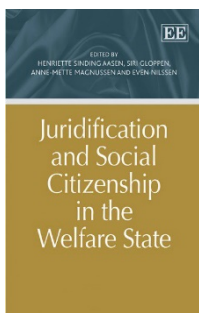




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Book review

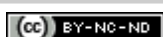
Contributed to and edited by Henriette Sinding Aasen, Siri Gløppen, Anne-Mette Magnussen and Even Nilssen. *Juridification and Social Citizenship in the Welfare State: A collaborative research work*. Edward Elgar, Cheltenham, UK. Northampton, MA, USA, 2014. ISBN: 9781783470228 (Hb) £76.50 (Internet purchase).

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In his book *The Rise and Fall of the Welfare State*, Asbjorn Wahl states that the Social Help State, Struggle of Organizational Labour and the System Competition were the three preconditions that set the pace for the establishment for the welfare state after the second World War in 1945. Since then, the issue of the welfare state, coupled with the role of citizens in this proper establishment has led to diverging views of stakeholders in the juridification processes.

The book was written as a result of researchers in an interdisciplinary research project trying to develop a collective approach to solve the problem of juridification and social citizenship in the welfare states. This was because of the different and highly complex relations between legal instruments and social realities of various groups in the field of the welfare states. Despite the diverging views, they share a common interest in juridification processes and that was the impact it had on people's lives and that they needed to work together by sharing their experiences to achieve that goal. The terms *Juridification*, *Social Citizenship* and *Welfare State* are key in the understanding of what the researchers try to achieve and these terms are intensively discussed in the final chapter of the book. The term *juridification* can be referred to as a process involving shifts towards constituted regulations, increased and more autonomous judicial powers, more legal regulations and regulations of new areas and problems increasingly being framed in legal and right oriented terms. It encompasses what is generally known as judicialization; i.e., the increasing social and political role of the courts thereby bringing to the attention of the court the changing role and power of elected officials, politicians and professionals. Social Citizenship in the book is considered a term that supports a citizen's access to political, civil, and social rights in a state and this includes the rights to a considerable amount of economic welfare and security giving them a life as civilized beings according to the standards of the prevailing state. The concept, firstly coined by T.H. Marshall, has gained increasing attention from social scholars like Kymlicka (1995), Hvinden and Johansson (2007), Taylor Gooby (2009) and Bothfeld and Betzelt (2011). Sadly though, these philosophical, legal, and social scholars are yet to reach a consensus on a general definition of the concept. In the book, the welfare state is being considered by the researchers as a system or government that takes the responsibility for welfare of

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its citizens through public health, public housing and pension and unemployment compensations.

The book has a total of 24 contributors and has been edited by four of them. From Norway in the University of Bergen were 17 contributors from the Faculties of Law, Comparative Politics, Global Health and Primary Care, Sociology, Business and Social Sciences, and the Bergen University College. Three contributors from the Christian Michelsen Institute in Norway, two from Germany in the areas of Labor Law, and one from the Netherlands in the Faculty of Law.

The book discusses the topic with crosscutting dimensions, segmented into chapters with each contributor presenting their positions that basically cover the discussion from three major perspectives: Juridification and International Law, Juridification and Democracy and Juridification and Professionalism.

Chapter 2 discusses the different aspect of the relationship between welfare and the labour market. Britain, Denmark, and Norway are discussed in the demonstration of this relationship. The proceduralization of social law, construction of the social citizenship and the convergence in the development of activation in Britain and the two Scandinavian countries are also discussed by Even Nilssen.

Silke Bothfeld and Stefanie Kremer (chapter 3) take a critical look at the reflexive regulation of employment in the welfare states as a good way to reconcile economic efficiency with social protection. They also try to evaluate whether the temporary Agency work is a successful regulation of any typical employment for the people.

Chapter 4 is being discussed by Cornelius Cappelen and Eskil Le Bruyan Goldeng. Discussing social citizenship, the comparative politician and social scientists assess the unemployment compensation and the trade-off between equality and personal responsibility. They extend their evaluation on how the schemes in these selected employments balance equity and responsibility making use of the generosity index, the duration index, the entitlement index, the activation index, and the compound strictness index.

Tine Eidsvaag, a Faculty of Law graduate and contributor to the book, discusses the activation line in social security and the social assistance law (chapter 5). International human rights standards and activation policies, work line policies and economic sanctions as an impact on the employee were her areas of concern.

Chapter 6 of the book addresses the health sector. Contributors Anne Mette Magnussen, who served as one of the editors, and Lene Brandt look at individual rights and prioritization of the health sector. They are eager to find answers to questions like these: Which services should be offered nationally? How should national health services be funded and how to prioritize patients when national services are challenged? The legal basis for the answer to these questions, interpretations, applications, and attitudes by the service provider are addressed by these scholars in this chapter.

In chapter 7, Octavio L.M. Ferraz, Siri Gloppen, Ottar Maestad and Lise Ranker look at the term *judicialization of politics* as it relates to judging the price of life. These contributors, who come from Norway, try to analyse the cost considerations in right to health litigation in developed and developing countries, taking the UK, Norway and some countries in Latin America (Costa Rica, Brazil, Argentina and Colombia), India and South Africa as examples.

Kristine Baerøe and Berit Bringedal, who are both from Norway, try to answer the question whether inequality has an impact on people's opportunities to exercise social citizenship (chapter 8). Discussing the topics of professionalism, discretion and juridification, these health practitioners try to discuss the issue basing their discussion on analytical distinctions between various types of juridification processes.

Henriette Sinding Aasen, Alice Kjellevold and Paul Stephens discuss the pressing issue of undocumented migrants' access to health care services in chapter 9. Individuals labeled as such puts them in a critical position that they are denied basic rights and protection. The only hope that secures them is the international human rights framework but to what extent this goes is the issue of discussion in this chapter.

Chapter 10 is being addressed by Kristan Mjaland and Ingrid Lundeberg. They use a Norwegian drug rehabilitation unit to address a shift in the Nordic criminal justice policy that refer to in the chapter as "penal hybridization", which refers to a recent development in penal practice whereby rehabilitation measures and treatment have become more important than control measures. Their ethnographic data gathered showed that contrary to legal instruments playing a significant role, hybrid drug rehabilitation practices weaken the legal protection of prisoners and this has occurred despite a general juridification process in this field.

In chapter 11 of the book, contributed by Susane Bygnes and titled *Adhoc multiculturalism: prison staff approaches to cultural and religious diversity*, Bygnes looks at the approach used in two Norwegian prisons by ex-wardens and wardens towards prisoners belonging to ethnic, racial, and religious minorities. This was done to understand the process of marginalization, inclusion and exclusion and stigmatization in the prison society. Her study revealed that there is a systematic reluctance to consider group differences amongst prisoners and a weakness of legal regulation that leaves the practical accommodation and recognition of minority right in the hands of individual wardens that result in an *ad hoc* approach to multiculturalism.

Katja Jansen Fredriksen and Wibbo Van Rossum discuss chapter 12 looking at Netherlands and Norway in terms of how professionals deal with cultural diversity and its effect on social citizenship. They try to evaluate the interactions between legal professionals and lay parties in families with dual legal orders. In their argument, the concept of citizenship needs to include the element of identity, and that the communications of legal professionals have an important impact on the legal consciousness of lay people, and thus contribute to their subjectively felt citizenship in today's culturally diverse society. They also maintain that it is an important prerequisite for transnational actors' willingness to participate in the social and political life that their customs and values are seen and taken seriously.

Chapter 13 was contributed by Hugo Stokke. In this chapter, Stokke takes a critical look at the 2005 Finnmark Act and how a concrete juridification process in Norway relates to the act as it relates to the reshaping of the conditions of social citizenship for the semi indigenous minority. Comparing the Finnmark Act to the unitary understanding of social citizenship in the tradition of T.H. Marshall, Stokke concludes that the multicultural model as expressed in the Finnmark Act has been beneficial from the perspective of the social citizenship of the semi and that it has enhanced their autonomy by securing their access to productive resources and also strengthened their participation rights by securing greater influence in collective decision making through the semi parliament, though there are some skepticism as to the functionality of the practice.

In chapter 14, Roberto Gargarella, from Argentina, examines international institutions (the courts), social rights and dialogue approach to justice in the discourse. He tries to evaluate the important form of juridification influence of international judicial bodies, addressing the legitimacy of international courts as well as how the global judicialization affects citizens' ability to participate in and collectively influence decisions shaping their life. What comes to the fold are the space for democratic deliberations and decision making vis-a-vis the role of legal professionals, and the authority of national versus international decision making spaces. The contributor's focus is on the Inter-American Court of Human Rights

(IACHR) but with a smaller lens on the European Court of Justice (ECJ) and the European Court of Human Rights (ECHR). He underscores that courts should not just accept political decisions of democratic bodies, but also address the democratic nature of the process, its inclusiveness and participatory and deliberative qualities.

The book, which tries to bring a collective idea of scholars from different professional fields, is a must read because for the first time since the introduction of the concept of the welfare state by T.H. Marshall, there have been different approaches and legal regulations to address the issue of juridification, social citizenship and the welfare state. The University of Bergen's support to this research project has given social, legal, and philosophical scholars the opportunity to make reference to a material that sets the pace for discussing three cardinal issues that affects mankind, the society and their contribution to creating a more civilized, participatory and democratic society the world over. According to T.H. Marshall, "[c]itizenship is understood to be constructed by the institutionalization of legal rights and duties. The relationship between social citizenship, on the one hand, and political and social action, on the other hand, is a theoretical one that has to be investigated empirically to provide knowledge about the consequences of different forms of welfare regulation". That is exactly the goal the book tries to achieve.

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