

STUDI

parlamentari
e di politica
costituzionale

Abstracts of Articles

PAOLO SAITTA

Reviewing the theory of criticism (law, textual errors and remedies)

The author treats in his written work the matter of the legislative errors, by separating them into errors of contents and text. The questions raised from the first ones are solved within the area of construction, while the second ones within the area of criticism. While dealing with the so-called textual errors, he recovers and develops, but criticizing it at the same time, the German Textkritik doctrine.

As a consequence such a type of error admits to be corrected overcoming the textual expression of the statute. The performances of the criticism mode are subsequently analysed both with reference to the judicial activity/rectification and the various steps of the law proceeding.

FEDERICO SPANTIGATI

The sense of the State in the administrative reform

Today the State has no more the monopoly of the power, nor that one of juridical qualification of social behaviours. Nowadays public administration behaviours are determined by the action of unwaivable subjective interests. Consequently, the description of the State as a juridical person provided with bodies with their own wills makes sense in the juridical world but it doesn't correspond to the reality. Conceptually there aren't bodies anymore but apparatus and it is necessary to describe institutions as authorities which have juridical qualities according to subjective interests which make them move. The State was created by a leading class, which represented the common concern with sense of the State. On the contrary, today institutions need to be managed with sense of public responsibility: it is an ethical feeling equally intense toward institutions but which represents the global interest of the society, made up of a plurality of unwaivable subjective interests, not that one of the State.

AUGUSTO SINAGRA*Humanitarian intervention and no interference in State's home affairs principle*

The Author deals with the question of relation between no interference in State's home affairs principle and presuppositions and legitimacy bases of collective and individual humanitarian interventions (even armed). The author lays stress on the problem of objectivity of the check on legitimacy of presuppositions and, more in general, on the problem of reasonable balance between the two opposite principles, which, in fact, represent two opposite interests.

According to the Author neither the Security Council of United Nations nor any other structure of international community is able to guarantee an objective check on the legitimacy of the presuppositions and every armed intervention produces however a situation of war.

Finally the Author shortly analyses the case of Kosovo where, in his opinion, Nato Member States armed intervention went on in direct violation of international and constitutional law.

ANDREA BIXIO*Cultural conflicts and radicalism*

The essay faces the problem of cultural conflicts in today's global organization of society.

Moving from a dialectical dimension of culture, with particular reference to the relationships between ethical-symbolic moments and the instrumental dimension, the most significant themes of the debate on multiculturalism and on the system of human rights are treated critically, with the purpose of avoiding forms of cultural radicalism.

The essay is completed by a series of bibliographical notes, which are intended to ensure that the epistemological outlines of the discourse interweave with bibliographical profiles.