BOOK ANNOTATIONS

BADINTER, ROBERT AND STEPHEN BREYER, EDS., JUDGES IN CONTEMPORARY DEMOCRACY: AN INTERNATIONAL CONVERSATION (New York, New York: New York University Press, 2004).

BECKER, TAL, TERRORISM AND THE STATE: RETHINKING THE RULES OF STATE RESPONSIBILITY (Portland, Oregon: Hart Publishing, 2006).

CASS, DEBORAH Z., THE CONSTITUTIONALIZATION OF THE WORLD TRADE ORGANIZATION: LEGITIMACY, DEMOCRACY, AND COMMUNITY IN THE INTERNATIONAL TRADING SYSTEM (New York, New York: Oxford University Press, 2005).

KAHLER, MILES AND BARBARA F. WALTER, EDS., TERRITORIALITY AND CONFLICT IN AN ERA OF GLOBALIZATION. (New York, New York: Cambridge University Press, June 2006).

KARNS, MARGARET P. AND KAREN A. MINGST, INTERNATIONAL ORGANIZATIONS: THE POLITICS AND PROCESSES OF GLOBAL GOVERNANCE (Boulder, Colorado: Lynne Rienner Publishers, 2004).

MACLEAN, GEORGE A., CLINTON'S FOREIGN POLICY IN RUSSIA: FROM DETERRENCE AND ISOLATION TO DEMOCRATIZATION AND ENGAGEMENT (Burlington, Vermont: Ashgate Publishing Company, 2006).

POSNER, RICHARD A., NOT A SUICIDE PACT: THE CONSTITUTION IN A TIME OF NATIONAL EMERGENCY (New York, New York: Oxford University Press, 2006).

SAROOSHI, DAN, INTERNATIONAL ORGANIZATIONS AND THEIR EXERCISE OF SOVEREIGN POWERS (Oxford, United Kingdom; Oxford University Press, 2005).

SKACH, CINDY, BORROWING CONSTITUTIONAL DESIGNS: CONSTITUTIONAL LAW IN WEIMER GERMANY AND THE FRENCH FIFTH

REPUBLIC (Princeton, New Jersey: Princeton University Press, 2005).

Judges in Contemporary Democracy: An International Conversation, Edited by Robert Badinter and Stephen Breyer. New York, New York: New York University Press, 2004. Pp. 352. $60.00 (hardcover).

REVIEWED BY KAYLA GASSMANN

Judges in Contemporary Democracy opens with an apt quotation from Michael Oakeshott: "[L]earning is not a race in which the competitors jockey for the best place, it is not even an argument or a symposium; it is a conversation . . . ." The premise of the conversation detailed in this book is clear: The role and authority of the judge has been expanding in Western democracies. The question that the participants attempt to address is *why*. The goal of the book is not to propose and argue a thesis, but to begin a discussion on the topic.

In 2000, five judges and one professor from different countries gathered in Provence, France to discuss the increasing judicial authority and the expanding role of the judge in Western democracies. The participants included Antonio Cassese (former president of the International Criminal Tribunal of the former Yugoslavia), Ronald Dworkin (professor of philosophy and law at the New York University School of Law), Dieter Frimm (former vice president of the Federal Constitutional Court of Germany), Carlos Rodriguez Iglesias (President of the Court of Justice of the European Union), Robert Badinter (former President of France's Conseil Constitutionnal), and Stephen Breyer (Associate Justice of the Supreme Court of the United States).

This unconventional book grew out of those discussions. It does not, as the editors cheerfully acknowledge, "fall within any traditional category of published material." It offers "neither finality nor shared conclusions," but simply presents the record of this conversation, which was organized for the sole purpose of discussion itself.

In an attempt to give the conversation a structure, Breyer and Badinter divided the issue of the expanding role of the judge into six related topics: judicial activism, the secular papacy, judicial supervision of the political process, international

criminal law, judges and the media, and the judges reflecting on their own roles. Each participant presented a paper on one of these assigned topics and then the participants discussed each topic, beginning with the questions and lines of inquiry suggested by the presenter. This volume contains the papers, presentations, and an edited transcript of the extensive discussions on each topic.

In reading the discussions, it is quickly apparent that the participants have no intention of limiting themselves to the topic at hand. The discussions following the presentations cover a broad spectrum of topics, from political theory to Ken Starr, and the participants offer many examples drawn from their respective domestic or international experiences. Badinter, occasionally frustrated by the ambling nature of the conversation, valiantly attempts to steer the discussion back to the ostensible topic at hand. Fortunately, Badinter's attempts are usually in vain, for it is the informal musings made when the six wander off track that are the heart of the book, revealing the intense intellectual curiosity that drives the conversation and its participants. Dworkin also sporadically tries to draw the conversation back to answering the hard questions or defining the outer limits of the principles but finds it equally difficult to narrow the focus of the conversation.

Though these are essentially like-minded thinkers in principle, questions about nuance and differing approaches are frequent, and likely to be valuable to the reader unfamiliar with the examples drawn from other countries and supranational courts. For example, all six are full of questions for each other when the discussion turns to countries' various rules on campaign finance and political advertising, which leads to a good outline of differing approaches. The point is not to convince one another that their own approach is the best but to explain the different reconciliations of competing values that each approach entails.

The sheer amount of legal knowledge possessed by the participants is apparent, and all are conversant in the innumerable issues discussed. For example, given that the majority of the participants are students of domestic law, one might expect them to know little about international criminal justice. But the discussion of that topic is sophisticated and complex, ranging from legitimacy and amnesty, to John Marshall and "judicial statesmanship."

The easy collegiality of the conversation—Justice Breyer continually refers to Professor Dworkin as "Ronnie," who in turn calls him "Steve"—is a humanizing balance to the high-minded issues being discussed. Reading the book, one gets the feeling of having been invited to a candid conversation among peers. After all, how often is a constitutional court judge really among his or her peers, in terms of judicial authority and influence?

Though the conversational style of the book is what makes it remarkable, there are drawbacks to this approach. The summaries of the papers that begin each discussion are redundant and some parts of the discussions tend to the tedious monologue. Moreover, the digressions and detours—though often leading to the most interesting points—can be difficult to follow. Additionally, the vast amount of international and domestic law being discussed can be overwhelming, particularly if one is not familiar with the cases or principles cited by the conversants. Finally, there are, of course, obvious voices missing from the conversation. The conversation notably lacked contributions from female judges, as well as jurists from countries outside the United States and Western Europe. Though the book is clearly not intended to be a complete overview of the topic, the ostensible theme of "the globalization of constitutional law" cannot be fully explored while such important perspectives are missing.

Nonetheless, this book is a record of a most remarkable event: a discussion among six esteemed legal thinkers, of different nationalities and with different experiences, who consider themselves colleagues and, believing that there is much to be learned from one another, gathered together to openly exchange ideas. The conversation will appeal to any student of comparative law or anyone interested in a comparative perspective. Additionally, the reader with more specific experiences or interests will find much value in focusing attention on one or two specific participants or topics. For example, those interested in international criminal law will undoubtedly find much of interest in the comments made by Professor Cassese throughout the discussion, in addition to the specific chapter dealing with the subject.

The book begins with the idea that learning is a conversation. The conversation is more remarkable when we contemplate *who* is supposed to be learning. It is the participants

themselves, who aim not to convince each other or anyone else but to learn from each other, with the additional hope that those who read the book will also learn something from it. The rest of the quote that begins the book reveals its grand ambitions: "[E]ach study appear[s] as a voice whose tone is neither tyrannous nor plangent, but humble and conversable. [Its effect] is not superimposed but springs from the quality of the voices which speak, and its value lies in the relics it leaves behind in the minds of those who participate." Clearly, the aim of the book is to expand participation in the conversation with the hopes that readers will likewise take something away from the book and to reinforce the idea that there are indeed lessons to be learned from the experiences of others.

Terrorism and the State: Rethinking the Rules of State Responsibility. Tal Becker. Portland, Oregon: Hart Publishing, 2006. Pp. xii, 390. $ 40.00 (paperback).

REVIEWED BY JOSHUA ROSENTHAL

It is a delicate task to articulate the circumstances under which a state should be held responsible for private acts of terrorism. An approach that is legally sound, but not based in the realities of modern terrorism, may improperly absolve states in spite of their role in the illicit acts. On the other hand, a system that lacks sound legal parameters or imposes exacting standards on the accused state, can lead to abusive and unjustified intervention in the private affairs of sovereign states. In his recent work, *Terrorism and the State*, Tal Becker undertakes to propose a new legal regime for the international community to meet the challenges presented by the unique nature of state involvement in the private sphere of terrorism. After taking the reader through a thorough review and critique of the dominant legal and academic thinking, Becker seeks to introduce the principle of causation as the proper basis of state accountability for terrorist acts.

As former legal counsel to the Permanent Mission of Israel to the United Nations and Vice-Chairman of the Legal Committee of the General Assembly, Becker grounds his analysis primarily in international jurisprudence, scholarly works, and the Draft Articles of the International Law Commission (ILC). The reader will find few in-depth case studies to aug-

ment this analysis. Becker first traces the development of international law, from Grotius to Roberto Ago, on when a state will be held legally responsible for the private acts of its citizens. The law that had originated as concerning private injury to aliens finally settled on the agency paradigm for responsibility in the form of the separate delict theory and the principle of non-attribution: States were to be held accountable only for their *own* acts (or omissions) in regard to privately created harm, and, unless performed through their de jure or de facto agents, never for the private acts themselves.

The international law regarding terrorism and state responsibility, however, is hardly without its ambiguities. One section that demonstrates especially well the compelling approach and controversial nature of Becker's work is his analysis of the definition of terrorism itself. Becker argues that one definition has indeed found a consensus in the international community and that thus, the term's reputation as elusive is not totally deserved. Private terrorist acts are those that are intentional, unlawful, and causally linked to the "death or serious injury [of] any person, or serious damage to property," committed to shape the actions of a "Government or an international organization" or to "intimidate a population." Becker goes on to argue that acts "furthering a national liberation struggle" should not preclude a label of terrorism. He bases this claim on, inter alia, seeming contradictions latent in regional instruments such as the 1999 Convention of the Organization of African Unity and the 1977 European Convention. While each of these instruments legally recognizes the legitimacy of liberation struggles, each also expressly condemns terrorism regardless of its cause; thus Becker reaches his conclusion by separating the legitimacy of the means (terrorism) from the legitimacy of the ends (national liberation). Becker applies a similar critical analysis to many aspects of this legal field, including the merits of treating terrorism as *lex specialis*, the distinction between responsibility for neglecting counterterrorism measures and responsibility for terrorist acts themselves, and the theoretical models of state involvement in terrorism compared to actual state practice.

Why is Becker's new legal regime necessary? Not surprisingly, September 11th and the changing nature of international terrorism figure prominently in Becker's challenge to the agency paradigm. Becker highlights the paradoxically

widespread international acceptance of the doctrine advanced by the United States to pursue Operation Enduring Freedom in Afghanistan, that is, the policy that there will be "no distinction between the terrorists who committed the attacks and those who harbor them." While widely endorsed, this new thinking about responsibility hardly fits with the established international jurisprudence or the academic thinking on state responsibility. Becker then goes on to criticize the existing law itself as not properly addressing the problems presented by state involvement in modern terrorism. By misunderstanding the nature of public involvement in the private sphere of terrorism, the agency paradigm mistakenly absolves states of responsibility when the true nature of their support, often in the form of a persistent failure to prevent private wrongs, allows terrorist activity to succeed.

While Becker's research primarily focuses on international jurisprudence, the basis of his theory is taken from a principle associated most often with municipal law. Causation dictates that states can be held responsible for private acts which are causally-based consequences of the states' acts, expanding the scope of accountability to cover the private terrorist acts themselves. Relying on the important work of H.L.A. Hart and Tony Honoré, this test would thus ask (1) whether the State's action "constitutes a deviation from the existing or expected state of affairs" that brings about the outcome of terrorist activity and (2) what non-causal factors (such as the degree of harm caused) may mitigate or aggravate the consequences of a finding of state responsibility. Many scholars argue that the role of causation in attributing accountability was carefully circumscribed by Ago and the ILC Draft Articles when defining state responsibility for private conduct. Becker argues, however, that its use would not be unique in international law. In the *Corfu Channel Case*, for instance, the International Court of Justice held that Albania was "responsible under international law *for the explosions*." Becker takes this and other language as indicative that rather than relying on the separate delict theory, under which the State could only have been responsible for its own omissions rather than for the act itself, the court focused on causal analysis to judge Albania's wrongful omissions. Nevertheless, the principle of causation remains sufficiently neglected in the international law on responsibility to call for Becker's four-step test for deter-

mining State accountability for terrorism—although Becker does not depart completely from ILC principles. Becker's novel approach would judge responsibility by (1) focusing on principles of attribution to determine State conduct, (2) determining if the state violated any "international legal obligations," (3) utilizing a causal approach to potentially increase state responsibility to cover private acts themselves, and (4) examining "non-causal" mitigating or augmenting factors that would affect the degree of state responsibility.

Becker concludes by testing the explanatory power of his approach with the case of the response to the events of September 11th, as well as with more problematic cases such as terrorism emanating from failed States. While Becker mentions it briefly, greater discussion of the practical consequences of this approach are lacking from this work. Nevertheless, Becker forwards a refreshingly legally-grounded approach that at the least deserves serious discussion. Aside from its important thesis, *Terrorism and the State* is a thorough resource on state responsibility and terrorism in international law and broaches topics whose importance grows daily.

The Constitutionalization of the World Trade Organization: Legitimacy, Democracy, and Community in the International Trading System. Deborah Z. Cass. New York, New York: Oxford University Press, 2005. Pp. xv, 266. $39.95 (paperback).

REVIEWED BY CHARLESA CERES

The international community increasingly links issues of peace, security, poverty reduction, and the environment with international trade, making the tenth anniversary of the World Trade Organization (WTO) in January 2005 particularly noteworthy. The relationship between trade and policy has led some scholars to view the WTO as an organ of international governance, rather than just trade liberalization. In *The Constitutionalization of the World Trade Organization: Legitimacy, Democracy, and Community in the International Trading System*, Deborah Cass evaluates the argument that the WTO is constitutionalizing. Constitutionalization is a theory that attempts to explain the methods and goals of the WTO. According to Cass, constitutionalization involves features associated with democracy such as the notion of the rule of law, representation of a con-

stituency by elected lawmaking representatives, and even the existence of separate executive, legislative, and adjudicative functions. Cass analyzes and refutes three WTO constitutionalization models and contends that WTO constitutionalization is inappropriate and normatively undesirable. This book is important to our understanding of state sovereignty and the proper role of the WTO.

In a very structured manner, Cass begins by explaining the history behind the constitutionalization debate. Since the Hanseatic League of trading states in the fourteenth century, international trade has been connected with ideas of democracy and constitutional progress. As international trade began to grow and develop, so did the need for international laws, agreements, and policy. The structure of the WTO also mimics a tripartite system of constitutional government with a legislative, executive, and judicial body. In this context, three models of constitutionalization began to dominate: (1) institutional managerialism, (2) rights-based constitutionalization, and (3) judicial norm-generation.

Before analyzing the models, Cass describes specifically what is meant by the claim that the WTO is constitutionalizing. She defines constitutionalization as "the process of change by which a set of social practices defined as law (rules, principles, procedures, and institutions), and generally associated with Western industrialized democracies, emerge in a relatively coherent and unified arrangement, in relation to a particular community, and attain a level of social acceptance (defined as legitimacy)." Fundamentally, constitutionalization consists of rules to constrain economic and political behavior.

In Part II, Cass analyzes three models of WTO constitutionalization and then presents the flaws of each model. She acknowledges that the models meet some of the requirements for constitutionalization but ultimately fail to satisfy all the accepted criteria for constitutionalization. The first model, institutional managerialism, views the WTO as a compilation of institutions to manage trade disputes. These institutions include "the treaty arrangements of the WTO, dispute settlement processes, actors and organization, and a range of other informal features." Conceptualizing the WTO as an institutional system means that WTO law is not simply a set of rules, but a new legal order—it means that constitutionalizing is occurring. This model is based on the seminal work and writings of

Professor John Jackson, who advocated the relationship between constitutions and institutions. Cass rejects the institutional managerialism model for WTO constitutionalization for several reasons, including the fact that it equates institutions with constitutions and does not properly define a constitution.

The rights-based model of constitutionalization argues that trade law serves a constitutional function by restraining government action because WTO rules are conceptualized as rights. Understanding WTO law as a series of rights boosts the legitimacy of WTO law. Primarily associated with Ernst-Ulrich Petersmann, this model encourages domestic courts to use WTO law as an interpretative aid for foreign policy decisions. There is also a current trend to understand WTO law as human rights law. Cass argues that the rights-based model of WTO constitutionalization lacks clarity because it is unclear to what extent rights are protected, to whom the rights apply, and what are the remedies for failure to comply.

The third model, judicial norm-generation, is based on the standard U.S. constitutional law argument that judicial interpretation of legal rules "can be constitutive as well as reflective of constitutional law." This is the common law approach in which cases create constitutional norms. Cass, however, notes that absent from this model are other key features of a constitutional system, like a deliberative constitution-making process.

In Part III, Cass makes her anti-constitutionalization argument. In her description of constitutionalization, Cass identified the three main objections to WTO constitutionalization, specifically that (1) constitutionalization can only apply to national legal systems, (2) the WTO is like any other international treaty agreement, and (3) the constitution of the WTO legal system is international law itself. Her anti-constitutionalization critique goes further and evaluates many of the existing arguments against WTO constitutionalization. Cass also challenges the existing terms of this debate because they "presuppose the existence of the phenomenon." Cass structures the chapter by critiquing the views of weak, moderate, and strong anti-constitutionalists.

Cass concludes by urging the reader to think about the WTO in more democratic terms. She argues for "trading democracy," which involves the WTO taking account of the con-

ditions of contemporary international society and reorienting itself "towards its primary goal, development." Trading democracy requires not only procedural changes but also an acknowledgement that free trade is not the explicit goal of the WTO; rather, the goal is economic development through nondiscriminatory trade. Cass' theory encourages the WTO to interpret its policies in light of social and welfare concerns.

Cass gives a highly organized and detailed overview of the WTO constitutionalization debate. She presents numerous reasons why other approaches are inadequate. She passionately and thoughtfully offers a new method to think about the role of the WTO that will be enlightening to both experts in the field and those new to the subject.

Territoriality and Conflict in an Era of Globalization. Edited by Miles Kahler and Barbara F. Walter. New York, New York: Cambridge University Press, June 2006. Pp. xii, 340. $34.99 (paperback), $28.00 (.pdf eBook).

REVIEWED BY RAHUL SHARMA

What are the effects of globalization on the present-day territorial regime, defined as the norms, institutions, and practices associated with territorial governance? How do globalization and changes in the territorial regime affect military conflict between and within states?

In a new compilation of essays entitled *Territoriality and Conflict in an Era of Globalization*, academics from around the world delve into these questions, finding surprising and enlightening answers. The book is a product of a workshop in 2001 and conferences in 2003 and 2004 at University of California, San Diego (UCSD). Overseeing the process were Miles Kahler and Barbara F. Walter, both of the Graduate School of International Relations and Pacific Studies at UCSD. The scholars taking part were drawn from a variety of disciplines in which concepts of territoriality arise—political science, anthropology, geography, and law—and they deployed a wide range of methodological and epistemological approaches.

The editors observe that territorial disputes are more likely to escalate than non-territorial disputes, but globalization and technological innovation have also seemingly reduced the economic and strategic value of territory. Predic-

tions that globalization would undermine territorial attachments and weaken the sources of territorial conflict have not been borne out in recent history. Seeking to answer why territory has continued to be a key source of violent conflict even as goods, capital, and populations increasingly move seamlessly across borders, the editors note that scholars tend to focus on the connection between territorial stakes and conflict, and between globalization and conflict, but not on the effects of globalization on territoriality and territorial conflict.

This missing link is what they seek to fill in. Globalization may have produced changes in territoriality and the functions of borders, but it has not eliminated them. The contributors to this volume examine this relationship, arguing that much of the change can be attributed to sources other than economic globalization. They argue that territorial attachments and people's willingness to fight for territory depends upon the symbolic role it plays in constituting people's identities and producing a sense of belonging in an increasingly globalized world.

The volume is composed of eleven chapters—nine contributions, book-ended by an introduction by Miles Kahler and a conclusion by Barbara F. Walter. The introduction and conclusion lay out the structure of the volume and the general findings. Beyond that, the editors have divided the volume into three sections. The first discusses the general increase in the importance of territorial stakes and attachments, despite the general decrease in the importance of territory itself. This section encompasses the chapters by Heins Goemans, Joel Robbins, David Newman, and Terrence Lyons. The second section explains the effects of globalization on territorial stakes and on violent conflict, and this includes the chapters by David Lake & Angela O'Mahony, Eric Gartzke, and Halvard Buhaug and Nil Petter Gleditsch. The final section discusses territorial regimes, which is essentially territoriality defined as domestic or international institutions such as borders or jurisdictions (i.e. modern-day states). This section is an exploration of these regimes and their determinants and is composed of the 2 chapters by Kal Raustiala and Beth Simmons.

In the first section, Heins Goemans argues that the territorial homeland originates in the classical setting of insecurity; the need for collective defense offers powerful incentives for a

clear principle—often territoriality—that will allow membership in the group, and he explains why territoriality is a more attractive principle than other alternatives. Joel Robbins presents a case of territorial detachment in his account of the Urapmin of Papua New Guinea, who reject their existing territorial domain in favor of alternative identities as a result of their exposure to Pentecostal Christianity and to development from economic globalization. David Newman traces the continual reordering around the world of territorial attachments at the local level, detailing examples in the areas known as Korea, Israel, Yugoslavia, Kashmir, etc. Like other authors in this volume, he rejects the simple trajectory from globalization to a borderless world, particularly when invisible borders are constructed every day at the local level. Terrence Lyons writes about diasporas, which are strengthened by globalization and in turn reinforce the high symbolic stakes and politically significant attachments associated with territory. He focuses his attention to the Irish and Ethiopian diasporas and their impact on conflicts back in their homelands, showing that, paradoxically, globalization allows diasporic communities to reinforce starkly territorial definitions of the homeland and to heighten the territorial stakes in both internal and interstate conflicts.

Moving to the discussion of stakes and violent conflict, David Lake and Angela O'Mahony connect changing territorial stakes and interstate conflict through the variable of changing nation-state size, which shows a clear increase in the 19th century (as colonial empires expanded) and decrease in the 20th century (as colonies gained independence, and then ethnic groups within those former colonies later gained independent small states of their own). They demonstrate that an increase in the value of territory produces a result similar to a reduction in the relative cost of waging war, and, therefore, an increase in state size should produce a greater probability of interstate conflict. However, since the number of conflicts has actually not gone down this century as state size has decreased, there must be other factors involved. Eric Gartzke looks at the distinct effects of economic development and globalization on violent interstate conflict. Using a complex regression analysis, he finds that territorial conflict declines with development, but non-territorial conflict actually increases with development. Halvard Buhaug and Nil Petter Gleditsch provide yet another skeptical view of the influence that globalization ex-

erts on territorial conflict. They focus on state capabilities and the effects that technological improvements associated with globalization may have on conflict, and they show that these technological changes have not led to a decline in territorial conflicts.

The final section is something of a keystone to the volume and provides a reading of the complex relationships among territoriality, globalization, and conflict. Kal Raustiala examines changes in jurisdictional congruence. Historians and economists talk about two eras of globalization, the present day and the era before 1914; Raustiala finds that in the earlier period American jurisprudence moved in the direction of strict territoriality towards civilized (i.e. European) states and extraterritoriality towards weaker, non-European states. Even today, globalization provides incentives for governments to expand their regulatory regimes, in order to protect the rights of the increasing number of their citizens abroad. These claims have become less constrained as confidence has grown that peace among the industrialized countries will persist.

Beth Simmons looks at borders as institutions in Latin America. Both eras of globalization have been marked by continued and even growing attachment to a well-defined border regime, and this seems to undermine claims that globalization has rendered borders less important. Simmons resolves this paradox by noting that the costs are substantial when borders are disputed; good borders make good traders, and so globalization offers incentives for a well-bordered world.

Despite different methodologies and focuses of each author's areas of study, each rejects a simple causal path from globalization to overall reduced conflict, which includes territorial and non-territorial conflicts. Rather than agreeing with the popular idea that globalization leads to a borderless world, the authors in this volume offer a more nuanced story, one in which globalization's effects on territoriality have differed over time and have been affected and sometimes outweighed by other non-economic factors. The editors' purpose for organizing their conferences and compiling this volume has been that they believe that "understanding the often uneasy cohabitation of globalization with an evolving territoriality will remain central to both our understanding of international politics and to the alleviation of violent conflict." I agree, but I wish that the authors had presented this very exciting area of research

in a slightly less dry manner, thereby allowing a greater number of people to comprehend this important intersection of globalization and territorial conflict and to apply these insights to their understanding of international politics and the prevention of conflict.

International Organizations: The Politics and Processes of Global Governance. Margaret P. Karns and Karen A. Mingst. Boulder, Colorado: Lynne Rienner Publishers, 2004. Pp. xvi, 602. $69.95 (hardcover), $32.50 (paperback).

International Organizations and Their Exercise of Sovereign Powers. Dan Sarooshi. Oxford, United Kingdom; Oxford University Press, 2005. Pp. xvii, 151. (Oxford Monographs in International Law).

REVIEWED BY CHRISTOPHER GIBSON BRADLEY

International Organizations: The Politics and Processes of Global Governance is a thorough, well-organized, and surprisingly readable presentation of a sprawling and increasingly important field of study for scholars of international law and politics.

In Part One of *International Organizations*, Margaret P. Karns and Karen A. Mingst introduce the actors and problems of global governance and then summarize basic theoretical approaches to global governance. In Part Two, the authors provide a more extensive treatment of what they call "the pieces" of global governance, the actors—states, NGOs, regional organizations, and global organizations—who determine much of the content and scope of international regimes. The United Nations (UN) receives a particularly detailed treatment. Mingst and Karns focus on organizational description, but they do not ignore the structural and political tensions the UN has faced since its founding. They note that struggles for control of the UN have often hindered its ability to act efficiently and energetically, and yet these conflicts, by marking it as the site of the most vehement struggles for influence, have also signaled the acceptance of the UN as the prime organ of global governance. Here, as throughout *International Organizations*, Karns and Mingst strike a satisfying balance among description, analysis, and theory.

Part Three offers detailed examples of fields in which international organizations exercise, or seek to exercise, global governance powers. Karns and Mingst select four areas of policy concern: peace and security, human development and economic well-being, human rights, and the environment. Necessarily, in covering such broad topics, these chapters remain general. But Part Three is more than a series of subject area summaries. These examples demonstrate the great complexity with which all of the "pieces" presented in the rest of the book interact. There is no one hero or villain in these stories, just dense tangles of interconnected actors, interests, and goals. The authors close with a short Part Four, which reiterates a major theme in the volume: There are many profound challenges standing in the way of efficient or just global governance.

Karns and Mingst are veteran collaborators in the field of international organization studies, having co-authored *The United Nations in the Post-Cold War Era* and co-edited *The United Nations and Multilateral Institutions*. What sets Karns and Mingst apart from other treatments of international organizations is their commitment to putting forth an integrated view of international organizations. They insist that knowledge of politics, theory, and history are all indispensable to a rich understanding of the problems and processes of global governance. This is consonant with other current thinkers about international order—for example, Anne-Marie Slaughter's views as expressed in her recent *A New World Order*. But whereas Slaughter elides many of the seemingly intractable problems plaguing the international system in her promotion of global governance "networks," Karns and Mingst squarely face the facts on the ground. Theory, for them, is a valuable tool for helping to understand these facts, but they wear any normative agenda they might have more lightly than most.

A challenge to this sort of volume is that the information regarding the scope of organizations and the major conflicts within and between levels of organizations will be quickly dated due to the fast-evolving nature of the field. One hopes that Mingst and Karns (and their publisher) will stay invested enough in the project to produce updated editions. Their treatment of security in particular will require updating. As it stands, their presentation on security emphasizes (1) the continuing, preeminent role of the state, as a unitary and inde-

pendent sovereign, in protecting security, and (2) the difficulties of peacekeeping operations and the practical and theoretical difficulties of intervention. But both of these emphases surely deserve another look. Increasingly, transnational integration of state security apparatuses is a priority for the protection of security across the world as well as within the territories of Western democracies. The reality of terrorism has already provoked, and will certainly continue to provoke, innovation in, and attention to the further development of, this aspect of global governance. Furthermore, the structural readjustments in state security wrought by global terrorism are certain to change the face of future peacekeeping and humanitarian interventions.

The most serious complaint about the book is the lack of any substantial consideration of international law. The authors do mention international law several times in passing, particularly emphasizing the enormous expansion in the number of multilateral treaty agreements in the last half-century. But the "aspirational" or "soft-law" nature of many of these treaty agreements seems to damn them in the eyes of these political scientist authors, who see global crises as most often addressed by the will and interest of powerful actors instead of by the guidance of pre-established legal rules or principles. Their approach to global governance is not cynical, but they seem to believe the greatest hope for a just international order lies in the organizational and mobilizing capacity of those committed to such an order (including currently marginalized states, regions, and groups). There is, in general, appeal to this approach.

But international organizations' substantive measures to enhance equality and development are incomplete if they do not attend to the problems mentioned in Part Four: global actors' need for greater legitimacy, accountability, and effectiveness. These are problems that law can help address. For example, U.S. corporate law provides some powerful ways to approach agency problems in private organizational contexts; similarly, U.S. administrative law offers well-developed ways to monitor the behavior of actors wielding delegated authority in public contexts. Recent work in the field of "global administrative law," as well as the increasing importance of the WTO Dispute Settlement Body, demonstrate something of the unique role law can play in enhancing legitimacy and account-

ability. Effectiveness too could be improved by law—redundant or conflicting exercises of control are more easily avoided if appropriate decisionmaking channels for different types of decisions are specified in advance. Thus, legal approaches could provide some basic means of enhancing the legitimacy, accountability, and quality of international organizations' action. Of course, empty legal formalities serve the interests of none. But just as importantly, substantive measures taken by actors unconstrained by established rules, even if the measures are considered to be fair, set an unsettling precedent.

Dan Sarooshi, who is a fellow at Queen's College, Oxford, and a lecturer in the Oxford law faculty, holds out more hope for international law. In its brief, dense one hundred and twenty-two pages, Sarooshi's *International Organizations and Their Exercise of Sovereign Powers* makes two major contributions. The first is a taxonomy or "typology" of conferrals of sovereign powers. The second is an exploration of the circumstances in which an organization's exercise of power pursuant to these conferrals is most likely to be contested by domestic actors.

Sarooshi outlines three types of conferrals of states' sovereign powers to international organizations: (1) those creating an "agency relationship," (2) those which he calls "delegations of powers," and (3) those which he calls "transfers of powers."

Agency relationships require consent (explicit or implied) from both the state and organization, in order to enter into the relationship. This type of conferral of power is revocable and creates a fiduciary duty in the organization. But since the control is close, the state will be responsible for most acts within the scope of the conferral.

With delegations, the conferral is still revocable, but the state has less direct control over the powers exercised. Thus, the state will not, in most cases, be responsible for the organization's actions, nor will the organization owe a fiduciary duty to the state.

Transfers of power are different still. A transfer can be "full" or "partial." "Full" transfers of sovereign powers result from a state's "agree[ment] to give direct effect within its domestic legal order to the obligations that flow from the organization's [actions] . . . without the need for separate domestic legislation." "Partial" transfers, on the other hand, emerge from the state's agreement to be bound on the "international

plane" by the organization's decisions. For both types of transfer, the conferral is not lawfully revocable (although states do sometimes, unlawfully, withdraw from transfer agreements), and while states agree to be bound by the decisions of the organization, they do not exercise direct control over the agency's actions, so they will bear liability for the organization's action only under certain limited circumstances. If this last clause sounds vague, it is necessarily so. As Sarooshi is well aware, transfers are the most complicated and contested type of conferral.

The main points of doctrine summarized above are used primarily to set up the crucial Chapter Six, which amounts to over a third of the book. Here Sarooshi demonstrates how the abstract doctrine can be help out in real world situations with a subtle but compelling normative approach. He suggests that well-specified legal rules, by providing an appropriately nuanced framework for actors to use in structuring their relations and designing their agreements, will help to guarantee and increase the predictability and consistency of international interactions. Such a framework will also, he asserts, include significant means for states to challenge the actions taken by international organizations wielding transferred powers.

Sarooshi's empirical claim is that the problem with a transfer of powers is that domestic actors rarely are comfortable with such a conferral, and they are thus most likely to challenge the actions taken by an organization under such a conferral. The two examples of this principle he presents are (1) European domestic courts' assertion of their prerogative to determine the limits of the "authoritative decision-making" power of the European Union, and (2) the U.S. Congress's continued insistence that it retains a significant degree of latitude in taking steps to ensure that the U.S. value of "corporate economic autonomy" is respected by its trading partners, even if such steps conflict with WTO rules to which the U.S. is bound. In both of these cases, the underlying problem, according to Sarooshi, is that domestic states' "sovereign values"—those which "encapsulate fundamental values of the polity" (the phrase, quoted by Sarooshi, is Joseph Weiler's)—are threatened by the transfers of power. These "sovereign values" are, in the first, European, example, the capacity of domestic courts to determine "the content of human rights" and, in the

second , U.S., example, the power of the legislature to ensure that its businesses are trading on "fair" terms with those of other countries. Sarooshi contends that a state's interest in protecting those values it considers central to its sovereignty, values which are consistently implicated in state decisionmaking of every sort (executive, legislative, administrative, judicial), is not totally relinquished when some of these powers are being exercised by international organizations.

Thus as both a political and a normative matter, the international order would be superior if more effective means of "contestation" were available. While Sarooshi does not elaborate at length what sorts of contestation mechanisms he has in mind, he considers the "contestability deficit" to represent a superior way of framing concerns with legitimacy and accountability than the usual ways of framing these concerns (e.g., as resulting from a "democracy deficit"). This is an intriguing insight that one hopes he will address more fully in future work, as it is consonant with what seems to be an increasingly strong intuition among international legal thinkers that the "democracy deficit" is something of a red herring, and is a stand-in for a more broad and pressing—but as yet not clearly defined—crisis of legitimacy. It bears mentioning that this insight also provides a needed rejoinder to Mingst and Karns's skepticism toward international law.

The only serious failing of Sarooshi's monograph is essentially an organizational one. Particularly in a first read, this book is unnecessarily difficult to follow because Sarooshi relegates much fleshing-out of the argument to footnotes, including crucial illustrations of the principles he is outlining. For example, on page nineteen, Sarooshi claims: "There have been a number of cases where a group of States ha[s] concluded a treaty . . . providing for conferrals of powers on an organization on an ad hoc basis." To find any illustrations of such cases, one has to look to a footnote—a long one, which stretches well into the next page. The first third of the footnote could have made its way into the main text without the argument losing any of its tautness. Similarly, in the next page Sarooshi notes that "in the case of a deliberative organ the adoption of a resolution accepting the conferrals may be appropriate." Offering no further elaboration, he then simply adds a semi-colon and proceeds with his doctrinal explication. Only in the footnotes does one find any concreteness: "Con-

sider the following three examples . . . ." Amidst all of the doctrine, which is rather abstract and comprises almost the entire main text of the book, simple and practical illustrations to ground this doctrine in the practice of states and in examples from the history of international law would be helpful.

Despite the bare-bones state of its text, this remains a useful and very intelligent book. Sarooshi's terminological precision and clarity of argument are impressive. Particularly when considered in conjunction with a detailed summary of the actual state of international organizations from a practical political view, such as that presented in the Mingst and Karns volume, Sarooshi's concentrated theoretical explication is valuable. His strength is depth, while Mingst and Karns' is breadth. The subject, itself both broad and deep, rewards both approaches.

Clinton's Foreign Policy in Russia: From Deterrence and Isolation to Democratization and Engagement. George A. MacLean. Burlington, Vermont: Ashgate Publishing Company, 2006. Pp. x, 162. $89.95 (hardcover).

REVIEWED BY ANGELA YEN

The collapse of the Soviet Union demanded a complete reorientation of American foreign policy. At the helm of this reorientation was Bill Clinton, a foreign affairs neophyte elected on a decidedly domestic platform. George A. MacLean seeks to illuminate Clinton's foreign policy with respect to Russia by analyzing the 1994 US-Russia Highly Enriched Uranium (HEU) Purchase Agreement. MacLean argues that this obscure agreement was indicative of the principles that drove Clinton's Russia policy—engagement, nuclear security, and democratization—and that in this instance these principles ultimately won out over countervailing domestic commercial interests.

The HEU Agreement involved the purchase of forty percent of Russia's total holdings of HEU, which is removed from dismantled warheads, over the course of twenty years. Whereas previous nuclear non-proliferation agreements dealt only with the reduction of warhead stocks, the HEU agreement dealt with the actual nuclear material used in the warheads. America agreed to the $12 billion purchase of the ura-

nium in a blended-down form for use in civilian nuclear reactors. The policy objective was to transform "warhead megatonnes to electricity megawatts." It would seem the deal was a clear win-win situation: security for America, currency for Russia, and cooperation between both. However, obstacles such as opposition from select constituent groups, including the domestic uranium industry, trade-related demands from Russia, and structuring the management of the purchased uranium in the United States loomed tall.

MacLean uses a multilevel approach in assessing what drove Clinton's pursuit of the HEU agreement specifically and his Russia policy generally. To best identify the particular domestic and international issues that affect foreign policy decision, political and policy concerns on each level and between each level must be examined. The former is termed "interests" and the latter "principles" in this book.

The examination begins with the democratic peace theory that underlined Clinton's Russia policy principles of engagement, nuclear security, and democratization. Democratic peace theory posits that liberal democracies do not go to war with one another. A corollary to the democratic peace theory is the peace dividend: The multiplication of liberal democracies decreases the likelihood of war, so resources previously spent on defense can be reallocated for peaceful productive purposes. By generating funds and jobs in Russia and establishing cooperation and confidence between Russia and America, the HEU Agreement would facilitate democratization in Russia. Democratization and the conversion of uranium for defense purposes into uranium for civil purposes would yield a so-called democratic peace dividend.

Turning to the specifics involved in the HEU Agreement, MacLean presents a technical discussion of uranium fuel and the geopolitical ramifications of access to such materials. He then looks separately at the domestic interests and systemic principles affected by foreign policy to set the multilevel framework he uses to assess the agreement. The primary interests at play in the HEU Agreement were commercial: issues arising from Russian exports of uranium to America and mismanagement of the Russian uranium by Americans. Previous Russian exports of uranium had destabilized the U.S. uranium industry and led to accusations of dumping. The industry feared that additional purchases promised by the HEU Agree-

ment would lead to market depreciation, job losses, and falling uranium prices. Such a result would undercut Clinton's domestic economy agenda. Another source of controversy was the decision to give *exclusive* management of the Russian HEU to the United States Enrichment Corporation (USEC), a semi-private entity that fully privatized during the implementation of the agreement.

Weighing against these domestic interests were Clinton's foreign policy principles. The HEU Agreement was an ideal vehicle through which Clinton could pursue his stated goals with regards to Russia—democratization and cooperation. However, MacLean points out that those principles were driven by national security and nuclear non-proliferation concerns and that it was these principles that eventually overcame the domestic commercial interests and allowed the agreement to be executed. This trumping of domestic interests by foreign policy principles is contrary to most assessments of Clinton's foreign policy and, according to MacLean, reveals the primacy of principle in that administration.

The strategy in pursuing and reaching the HEU Agreement was not only indicative of the complex web of international and national issues that shape foreign policy decision making but also a significant success. MacLean identifies the success of the agreement in a number of ways: the transfer of $12 billion to Russia in exchange for forty percent of that country's stock of highly enriched uranium; the creation of Russian jobs to administer the agreement; the conversion of weapons-grade uranium to civilian use; confidence-building between the former rival states; the agreement's continued implementation under the current administration; increased international security; and the groundwork laid for later bilateral agreements when the relationship between Russia and the United States had grown more complex.

The key to the HEU Agreement was not the domestic economy, international nuclear security, or democratization, but rather a combination of all three of these factors underlined by the theory of democratic peace. By fostering Russia's economy and (inter)national security through this large purchase of weapons-grade uranium, the HEU agreement would facilitate further cooperation between the parties and democratization in Russia. In turn, the increase in American security would allow for the shifting of resources away from

defense and to more productive sectors. The book claims that the whole of Clinton's Russia policy was shaped in similar fashion, and in this way Clinton did not forsake his domestic agenda but rather factored it into his Russia policy at this critical historical-political juncture.

Not a Suicide Pact: The Constitution in a Time of National Emergency. Richard A. Posner. New York, New York: Oxford University Press, 2006. Pp. 158. $18.95 (hardcover).

REVIEWED BY ALLEGRA GLASHAUSSER

In emergencies, the law must bend. America is currently in a state of grave danger. Therefore, pragmatic judges should balance civil liberties against national security, adjusting constitutional rights to protect the safety of the nation. For Richard Posner this scale tilts toward national security—after all, civil liberties will be meaningless if the nation collapses. Posner's new book, entitled *Not a Suicide Pact: The Constitution in a Time of National Emergency*, is the first in a new series on Inalienable Rights produced by the Oxford University Press. The Inalienable Rights Series will explore controversies surrounding constitutional rights; in this respect, the first installment definitely does not disappoint. Posner aims to provoke vigorous debate. Written without footnotes or complex legal terminology, this book is meant not only for lawyers but also for the general public.

Posner begins with a brief explanation of his judicial philosophy that is a helpful introduction for non-lawyer readers. For Posner, traditional judicial tools—examining the text and a "thralldom to precedent"—are empty rhetoric. Pragmatism is the American way. Pragmatic judges assess the costs and benefits of their decisions, consider consequences and when in doubt defer to the other branches of government. In emergency, pragmatism calls for a pliant constitution that will allow democratic processes to work; judges should allow Congress and the President to experiment. This first chapter clearly explains how constitutional rights will be analyzed throughout the book: For a nation gravely threatened, the contours of constitutional rights should be determined by practical consequences.

In Chapter Two Posner explains how this philosophy works for cases affecting national security. Judges should not fall into the civil libertarian trap, inflating the value of personal liberties and underestimating the likelihood of future terrorist attacks, because they are not experts on terrorism or national security. Instead, they should look for the elusive midpoint between national security and individual rights where a slight increase in the scope of a right would reduce public safety more than it would add to personal liberty. Posner plugs in hypothetical values to illustrate the point; if detaining someone incommunicado causes a one percent reduction in civil liberties, but invalidating the detention would result in a twenty percent decrease in safety, then judges should uphold incommunicado detentions. Unfortunately, in real life simple addition will not reveal the midpoint; the relative values of liberty and counterterrorism cannot be quantified. That is why judges should rule lightly, upholding policies to allow the actual consequences to be revealed with time. The next four chapters apply this pragmatic balancing to specific rights: rights against detention, rights against brutal interrogation and against searches and seizures, the right of free speech, and the right of privacy.

Might the unique character of terrorism justify holding a US citizen indefinitely and incommunicado with no charges? Posner raises this and numerous others questions surrounding the right against detention. He sees no problem granting habeas petitions if judges place an appropriately heavy burden on the detainee to prove his non-terrorist status. Once in the habeas proceeding, the balancing begins: The longer someone is detained it becomes less likely further information will be revealed and more likely the hardship on the detainee is unreasonable. How long may they be detained before a habeas petition is entered? After? The less proof required at a habeas proceeding, the greater number of innocent people will be detained, but the number of terrorists freed will be lower. What is the appropriate burden? Posner does not answer these questions, but he balances competing concerns to create a framework for judicial decision and lively debate.

The next chapter offers some more concrete suggestions. After asserting that interrogation using torture is in fact effective (footnotes would be welcome here for skeptical readers), Posner sparks fearful emotions with a ticking time bomb sce-

nario. He asserts the public would not be offended if the president tortured the bomber. However, this discussion does not conclude torture should be legalized. Torture should be illegal. It should also be used. When the bomb is ticking, or faced with any truly life or death situation, the president will have a moral and political duty to torture. To ensure he does not do so when circumstances are less dire, he should assume the risk of disobeying the law.

The shocker issues of torture and detention behind him, in the second half of the book Posner offers a nuanced look at the rights of U.S. citizens who are not suspected terrorists. The public is more concerned about the privacy of conversations and personal information than the rights of suspected terrorists. National security benefits from the collection of private information (including the controversial and in Posner's opinion misnamed "libraries provision") by finding out what terrorists are thinking and planning. This information is valuable. However, the costs of eliminating privacy are high; the beneficial free exchange of ideas is stifled when the public worries others are listening. Posner offers an interesting suggestion to balance the equation: The Justice Department would only intercept communications electronically, and such communications could only be used to prosecute offenses involving protection of national security. An absence of criminal proceedings would reduce any chilling effect on freedom of expression.

Privacy is not the public's only concern; Posner suggests our distrust of the government is bordering on paranoia. We permit publication of sensitive facts, prohibit racial profiling, and allow radical Islamic speech. The government could decide to change all these things. However, for policy reasons the government should not. Censoring extremist imams will force them underground, where they are harder to trace; terrorists will recruit members who do not fit the racial profile; enjoining publication of biological research would be futile. Today, punishing hate speech directed at Muslims would be more beneficial than prohibiting radical speech. However, this balance will shift. As in the other areas, in free speech, the courts should abandon strict doctrines like the *Brandenburg* test, in favor of an adaptable approach.

Throughout, Posner is worried that the American public, or at least the American judiciary, may be forgetting how dan-

gerous terrorists are; we have been lulled into a false sense of security and have forgotten that the next big attack could be tomorrow. The safer we feel, the more the balance will shift towards civil liberties and away from national security. Instead of presiding over this move, judges should pursue a moderate stance, allowing the law to bend and sway as the political branches, intimately familiar with issues of national security, alter policy to find that which works best for an evolving emergency. This book provides fodder for a compelling debate on the flexibility of the constitution and institutional capabilities of the government. In a novel emergency, only pragmatism will carry the nation through.

Borrowing Constitutional Designs: Constitutional Law in Weimar Germany and the French Fifth Republic. Cindy Skach. Princeton, New Jersey: Princeton University Press, 2005. Pp. v, 151. $ 29.95 (hardcover).

REVIEWED BY MARIANNA KOSHAROVSKY

As emerging democracies make the critical decision as to which constitutional framework to adopt in order to facilitate their transition into stable governance, they often choose, for better or for worse, "semi-presidentialism." Cindy Skach's constitutional analysis in *Borrowing Constitutional Designs: Constitutional Law in Weimar Germany and the French Fifth Republic* centers around the relevant factors to consider when adopting or, as the case may be, implementing, semi-presidentialism. Skach argues that the semi-presidential constitutional model tends to hold great appeal given its success for France's Fifth Republic; however, examining the operation of this model in Weimar Germany allows us to more fully understood its contours and potential.

While semi-presidentialism is sometimes absent from the debate on constitutional frameworks' relationship to democracy and is commonly conceptualized as just an alteration of parliamentarism or presidentialism instead of a hybrid between the two, Skach hopes to dispel myths about the framework and interject its relevance. Semi-presidentialism is characterized as having a head of state who is a popularly elected president with a fixed term of office, and a head of government, a prime minister, who is responsible to the legislature.

Given this two-headed and one-body structure, there are inherent tensions and incentives that undermine democratic consolidation—potentially bringing about democratic collapse. Skach identifies three subtypes of semi-presidentialism that depend on the extent of legislative cohesion in the relevant period: consolidated majority, divided minority, and divided majority.

The structure of the book reinforces the basic tenets of Skach's argument: Semi-presidentialism must be examined in terms of its three subtypes so that its implications for a country's stability can be fully appreciated. A comparison of the three relevant constitutional frameworks (presidentialism, parliamentarism, and semi-presidentialism) and a discussion of their relations to each other is followed by a juxtaposition of two case studies. Semi-presidentialism in Germany between 1919 and 1933, at a time of divided minority or divided majority government, provides one case study. It is followed by the case of semi-presidentialism in France from 1958 to 2002, a time that saw a shifting from divisive majority to consolidated majority government.

The German socio-political context was quite different from that of France, and it helps to understand the challenges posed to successful implementation of semi-presidentialism. Although Weimar Germany started out under the consolidated majority heading, the constitution's incentive structure moved the country to a less favorable position. The German electoral system created fragmentation and its technocrat rulers were uninterested in building party coalitions. Unremarkably, these conditions fostered divisive minority government. Furthermore, majority-building in government was undercut by Weimar President Ebert's abuse of Article 48 of the Weimar Constitution, which allowed him to govern by executive decree, to pass ordinary legislation without the hassle of legislative compromise.

Skach demonstrates that the same constitutional structure operated very differently in an environment where dramatically different political decisions were made. Fortuitously for semi-presidentialism in France, it was introduced at a point where urbanization and the size of the middle class increased, the prominence of religious cleavages decreased, and a majoritarian electoral system was in place. These conditions encouraged centrist politics by necessitating efforts to create

party discipline and broad, coherent party coalitions. In turn, electoral volatility was decreased and a consolidated majority government was fortified. Notably, President de Gaulle and subsequent presidents were extremely interested in inducing parties and electorates to "think majoritatively".

Although Germany is considered an unsuccessful example of semi-presidentialism while France is considered a success, Skach urges that the implementation of this model is not completely reflected by the French model. For one, the structure of this constitutional form urges competition between the "two heads" of government, and thus the relationship between the president and prime minister in France stands out as the appropriate one whereby they coordinated—rather than divided—their tasks. Skach does not, however, ignore that political stability at the time was certainly a good complement to economic stability, which together increased the efficacy and legitimacy of government. Moreover, she provides insight into semi-presidentialism's dangerous incentives that "preclude options, mobilize confusion, and involve citizens in battles against democratic institutions."

Perhaps the most salient part of the analysis comes at the conclusion, at which point the Weimer and Fifth Republic lessons are brought to bear upon contemporary constitutional debates. Venezuela, Brazil, Russia, Armenia, Bulgaria, Croatia, Lithuania, Macedonia, Moldova, Poland, Romania, Ukraine, Niger, and Taiwan have all been seriously considering the "French model." In light of the fact that many emerging democracies of Eastern and Central Europe, as well as countries in Latin America, Asia, and Africa, do not have the advantage of starting out with stable legislative majorities, they often find themselves in the least enviable subtypes of divided minority government. Skach points out the systemic problems of semi-presidentialism that can further undermine cohesion in these vulnerable situations: legislative immobilization and presidential dominance. While Weimar Germany was not able to shift into consolidated government, Fifth Republic France did so successfully. Skach's analysis yields prescriptions for accomplishing this shift, all the while alerting us to pay attention to the icebergs that threaten to exacerbate internal divisions if not duly recognized for the dangers they pose.