatlantic level. Dascal touches upon legal processes through technological advancements and the prospect of new legislation schemes. Marc Rotenberg and Eleni Kyriakides look at counter-terrorism and derogations from Article 8 ECHR through the lens of the ECtHR jurisprudence. Choosing the examples of the Paris terrorist attacks and the failed coup in Turkey, they argue that neither example satisfies the derogation requirements. They therefore propose a new mechanism, which contains the active involvement of civil society's stakeholders such as NGOs. Whether this is possible in practice it remains to be seen. Part III closes with a contribution by Emilio De Capitani. He offers an interdisciplinary analysis of the legal changes brought by the Lisbon Treaty, providing practical recommendations for the 2019-2024 legislation regarding the Area of Freedom, Security, and Justice.

The last part of the book deals with constitutional principles of populism. One objection related to this final part is that this chapter could have come first, in order to give the reader an epistemological and normative understanding of what populism is, and what are the soft and hard tools available at an EU level to challenge populism and its manifestation. A further

criticism is that the authors in this specific part limit their analyses to Hungary and Poland. Hence, this chapter while very interesting and of particular importance, comes off as somewhat of jurisdictional rather than of thematic nature. Nevertheless, part IV begins with the contribution of Kim Lane Scheppele and R. Daniel Keleman's overview of Articles 2 and 7 TEU respectively, while proposing new alternatives for enforcing democratic values and retaining the Rule of Law in member-states where there is a democratic backsliding i.e. Hungary and Poland. In turn, Tomasz Tadeusz Koncewicz's analysis, which focuses on Poland, describes very cleverly the backsliding of the country as "rule by law" rather than the rule of law, while focusing on the Biatowieza Forest case. The book also includes an alternative analysis by Bojan Bugarcic, who contemplates that the illiberal backsliding in Hungary and Poland is due to austerity and other structural reforms of the past decade. The last part of the book closes with Peter Lindseth's examination of "democratic disconnect" and the reliance of EU institutions on national competences. Such reliance, he maintains, increases the responsibility of the ECJ as a monitoring mechanism.

EU Law in Populist Times is an interesting work that rightly seeks to draw light to a particularly underdeveloped academic area. The mapping of the geography of populism across much of Europe and in many forms provides a wealth of detail of the many fields that are affected by populism and its manifestations. If anything, the impact of this work and the spreading of knowledge is increased by the breadth of the topic Bignami edits. The scope of the book underscores the immense societal and political importance of populism and its effects on EU law. Although Bignami should be highly praised for her carefully considered contribution of the causes, consequences, and tools available in dealing with populism, her rich work still leaves open many vital questions about democracy, the rule of law, children rights, gender equality matters, sexual orientation and other areas of human rights affecting each and every one every day and which are directly and/or indirectly impacted by populism. Overall, the book amounts to an informative, timely, and immensely important study in the field of EU law and populism. It constitutes an extremely well-resourced study suitable for a broad range of readers interested in populism, political science, EU law and human rights. The book can definitely serve as a manual in understanding populism, its manifestations, threats and the hard and soft-tools available in EU level to deal with such threats. The numerous contributions found in the edited volume make it a valuable collection of good practices for the discovery of alternative ways to deal with populism with the available tools at hand.

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