

## Book Review

Gerapetritis, G. (2016). *Affirmative Action policies and judicial review worldwide*. From Series: *Ius Gentium: Comparative perspectives on law and justice: Volume 47* (Sellers, M. and Maxeiner, J., Series Eds.). Cham, Switzerland: Springer International.

Reviewed by David H. Johnson, Ph.D.  
Millersville University of Pennsylvania

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As I finished reading this book and prepared to write the review, the news arrived of the sudden, unexpected death of Associate Justice Antonin Scalia of the United States Supreme Court. Judge Scalia was a conservative icon known particularly for his acerbic dissents and originalist views over his 30 years of jurisprudence on that lofty bench, and his service before that on the U.S. Circuit Court of Appeals for the District of Columbia. Even now, the nation awaits the second decision of the court in *Fisher v. University of Texas at Austin* (No. 14-981; full disclosure requires that I inform the reader that I am an alumnus of the University of Texas at Austin). This is a pivotal case surrounding the use of race in university admissions decisions, touching on the affirmative action sphere of the book under review, and the death of Justice Scalia has the potential to change the outcome of the case markedly since it was heard before his passing but the decision is not yet delivered.

One cannot help wondering if Gerapetritis would have treated the *Fisher* case differently in his judicial review text (he discusses it at length in the “policy” section) after the decision in the second case is delivered. He approaches affirmative action, which he views on an international scope, from the standpoint of four questions: the moral question, the sociological question, the policy question,

and the legal question, though he devotes about twice as much space to the policy question as to each of the other three questions. The book is an interesting read for those of us who are wonkish in our reading habits, and the policy scholar will find herself or himself absorbed enough in the topic. The policy question section runs almost 100 pages exactly and is well-divided geographically among the continents, and then subdivided among the countries on each continent, with final sections on “International Law” and “Comparative Syntheses and Antitheses” that are quite well constructed.

What was mildly disappointing to this reader was the lack of a full integration of the four questions. Of course, the advanced reader will draw connections between moral, sociological, policy, and legal issues themselves, but if I were using this book in a classroom, I think students would find it much more challenging to make those inferences or draw those conclusions without some additional assistance from the author. Admittedly, the author might point out that this is the role of the faculty member, an argument not without its merits. Still, it would have shown remarkable brilliance on the part of Gerapetritis to have made more explicit how the moral (or philosophical) influences the policymaker’s craft, how policies and environments influence each other reciprocally

leading to sociological disruption or cohesion, and whether judicial review is dependent on the moral and sociological constructs of the time in which they are delivered or whether the judicial dicta themselves are *vocem creatricem* bringing morality and society into existence by their own power. Gerapetritis gives limited voice to such ideas in the very brief conclusion, but this brief nibble only whets this reader's appetite for the larger dessert and leaves me wanting much more. The only other disappointment is that the indices are woefully inadequate, having no index for judicial cases and no index for people. These additions would make the book most useful as a reference tool for the scholar, and without them the book is rendered nearly useless as a reference tool, which is a shame as it really is replete with useful material.

For the student interested in comparative policy analysis of the judicial decisions surrounding affirmative action policies, I would say this book makes an excellent starting point. My objections are minor, at best. As one who co-authors policy texts, the challenge is always knowing when to stop writing and to let it go to press, since policies (especially from the judicial bench perspective) are always changing, and the time between ending the writing and the book reaching the reader automatically means you are going to be at least a little bit "stale." Even with that, I found the book useful and fresh, the writing not overly academic or inaccessible, and the questions raised stimulating of my own thoughts which is what most of us hope our writing will do for our readers.