

BOOK REVIEW:

DIA ANAGNOSTOU (ED) RIGHTS AND COURTS IN PURSUIT OF SOCIAL CHANGE: LEGAL MOBILISATION IN THE MULTI-LEVEL EUROPEAN SYSTEM

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This 220 page volume collects nine essays on a strikingly under-researched topic: strategic legal activism in Europe. Editor and author Dia Anagnostou starts the book with a fetching and ambitious introduction, making a compelling case for the necessity of examining legal mobilisation as a phenomenon that cuts through various disciplines as well as different political and legal arenas. She takes a decidedly actor-centric stance, in particular zooming in on agents of social change who advance their goals by way of litigation. A great number of pages are devoted to carving out the numerous questions that are touched upon in the subsequent essays. Due to the complexity of the matter, the reader needs to focus to stay on track. However, Anagnostou's enthralling style and her ability to produce precise definitions make it easy to pay attention.

The articles that follow take on different aspects of legal mobilisation. In a refreshingly unorthodox manner, most of them focus on activist opportunities or existing legal activism, instead of analysing law and court decisions in a 'traditional' top-down way (with the exception of Bruno de Witte's essay on language rights). Xavier Arzoz, for example, examines the struggle for the recognition of the Basque language in Navarre, describing the role of local activist groups and domestic courts, and the additional opportunities provided by European legal materials (including Council of Europe instruments). Evangelina Psychogiopoulou traces the development of Greek migrant and asylum litigation before the European courts, explaining how arbitrary litigation developed, over time, into strategic goal-oriented legal activism. Intriguingly, she depicts the shift of activist focus from targeting the European Court of Human Rights (ECtHR) to litigating before the Court of Justice of the European Union (CJEU), illustrating the multifaceted interplay of both courts and the respective adaptations of activist strategies. Going one step further, Dia Anagnostou writes about the influence which activist lawyers and organisations had on the development of the case law of the ECtHR in the context of

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safeguarding human rights in armed conflicts. After the Court was first reluctant to take a decisive stance on human rights violations during the Northern Ireland crisis in the 1970s and 80s, the cases brought forward by dedicated lawyers nonetheless set the stage for Kurdish activists who tried evoked human rights protection under the European Convention of Human Rights (ECHR) a decade later. Anagnostou mentions the exchange of experience and knowledge between lawyers involved in Northern Irish and Kurdish cases, and explains how this cooperation consequently shaped legal strategies. The emerging case law was then re-applied in Northern Ireland in the 1990s, as well as in the context of the conflict in Chechnya. From Anagnostou's essay, it becomes clear that litigants have considerable leverage in influencing the Court's interpretation of certain rights. After all, litigants bring issues to the attention of the Court; they are the ones who frame the question to be decided in their applications. Evidence which litigants bring forward not only publicises human rights violations, but also serves to inform and possibly educate the judges on the intricacies of particular conflict situations.

Along similar lines, Loveday Hodson elaborates on the rise of LGBT rights activism before the ECtHR. Impressively, she points out that activist groups were involved in the great majority of relevant cases, stating that litigation has been, and is, a political strategy for LGBT movements. However, the use of legal strategies is not without costs; there are certain risks attached for a movement wishing to engage the Court in its struggle for equality. For instance, translating a political issue into legal terms will necessarily reduce its complexity and possibly de-radicalise its impetus. Furthermore, Hodson warns, focussing too much on litigation might distance an organisation from its grass-root basis. She also addresses the scarce democratic legitimacy of NGOs who *de facto* change the political landscape by strategic litigation; after all, an interest group organisation lacks public accountability. However, she concludes that these concerns might be negligible, since NGOs do not nearly exert the same kind of power as other institutions in the political game. As long as litigation is but one route by which NGOs choose to advance their agendas, chances are they are on the safe side, democratically speaking.

Two essays stand out in the volume: the first is the article of Liora Israël on the rise of legal activism to support migrant workers in France, and the second is the 'Tool-Box for Legal and Political Mobilisation' by Mark Dawson, Elise Muir and Monica Claes.

The former is noteworthy because it is recognisably written by a social scientist with ample legal knowledge, which adds a distinctive and important voice to the book. Israël convincingly argues that legal

mobilisation cannot be understood without taking into consideration the domestic socio-political environment. Not only is this chapter a highly entertaining read which paints the atmosphere of post-1968 France in living colours; Israël concentrates on actors of social change in a remarkable way, constructing a compelling narrative of the motivations and consciousness of legal professionals which led to the creation of community-minded 'law shops' in the 1970s. These leftist cooperatives had the intention of providing legal aid, and, what is more, tools of self-empowerment to the population, fundamentally questioning the hierarchical lawyer-client relationship. Without giving in to social romanticism, Israël problematises the paradox of this format: The people seeking the help of the law shops were often looking for straight-forward legal advice; instead, they encountered highly political collectives with lofty ideals of do-it-yourself empowerment, which sometimes turned out to be overwhelming for clients. Moreover, the whole concept of representing groups which the members of the law shops themselves did not belong to – namely, immigrant workers – might be dubbed as intrinsically elitist. Nonetheless, the law shops were instrumental in promoting a change of perspective in the political left regarding legal strategies as instruments of social change, especially in light of the traditional Marxist view of the law as a bourgeois tool for perpetuating existing power structures. Initiatives like the GISTI (Information and Support Group for Immigrant Workers) profited from this debate, carrying on the idea that law could indeed be instrumentalised for progressive reform. What is remarkable about Israël's essay is that it seems to answer a question which is only hinted at in the other essays: How did it happen that someone came up with the idea of using law and litigation as political strategies?

Whereas Israël answers the 'Why?' of legal mobilisation, Dawson, Muir and Claes look at the 'How'. Since the ECtHR has been covered (although maybe not extensively) in terms of opportunities for legal activism, the trio take on the procedural conditions of the CJEU in order to determine whether this court would be a promising arena for social change projects in the area of non-discrimination. The language and style of the article are clear and structured: It is segmented according to possible litigants (individuals, institutions and collective organisations), and possible opponents (EU institutions, states and private parties). Although technical at times, the essay delivers its promise: An in-depth analysis of the different procedural mechanisms in light of their suitability for promoting rights. Rights, to be clear, not necessarily as a means of achieving justice for a single litigant, but as a gateway for wider political reform.

After finishing the book, the reader might experience a short episode of

confusion. The topics covered are so diverse and the perspectives taken so numerous that the thread running through the volume can be lost momentarily. Anagnostou admirably attempts to tie everything together in the concluding chapter. However, the book seems to make most sense if seen as a discussion opener – as an initial exploration into the manifold layers of legal activism in Europe. This is exactly what Anagnostou promises in her introduction, and this is what the book achieves. Strategic litigation in Europe – especially as a subject of legal literature, and particularly from an activist perspective – is urgently in need of thorough academic investigation. European legal practice appears to be way ahead of scholarship, and this becomes crystal clear when reading this book, especially when contrasted with the breadth of Anglo-American law literature in this respect. Anagnostou herself points to this fact and calls for further academic exploration. Indeed, one of the most intriguing features of this volume is the sheer range of its contributions, which underlines Anagnostou's initial claim – there seems to be an obvious need for comprehensive systematisation of the discussed topics, especially from a legal standpoint. This cannot possibly be achieved in 220 pages; as such, the book reads like an open invitation to get rid of antiquated notions of top-down legal analysis and instead recognise the political and activist potential of law.