

## BOOK ANNOTATIONS

BLITZ, BRAD K., AND MAUREEN LYNCH, EDs., STATELESSNESS AND CITIZENSHIP: A COMPARATIVE STUDY OF THE BENEFITS OF NATIONALITY (Northampton, Massachusetts: Edward Elgar Publishing, Inc., 2011).

FLEMING, JAMES E., ED., GETTING TO THE RULE OF LAW (New York and London: New York University Press, 2011).

KAUFMANN, BRUNO, AND JOHANNES W. PICHLER, EDs., THE EUROPEAN CITIZENS' INITIATIVES: INTO NEW DEMOCRATIC TERRITORY (Mortsel: Intersentia N.V., Berlin: BWV Berliner Wissenschafts-Verlag, Wien: Neuer Wissenschaftlicher Verlag GmbH Nfg KG, 2010).

KOPLow, DAVID A., DEATH BY MODERATION: THE U.S. MILITARY'S QUEST FOR USEABLE WEAPONS (New York, New York: Cambridge University Press, 2010).

MEARSHEIMER, JOHN J., WHY LEADERS LIE: THE TRUTH ABOUT LYING IN INTERNATIONAL POLITICS (New York, New York: Oxford University Press, 2011).

MURPHY, JOHN F., THE EVOLVING DIMENSIONS OF INTERNATIONAL LAW: HARD CHOICES FOR THE WORLD COMMUNITY (Cambridge, United Kingdom: Cambridge University Press, 2010).

O'HANLON, MICHAEL E., A SKEPTIC'S CASE FOR NUCLEAR DISARMAMENT (Washington, D.C.: The Brookings Institution, 2010).

ROY, SARAH, HAMAS AND CIVIL SOCIETY IN GAZA: ENGAGING THE ISLAMIST SOCIAL SECTOR (Princeton, New Jersey: Princeton University Press, 2011).

SAITO, NATSU TAYLOR, MEETING THE ENEMY: AMERICAN EXCEPTIONALISM AND INTERNATIONAL LAW (New York, New York: New York University Press, 2010).

WALDRON, JEREMY, *TORTURE, TERROR, AND TRADE-OFFS: PHILOSOPHY FOR THE WHITE HOUSE* (Oxford, United Kingdom: Oxford University Press, 2010).

*Statelessness and Citizenship: A Comparative Study of the Benefits of Nationality*. Edited by Brad K. Blitz & Maureen Lynch. Northampton, Massachusetts: Edward Elgar Publishing, Inc., 2011. Pp. vi, 258. \$125.00 (Hardcover).

REVIEWED BY BENJAMIN GUTHRIE

Woven throughout the chapters of *Statelessness and Citizenship* is a call for increased attention to the problem of statelessness, in which a person is not considered a national by any country. Brad Blitz and Maureen Lynch contend that an estimated 12 million stateless persons are currently denied the right to nationality, a fundamental principle enshrined in article 15 of the Universal Declaration of Human Rights. At its core, however, *Statelessness and Citizenship* is concerned with much more than the right to nationality. Instead, it is concerned with the full and universal enjoyment of the entire spectrum of human rights.

*Statelessness and Citizenship* inquires into the relationship existing today between citizenship and human rights. Does citizenship increase access to other human rights? If so, is citizenship a necessary precondition for the full enjoyment of human rights? Eight case studies, each highlighting a formerly stateless population, reveal that citizenship does play a role in increasing access to the benefits promised by a variety of human rights: freedom from arbitrary detention, access to courts, and others. The studies also make clear that citizenship's effects are limited, and may not be the same in any two contexts. What is less clear is whether citizenship is necessary for the full enjoyment of rights. The volume fails to convince the reader that alternative methods of reaching this goal are not possible, or even more promising. This small flaw, however, is outweighed by the book's strengths, rendering *Statelessness and Citizenship* a worthwhile read.

*Statelessness and Citizenship* contributes to two bodies of scholarship. The first is scholarship on statelessness. Relatively little exists on this subject, although attention to the issue is growing. A significant portion of what does exist was

written by one or both of the editors, who are central figures in the field. Their key contribution this time around is *Statelessness and Citizenship's* comparative perspective, which reveals that not all populations derive identical benefits from citizenship.

The second body of scholarship to which *Statelessness and Citizenship* contributes is the study of citizenship. Much more has been written in recent years on citizenship than on statelessness. One particular line of thought deconstructs the concept of citizenship, separating it into multiple layers and iterations. Juridical citizenship (legal recognition) is seen as distinct from full participation in society, which constitutes a more complete citizenship. Blitz and Lynch briefly mention this scholarship in their literature review, but it is notably absent from their analysis.

An additional line of thought addresses how citizenship is changing as a result of the modern human rights regime. Prior to the development of that regime in the mid-20th Century, individual rights were defined almost entirely by states. The global articulation of human rights, however, claims that rights inhere in personhood, not political recognition. Therefore, scholars have suggested an emerging cosmopolitan citizenship, in which national citizenship is increasingly less important because rights are now derived from a supra-national source.

This second perspective provides the jumping off point for Blitz and Lynch's study. To explore the relationship between state citizenship and human rights, they pose two questions, which in turn frame the volume's eight case studies. First, to what degree does the conferral of citizenship increase the enjoyment of human rights? Second, is state citizenship still necessary to the enjoyment of human rights in the modern world: does it remain the "right to have rights"? The case studies seek to shed light on these questions.

*Statelessness and Citizenship's* eight case studies, while each written by a different contributor, unfold according to a fairly uniform structure. Each focuses on a formerly stateless group, explains the manner in which the group became stateless, and illustrates the problems of statelessness. Each chapter then describes the reforms that allowed some members of the community to regain citizenship, and, based on semi-structured inter-

views with formerly stateless persons, assesses the benefits that citizenship has brought.

The volume is most persuasive in answering the first question posed by the editors: to what degree does the conferral of citizenship increase the enjoyment of human rights? The studies make clear that ending statelessness is an effective method of promoting human rights. All of the populations surveyed identified some benefit that resulted from citizenship. Increased personal security, voting rights, and access to education were among the benefits identified. However, the case studies also make clear that the relationship between citizenship and human rights is highly complex.

First, citizenship is not a panacea for the problems associated with statelessness. Nearly all of the populations surveyed reported that citizenship did not end their marginalization. For example, grants of citizenship to the Nubians in Kenya allowed many to gain government-issued ID cards, which were necessary to enter the labor market. However, they have found it difficult to take advantage of that opportunity because of ongoing discrimination by employers. Citizenship allowed exiled Mauritians in Senegal to return to their home country, but didn't allow them to recover the property they left when they fled. Seven of the eight populations surveyed continue to face significant discrimination, suggesting that statelessness is both a problem in its own right and a symptom of deeper social problems. The case studies reveal that a single state can contain multiple layers of citizenship, some more privileged than others; despite achieving legal recognition, formerly stateless populations remain marginalized. The citizenship they have been granted is often second-class.

Second, the eight case studies also illustrate that statelessness is not a monolithic problem. Whereas gaining citizenship represented increased personal security and decreased harassment by militias for Crimean Tatars living in Ukraine, its primary benefits to the Up-Country Tamils in Sri Lanka were the chances to participate in politics and look for work outside of the tea plantations. Likewise, for the "Erased" in Slovenia, citizenship provided access (at least on paper) to social security programs. Ethnic Russians living in Estonia, however, already enjoyed these rights, and found the benefits of citizenship to be much more intangible.

Given that citizenship seems to be partially successful in promoting enjoyment of human rights, the reader might ask whether patterns emerge between citizenship and particular rights: is it more effective at promoting political rights? Civil? Economic? Asking these questions exposes the methodological limits of *Statelessness and Citizenship*. Each of the studies relies on interviews that do not appear to have shared a common set of questions or method of selecting participants. The sample of interviewees was in most cases not random, and the overall number of interviews was fairly low (120 across all of the cases). Consequently, the methodology may not be rigorous enough to support firm conclusions about a relationship between citizenship and certain rights, although the editors identify several general themes in the conclusion.

While it successfully answers the first question posed by the editors, *Statelessness and Citizenship* is less effective at answering the second: is citizenship still a necessary precondition for the full enjoyment of human rights in today's world? The case studies show that citizenship is not *sufficient* for the full enjoyment of human rights, but is it *necessary*? The editors make no firm conclusion in this regard – even to say the evidence is unclear – leaving readers to decide for themselves on the basis of the presented studies. For example, the case studies reveal that in many situations, recognition by the state is a precondition to holding documents that allow work, education, healthcare, and the formal right to reside in a country. This provides an argument in favor of the necessity of citizenship. On the other hand, one of the key benefits identified was diminished harassment by police. There is nothing to suggest - nor do the authors claim - that this problem could not be solved through police training or policy reform, rather than by granting citizenship. Consequently, perhaps the most that can be said is that citizenship is a central means of obtaining human rights, but potentially not the sole means.

To focus on what *Statelessness and Citizenship* does not or cannot do, however, would be to overlook the volume's strengths. First, it is concise and accessible. The volume is well edited and structured in a way that enables easy reference to any particular chapter. Second, it shows authoritatively that juridical citizenship cannot immediately solve all of the many problems of statelessness. This insight is important at a time when human rights organizations are paying increased atten-

tion to statelessness. Third, it demonstrates that the problems associated with statelessness are not the same across populations. Efforts to solve such problems must therefore be context-sensitive.

*Statelessness and Citizenship* avoids limiting itself to the right to nationality, and instead explores the linkages between citizenship and human rights writ large. As a result, it will be significant not only to those with an interest in displaced or unrecognized populations, but to anyone with a broader interest in promoting human rights or examining one of the major gaps in the modern human rights regime. It serves as a well-taken, exploratory first step in empirical studies in an under-researched field. It will not conclusively answer a reader's every question, but will inform and refine those questions, reason enough to find *Statelessness and Citizenship* well worth the read.

*Getting to the Rule of Law*. Edited by James E. Fleming. New York and London: New York University Press, 2011. Pp. xii, 298. \$55.00 (Hardcover).

REVIEWED BY ALEXANDER STEIN

Commentators from domestic political pundits in the United States to international development practitioners in multilateral institutions and NGOs frequently put forth the rule of law as an ideal towards which every government should strive. The rule of law, many suggest, benefits societies independently, and perhaps more meaningfully than the traditionally promoted western values of democracy and economic liberalization. Identifying concrete strategies of building and improving rule of law, however, presents enormous difficulties. More fundamentally, what constitutes the very concept of the rule of law remains highly contested.

In *Getting to the Rule of Law*, editor James E. Fleming brings together works that attempt to tackle the concept's theoretical and practical challenges. The collection, which is divided into three sections, begins with essays exploring the concept of the rule of law and is followed by two sections addressing the ideal's practical application. Articles in the second section tackle the expansion of executive power in the United States since September 11, and the collection closes with four pieces

that discuss building the rule of law after military intervention. *Getting to the Rule of Law* effectively presents the great diversity of views on these crucial topics, but it may frustrate a reader looking for unifying themes or a clearly asserted conclusion. In fact, taken together the collection's works imply that rule of law is an inadequate lens through which to view the philosophical and practical issues it has been set out to address.

The first section of the book consists of four essays describing varying perspectives on the underlying purpose and content of the rule of law. The boldness and seeming novelty of Jeremy Waldron's opening piece arguing that specific legal procedures respecting individual dignity should make up a core aspect of what we look for in the rule of law focuses and engages the reader. Robin West and Corey Brettschneider build on and criticize Waldron primarily by adding additional concerns about private sector lawlessness and distinguishing between rule of law and democracy. Some of the most substantive reactions to Waldron in these papers, however, go relatively undeveloped. For example, West mentions that uniform procedure can lend legitimacy to unjust regimes, but she declines to engage in a deeper theoretical or historical discussion of this crucial issue that, taken to its logical extreme, could undermine most benefits the rule of law is typically thought to bestow.

Martin Krygier's article usefully begins with an attempt to determine the purpose of the rule of law, and, therefore, would have made a better introduction to the volume. Krygier unpacks the direct positive effects of reducing arbitrariness, which he considers the core goal of all rule of law promotion. After this lengthy discussion, Krygier ambitiously attempts to determine all sources of and threats to the rule of law. Each of Krygier's insights (the importance of distinguishing between fragile and developed legal systems, for example) helps to broaden consideration of the rule of law concept. On the other hand, his conclusion – that the rule of law comes about in a multitude of ways largely outside of legal institutions – leaves the reader grasping for a concrete vision of what Krygier believes primarily drives the rule of law and most strengthens its underlying purposes.

The second and third sections of the collection discuss specific applications of the rule of law ideal. This review uses the third section – “Building the Rule of Law After Military

Interventions” – to illustrate the volume’s treatment of the rule of law’s practical implications.

Within the third section, the debate between Jane Stromseth’s optimistic pragmatism and Tom Ginsburg’s frustrated skepticism puts issues overarching post-intervention rule of law building into sharp relief. Stromseth’s article first sets out a useful framework of seeking demonstration effects and capacity-building that is largely accepted by the other pieces. The article’s discussion of criminal tribunals and related efforts to effect lasting positive change on local legal systems acknowledges contrary views and is analytically meticulous. Its discussion of the International Criminal Court (ICC) and complementarity describes incentives facing governments and the ICC with impressive practical insight, but this portion would have benefited from Stromseth taking a distinct stance on the extent to which the ICC should provide assistance in overcoming the complementarity obstacle to local prosecution. While Stromseth’s conclusion that criminal tribunals are insufficient to deal with past atrocities partially softens her argument, the article’s essential advocacy for stronger international commitment to building local institutions comes through clearly.

Ginsburg’s article, on the other hand, proceeds as an unconvinced cautious reaction; without advancing particularly strongly supported theories, it pokes holes in the assumption that foreigner-driven rule of law promotion will likely achieve its goals. The piece also brings up issues that get at the core of the rule of law concept, but it leaves them undeveloped. The most striking example of this is the essay’s very brief mention of the possible worth of Singaporean – that is, authoritarian but formal rule-based – institutions in post-conflict societies. The essays in the conceptual section of the collection alluded to this question as well, but Ginsburg should have addressed it in more detail. Overall, however, the Stromseth and Ginsburg articles do a good job of laying core issues on the table. Larry May’s article augments the dialogue by introducing the importance of reaching bystanders as well as direct actors in prior conflicts, although its discussion largely builds on Stromseth’s premises.

Richard Miller’s final piece, however, explicates the deepest problems at play in the dialogue over the rule of law in the entire collection. By focusing his analysis on states currently torn apart by conflict such as Iraq and Afghanistan, Miller



stretches discussion of the rule of law to the point where the concept no longer has any recognizable boundaries. The article, for example, uses local dissatisfaction towards interventions as evidence against promoting the rule of law abroad. It does not, unfortunately, meaningfully disentangle the security and other reasons for intervening from rule of law justifications, and this undermines most lessons it might hope a reader to draw from the effect of recent United States military activity.

Although the volume does not explicitly take this stance, the diversity of views on what properly addresses the underlying goals of rule of law promotion suggests that the rule of law itself may not be a useful lens through which to confront substantive goals. Each piece, to varying degrees, puts forth essentially extra-legal ways of evaluating and dealing with the rule of law. Some articles (Krygier's, for instance) make this issue more explicit, although none directly asserts that non-legal work is paramount in building or discovering the rule of law. After finishing the book, however, a reader gets the impression that individual goals, such as decreasing arbitrariness in society, improving respect for human dignity, and lowering the chance for future violence, transcend any particular concern with rectifying deficiencies in legal institutions. While this may have been the collection's intended message, it seems an odd one for a volume nominally dedicated to increasing understanding of the rule of law itself.

In addition to declining to formally adopt a unifying message about the rule of law, the volume leaves each section disappointingly isolated from the others. While authors within the conceptual and practical sections do react to one another, they do not tend to respond to or cite authors in other sections. As a result, the section that proposes a number of potential theoretical goals and structures seems impractical, whereas the section about rule of law promotion after military intervention gives the reader the sense of being theoretically ungrounded. Given the existence in the volume of significant back-and-forth between articles within each section, the lack of cross-sectional interplay suggests that authors writing about philosophy did not find the ideas in the post-intervention section particularly useful, and vice versa. That such a large chasm persists between theorists and practitioners should humble anyone seeking to find practical meaning in the theoretical concept of the rule of law.

*The European Citizens' Initiatives: Into New Democratic Territory.*  
Edited by Bruno Kaufmann and Johannes W. Pichler.  
Mortsel: Intersentia N.V., Berlin: BWV Berliner Wissenschafts-Verlag, Wien: Neuer Wissenschaftlicher Verlag GmbH Nfg KG, 2010. Pp. 14, 144. \$53.25 (paperback).

REVIEWED BY EUNBI LEE

With commendable vigor, the introduction of the European Citizens' Initiative (ECI) right in article 11.4 of the Lisbon Treaty has launched a new concept of transnational participative democracy. The ECI, in its role as a democratizing instrument, is unprecedented in its scope and effect as it grants every EU citizen the power to submit a legislative proposal to the European Commission or its equivalents for review. The true magnitude of this development comes into perspective when juxtaposed with the fact that this move is the first of any pan-continental efforts to realize democracy in its most pragmatic form—by directly empowering citizens with law-making power traditionally reserved for the European Parliament or the EU Council. The EU's success at the unification of the economies of its member states is incommensurable with any other pan-European movements in the past that strove towards realization of a "United States of Europe." Despite such an accomplishment, the EU has conspicuously lacked a standing as a democratic polity with tangible impact, a phenomenon which may be explained partially by the absence of a legislative paradigm for participation of its citizens except through the European Parliament elections. Against this backdrop, the ECI, as a medium for active public participation, will provide legitimacy and vindication to the EU as a polity with concrete influence. *The European Citizens' Initiatives* succinctly compiles essays by authorities in various fields that address the mechanism, major concerns, and recommendations for the effective implementation of the ECI.

While this collection of essays paints a clear picture of the ECI as an egalitarian legislative procedure, the essays as a whole appear to lack coherence. A number of essays contain redundant information and therefore do not seem to meaningfully contribute in terms of substance. Such extraneousness may be inevitable in light of the fact that editors Bruno Kaufmann and Johannes Pichler retroactively collected the es-

says contributed during the consultation process; however, as a result of this lack of prior orchestration, the book fails to convey incisive analyses and leaves a number of questions unanswered. A more effective way of presenting the issues on the ECI would be to synchronize all the essays in one article and categorize them by topic, with more elaboration on the background information for the EU's current legislative infrastructure as well as preparatory stages for the ECI. In addition, despite the highly specialized nature of the topic, the recurring typos render the book an inadequate read for information on EU politics for any type of audience.

The book starts with a copy of the agenda distributed during the ECI Summit in 2009, which includes issues that need to be addressed before the ECI may be successfully implemented. The Summit hosted a forum for all the interested parties to bring forward their views on how to make the ECI a success, extrapolating from their experience with legislative procedures at the sub-European level. Such issues relate to (1) how to provide for an "initiative-friendly climate" for active transnational participation; (2) how to establish a supportive scheme; (3) how to facilitate electronic communications; (4) how to minimize the utilization of bureaucratic procedures; and (5) how to arrange for a financial system to provide support to those involved with the ECI. The essays that follow share the common feature of attempting to address one or more of these questions, perhaps in a slightly superfluous way.

The first essay, "The European Citizens' Initiative—A New Era of Transnational, Participative Democracy," by Kaufmann and Pichler provides a summary of the discussions on the implementation plan that took place during the Summit and briefly touches upon all of the questions presented above. While their writing offers a concise preliminary review on the mechanism and the anticipated effects as well as major concerns related to the ECI, the sparse background information leaves its readers befuddled as to the macroscopic view of the applicability of the ECI in the EU context. The dense information contained in the essay only intensifies this confusion, especially without a glossary defining various the terms of art used casually throughout the essay, such as "Green Paper." The essay is markedly optimistic as it envisions a democratic EU in a public governance framework; however, such enthusiasm is not easily shared by a reader due to the absence of a

concrete explanation on how to achieve such a state. That said, the essay is nonetheless laudable in its presentation of the key conditions for the effective implementation of the participative paradigm, such as gainsaying the member states substantial clout over the ECI to preserve its "Europeanness."

On a related point, Tamara EHS and Philippe Grosjean, in their essays, "A European People," and, "Reflexions and Recommendations," respectively, point out that the ECI right should be available to all *permanent residents*, rather than just *citizens*, as is the current status, in order to promote "Europeanness." Tamara EHS argues that since permanent residents of a member state equally contribute to the viability of the EU, they are also entitled to enjoy EU political rights. In order to substantiate her argument, she quotes Kant in *Perpetual Peace* to make a point that a participative right is a right incidental to being a human. Given the supranational characteristic of the ECI, her proposal of expanding ECI rights to include permanent residents is admirably persuasive. Permanent residents have clearly expressed their intent to be bound by "common EU norms," and the EU should recognize this by extending its integrative efforts to them.

Providing a direct democratic procedure in the form of the ECI would unarguably vindicate the EU as a representative democracy whose constituents enjoy political participation rights as, in Kaufmann's words, "electors in elections, agenda-setters, and decision-makers." Notwithstanding Kaufmann's enthusiasm, Diana Wallis, during her video message for the European Citizens' Initiative Summit in Salzburg, raises a concern that the ECI might have a preemptive effect on the European Parliament's duty of formulating legislative schemes that would benefit various segments of society in a distributive manner. Intensifying this concern is the fact that the ECI right, without a secure financial mechanism for reimbursements, is likely to be mainly exercised by affluent individuals or interest groups. Interpreted this way, the ECI might have an unintended anti-democratic effect of inuring to the advantage of financially influential groups at the detriment of the public at large.

One corollary concern stemming from current events relates to obtaining public funding, as is suggested repeatedly throughout the book. In "Statement on the Initiative-Summit Resolution," Karim Giese, for example, dismisses the possibil-

ity that the ECI, as a mere agenda-setting tool, would be able to attract donors. On the other hand, Grosjean in his article, “Reflexions and Recommendations,” maintains that the European Parliament should provide financial support as the only institution legitimized by the direct suffrage of the EU citizens. As of, however, October 2011, it is unclear as to whether there would be a surplus of cash reserves for funding purposes in light of the Eurozone economic crisis, which is a reasonably foreseeable scenario that the writers fail to address. Moreover, in times of financial hardship, nations have historically preferred a selective group of expert bureaucrats over the public at large as *decision-makers* to proactively guide them out of their economic predicaments. It is therefore plausible that the ECI efforts may be viewed as an excessive form of democracy to the eyes of fiscally unstable Europe.

In addition to the concerns regarding the concentrated beneficial effects of the ECI on select groups and the lack of a steady source of funding, “Legal Nature and Criteria for Implementation” by Michael Efler forcefully highlights issues that cast doubt on the effectiveness of the ECI as a direct lawmaking tool. First, although the other essays repeatedly stress that the requirements to exercise the ECI right must be simple, Efler points out that the minimum number requirements for signatures and “significant” member states for an initiative to take effect pose a heavy burden for an average EU citizen to exercise his or her ECI right. It becomes once again apparent that the essay was not intended for a general audience, as Efler does not define what constitutes a “significant” member state, thereby leaving its readers guessing at any possible interpretation.

Second, Efler argues that the non-binding nature of the ECI on the Commission would discourage any individual from undergoing the toilsome process of collecting the required signatures. True, the Commission must respond to an ECI by presenting a draft legal act—the content and timing of which would arbitrarily be decided by the Commission; however, even if the Commission endorses an ECI, the final decision to host a referendum on the ECI rests with the European Parliament and the EU Council. In light of these conditions, the idea of the ECI as a primary democratizing instrument appears hopelessly unrealistic and expensive. In an effort to simplify the steps, Efler recommends setting the minimum numbers

for signatures in each country and “significant” member states at 0.1% and 4%, respectively, but fails to provide the rationale for picking these numbers. Moreover, in spite of these recommendations, Efler himself acknowledges that the ECI would not “do more than create an indirect initiative—an agenda-setting initiative.” Given these facts, it is doubtful whether the ECI would have much of an impact on the current political landscape of the EU as the majority of the authors vehemently believe.

In view of the recent developments in the Eurozone financial crisis, the book appears to lag behind in time as evidenced by its premise on the viability of the EU statehood. The ECI’s vision of a United States of Europe is perhaps premature and incompatible with the EU’s current precarious position. Accordingly, this collection of essays would not serve those who seek up-to-date information on pan-continental efforts to consolidate EU powers. While the book is highly informative and effective in highlighting the need for the EU to take steps to elevate its status as a “fully-fledged democratic infrastructure,” the frequent typos, the redundant and extraneous information, and the limited provision of background information render the book unappealing for a general audience.

*Death by Moderation: The U.S. Military’s Quest for Useable Weapons.*

By David A. Koplow. New York, New York: Cambridge University Press, 2010. Pp. ix, 253. \$29.99 (Paperback).

REVIEWED BY BRADLEY NICHOLSON

The current U.S. military engagements in Afghanistan and Iraq have shown that advanced weaponry provides no guarantee of success on the modern battlefield. Despite the United States’ overwhelming technological and logistical superiority, it is often unable to accomplish its military objectives. In his book, *Death by Moderation: The U.S. Military’s Quest for Useable Weapons*, David A. Koplow examines this conundrum. Koplow concludes that the U.S. military’s current arsenal is often ineffective in modern military missions because it is too crude, too destructive, and too imprecise. In many situations, American forces are hamstrung, unable to apply their considerable power for fear of the moral, political, and legal consequences that accompany the excessive use of military force.

Koplow suggests that these inhibitions have spurred the U.S. military to undertake a quest to develop a more “useable” arsenal: one that will enable U.S. forces to act decisively without destroying unnecessarily.

In support of this proposition, Koplow examines a series of proposed or emerging military technologies that are deliberately *less* powerful, *less* deadly, and *less* destructive than the weapons systems they are replacing. Koplow argues that the changes evidenced in the introduction of these weapons systems are exemplary of a broader ongoing trend towards more “moderate” weapons within the U.S. military. This trend, Koplow believes, will embolden the American military, allowing it to apply force more frequently and effectively without fear of causing excessive collateral damage.

Despite its interesting subject matter, *Death by Moderation* is a frustrating read. From the beginning, Koplow struggles to establish and follow a coherent thesis, and the book suffers from significant substantive and stylistic faults. Koplow’s ideas are obfuscated in his cluttered prose, and the reader must make assumptions about Koplow’s arguments before he or she can consider their merits. Furthermore, many of Koplow’s arguments are simply unconvincing. Although the U.S. military is undoubtedly in a state of change, it is not clear that Koplow has correctly identified *what* is changing or *why* those changes are taking place.

The initial chapters of *Death by Moderation* are devoted to outlining the various forces that engendered the U.S. military’s quest for moderate weapons. The foundation of Koplow’s argument rests upon the psychological phenomena of deterrence and self-deterrence. In the political-military context, deterrence exists when the implied or explicit threat of retaliatory action from one nation induces another nation to act or refrain from acting in a certain way. This traditional form of deterrence reached its zenith during the Cold War, when both the United States and the USSR employed threats of nuclear counterattacks to deter each other from initiating threatening military action. In contrast, the concept of self-deterrence is characterized by a reluctance to *inflict* the pains of war upon others rather than the simple fear of *receiving* the inevitable pains of war in one’s own nation. Self-deterrence, then, is “casualty aversion squared”: a distaste for losses on *both* sides of a conflict. The fundamental relationship between

these two forms of deterrence is key to Koplow's analysis. When a nation is self-deterred from taking military action, the credibility of any threat of retaliatory action against another nation is undermined, and the delicate balance created by traditional deterrence is upset.

In applying these abstract principles to modern U.S. foreign relations policy, Koplow argues that (1) the United States often feels self-deterred from using its vast arsenal; (2) this self-deterrence has undermined the United States' ability to deter its enemies; and (3) the United States' quest for useable weapons is aimed at overcoming American self-deterrence and restoring the capacity to use military force effectively.

The bulk of Koplow's evidence and analysis is directed at explaining *why* the United States might feel self-deterred from using military force. Koplow's theories include "simple considerations of morality," concerns about national image, the desire to mitigate post-conflict animosity between warring parties, and the international legal principles of proportionality, necessity, and discrimination. Each of these factors could plausibly influence a U.S. decision to engage in military action, and it is probable that each of them has some effect on U.S. policy. Koplow's analysis, however, lacks any convincing evidence that any of these factors has actually deterred the United States from taking action. As Koplow acknowledges, there are "many valid reasons for being circumspect about using military force," and it is unclear whether the concerns Koplow has outlined substantially affect U.S. decisions regarding military action.

In chapters four to eight of *Death by Moderation*, Koplow moves beyond his analysis of motivating factors and delves into case studies of specific weapons systems. This transition marks an apparent shift in theme for the book, as Koplow's efforts move from evaluating why the United States might search for useable weapons to attempting to establish the existence of the "quest" itself. Koplow provides little guidance at this juncture, leaving the reader wondering what exactly Koplow is trying to prove.

The chapters focus on five distinct weapons programs in which Koplow has perceived a recent trend towards smaller and more useable weapons: (1) Precision Guided Munitions, (2) Low-Yield Nuclear Weapons, (3) Smart Antipersonnel



Land Mines, (4) Anti-Satellite Weapons, and (5) Nonlethal Weapons. Unfortunately, Koplw's substantive analysis in these chapters is inconsistent and often unconvincing. In his attempt to analyze these disparate weapons programs through a singular lens, Koplw is forced to resort to a level of generality and abstraction that undermines any attempt to draw meaningful conclusions from their similarities.

Koplw's first case study involves Precision Guided Munitions (PGMs). PGMs, or "smart bombs," are aerial bombs that are guided to their target by various means, including lasers, GPS or radio signals, or optical mechanisms. PGMs are far more accurate than their unguided counterparts, and their introduction to the battlefield was undoubtedly revolutionary. However, as Koplw himself admits, PGMs were first used in 1972. These (nearly) 40-year-old weapons have been used in every U.S. conflict since the Vietnam War, and their use is now the norm among the militaries of nearly every developed nation. Because the use of PGMs is established and widespread, it is difficult to draw a meaningful connection between the development of PGMs and any current military trend.

Furthermore, Koplw fails to show that PGMs were developed to increase "usability" by minimizing collateral damage. Although PGMs are more accurate than their predecessors, and thus less likely to cause excessive damage, a logical analysis of their introduction suggests that the motivating factor behind the development of PGMs was the desire to destroy targets more effectively. Koplw's own case study on U.S. efforts to destroy the key bridges during the Vietnam War supports this proposition. For as long as man has hurled projectiles, he has sought more accurate means of delivery; PGMs are no exception. The fact that PGMs cause fewer casualties is undoubtedly important, and the increasing accuracy of PGMs has ensured that aerial bombing remains a viable tool in the United States' current arsenal; however, it is not clear that these humanitarian concerns were the motivating factor in developing PGMs.

Koplw's analysis of Low Yield Nuclear Weapons (LYNWs) suffers from similar deficiencies. The concept of LYNWs is an attractive case study in theoretical terms; nations are deterred from using nuclear weapons because they are immensely destructive and utterly indiscriminate. A smaller and more specialized nuclear weapon could be far more "useable,"

and could conceivably accomplish various military objectives that conventional weapons could not. Like PGMs, however, the concept of a LYNW was introduced decades ago. Furthermore, it is hard to believe that LYNW will play any significant role in future U.S. military engagements. Ultimately, it has been determined by all but the most recalcitrant military observers that the use of nuclear weapons for anything other than retaliatory attacks is unfeasible. Koplów's insistence that LYNWs are relevant stems from the brief renaissance the LNYW concept enjoyed during the Bush administration, when government officials advocated for the development of a "nuclear earth penetrator": a low yield nuclear device which could be used to destroy heavily fortified targets such as cave networks and underground bunkers. Koplów's interest, however, is misplaced. The recent LYNW project was dead on arrival; after only two years of appropriations, Congress refused to allocate a paltry four million dollars to resume work on a nuclear earth penetrator. Because the LYNW program is unfunded and largely irrelevant to the United States' current conflicts, it lends little support to Koplów's idea of a broad and ongoing transformation in military affairs.

Non-lethal weapons are the last, and perhaps the most interesting of the five weapons categories dealt with in *Death by Moderation*. In this broad category, Koplów references various non-lethal weapons systems, including directed microwaves, loud sounds and pungent smells, sticky or slippery sprays, electric rifles (tasers), and rubber bullets, among others. These emerging technologies are clear examples of weapons development that is undeniably focused on creating weapons that inflict less damage on individuals, and are thus more useable. However, despite their great potential, these weapons have been used sparingly by American forces. Although it is not immediately clear why U.S. forces have been reluctant to use these nonlethal technologies, the suspicion is that nontraditional weapons, particularly ones that are reminiscent in many minds of the ray guns of science fiction, are a Public Relations mistake. In the United States' current wars, one of the greatest challenges American forces face is winning the trust of a suspicious populace, and it is easy to imagine that the use of novel and foreign weapons such as focused microwave guns and slippery goo would only make American troops seem

more foreign, more distant, and more threatening.<sup>1</sup> As such, Koplow's most promising case study appears to be stuck in the gate.

Koplow declares that the trend towards moderate weapons "will have implications as profound as those associated with the introduction of the longbow, gunpowder, and the airplane," but these grand claims are tenuous at best. The great paradigmatic shifts in military affairs of the coming decades will not come from weapons that are at the periphery of current military thought, such as LYNWs and smart landmines. Furthermore, although the current U.S. trend towards smaller and more precise weapons is indeed remarkable, there is little evidence to indicate that it is anything more than the logical result of a methodical advancement in weapons technology coupled with ten years of counterinsurgency operations.

Ultimately, *Death by Moderation* fails to live up to its potential. Although Koplow raises important questions about the future of military deterrence, arms control and the evolving social and political standards that govern the use of military force, none of these issues receives the analysis that they merit, and Koplow's most important insights are lost in a thicket of cluttered prose, abstract assertions, and unconvincing case studies.

*Why Leaders Lie: The Truth About Lying in International Politics.*

By John J. Mearsheimer. New York, New York: Oxford University Press, 2011. Pp. xi, 102. \$21.95 (Hardcover).

REVIEWED BY MATTHEW M. DELJA

In the build-up to the invasion of Iraq in 2003, officials in the Bush administration claimed with certainty that Iraq possessed weapons of mass destruction and that Saddam Hussein had links with Osama bin Laden in the September 11th attacks. In response, Saddam adamantly denied these claims on the global stage. In the subsequent years, the world learned that there were no WMD in Iraq and that Saddam was telling the truth. In *Why Leaders Lie: The Truth About Lying in International Politics*, John J. Mearsheimer sets out to explain these ac-

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1. *Frying Tonight*, THE ECONOMIST, Oct. 15, 2011, <http://www.economist.com/node/21532245>.

tions as well as other historical instances of international lying. While *Why Leaders Lie* was written in the shadow of the Gulf War, its goal is to more broadly understand international lying and its implications in the world today. Since the book's publication, the confidential diplomatic cables made public by WikiLeaks revealed some of the inner thoughts of the State Department, making the ideas probed by *Why Leaders Lie* more relevant than ever.

Mearsheimer's purpose in the piece is to explore the purely conceptual framework for lying in international politics. He readily admits that his inquiry is not empirical and only a theoretical exploration of lying. The problem with his approach, however, is that he then makes rather categorical conclusions as if there was substantial empirical research to support his claims about topics such as inter-state lying. Simply establishing historical trends anecdotally leads to frustrating conclusions that are not easy to accept. Mearsheimer is at his strongest when he stays within the strictly theoretical bounds of his inquiry and analyzes historical scenarios with depth.

The book is clearly organized, making the task of thinking about the issues easy for the reader. Mearsheimer first delineates between two different types of lies in international politics: inter-state lies and lies that leaders tell to their own people. He then creates an inventory of the international lies from history he was able to uncover, while noting that there are surprisingly few examples. Mearsheimer next advances several bold propositions. He finds that states surprisingly seldom lie to one another, and that when they do, it is for strategic reasons rather than selfish ones. Mearsheimer also argues that the lies that leaders tell to their own people are the most dangerous because of the potential for jeopardizing strategic aims and corrupting political and social life at home.

Mearsheimer makes it clear what types of actions he believes fall under the banner of lying. He is not concerned with truth telling, but simply lying. Lying is a form of deception different from spinning or concealment. A lie is a positive action meant to deceive the target audience. This narrow definition allows Mearsheimer to more easily discriminate between different types of deception in his analysis. While one could challenge him on precise definitions, Mearsheimer is intellectually honest and straightforward about where he draws the

line and why. His careful approach clearly frames the discussion and makes the subsequent issues easier for the reader to conceptually organize.

The book hits a stumbling block, though, when analyzing inter-state lying. Mearsheimer argues that states do not often lie to one another based on the fact that he was unable to find many historical instances in which states actually lied to one another. He then argues that since these instances were not documented, it is safe to assume that states do not lie to one another very often, while only barely addressing the critiques that states would not be inclined to disclose this information and that the historical examples of inter-state lying are very likely lost from the record. While Mearsheimer sets out in the beginning that he is not making an empirical claim, it is still difficult to accept his argument that there are few examples of inter-state lying simply because he did not find many examples.

The few instances that Mearsheimer does uncover of inter-state lying are quickly discussed in a paragraph or two each. His approach of analyzing these deeply complicated historical situations seems at times peripheral. In a few short pages, the author flies through several major international lies, but he seldom treats these situations with the deeper analysis for which the reader hopes. If Mearsheimer is not going to take an empirical approach, then it would be fruitful to deal with some of the intricacies of specific historical inter-state lies for more than a page before moving onto the next example.

The categories that Mearsheimer creates to organize the framework of lies make sense, but his tone seems overly conclusive. For instance, he finds precisely seven different types of lies, ten forms of inter-state lies, and four sets of circumstances that are likely to promote inter-state lying. These very specific numerical conceptions are presented by Mearsheimer as if found by a lengthy empirical study, but in fact he points out from the outset that he is taking a primarily theoretical approach. While categorizing and numbering makes sense to organize conceptual ideas, his approach comes off as hasty and assured in a topic that is still murky.

The reasons that Mearsheimer ultimately gives for why states do not lie to each other are persuasive. Simply put, the strategic gains for a state are not often worth the risks of being

exposed. Once Mearsheimer escapes from relying on the lack of historical instances and simply analyzes the reasoning of state actors, the arguments gain strength and validity. Though one has a constant tinge of doubt in the back of the mind due to the shaky set-up, Mearsheimer effectively advances conceptual arguments for why states typically do not have the proper incentives to lie amongst themselves.

While the section on inter-state lying proves frustrating, Mearsheimer catches stride when discussing lying done by leaders to their own people. In particular, he deals with fearmongering, strategic cover-ups, and national myths with more depth. On fear mongering, Mearsheimer breaks the mold from the previous section and spends a great deal of time on the specifics of the buildup to the Gulf War to give the reader a fair sense of the context surrounding the lies that he sees. His analysis of why leaders may be more inclined to lie to their own people than to other states is quite convincing. It is in this area that Mearsheimer appears to feel most at home because he does not try to make an argument based on a lack of examples, but rather within the conceptual realm that he intended to explore.

Mearsheimer also looks at the downsides to lying, which are not as obvious as one may think. His *realpolitik* approach analyzes the pragmatic problems that a state may suffer should its lies backfire. Rather than viewing larger Kantian problems of lying because of the potential wrongness of the act in and of itself, Mearsheimer is more concerned with what real effects may come about from lying. For instance, when Khrushchev exaggerated the missile capabilities of the Soviet Union, his lie backfired because the United States only escalated the arms race that Khrushchev intended to slow. Given the way in which Mearsheimer frames the discussion, it is difficult to disagree with him. While one may wish to challenge him on certain positions of moral philosophy regarding the nature of lying, that is not the dialogue that Mearsheimer is seeking. In a way, it is actually refreshing that Mearsheimer is not concerned with the moral academics of lying, but rather with the real life strategic considerations. When leaders are confronted with difficult decisions, it is often the direct consequences that drive their decisions, and Mearsheimer has a strong appreciation for that.

Unfortunately, Mearsheimer's arguments are at times distracted by several typos throughout the book. Particularly on the last page when trying to drive home a point about lessons that the United States can learn about international lying, Mearsheimer discusses the 1990s war against "Sebia." While simply cosmetic problems, these spelling and grammatical hiccups make one think that perhaps the piece could have gone through a few more rounds of editing prior to publication.

Though there are certainly shortcomings in terms of approach and depth at points, *Why Leaders Lie* does in the end provide a thoughtful inquiry on the subject of international lying. Its brevity allows one to quickly go through some rather complicated topics—both moral and historical—in one sitting. Despite perhaps yearning for more material support for the conceptual framework, the reader is definitely pushed to reconsider likely assumptions on the subject. As Mearsheimer set out in the introduction, there is startling little literature on the topic of international lying and he hopes to kick-start that discussion. Though readers may find themselves disagreeing with the author throughout the piece, perhaps that dialogue is exactly what he intended to begin.

*The Evolving Dimensions of International Law: Hard Choices for the World Community.* By John F. Murphy. Cambridge, United Kingdom: Cambridge University Press, 2010. Pp. viii, 288. \$29.99 (Paperback).

REVIEWED BY JOSEPH ROME

International law has provided only the most general of frameworks for dealing with major issues in the last few years - from the inconsistent international responses to similar uprisings in Libya and Syria to the failure to force nations to cooperate over the recent worldwide financial crises. The apparent weakness of international law has caused many scholars to question whether international law affects states' decision-making at all. Eric Posner and Jack Goldsmith, in their book *The Limits of International Law*, went so far as to argue that customary international law essentially does not exist, and that treaties rarely bind state actions. In this atmosphere of contemporary pessimism towards international law, John Murphy's new book, *The Evolving Dimensions of International Law*, is

a sober reminder that for all its many faults, international law still matters.

*Is International Law Functioning?*

Unlike a monograph, the book presents little new scholarship. Rather, it succinctly compiles, summarizes, and comments on some of the major academic debates currently under way. However, the discussion of the current leading issues in international law is not detailed enough to provide a textbook or study guide for students taking classes in international law. Instead, the level of nuance seems more appropriate to those who already have a familiarity with international public law, but would like an update or a refresher.

Murphy discusses the common frameworks that tie international law together before dealing with international law's various branches in later chapters. In particular, he discusses at length Posner and Goldsmith's recent criticisms of the international legal system. If the book were a novel, then they would be the principal antagonists. Murphy carefully debunks their notorious conclusion that international customary law simply does not exist, but he fundamentally agrees (for different reasons) with their main point that the current international legal regime is, in fact, failing to achieve many of the goals for which it was created.

Murphy breaks international public law down into six specific problem areas: International Institutions, Peacekeeping, the Law of Armed Conflict, Arms Control, Human Rights, and Environmental Law. In this review I will assess Murphy's treatment of each of these topic areas. It should be noted that when Murphy discusses international law, he almost exclusively refers to public international law; the many challenges of private international law and investment law are left beyond the scope of the book. This choice of scope also excludes some of the most effective international legal institutions - for example, the World Trade Organization's dispute settlement body and the International Centre for the Settlement of Investment Disputes (ICSID). Had these institutions received more detailed discussion, Murphy's opinion of the value and effectiveness of international law and its institutions might have been slightly more positive.

*International Institutions*



Rather than discussing the entire UN system, Murphy wisely focuses on two bodies that have particular significance for international law: the Human Rights Council (formerly the Human Rights Commission, or HRC) and the International Court of Justice (ICJ). Murphy's critique of the HRC - that it is too politicized to be effective - is fairly obvious. Levying the same argument against the ICJ is somewhat more interesting. He argues in strong terms that the ICJ has failed to take politics into account in deciding both its jurisdiction over certain cases and their merits. He complains, for example, that the ICJ sacrificed legitimacy in finding that the United States violated Nicaragua's sovereignty during the 1980s because it angered one of the most powerful states in the world. This is not one of Murphy's most convincing arguments, and it demonstrates some of his U.S. bias; after all, should the court not strive to hold powerful states to task for their legal violations? Another example, however, makes Murphy's point much more convincingly; in the *Wall* case concerning the legality of the barrier that Israel was (and still is) building along sections of its border with the West Bank, the court allowed itself to become a political pawn in a larger struggle for influence in the Middle East. Worst of all, the ICJ's opinion in the *Wall* case demonstrated extremely dubious logic, severely undermining its legitimacy as a court. Murphy warns that poorly reasoned political decisions like this "will simply be ignored" by states, severely undermining the rule of law.

He also devotes considerable time to discussing the various international criminal courts, exploring the evolution of the international criminal system from the creation of the International Criminal Tribunal for the former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR), to the International Criminal Court (ICC), and finally to the newer model of mixed tribunals. Intriguingly, he notes that the Nuremberg trials may not provide the precedent for the contemporary courts that is commonly purported. While the language of the charges against the Nazis was somewhat new, in particular its conception of war crimes, the Nuremberg tribunals were essentially operated under municipal German law. Since Germany consented to grant its sovereign rights to the Allied powers as part of the terms of its surrender, the Allies were simply manipulating the domestic German legal system.

In contrast, there was no attempt to base the ICTY in the domestic law of the nations concerned, and it was housed in The Hague—far from the scene of the crimes for which it had jurisdiction. The ICTY's remoteness from the lives of the victims made it difficult to gain local cooperation and relevance, and its proceedings turned out to be far more expensive than expected. Murphy alleges similar problems for the ICTR, and together the ICTY and ICTR have cost the world community over two billion U.S. dollars. Murphy puts forth arguments that they were, nevertheless, at least partially effective, and set the stage for later criminal courts that engage further with local populations like the hybrid court in Sierra Leone or the Extraordinary Chambers in Cambodia. He argues that these will be the models for international courts well into the future. For these same reasons, he suggests that the ICC, isolated in The Hague, will have very limited effectiveness in bringing criminals to justice.

*Enforcing the Peace, Armed Conflict, and Arms Control*

The heart of the book covers international law's relationship with security issues, so the Security Council and various arms treaties receive a great deal of attention. Murphy identifies the many failures of the Security Council to actually prevent states from going to war, in particular the Council's inability to constrain the belligerence of its five permanent, veto-wielding members. However, this is perhaps an incomplete assessment of the Security Council's success in promoting the rule of law. The five permanent members have not gone to war against one another since the foundation of the UN, and the few times that the Security Council has been able to intervene in violent situations demonstrate that the institution is at least more effective than the League of Nations, and certainly more of a constraint on warfare than not having an international organization at all.

Murphy's discussion of the law of armed conflict (a term that he prefers instead of 'international humanitarian law') primarily focuses on the challenges of non-state terrorism. Murphy thoughtfully refrains from judging recent developments in this area too harshly, as there is little global consensus on how international law should best deal with this problem. Nevertheless, he presents compelling arguments that the rules contained in the main treaties covering international humanitarian law – namely, the Geneva Conventions – are at the

very least becoming increasingly outdated. By failing to directly address conflicts involving primarily non-state actors, the most common form of conflict today, the Geneva Conventions fail to remain relevant to governments that must contend with the real security and political problems posed by terrorism and civil insurrections.

*Human Rights and the Environment*

In keeping with the government focus, Murphy's discussion of human rights focuses on the high level work of the UN and the European Court of Human Rights. In particular, he points out the ease with which human rights offenders have been able to manipulate the UN system. He cites the 2001 and 2009 global conferences on racism (in Durban and Geneva, respectively) as examples of nations allowing petty political differences to interfere with truly tackling the issues at hand, despite the efforts of sincere and proactive High Commissioners on Human Rights.

The inability of the UN system to encourage states to move beyond petty differences and deal with common issues similarly plagues the regimes covering international environmental law. Murphy cites the failed global efforts to confront climate change as an example of how ineffective the international legal system has become. Though the book was largely written prior to the Copenhagen climate summit, a short note points out that the summit was a mild disaster that failed to achieve any agreement between states regarding climate change. Similarly, Murphy argues that the Convention on Biological Diversity has had disappointingly little effect due in part to U.S. objections to the way that the treaty handles intellectual property protections.

While Murphy's points regarding environmental law are well made, this does not appear to be his primary area of expertise, and his general conclusion that international environmental legal instruments are failing is not entirely compelling. After all, he omits some of the smaller success stories, such as global efforts to combat chlorofluorocarbons or mercury. Indeed, environmental law is one of the youngest, yet most vibrant areas of international law, and the failure so far of international law to solve climate change is not enough reason to lose hope that environmental problems may be handled better in the near future.

*Conclusion: Should You Read It?*

Murphy's previous book, *The United States and the Rule of Law in International Affairs*, specifically focused on U.S. approaches to international law, so it is unsurprising that in *The Evolving Dimensions of International Law*, too, he has something of an American bias. This is not to say that he refrains from criticizing U.S. government policy (quite the contrary), but rather that he tends to focus on issues most important to the U.S. government and uses examples largely from U.S. practice. He gives European Union legal structures only passing reference (though there is a longer discussion of the ECHR), and regional developments in Africa and Asia are barely mentioned. For instance, Murphy discusses the *Sosa v. Alvarez-Machain* case, in which the U.S. Supreme Court laid out standards for creating causes of action under international law for the Alien Tort Statute, but only in regard to its effect on the reception of international law by the U.S. Supreme Court. Other scholars might have been more interested in situating the case within the complicated legal proceedings and larger human rights debates involving the previous *Alvarez-Machain* cases in U.S. Courts, the International Court of Justice, and the Inter-American Court of Human Rights.<sup>2</sup>

By the concluding chapter, Murphy manages to cover most of the main issues facing public international law clearly and succinctly. Moreover, he does so in simple, easy to read language, which makes his book a pleasantly fast read as compared with most legal treatises. Still, the book refers to many legal concepts and instruments without explanation, thereby presupposing at least a familiarity with international law and making it a bit too abstruse for a layman. Nevertheless, for those who have already taken an interest in the area, *The Evolving Dimensions of International Law* is a pleasurable and thought provoking overview.

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2. *Alvarez-Machain*, a Mexican citizen, was involved in two cases involving international legal issues that went up to the U.S. Supreme Court.

A *Skeptic's Case for Nuclear Disarmament*. By Michael E. O'Hanlon. Washington, D.C.: The Brookings Institution, 2010. Pp. xii, 174. \$26.95 (Hardcover).

REVIEWED BY DANIEL LEFF

Michael E. O'Hanlon, a former Congressional Budget Office defense analyst and current Senior Fellow at the Brookings Institution, joins the debate over nuclear disarmament with *A Skeptic's Case for Nuclear Disarmament*, a short book that attempts to reconcile fear of the dangers posed by nuclear weapons with the practical and strategic difficulties of achieving universal disarmament. O'Hanlon's effort at finding a middle path between no disarmament and speedy, total disarmament is valiant but ultimately unconvincing. So potent are his illustrations of the many great obstacles to disarmament that his proposed solutions appear to fall short of their stated goal, and raise more questions than answers.

O'Hanlon, who has expressed guardedly hawkish views in the past (most notably on the Iraq war), wrote *A Skeptic's Case for Nuclear Disarmament* in large part as a reaction to a column published in the *Wall Street Journal* in January 2007, written by foreign policy grandees George Schultz (Secretary of State under Ronald Reagan), William Perry (Secretary of State under Bill Clinton), Henry Kissinger (Secretary of State under Richard Nixon and Gerald Ford), and Sam Nunn (former longtime senator from Georgia and a leading voice on nuclear disarmament). The column sparked the creation, the following year, of the Global Zero movement, which advocates for the elimination of all nuclear weapons by 2030 (with negotiations beginning in 2019) and which has attracted a list of eminent sponsors and statements of support from President Obama and President Dmitry Medvedev of Russia. O'Hanlon sides with Global Zero in its belief in the necessity of eliminating nuclear weapons, against the likes of those—such as Senator Jon Kyl of Arizona and current presidential candidate Mitt Romney—who argue that reductions to the U.S. nuclear arsenal represent a grave threat to our national security. However, O'Hanlon disagrees with Global Zero in its proposed timeline for disarmament and the planned permanence thereof, arguing that such a grand movement must take much longer than 20 years and can never be truly permanent.

O'Hanlon gives three reasons for wanting to reduce or eliminate nuclear weapons: the immorality of the weapons, the risk of nuclear war, and the danger of nuclear terrorism; all of which seem valid on the surface but raise serious questions. Addressing the first of these reasons, O'Hanlon writes that nuclear weapons' ability to kill an incredible number of people indiscriminately makes them "horrible instruments of death, not respectable and usable weapons." On the one hand, this seems intuitive: given their ability to wipe out entire cities, if not countries, without any distinction between military and civilian targets, it seems unconscionable to use nuclear weapons. On the other hand, O'Hanlon does not get to the core of why nuclear weapons are different from—and worse than—conventional weapons. Is it morally worse, for instance, to use a tactical nuclear weapon to destroy an underground military bunker in an isolated location than it is to drop a massive conventional bomb on a military facility in a crowded city, where it causes significant collateral damage? Perhaps the perceived immorality of nuclear weapons is a function of their imagined usage in an all-out nuclear confrontation, rather than a function of qualities inherent in the weapons themselves.

O'Hanlon does address the destructive way in which nuclear weapons might be used in his discussion of the risk of all-out nuclear war—either purposeful or accidental—and the danger of nuclear terrorism. While he successfully raises the specter of the immense tragedy such incidents would cause, O'Hanlon does not convincingly articulate the magnitude of that risk. O'Hanlon estimates the threat of nuclear warfare has averaged one to ten percent per decade since the bombing of Nagasaki, and offers some examples of when we may have come close to nuclear warfare in the past; however, his calculus for finding this probability is hidden, and the examples speculative by necessity. Although it is certainly frightening to contemplate how close we may have come to nuclear annihilation in the past and may come in the future, it would be wise to also consider the possibility that the fact that nuclear weapons have not been used in the past 60 years—despite several significant conflicts between nuclear powers—suggests that nuclear deterrence (and perhaps the moral deterrent against using nuclear arms) is effective, and we are not actually at serious risk of nuclear Armageddon. O'Hanlon shows that he does believe in the importance of the deterrent

effect at other points in his book, but does not address this question head on. He raises the threat of nuclear terrorism (which, presumably could not be so easily deterred) but downplays it, arguing convincingly that if a terrorist group had been able to acquire a nuclear weapon at any time since their invention, they would have used the weapon by now.

After addressing the dangers of nuclear weapons, O'Hanlon turns to the obstacles to nuclear disarmament. This is by far the strongest part of the book. He identifies several obstacles, any of which should give pause to anyone advocating speedy elimination of nuclear weapons. For instance, one of the greatest challenges to disarmament, O'Hanlon argues, is that the decommissioning of the great nuclear powers' arsenals will have the counterproductive effect of spurring other countries to develop nuclear weapons to protect themselves. The disappearance of the American nuclear umbrella guaranteeing retaliation in the case of nuclear strikes against its allies may very well induce several of those allies to seek nuclear weapons of their own. Notably, Saudi Arabia, Egypt, South Korea, Taiwan, and Japan, are likely to seek to protect themselves against current (or soon-to-be) nuclear powers such as Iran and China. Some of these countries have pursued nuclear weapons in the past and have only been convinced to abandon those efforts by American pledges or intimations of protection in case of a nuclear attack.

Another serious obstacle to a nuclear weapons free world is our inability to ever completely verify that a nation has no nuclear weapons. O'Hanlon believes this to be physically impossible, making the ability of signatory nations to cheat a constant worry. And he dismisses some theorists' contention that great powers' conventional military capabilities will be enough to deter a nuclear threat from a cheater under a nuclear abolition regime. Even if nuclear weapons are eliminated by all states, they can never actually be abolished, O'Hanlon points out, because any country that knows how to make nuclear weapons can recreate them in less than a year, even without a ready stockpile of nuclear fuel.

The final major problem O'Hanlon identifies with universal disarmament is that even if nuclear weapons were completely destroyed, other, equally dangerous and indiscriminate weapons may rise in their place. While chemical and biological weapons are presently much less destructive than nuclear

weapons, O'Hanlon envisages a world in which biological weapons are made much more lethal and contagious. He also alludes to the additional risk of conventional attack some nations may face by giving up nuclear weapons. The United States likely faces less risk of attack in a world completely without nuclear weapons, but the same cannot necessarily be said for India, Pakistan, Israel, or North Korea.

The obstacles to nuclear disarmament O'Hanlon identifies are imposing. His proposed solution is—to use his favorite epithet for other theorists' proposals—*facile*. For instance, he writes that the “right time for seriously pushing a new nuclear accord is when most of the world's half dozen or so major territorial and existential issues involving major powers are resolved.” Attempt disarmament any time before that point, and nuclear powers will be too reluctant to disarm and non-nuclear powers may pursue nuclear weapons to compensate for the absence of the nuclear umbrella. One imagines the conflicts O'Hanlon has in mind include those between Israel and its neighbors, Pakistan and India (and perhaps India and China), China and Taiwan, and between the two Koreas, all of which have been ongoing for over half a century and show no signs of ending soon. And, if and when those conflicts end, why should no new conflicts arise? O'Hanlon acknowledges this counterargument but sidesteps it. If it is indeed impossible to achieve meaningful disarmament during a time of ongoing geopolitical conflicts, anyone actively advocating for disarmament with such a precondition in place must provide some insight into how or when those conflicts might cease in order to be convincing. O'Hanlon fails to do so.

O'Hanlon also writes that it will be necessary to build a reconstitution clause into any future disarmament treaty. This clause would allow parties to rebuild their nuclear arsenals if faced with an impending threat from another nation. Such reconstitution would not be subject to the approval of any international body, but might be vetted through a contact group of nations to provide some transparency. Reconstitution would be justified in the case of an impending nuclear, biological, or conventional threat, or even, in O'Hanlon's scheme, in the case of a genocidal or existential threat from one foreign country against people in another. While such a clause does seem necessary to counteract the problems posed by cheating countries and non-nuclear threats, it would also seem to evis-



cerate any universal nuclear disarmament regime. If, as O'Hanlon writes, verification of nuclear disarmament is impossible, reconstitution would often have to be undertaken in the absence of fail-proof information that another nation posed a threat. Furthermore, given the six-months to one-year time span necessary to reconstitute a nuclear arsenal, the reconstituting country would have to act well in advance of the materialization of any threat. In a world of imperfect intelligence, fears and conflicts, the potential triggers for reconstitution would be innumerable.

*A Skeptic's Case for Nuclear Disarmament* tries, as its title indicates, to address the challenges to nuclear disarmament while demonstrating the necessity of achieving the same. The great obstacles to disarmament O'Hanlon identifies cannot be overcome by the solutions he proposes. The two main prongs of his disarmament strategy—attempting disarmament only after most major geopolitical conflicts are resolved, and allowing rearmament should new conflicts emerge—amounts to an admission that nuclear disarmament will only ever be attainable in a world absent of all but the most minimal potential for international armed conflict. This admission makes nuclear disarmament seem an insurmountable challenge, and raises the question of whether this will ever again be a world free of nuclear weapons.

*Hamas and Civil Society in Gaza: Engaging the Islamist Social Sector.*

By Sarah Roy. Princeton, New Jersey: Princeton University Press, 2011. Pp. xvii, 319. \$35.00 (Hardcover).

REVIEWED BY ISABELLE FIGARO

In the midst of a conversation dominated by the essentialist view that Hamas and its grassroots Islamic social institutions are linked inextricably to violence and terrorism, *Hamas and Civil Society in Gaza* fills a crucial gap in the discourse by both problematizing that assumption and exploring the ways that Hamas can be viewed as a productive creative force in shaping the makeup of Palestinian civil society. In the aftermath of multiple high profile court cases, which successfully criminally prosecuted and shut down several Islamic charities accused of over a hundred charges including funneling money into Hamas's terrorist wing, Sarah Roy argues that the mentality

that led to these types of convictions is premised on a set of false assumptions about what is perceived as an inherent link between Hamas, and, more broadly Islamist organizations, and terrorism. To Roy, however, in developed Islamic societies destroyed by conflict, partition, and oppression, these organizations, and specifically Hamas, can and have been some of the most progressive and supportive social structures.

Roy contextualizes her approach to this work as her personal endeavor to understand Palestinian Islamicism "*form within its own framework.*" As such, she situates both the development of interpersonal relationships and the use of her own identity as a Jewish woman as key components of her work. In fact, she opens her book with a prologue on her experience gaining trust in and approval of her work from a group of Palestinian elementary school faculty. To her, this kind of interpersonal exchange—discomfort, skepticism, reluctance, acceptance, approval, trust—is a crucial element of her work to the extent that she ultimately aims to speak not *for* but *from* Palestinians.

In an attempt to look broadly at the evolution of Islamism and Hamas in Palestine, Roy studies what she calls the Oslo period, "that brief era of hope that began in September 1993 with the signing of the first Oslo Accord between Israel and the Palestinian Liberation Organization (PLO) and ended abruptly in September 2000 with the outbreak of the Al-Aqsa, or second, Palestinian Intifada, or uprising." In doing so, she researched a broad array of Islamic social organizations, and some economic and political institutions in Palestine. The first two chapters establish the theoretical framework for the book and historical context, detailing the history of the Islamic movement in Palestine.

Roy's third chapter builds on this historical account by providing a theoretical framework from which to analyze Islamic institutions. There she argues that traditional Islamic institutions, though seemingly incompatible with the notion, are deeply entrenched in the process of creating a robust civil society. In doing so, she, dismisses notions that the two are incompatible on a theoretical level, arguing that though Islam necessitates an Islamic state, it nevertheless requires the presence of robust institutions that serve as checks on accountability and comprise what the "west" coins "civil society." She then points to several important Islamic social movements and demon-

strates how religious leaders not only preserve institutions, but also serve as progressive and even representative voices.

Rather than apply social movement theory and democracy/Islam frameworks to her study, Roy approaches the history of Hamas in Palestine as an analysis of civism which she defines as “support for, commitment to, and strengthening of an organized society, economy, and polity . . . .” To her, viewing Islam as civil society allows her to get at the central components of Islam such as *umma* (nation or community) and *ijtihad* (enlightened struggle) and to cast them as the very pillars of what constitutes healthy civic life. Speaking to the importance of formative institutions, she writes, “In this sense, the moderate mainstream Islamic discourse is more moral than political and, like its secular counterpart, also speaks to the idea of a shared ‘faith’ that is not only religious in nature but ethical as well. [She] define[s] it as a set of values that animates civil institutions and contributes to the development of political, social, and professional life.”

This perspective serves as the context for her study of the Oslo period in chapter four, which contributes a history of the emergence of Islamic institutions in Gaza. She argues that during this period, Islam gained traction as a relevant political discourse and soon was able to challenge the secular and nationalist discourse that had previously dominated Palestinian politics. While recognizing the influence of the Muslim Brotherhood on this period, Roy highlights the incubating role of Islamic universities and educational institutions. The result of this period was the first Palestinian Intifada, and eventual formation of Hamas, a result of Islam’s move from the civil and social to the political and even military. The period between 1987-1993 represents a peak for Hamas wherein it both gained strength as a movement and continued to push its characteristic education focused social agenda. In the period thereafter, approaching 2000, Hamas lost much of its radical political traction and settled back into its social function.

Roy argues that, while Hamas’s political goals were still articulated, the movement, in actuality, developed by strengthening communities and normalizing daily life. In making this argument, Roy aptly contrasts the politics of the movement with its social services. In light of the thoroughness of the evidence she presents, the argumentation is convincing to the unbiased reader. However, since she strives for the book to

refute specific prejudiced assumptions, the chapter might have had more impact if it had told an even more layered story, explaining both the complexities of the movement's politics and how the creation of specific social functions were nonetheless independently motivated.

In her fifth chapter, Roy analyzes the social institution phenomenon described in the previous chapter by diving into an ethnographic inquiry of Islamist social institutions (ISI) by both conducting research and interviewing various individuals who may or may not be affiliated with these institutions. For example, she describes the *zakat* fund (Islamic charity) in Gaza and, while part of the greater Islamic movement, it employs, provides social services, and has received funds from UNDP, CRS, and other international organizations. Through examining the many layers of perspective she exposes the reader to the necessary truth that Hamas is not a monolithic movement.

Roy's sixth chapter focuses on the findings of her research. She finds that, though they were competing with secular services, the development of Islamic-run institutions increased the quality of service provision in Gaza. However, the same social networks used by Hamas to contribute to society were later left vulnerable to some exploitation by separate violent factions. This analysis leads Roy to several key conclusions, including that there is no actual evidence of any formal institutional link between Hamas's Islamic social institutions and its political institutions. Though it could be argued that her sample was biased in favor of this outcome, in the context of her study, this conclusion follows logically. In other words, the book refutes the assumptions it set out to refute.

The rest of Roy's book covers Palestinian history from the Second Intifada. There, she argues that the degeneration of the national government led to the resurgence of Hamas as a political movement. After a turbulent political era of illegitimated elections, numerous negotiations, and increased hostility towards Israel for a variety of reasons, explicit support for Hamas declined. Exacerbated by sanctions, violence, and other resource constraints in Gaza, Hamas's leadership role quickly regressed into a quest for power. With much of the burgeoning civil society of the previous decades destroyed, Roy's book ends on a sad yet realistic note.

Roy's approaches are unique for a book in law and social sciences in several ways. First, unlike traditional work in the social sciences that values statistical analysis and dispassionate interview data, Roy approaches her work on Hamas's social institutions through ethnography. And in order to reach her broad conclusions, she relies not on unintelligible stacks of survey data, but on the 25 years' experience she has travelling throughout the region and the kinds of changes and developments she, as an expert, has witnessed over time. In exercising this approach she unabashedly makes herself a character in the work and thus adds a certain richness that is inaccessible to the distanced social scientist or legal scholar.

Second, though not an inherently critically theoretical text, Roy pays special attention to point out the kinds of unproductive discourses she hopes to refute not only in topic but also in methodology. She explains that in her methods, she resists dichotomizations or categorizations. Stemming from her stance against discourses that refuse to appreciate the nuanced nature of Islamist movements, she aims to "present a more dynamic depiction of Palestinian society, challenging the static and distorted one we typically get, allowing Palestinians to speak about Hamas and from within it about their everyday lives and what it means to be occupied and deprived."

However in her effort to increase the amount of distinctions she is able to make to describe the complex nature of civil society, she nonetheless falls in the same trap when trying to convert her disparate samples into an analytical narrative. For example, in order to add both breadth and depth to the universe of social institutions in Gaza, she looks both at institutions that refer to themselves directly as Hamas affiliated and those institutions that claim no affiliation at all. In doing so, she nonetheless refers to both kinds of institutions collectively as "Hamas social institutions." This kind of broad categorization is exactly the same analytical peril of which she so vehemently criticizes the dominant discourse. In that vein, it seems that she couches much of her analysis in the assumption that it is analytically sound to equate Islamic institutions with Hamas developments.

By merely articulating this perspective on Hamas, Roy has already made a significant contribution to the public sphere. On top of that, this book is impressively substantiated by a well-articulated summary of Islamic scholars and an invaluable

wealth of personal and historical information. In addition to being easily accessible even for those who are not well versed in either Palestinian politics or Islamic scholarship, Roy's writing style is engaging, and almost compels the reader to participate in the topic with the same kind of critical lens through which she does. In its totality, *Hamas and Civil Society in Gaza* is a long overdue addition to a largely un-substantively contested discourse.

*Meeting the Enemy: American Exceptionalism and International Law.*

By Natsu Taylor Saito. New York, New York: New York University Press, 2010. Pp. vii, 374. \$55.00 (Hardcover).

REVIEWED BY MATTHEW CRAIG

*Meeting the Enemy* is not the first, nor will it be the last, book that lambasts American hegemony and the dominance of Western values and institutions in the international realm. The history covered—the settlers' treatment of American Indians, colonial endeavors at the turn of the twentieth century, restructuring of Third World economies through international financial institutions, among others—has received its fair share of criticism. Yet, Natsu Taylor Saito, a law professor at Georgia State University writing as part of NYU Press's Critical America Series, tries to distinguish her work by focusing on the exceptionalism that underlies the darker parts of American history. She argues that there exists a distinct American perspective toward international law, which is undergirded by a belief that the United States represents the highest form of civilization. This superiority enables the United States to selectively disregard international norms in order to triumph over a barbaric "Other." It is such exceptionalism that stands in the way of justice for the majority of the world's citizens. To overcome this, Saito argues, it is necessary to understand how American exceptionalism has led to the present global order.

Thus, the bulk of *Meeting the Enemy* is an examination of history. Through colonization, the decimation and subjugation of indigenous peoples, slavery, and imperial endeavors abroad, Saito identifies and fleshes out the basic tenets of what she understands to constitute American exceptionalism. While these chapters do not unearth any claims unfamiliar to the critical mind, the rich historical details will prove shocking

to those who maintain a middle-school-textbook version of history. Saito's account is an effective (even if conventional) refutation of the mythology surrounding the United States' past.

Moving through history toward the present day, however, the book becomes more problematic. For example, Saito discusses the emergence of the United States as the "principal source of order" in the post-war world, a time when the country exerted "tremendous influence" in the establishment of the United Nations. She cites familiar issues (e.g. the five permanent vetoes on the Security Council) to demonstrate how the institution reflects and maintains global power imbalances. Yet, Saito also recognizes that the new international order gave some degree of voice to the less powerful. If the international legal system, despite its countless imperfections, became more humane in the wake of World War II, what does this say about American exceptionalism at the time? Had it declined? Had it evolved? In attempting to trace American exceptionalism throughout history, Saito writes in broad strokes that often brush nuance aside.

Saito's examination of two dominant paradigms of the past half-century—development and human rights—further reveals such shortcomings. With respect to development, the critique Saito levels is not new: many scholars and practitioners acknowledge the ways in which the economically powerful have used the World Bank and the International Monetary Fund to impose free trade regimes to their own economic benefit. Yet, Saito's account gives no mention to how some policy-makers did, and still do, believe that open markets can increase overall wealth without perpetuating inequality. It also ignores the changes that international financial institutions have implemented over time, often in order to address some of the issues that Saito herself identifies. The picture that emerges from *Meeting the Enemy* is one of self-interest. Yet, self-interest is not a uniquely American phenomenon (nor a Western one for that matter). Saito fails to explain why American exceptionalism, as opposed to human nature and existing power imbalances, best accounts for American behavior vis-à-vis international financial institutions. Distinguishing the two is important; injustice that results from self-interest may require structural remedies distinct from those solutions looking to curb idiosyncratic American behavior.

Saito's consideration of human rights law is problematic in its own way. On one hand, she criticizes the way in which human rights law has developed, echoing decades-old concerns about the prioritization of civil and political rights over social, cultural, and economic ones. Insistence on the importance of these rights may well fit within the definition of American exceptionalism that Saito provides (i.e. the belief that the United States is a superior form of civilization). Yet, at the same time, Saito condemns the United States' failure to involve itself more deeply in the existing human rights regime. She examines all the major human rights conventions, criticizing non-ratification as well as ratification accompanied by reservations. The irony is apparent: if the system itself is flawed as a result of American exceptionalism, why advance greater U.S. involvement in the system as a solution?

As *Meeting the Enemy* moves from diagnosis to prescription, the tensions in Saito's arguments are increasingly discernible. While Saito begins the book by saying that the "principles and structures of international law . . . provide as viable a starting point as any currently available for the creation of a sustainable and just world order," she later argues for a "fundamental restructuring of international law and its attendant institutions." It is unclear how the two operate in conjunction. While tensions will naturally be present in any examination of a subject as complex as the global legal order, the book's conclusion leaves the reader without a framework through which to resolve such tensions.

Ultimately, Saito's response to the problems of the world system is to urge decolonialization of international law: shifting toward understanding one's "surroundings as a pluriverse rather than *the* universe," a change that recognizes the legitimacy of diverse worldviews and questions the fundamental truths purportedly offered by Western civilization. But if Western values are to be supplanted, the question is how, and by what? Saito does not purport to provide satisfactory answers; indeed, she states, "articulating alternative visions of human freedom in any comprehensive way . . . is a project far beyond the scope of this book." Furthermore, such a project would be "inappropriate," as "peoples must be free to tell their own stories on their own terms."

Yet, this is exactly where Saito's work could be of most value. Cataloguing the way in which the United States has



shaped and disregarded international law undoubtedly stands to contribute to a dialogue of decolonialization. Yet, the historical narrative central to *Meeting the Enemy* is not new; indeed, one could view it as a recasting of Howard Zinn's *A People's History of the United States* with an international law twist. The lessons of such a historical account may have value in and of themselves, especially to readers less familiar with the United States' behavior in the global arena. But for those already engaged with issues of international law, a discussion of solutions to the problems recognized by Saito is in order. Ironically, those sympathetic with Saito's general criticism of U.S. foreign policy stand to be most disappointed. Already familiar with the arguments advanced in *Meeting the Enemy*, reformists and revolutionaries alike are faced with question of "now what?" On this, Saito is disappointingly silent.

*Torture, Terror, and Trade-Offs: Philosophy for the White House.* By Jeremy Waldron. Oxford, United Kingdom: Oxford University Press, 2010. Pp. viii, 357. \$37.50 (Hardcover).

REVIEWED BY K.C. MICHAELS

Ever since the events of September 11, 2001, debate has raged over certain regrettable practices that the United States used against terrorism suspects. In 2009, Barack Obama ended many of those practices. Unfortunately for the United States, the issues surrounding the War on Terror live on, and the legacy of torture continues. Guantanamo Bay remains open, and many argue that the reputation of the United States has been badly tarnished. Against this backdrop, Jeremy Waldron's *Torture, Terror, and Trade-Offs: Philosophy for the White House* aims to add a layer of nuance to the debate over these issues through philosophical analysis. Overall, the book does an exceptional job in its substantive analysis, but the way in which it proceeds from topic to topic leaves much to be desired.

The most important feature of the book is that it is a compilation of various papers published by the author between 2003 and 2010, which could have been a great framework had the book been initially introduced as an attempt to tackle a number of distinct questions relating to the same topic. This is especially true because Waldron's analysis in the individual

chapters is excellent and his conclusions are thoughtful and insightful. However, since the book was not framed in this way, the reader is left to search in vain for a common overarching thesis that never materializes.

This problem of framing manifests itself in several organizational woes. It is strikingly obvious that the various chapters were written in different contexts for different audiences, and each chapter's introduction does little to explain its particular purpose or the context in which it was written. Furthermore, the progression between chapters is not always intuitive, and each chapter provides discussion on a new topic rather than building on the previous one. As a result, it feels disjointed at times, and the start of a new chapter frequently involves a jarring change of focus and topic.

The opening chapter attempts to tie the pieces together in a coherent way, but it unfortunately falls short. Although Waldron never actually says that the pieces in the book are intended to add up to a single coherent argument, it is easy to get this impression from the introduction. As a result, at the end it feels like you have ten expertly crafted pieces of a fifteen-piece puzzle. A more forthright approach would have been to embrace the fact that the book is a compilation. It would have been more useful to have an explanation up-front of the various purposes and contexts that motivated each article. Likewise, it would have been easier to follow if the introduction explicitly acknowledged the lack of an overarching thesis and focused instead on the various themes that permeate and reoccur throughout the book.

Perhaps the most important of these themes is the significance of definition. In Chapter Three, for example, Waldron makes a compelling argument that the definition of 'terrorism' is important for more than just the application of anti-terrorism statutes by lawyers. It can help us understand from a moral standpoint why terrorism commands a special sort of outrage that does not accompany similar destruction from acts of war. Understanding the nature of terrorism might also help us in formulating our strategies to respond to it.

Waldron's various attempts at definition are perhaps his most valuable contribution to the subject. In Chapter Five, his attempt to define security adds a layer of complication to the liberty/security balance rhetoric. Most significantly, he con-

siders how to broaden the notion of individual security for application to an entire society. In particular, he makes an especially compelling argument that security should contain an element of distributive equality rather than being purely additive (greatest total security without regard to distribution). A conception of security based on equality principles would prevent governments from decreasing the security of some in order to increase the security of others. To support this idea, Waldron argues that the relationship between security and human rights, embodied in the right to life or the right to safety, indicates that security should be thought of along egalitarian lines in the same way that human rights are—an argument that he expands upon in Chapter Six.

In Chapter Nine, Waldron makes a similarly compelling definitional argument regarding cruel, inhuman, and degrading treatment. In defining the terms “cruel,” “inhuman,” and “degrading,” he reaches an exceptional level of depth and refinement. Specifically, his reliance on dictionary definitions and ordinary language lends a particular kind of common-sense support to his understanding of the terms. Moreover, the ease and clarity with which he explains the terms puts many of the courts that have interpreted the various terms to shame.

Another theme that crops up over and over again throughout the book is the importance of ongoing discussion and debate. The starting point of several of the chapters seems to be that our approach to particular problems must begin with a meaningful discussion about the various issues. Most notably, Waldron points out in Chapter Five the “disgraceful gap” in the literature when it comes to the topic of “security.” He argues that, although many philosophers have seriously undertaken to clarify what we mean by the term “liberty,” few have attempted to do the same for security. If we are to seriously consider the implications of balancing liberty and security, we must at least know what is on each side of the scale. Further, after providing his own analysis, Waldron indicates his desire that others build off of his work.

This theme is also critical to his short but provocative chapter regarding the lack of guidance from Christian commentators on the issue of torture. Waldron argues that there are aspects of Christian thinking that could be valuable to both sides of the debate. He concisely and effectively rebuts

the notion from secular moralists that Christian ethics have nothing to teach by pointing to several areas where Christian teaching provides a valuable approach to a question, such as absolute prohibitions and the sacredness of the human person.

A third theme that Waldron stresses repeatedly is the importance of the positive law with respect to torture (and international law more generally). In Chapter Four, Waldron devotes a considerable amount of energy to rebutting the argument that international humanitarian law protections are merely conventions of war, rather than being based on deep morality. By considering the idea of a "convention" at the most basic level, Waldron is able to crystallize the aspects that make a particular rule a convention. Thus, he is able to undermine the convention argument at its most fundamental level.

Perhaps the critical chapter in the book is Chapter Seven, which discusses the positive law relating to torture. First, Waldron explains in detail the various positive law provisions prohibiting torture, and explains the attempts by various jurists to undermine the law of torture. Then, he takes the difficult path of arguing that the prohibition on torture should be an absolute. To do so, Waldron develops the concept of a legal archetype. He argues that the prohibition of torture is used as a sort of argumentative benchmark in American law for related areas of jurisprudence such as police brutality. Thus, if the prohibition of torture is undermined it could affect the way we think about those other areas of law, because lawyers can no longer argue by analogy to the prohibition on torture.

Unlike Chapter Nine's definition of cruel, inhuman, and degrading treatment, the legal archetype idea does not benefit from a common-sense simplicity. However, this does not detract from its force. Waldron does an excellent job of providing evidence from case law that supports his proposition, and his analysis is both careful and thoughtful.

The final chapter of the book is a warning to up-and-coming international lawyers. Waldron cautions against the approach taken by Bush Administration lawyers in attempting to undermine the prohibition on torture. He argues that trying to circumvent and find loopholes in international law on be-

half of a state is unethical and inappropriate to the context. His conception of the role of an international lawyer in this regard is spot-on, and if there is one flaw in the substance of the book, it is that Chapter Ten is so short (a point which the author frankly acknowledges in the introduction).

Overall, *Torture, Terror, and Trade-Offs* offers analysis that is both valuable and thought-provoking. The subjects of torture and terrorism are far from settled, and future discussion will be able to build off of and respond to Waldron's work. Although the organization of the book leaves much to be desired, the problems are more than outweighed by the care and nuance exercised by Waldron in each individual chapter.

