BOOK ANNOTATIONS

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COLEMAN, KATHARINA P., INTERNATIONAL ORGANISATIONS AND PEACE ENFORCEMENT: THE POLITICS OF INTERNATIONAL LEGITIMACY (Cambridge University Press 2007).

FARKAS, RICHARD P., DEMOCRATIZATION IN THE BALKANS: PRESCRIPTION FOR A BADLY SCARRED BODY POLITIC (Northeastern University Press 2006).

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MALONE, DAVID M., THE INTERNATIONAL STRUGGLE OVER IRAQ: POLITICS IN THE UN SECURITY COUNCIL, 1980-2005 (Oxford University Press 2006).

MORGAN, ED, THE AESTHETICS OF INTERNATIONAL LAW (University of Toronto Press 2007).

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Nuclear Weapons: What You Need to Know. By Jeremy Bernstein. New York, New York: Cambridge University Press, 2008. Pp. 312. $27.00 (hardcover).

REVIEWED BY MATT HAAR

There are very few physics books that can be described as anything other than tedious. Yet Jeremy Bernstein's history of the development of nuclear weapons is an engaging work that manages to provide the reader with a solid understanding of the physics behind nuclear weaponry. While Bernstein claims his motivation for writing *Nuclear Weapons* was to combat widespread ignorance of the science behind nuclear weapons, the book functions as much more than a mere science text. Rather, the book spends a great deal of time discussing the scientists who were instrumental in creating nuclear technologies. These "digressions" make the technical discussions surprisingly accessible and the book as a whole quite enjoyable.

Nuclear Weapons moves chronologically through the major scientific achievements that allowed for the creation of modern nuclear weapons. As such, a substantial amount of the book discusses the advances in physics that occurred at the beginning of the twentieth century. While those with a rudimentary knowledge of physics may find the science contained in the first two chapters ("The Nucleus" and "Neutrons") basic, they provide a necessary background for other readers who do not remember high school physics. But even knowledgeable readers with high school physics fresh in their mind will appreciate the way the introductory chapters demonstrate how early discoveries in physics eventually led to nuclear mastery. Additionally, the introductory chapters show how much of the foundational theoretical knowledge needed to create nuclear weapons was discovered in a relatively short period of time during the first few decades of the twentieth century. Further, it is doubtful that any of the pioneering physicists had any idea what their discoveries would eventually lead to, and one can only surmise how they would view their work in retrospect.

The book next turns to the discovery of fission and the eventual push to weaponize nuclear energy in the face of World War II, with an emphasis on the incredible efforts put into the Manhattan Project and the omnipresent fear of falling behind the Germans. More importantly, the book discusses several of the problems that were encountered while trying to turn the theories developed in the initial chapters into an actual weapon. During this discussion, Bernstein covers topics ranging from the mix of isotopes in weapons to the physical state of the materials used to triggering the devices themselves. While the technical challenges surmounted were considerable, however, it is more notable that the United States succeeded in producing an effective nuclear weapon in a relatively short period of time. Even without the resources that the United States expended on the bomb effort, the book's descriptions make it hard to believe that any nation with a dedicated program would not eventually also overcome these technical hurdles.

Bernstein's own experience with nuclear weapons came well after the war, while he was interning at the Los Alamos lab. This section of the book does not provide much scientific or technical knowledge, but it is one of the more entertaining chapters. During the author's time at Los Alamos, he was able to witness the testing of a nuclear weapon firsthand, and his experiences were quite unique. There are very few people today who have personal experience with nuclear weapons, or even peaceful nuclear technologies. Discussions of nuclear proliferation and warfare tend to be abstract and remote. The sense of enormity and dread that stems from Bernstein's direct contact with atomic weapons comes through clearly in this chapter. If nothing else, the chapter serves as a nice respite before the rather technical discussion of nuclear fusion that follows.

The penultimate chapter of *Nuclear Weapons* discusses the role of spies in disseminating nuclear technology, while the final chapter deals with proliferation more generally. Bernstein's normative arguments about proliferation are limited. Having seen firsthand the destructive capacity of nuclear weapons, he sensibly warns of having too many actors controlling nuclear devices. In fact, if there exists a greater theme to this book beyond serving as an educational tool, it is that the principles of nuclear energy simply cannot be contained. Bern-

stein is quick to praise the intellect of each of the scientists that made meaningful contributions to creating nuclear arms. While a great deal of genius was necessary to discover the principles behind nuclear weapons, such theoretical brilliance is no longer required to replicate the results. With the amount of publicly available information that exists about nuclear physics, a much smaller effort would be needed to weaponize nuclear materials. Technology that is over 60 years old is difficult to suppress, despite heroic efforts to do so. The implication to be drawn is that it is becoming ever more important to safeguard nuclear materials.

The question is therefore how to best ensure that fissionable materials do not fall into the hands of those who would use them to create weapons. Bernstein notes the difficulty in distinguishing between "peaceful" and "antagonistic" nuclear programs, and how few additional technical skills are needed to create weapons once one is already creating nuclear energy. A nuclear "fizzle," while significantly less powerful than modern nuclear arms, dwarfs the destructive potential of conventional weapons and can be produced using limited amounts of enriched uranium and a relatively rudimentary triggering device. Only limited steps can be taken, however, to stop a nation from pursuing peaceful nuclear programs. *Nuclear Weapons* looks at the actions of states such as Iran with great suspicion, but stops short of advocating that others attempt to restrict their access to nuclear technology. Perhaps the implied message is that although those who had been agitating for greater supervision of Iran were embarrassed when it was revealed that the country did not have a nuclear program, the risks are simply too great to assume other nations do not have more harmful intentions.

So what does one take away from the book? First, *Nuclear Weapons* provides the reader with a greater appreciation of the efforts that went into developing nuclear weapons and the incredible destructive power these weapons possess. Second, it becomes clear that while it may take years of research and testing to produce a working hydrogen bomb, producing a nuclear "fizzle" requires significantly less expertise. Third, the destructive power of a "fizzle" dwarfs the impact that any conventional weapon could possibly have. Therefore, vigilance is needed to ensure that the materials needed to create even rudimentary nuclear devices do not fall into the wrong hands.

Unfortunately, *Nuclear Weapons* is far more descriptive than normative and does not offer much guidance in how to limit the proliferation of materials. Yet the book does not purport to make such arguments, but rather to inform readers so that they may make and assess such arguments themselves. And after reading Jeremy Bernstein's text, the reader will have an arsenal of information to make such an assessment.

International Organisations and Peace Enforcement: The Politics of International Legitimacy. By Katharina P. Coleman. New York, New York: Cambridge University Press, 2007. Pp. 325. $40.00 (paperback).

REVIEWED BY OLIVIA MAGINLEY

In August 1998, under the auspices of the Southern African Development Community (SADC), Zimbabwe launched a peace-enforcement operation in the Democratic Republic of Congo (DRC). Despite Operation Sovereign Legitimacy's SADC mandate, Zimbabwe shouldered a grossly disproportionate share of the mission's financial burden, funding between sixty and seventy percent of all troop deployment. This degree of asymmetry is unlikely to have surprised the Zimbabwean leadership, as it was well known that SADC lacked an institutional mechanism to facilitate meaningful burden-sharing. Absent any expectation of significant material benefits, why did Zimbabwe choose to undertake Operation Sovereign Legitimacy within the SADC framework?

The intriguing question of why states consistently choose to conduct peace-enforcement operations through international organizations is the subject of Katharina Coleman's book, *International Organisations and Peace Enforcement: The Politics of International Legitimacy*. Through a combination of broad-based theoretical discussions and extensive empirical observations, Coleman seeks to demonstrate that the central role of international organizations in contemporary peace enforcement operations is attributable to the fact that states perceive them to be "gatekeepers to international legitimacy" where international military force is concerned.

Coleman's project is simultaneously ambitious and focused. The development of a comprehensive theoretical framework in Chapter Two serves as a template for a series of

case studies which follow in Chapters Three through Seven. By structuring each case study to track closely the organization of Chapter Two, Coleman successfully funnels a vast amount of information into a coherent narrative. The efficacy of this pattern is somewhat compromised, however, by the frequent repetitiveness that it fosters. As a researcher, the constant recapitulation of the book's central arguments is helpful to the extent that it transforms each case study into a discrete essay. But the general reader may be tempted to skip the first few pages of each chapter.

The first part of Chapter Two consists of a derivation of the book's central argument. Coleman begins by defining legitimacy as the product of a "public judgment according to public rules." Underlying that definition is a two-fold assumption: that states value the public rules that serve as the standards for legitimacy determinations, and that states desire their own actions to be perceived as legitimate. Coleman draws support for the veracity of those assumptions from Thomas Franck's notion of international society as a "rule community." Although states often disagree about the validity of substantive international rules, they generally recognize a core set of secondary rules that govern the process of rulemaking. As those rules form the parameters of a functioning international order from which states benefit, they value the continuity of those rules. In addition, to avoid being perceived as outsiders, states have an incentive to conform their actions—or at least the appearance of their actions—to the rules of the game. According to Coleman, the relevant rules demand that a proposed peace enforcement operation "serve the international system." But who should interpret and apply that rule to the facts of any given situation? Coleman argues that, for states, international organizations are the natural choice because they are "presumed to overcome (or at least attenuate) the problem of bias."

The second part of Chapter Two outlines the basic methodology employed in each of the case studies that follow. First, Coleman enumerates the legitimacy concerns of the lead states and their respective expectations vis-à-vis the ability of the mandating institution to cure those concerns. Coleman then documents the varying degree of success that each lead state experienced with respect to its perceived legitimacy. Chapter Three, for example, provides evidence that Nigeria,

which led Operation Liberty in Liberia under the auspices of the Economic Community of West African States (ECOWAS), faced at least three serious legitimacy concerns. First, although Nigeria was responding to an appeal for help by Samuel Doe (Liberia's then ruler), Doe was an unpopular military dictator. Secondly, the fact that Nigeria's leader was also a military dictator with close personal ties to Doe further undermined Nigeria's claims to be serving the interests of regional peace and security. Finally, Nigeria had intervened militarily in a much weaker state, thus exposing itself to charges of aggression. In Chapter four, Coleman explains that Zimbabwe experienced similar legitimacy anxiety in relation to its intervention in the DRC under the auspices of the SADC. In particular, Zimbabwe faced charges that it had intervened in order to exploit the DRC's mineral wealth. It was also widely believed that Zimbabwe's involvement was motivated by its president's personal quest for status and prestige. A similar analysis is undertaken in Chapters Five through Seven.

At first glance, Coleman appears to infer state expectations from anxiety alone in a manner that is causally problematic. But this problem is at least partially mitigated by Coleman's rich collection of sources, which include interviews with key policymakers from many of the lead states.

In what is perhaps an effort to quell concerns about causation, Coleman derives further support for her theory by demonstrating the inadequacy of existing explanations for the centrality of international organizations in peace enforcement operations. One commonly proffered explanation is simply that unilateral interventions violate international law. However, this position assumes that "international law does indeed help determine state behavior." Even more problematically, not all international organizations are empowered to confer legality onto a peace enforcement operation. Coleman is similarly dismissive of the argument that the ubiquity of international organizations in peace enforcement operations is a reflection of their capacity to facilitate burden-sharing.

Again, in Chapters Three through Seven, Coleman provides empirical support for her rejection of these rival explanations. Not one of the case studies appears to lend credence to the view of international organizations as facilitators of interstate cooperation and burden-sharing. In each case, the lead states provided the vast majority of troops and equipment. In

all cases except the North Atlantic Treaty Organization (NATO) campaign in Kosovo, only a small minority of the mandating organization's members participated at all in the intervention. Coleman similarly discredits the law-conformance view. In at least four of the case studies, respect for international law fails abysmally to explain the lead states' decisions to operate through international organizations. Given that the interventions in Liberia, Lesotho, Kosovo, and the DRC took place without United Nations (UN) Security Council authorization, each violated international law despite their international affiliation. In at least once instance, the lead state even violated the internal rules of the mandating organization.

The U.S. invasion of Iraq in 2003—the proverbial pink elephant plaguing the first seven chapters—is discussed in the book's conclusion. Coleman's decision to deconstruct Operation Iraqi Freedom is admirable precisely because it acknowledges the limits of a legitimacy-based theory of state action. In an effort to reconcile the Iraqi situation with the theory described above, Coleman points out that the United States made varying attempts to situate its actions within the UN framework, thus implicitly recognizing the preeminent role of international organizations as gatekeepers of legitimacy. This argument, however, seems disingenuous at best: The significant historical point is that despite its failure to secure a UN mandate, the United States proceeded unabashed. In light of Coleman's earlier discussion, the reader might be tempted to conclude either that the United States no longer acknowledges the "rule community" or that it considers itself competent to make legitimacy determinations. Obviously, either conclusion is troubling. In any event, Coleman argues that the United States did the next best thing to securing the mandate of an international organization: It built an ad hoc international organization, its "coalition of the willing." Yet even Coleman concedes that a coalition of the willing "by definition unites only states that support the intervention, while critical states are excluded." Such a coalition is therefore a poor substitute for an ostensibly unbiased international organization.

Taken as a whole, *International Organisations* is a complex and nuanced contribution to an otherwise under-theorized phenomenon. The difficulties with the discussion of Iraq, however, are endemic of Coleman's broader tendency to impose a homogenizing logic onto wildly divergent states. In

part, this stems from her refusal to engage with individual states' reasons for launching peace enforcement operations in the first instance. It certainly leaves the reader to speculate about the possibility of a relationship between initial motivations and tactical decisions.

Democratization in the Balkans: Prescription for a Badly Scarred Body Politic. By Richard P. Farkas. Boston, Massachusetts: Northeastern University Press, 2006. Pp. xi, 135. $29.95 (paperback).

REVIEWED BY MEGAN HOLCOMB

Following the collapse of Soviet and Yugoslav communism, the states of Eastern and Southeast Europe have struggled to create viable political systems based on democratic governance and market economics. While the states of Eastern Europe have generally faired well, buoyed by their relative political stability and integration in the European Union, those of Southeast Europe have seen their progress hindered by ethnic conflict, political corruption, and violence. In *Democratization in the Balkans*, Richard Farkas explores the efforts of these states to come to terms with their difficult pasts and fashion systems of government that will contribute to peace and stability in the future.

Farkas structures his book around the six major elements that he suggests are necessary prerequisites for democratic governance: tolerance, obligation, voice, constraint, transparency, and legitimacy. He examines the states of Southeast Europe for evidence of these qualities, and then makes prescriptions as to how they can be attained, taking into consideration the unique histories and political structures of these states.

In his first substantive chapter, Farkas defines the element of tolerance as willingness on the part of citizens to coexist with others and respect their values even if those values are not shared. He notes that tolerance is generally lacking in states with communist pasts, as communist regimes tend to preach a single ideology to the denigration of all others. The states of Southeast Europe are diverse in terms of ethnicity, religion, and culture; as such, tolerance is more of a challenge for them than for post-communist states that are homogenous along these lines. Farkas suggests that these states reject the divisive

notion of nationalism, which has been responsible for intolerance and violence in the past, and seek to encourage religious pluralism, an open and competitive media sector, multiparty political systems, and an extension of the franchise to oft-excluded minority citizens. He notes that Croatia and Macedonia have made great strides in these areas. Croatia, for example, now has 17 political parties represented in its legislature, with a total of 110 registered parties covering the entire ideological landscape. Macedonia has taken steps to encourage transparency in its media sector, passing a new Freedom of Information Act in 2006.

The idea of obligation relates to the responsiveness of political leaders to the desires of their constituents. Farkas contends that obligation is a difficult concept for leaders in post-communist states, as those states often lack a broad social consensus on basic political and social values. Instead, while citizens may be united in their opposition to communism, they have no real conception of its alternatives. Given a choice between acting as delegates echoing the preferences of their constituents or as trustees making political decisions based on their individual preferences, leaders in Southeast Europe have most often chosen to act as super-trustees. Examples abound of democratically-elected political leaders who chose to conduct themselves in an authoritarian manner, including former Serbian President Slobodan Milosevic and Franjo Tudjman of Croatia. As a result of this pattern of authoritarian leadership, citizens of Southeast Europe feel that they have little meaningful chance of influencing government between elections. This is especially frustrating for the majority of citizens in these countries, who are concerned about such essential issues as public safety, corruption, and the inadequacy of government services.

Farkas next explores the role of voice in the states of Southeast Europe, noting that effective communication between citizen and government is difficult in many of these states, as lines of accountability are unclear. If citizens do not have adequate knowledge of which government departments are responsible for various functions, they have little meaningful opportunity to hold their government accountable for its shortcomings or to make suggestions about possible improvements. Farkas argues that these states must first make clear decisions about the distribution of political power and then

make efforts to ensure that the structure of government is transparent. Additionally, he suggests that ombudsmen could be helpful in bringing citizen concerns to the attention of government. The role of ombudsman would be filled with well-known and respected personalities who could be expected to inspire confidence in the people.

The principle of constraint, according to Farkas's next chapter, mandates that political leaders not expand their authority merely for the sake of doing so; instead, political leaders should act for the collective good and be respectful of the opposition. Farkas notes that corruption is widespread in the states of Southeast Europe, and that governments are doing far too little to eradicate it at the highest levels. Additionally, he notes that civilian constraints on the military are a necessary prerequisite to democratic governance, as are checks and balances on the various branches of government. The states of Southeast Europe must work to define clearly the relationship between the legislature and the executive before there can be effective constraints on the activities of either.

The final principles that Farkas discusses are transparency and legitimacy. With respect to transparency, Farkas believes that governments should begin releasing detailed reports of their budgetary allocations so that the public will understand the process by which allocation decisions are made. He also notes that nongovernmental organizations and other independent organizations should set an example for governments by conducting their own affairs in a transparent manner. Legitimacy—which Farkas defines as the sense among the governed that leaders attained their power through proper means—is difficult to attain in post-communist societies, as leaders in the past have not tended to be overly concerned with this virtue. Farkas suggests that political leaders can attain legitimacy through the implementation of fair election procedures, by bringing about desired results, by relying on identity, and by force of habit. Unfortunately, results and procedure still prove problematic in the states of Southeast Europe. This is because political leaders largely lack managerial skills, while institutions are new and fluid. Additionally, political leaders retain undemocratic conceptions of the political process which can be expected to become democratic only over time.

As a broad explanation of the problems facing the states of Southeast Europe as they transition from communism to

democratic governance and market economics, Farkas's work is very helpful. It clearly outlines the challenges that these states face as well as the progress that has been made so far. While Farkas often makes use of broad generalizations in prescribing solutions for the states at issue, he is careful to supplement with concrete examples when necessary. As a result, the reader is left with a good idea of why Slovenia and Croatia have developed more successfully over the past decade than Bosnia and Albania, as well as the very specific challenges faced by each of the states that Farkas includes in his study.

Farkas's work is probably not a good choice for a reader who wants a broad introduction to the history and politics of the region, however. Apart from a brief introductory chapter that broadly sketches the ancient history of Southeast Europe, Farkas provides very little background information about the individual states that he discusses. There is almost no attention devoted to the collapse of the former Yugoslavia, and even less to the independence of its constituent parts. As Farkas himself admits by way of introduction to his work, his intention was to focus narrowly on the process of development as it has occurred in the post-communist states of Southeast Europe. As a description of that process and as a lesson on democratic development in general, Farkas's work is to be commended for both its broad vision and its attention to detail.

The Sovereignty of Law: The European Way. By Francis G. Jacobs. New York, New York: Cambridge University Press, 2007. Pp. v, 163. $28.99 (paperback).

REVIEWED BY SARAH LEVITT

Prior to the modern era of judicial review, a singular sovereign ruler made choices regarding policy and fundamental values. Recently, however, courts have become involved in the process, assuming the role of balancing competing fundamental values. In *The Sovereignty of Law*, Francis Jacobs examines this new function of the courts from a European perspective. While he does not put forth his own definite conclusions on these issues, Jacobs strives to provoke thought and debate around the concepts of sovereignty, the rule of law, and the European model.

The book begins by defining basic terms which will serve as conceptual frameworks throughout the book. The first major concept is sovereignty. In the international arena, sovereignty involves the right of states to determine their own internal law free of burdens from others; however, as international laws and norms have become more influential and, in some cases, binding, this concept has begun to disappear. In the domestic arena, sovereignty traditionally has related to a single ruler who derives and executes the law throughout the nation. This too is no longer valid, as the concept of "separation of powers" has moved policymaking from the hands of one person to the hands of many. The second major concept is the rule of law, according to which a fundamental and basic law underlies the positive law created by the government. Any positive laws that violate this basic law should be invalidated. This book explores the development of the rule of law in both continental Europe and the United Kingdom (as a member of the European Union), especially with respect to fundamental rights and economic freedoms.

The next section provides background information on the two European systems. The first system is the European Convention on Human Rights (the "Convention"), created by the Council of Europe in 1950. The author notes that this Convention is extremely important as, for the first time in international law, it created an effective enforcement system in the European Court of Human Rights (ECHR), located in Strasbourg, Germany. Through this system, "[s]tates were subject to the jurisdiction of an international court for the protection of the human rights of their subjects and of all those subject to their jurisdiction." Moreover, subsequent Optional Protocols created means by which individuals could bring an action in the ECHR.

Jacobs then examines the history of the interaction between the United Kingdom and the ECHR. Originally, the United Kingdom did not codify the Convention as part of domestic law, and U.K. national courts used this omission to avoid referring to the Convention in their rulings. In 1998, however, Parliament passed the Human Rights Act, which codified the majority of the Convention into domestic law. Jacobs argues that this measure reinforced the rule of law. According to the Act, the ECHR can label laws that do not comport with the Convention as "incompatible." Following such a

ruling, the Parliament is required to amend the law in question so that it is consistent with the "basic or fundamental law."

The second system is the European Union (EU) and its court, the European Court of Justice (ECJ). While the Treaty creating the ECJ merely states that "the Court of Justice shall ensure that in the interpretation and application of this Treaty the law is observed," the Court has given itself broad jurisdiction. Jacobs argues that this broad interpretation has helped to solidify the rule of law. The ECJ has given itself the power "to challenge *all* measures, whatever their nature or form, which are intended to have legal effects," including measures of the European Parliament. By providing a mechanism to ensure that all measures comport with the basic principles of the foundational treaties of the European Union, the Court guarantees the maintenance of the rule of law throughout the EU. Additionally, a major source of European Union law is "general principles of law" derived from the legal systems of the member states—reinforcing the claim that the EU has made efforts in its positive law to reflect the underlying fundamental law. Finally, EU law also references other sources of international law including Security Council Resolutions, international treaties, and judgments by the European Court of Human Rights. All of this illustrates systemic efforts to codify and achieve the fundamental values and laws that underscore society as a whole.

The following chapter examines the European approach to fundamental values using the rule of law and sovereignty. The author first examines the concept of religious freedom, which involves balancing the fundamental freedoms of thought and religion with freedom of expression. The ECHR has dealt with numerous conflicts between these two freedoms, including the recent case of *Leyla Sahin*, in which the Court held that it was "understandable" that the Turkish authorities should consider it contrary to principles of equality and pluralism to allow headscarves to be worn on university premises. Jacobs also discusses issues of equality, the death penalty, and medical ethics. For each of these issues, the author illustrates how the European system has been able to derive fundamental principles and unify positive laws throughout the EU while providing some room for individual state action, either through judicial deference or through voluntary optional protocols. Jacobs asserts that there are numerous ad-

vantages to the European system: It provides a wider perspective; it brings experience from other systems; it allows for more dispassionate and objective judgments; and it creates solidarity.

The next chapter explains the role of the courts, specifically the ECJ, in balancing the promotion of free markets with human rights, the environment, and government social programs. The ECJ is a strong court that "has had the inescapable task of balancing the interests of free trade against other public interests and values." For example, in the *Schmidberger* case, the Austrian government allowed a protest to block a motorway in violation of the European Community Treaty guarantee of the free movement of goods between states. The ECJ had to find "a fair balance" between the interests in free trade and the fundamental freedom of expression. Eventually, the Court gave deference to the state action. The ECJ has also had to balance economic freedoms with environmental regulations—overall, Jacobs contends that the ECJ has been fairly relaxed and tolerant with regard to environmental justifications for laws that restrict the free market. Finally, the author proposes a potential link between free markets and democracy, and he theorizes that the liberalization of markets in other contexts (i.e. China) will eventually lead to greater political freedom.

The final two chapters discuss the achievements of and problems with the European Union. The EU has been a magnet for a variety of countries and cultures throughout the continent. The widespread desire among states to join the EU has motivated the development of democracy and the spread of the rule of law across the European continent. Additionally, the EU has served as a model for other regional organizations throughout the world. Jacobs argues that this demonstrates "the growing universal appeal of a particular set of values, of particular interest for our theme: the resolution of disputes by law, by legal process and above all by independent judiciary." Under this theory, other nations see the success of the EU and want to emulate its model, ultimately leading to improvements in the rule of law.

There have been numerous critiques of the EU system. Some point to the loss of state sovereignty that results from the development of a supreme regional organization. Jacobs counters this critique by stating that the concept of sovereignty is outdated and that regional organizations allow states to

share powers for the greater good. Another critique is that excessive regulations in the EU have inhibited efficiency. In response, Jacobs states that many domestic regulations are also burdensome and that the creation of a single market improves efficiency, which in turn benefits rather than not burdens individuals. A final critique is that the EU is overly ambitious, and that leaders have created numerous plans which are too broad and unworkable. Jacobs replies that leaders have begun to reprioritize values and issues and, as a result, effective change can be achieved.

While the subjects and themes covered in *The Sovereignty of Law* are extremely interesting and topical, the book is hindered by numerous problems. Often, the author only cursorily examines an issue, mentioning a singular case or merely providing assertions about the state of the law. The book rarely includes citations, and those citations that do exist merely give the reader the formal names of the aforementioned cases. The lack of foundation and evidentiary richness leave the reader unsure of the validity of the author's arguments. Furthermore, while the book attempts to spark debate by articulating numerous themes and issues, the reader is left with a feeling that the author should have discussed fewer issues in greater depth. Finally, the book is overly positive about the European system. Even in the section of the book entitled "The European Union Today: Some Problems," Jacobs actually uses the "problems" in question to illustrate positive aspects of the EU. Nonetheless, *The Sovereignty of Law* provides the reader with numerous interesting topics of discussion and exploration, and is sure to spark debate amongst those interested in concepts of sovereignty and the rule of law.

The International Struggle Over Iraq: Politics in the UN Security Council, 1980-2005. By David M. Malone. New York, New York: Oxford University Press, 2006. Pp. xiv, 398. $24.95 (hardcover).

REVIEWED BY YIHENG FENG

No subject today inspires more hand-wringing, navel-gazing, or partisan fervor than Iraq; it is enough to fill several well-funded libraries. Yet writing about Iraq is a complicated and risky venture: News comes out of Baghdad on a daily basis

and publishers operate on a timescale of months. David M. Malone's *The International Struggle Over Iraq*, published in 2006, therefore is already filled with names—Chirac, Annan, Blair—that have in the past year and a half gracefully (or, in some cases, not so gracefully) exited the scene. The book can seem dated, at least at first glance. Luckily, however, Malone, a career diplomat with the Canadian government, has not written a mere polemic for or against American foreign policy. Indeed, he has not written about the United States at all. Instead, Malone charts a fascinating story from the perspective of the United Nations (UN) and particularly the five permanent members of the UN Security Council (P-5). In so doing, he suggests that while Iraq may be an American quagmire, it is the UN that must reform if the American experiment, and by association Iraqi stability, is to survive. With its focus on the UN and the history of the UN's involvement in Iraq, Malone has indeed sidestepped the pitfalls of the "untimely" timely book.

International Struggle is laid out in roughly chronological order, as Malone takes the reader through what he calls the "five phases of the UN Security Council involvement in Iraq." Each chapter details the political and diplomatic events of a certain period and ends in a series of conclusions and underlying themes. He begins his tale with a discussion of the devastating Iran-Iraq War and the UN's role as a "Cold-War Peacemaker" in the 1980s. Malone details how, with the tottering Soviet Union in an unprecedented good mood, the Security Council was able to enact resolutions forcing ceasefires and mediations. It is in this period, Malone suggests, that many of the themes of the UN involvement in Iraq first began to emerge, such as the use of humanitarian concerns as cover for more political goals and the UN's constant need for legitimacy to prop up its actions.

In the next chapter, Malone brings the reader from one war to another, heading into the early 1990s with a description of Desert Storm and a period in which the UN would become a "New World Order Policeman." In this chapter, Malone charts the course of events that led Saddam Hussein to invade Kuwait, the UN's response in Operations Desert Shield and Desert Storm, and, finally, the ejection of Iraqi troops from the Kuwaiti desert. He highlights the international community's preference for diplomacy that marked this period, and

puts special emphasis on the passage of Security Council Resolution (SCR) 687 creating UNIKOM, the Iraqi monitoring mission that would serve as the paradigm of President George H.W. Bush's New World Order. While Malone never explicitly draws the easy contrasts between this period and the one prefacing the younger Bush's war in 2003, such parallels also cannot be denied in light of the devotion to international cooperation that was the hallmark of the earlier Administration.

The reader, of course, knows that the utopia envisioned by the senior Bush never came to pass, and, in the next three chapters, Malone charts just how a "Creeping Unilateralism" throughout the 1990s (the third phase of UN involvement) slowly tore down the architecture of the first two phases. Malone paints a picture of the UN out of its depth in new roles like humanitarian aid-provider, sanctions enforcer, and weapons inspector. In the first of the three chapters, he notes how the unanimity that marked the early 1990s was already giving way to a "Western P-3" of France, the United States, and the United Kingdom. He describes this P-3's efforts to impose no-fly zones in the north and south of Iraq, ostensibly to protect Kurds (with some success) and Marsh Arabs (to dismal failure). Drawing lessons from both operations, Malone notes both the dangers of assuming consensus and the mixed results that follow when that consensus is but a veneer (Russia and China were ambivalent from the start, while France would eventually withdraw from the no-fly zones). More significantly, Malone brings forth the running theme of the overlap of instrumentalism and humanitarianism by discussing how P-5 states used SCR 687's designated aid to ethnic minorities for their own political ends. While the twin goals of humanitarian aid to the Kurds and Iraqi containment were conveniently in line in the mid-1990s, things would not always be so easy.

Malone notes how fissures soon appeared in the UN's roles as sanction enforcer and weapons inspector. In separate chapters analyzing each role, Malone continuously describes the UN as completely unready for the task of regulating a post-war Iraq. Compounding the disturbing failures of an inefficient UN sanctions regime and a scandal- and corruption-plagued Oil-For-Food program, the P-5 was increasingly at odds, particularly as the Anglo-American bloc shifted its focus from containment to regime change. Even to a student of Iraqi-US relations, Malone's treatment of the failures at weap-

ons inspections would be sobering. He highlights how even after the replacement of the problem-prone inspections of the United Nations Special Commission (UNSCOM) with the more technocratic United Nations Monitoring, Verification and Inspection Commission (UNMOVIC), the P-5 nevertheless seemed incapable of capitalizing on those (modest) successes. As a result, with the end of the "Creeping Unilateralism" phase, the UN seemed in worse shape than ever as history marched inexorably towards 9/11.

In the fourth period of UN involvement, which Malone calls "Sidelined," the creeping unilateralism of the previous period gave way to a post-9/11 UN that was generally ignored. In this period, any role the organization did play it played poorly. The UN, once instrumental in undertaking major international efforts such as Desert Storm, was now merely an option to be weighed but not necessarily utilized by the unipolar power of the United States. This was not due only to American hubris, but also to the fact that UN attempts at forestalling war were marked by ill-defined resolutions that would have been at home in the diplomatic setting, but were disastrous in the regulatory context of Iraqi inspections. Once the United States had fully engaged in occupation, the UN was left floundering, eventually passing SCR 1483, a compromise that granted Coalition powers a central role in Iraq's "political and constitutional landscape." Despite its diplomatic cover, this was clearly a UN capitulation. The damage was done, and the UN had lost its mask of legitimacy, culminating in a devastating bombing of the UN's Baghdad headquarters on August 19, 2003.

The penultimate chapter of *International Struggle* deals with the final and current phase of UN involvement, one of a "Crisis of Confidence." For Malone, this is a period in which the UN has struggled to find its role in a unipolar world. Reeling from the Volker Report's airing of incompetence, inefficacy, and nepotism, the UN has become unsure of itself. At the same time, however, the United States and the United Kingdom began to rely increasingly on the Security Council during this period, as both nations suffered casualties in manpower and image. As a response, Malone tries to offer some advice in his final chapter. He argues that the UN must increase accountability and cultivate both more specific mandates of power and a well-developed bureaucracy free of corruption

and manned by capable and independent technocrats. These pieces of advice flow naturally from Malone's account of the UN's involvement in Iraq, and he notes that he mainly wants his monograph to serve as an instigator of thought rather than as a blueprint for success.

Malone's work is valuable in this regard, but it is not perfect. Though he warns from the beginning that he is not trying to tell a full history, there are times when he gives the reader tantalizing glimpses of important issues that are ultimately left unexplored. For example, while Malone occasionally discusses the impact of Iraq policies in Kosovo, he barely mentions hotspots like Rwanda and Darfur. Similarly, with all the talk of P-5 politics, one P-5 member receives far less attention than its brethren: the People's Republic of China. Though China's role in the Security Council is a complicated one shaped by pragmatism and its position on Taiwan, China remains something of an enigma throughout the book, and its attitudes toward Iraq are only superficially explored.

Stylistically, Malone's diplomatic and technocratic side perhaps gets the better of him, and *International Struggle* has the feel of a professor's lecture. Filled with an alphabet soup of UN commissions, missions, and agencies, it can seem dry and detached. Though he has culled his information from dozens of interviews with insiders, *International Struggle* has the feeling of watching the world through a telescopic lens.

Though one cannot help but wish that Malone had gone more in depth into elements of political machination, the purpose of his book was clearly broader in scope. Ultimately, *International Struggle* is a valuable addition to the literature on Iraq, precisely because it has this sense of history. Thus, it does not matter that Kofi Annan is no longer Secretary-General, or Jacques Chirac President of France. They are but part of a story that has not yet played itself to conclusion. For Malone, it is the UN as an institution that will play the part of continuity, and in that sense his work is an important primer for the diplomat in Iraq who wants to understand not only how she got there but also where she is going.

The Aesthetics of International Law. By Ed Morgan. Toronto, Canada: University of Toronto Press, 2007. Pp. ix, 272. $55.00 (hardcover).

REVIEWED BY VICKI BURR

In *The Aesthetics of International Law*, Ed Morgan, an associate professor in the Faculty of Law at the University of Toronto, studies international law by comparing international legal doctrines and cases with modern literary texts in order to demonstrate how modern aesthetics are reflected in the developments of international law. His study is concerned with "the modes of self-expression of international law rather than with its particular politics, economics, or morals." Otherwise stated, Morgan is more interested in international law's aesthetics than in its content. Morgan's thesis is that "while in isolation the law seems to embark on its own difficult course, in interdisciplinary mode it parallels . . . the literary and aesthetic currents that surround it." It is the self-proclaimed goal of his work to "demonstrate that through its seemingly exhaustive repetition international law is effectively replenished" through the exploration of the "very large, virtually infinite field of international law and literature."

Morgan compares literary works by authors such as Edgar Allen Poe, Henrik Ibsen, Virginia Woolf, Vladimir Nabokov, and Kurt Vonnegut to areas of international law including the law on terrorism, war crimes trials, public international law, extradition to the death penalty, and the law of war. Each chapter of the work pairs a literary work to a particular area of the law, and often to particular cases within that area of the law. Morgan then analyzes the particular area of international law and the literary work side-by-side and draws parallels between them as part of his exploration of the development of international law viewed against the backdrop of modern literature.

Morgan begins his study by analyzing policymakers' faith in the law as the "foremost discipline in the international repertoire" to combat terrorism. Here Morgan introduces the application of his thesis by examining the way in which the "law's ability to identify violent politics as cases of terror tracks the literary capacity to create terror from stories of violence." Morgan uses Edgar Allen Poe's short story, "The Man Who was

Used Up," and the *Ahmad v. Wigen* decision in the Second Circuit Court of Appeals to demonstrate that terrorism strikes at the "law's own stability as law" as well as at the political power of states and the safety of individual citizens. Just as abstractions and distractions prevented the narrator of Poe's story from discovering the truth about Brigadier General John A.B.C. Smith, the court in *Ahmad* was similarly distracted and then bounced from one legal argument to another without ever settling the petitioner's international law arguments on extradition and public international law. Morgan opines that the problem of international law is that it "apparently cannot describe terrorism without describing it too much," forcing the answers to legal challenges to move from international law to domestic law and then back again.

In the following chapter on war crimes trials, the author explores war crimes trials generally and the Jerusalem District Court trial *Attorney-General of Israel v. Adolf Eichmann* in particular through the plays and literary theories of Henrik Ibsen and Bertolt Brecht. It is Morgan's assertion that contemporary war crimes trials are a special form of theater—productions that "owe equal inspiration to the 'realism' championed by Henrik Ibsen and the 'theatrics' championed by Bertolt Brecht"—and that the *Eichmann* case has "come to be the unsurpassable war crimes drama, whose realism and symbolism combined to express both human rights and wrongs and the suppression and emergence of nations."

In Chapter Four, Morgan examines public international law's three primary categories of rules—sources of law, legal process, and substantive legal norms—through the lens of Joseph Conrad, Virginia Woolf, and T.S. Eliot respectively. First, Morgan asserts that as international law struggles to ground itself through hard (treaty law-based) and soft (customary norms-based) forms of argument, hard and soft begin to reverse, ultimately disguising the inner heart of doctrine rather than illuminating it. In his analysis of legal process, international law simultaneously attempts to provide "some systemic or participatory definitions for its juridical persons and for the jurisdictions of these entities vis-à-vis each other, as well as a definition of the system itself vis-à-vis each of these international persons." In the meantime, the international system becomes caught up in the system that it has created, and becomes just another one of the constituent states constantly

forced to struggle for position. Finally, Morgan addresses the challenge to substantive international law of transcending the political contexts of its creation. As international law detaches itself from its historical-political context, it simultaneously initiates a "new history with a cooperative normative thrust" and leads to the progressive development of the law. In this way, international legal discourse continues forever, its "rhetorical repetitions and doctrinal transmutations rebounding through time, geography, and subject matters as if in a hall of slightly warped mirrors." Through its repetition, international law is regenerated and reinvigorated as the subject of continued scholarship. The circularity and futility of the analysis Morgan demonstrates in this section parallels that found in the chapter on terror, as well as those in later chapters.

Overall, *The Aesthetics of International Law* is a well-written and well-organized book based on an interesting premise. The book fails, however, to adequately live up to the promise of its abstract and introduction. While some of Morgan's points and analyses are thought-provoking and his thesis seems at first glance to present a particularly interesting addition to the existing scholarship on international law, as a whole the analysis falls flat. Most importantly, it does not seem that Morgan ever succeeds in truly proving his thesis.

The scope of the work is exhausted early on as the analysis becomes predictable and repetitive—a trend that begins as early as Chapter Four. While Morgan explores and exploits the exhaustively repetitive development of international law doctrine in his study, a similarly pervasive repetitiveness permeates his analysis. Morgan's arguments stress again and again the futility and circularity of the study of international law.

Moreover, it seems that Morgan's analysis could proceed easily enough without exploring the developments of international law "through the lens of the distinctive literary modernism that developed at the same time." As the analysis proceeds, Morgan's literary parallels almost become superfluous dicta, fading into the background and failing to add anything of substance while the legal analysis marches forward. At times the parallels to modern literature seem forced, and the analysis suffers for it.

In his conclusion, Morgan states that there is need for new scholarship focusing on the aesthetics of the form of international law because the meaning of the law has "long been exhausted." This conclusion seems counter to the theme of the book, however, which otherwise claims that through repetition, international law refreshes itself and gains meaning. It also seems to be a bold assertion in a work that does not address or take into account any arguments counter to its thesis.

While Morgan's scholarship provides some new insight into the realm of international law as viewed through the lens of modern literature, the analysis never fully realizes the potential of the thesis and always seems to fall short of being an effective argument.

The Struggle for Constitutional Power: Law, Politics, and Economic Development in Egypt. By Tamir Moustafa. Cambridge, United Kingdom: Cambridge University Press, 2007. Pp. 289. $85.00 (hardcover).

REVIEWED BY PARISA ELAHI

In *The Struggle for Constitutional Power: Law, Politics, and Economic Development in Egypt*, Tamir Moustafa challenges the assumption that democracy is a necessary prerequisite for the emergence of judicial power. The author specifies two major objectives: first, to discuss why authoritarian regimes choose to empower judicial institutions, and second, to detail how the interaction between the judiciary, civil society, and the regime can result in political obstacles to the judicial institutions' path to survival and reform. He analyzes these issues throughout his book, progressing in a semi-chronological order. The book is well organized; the author first establishes the rationales for creating the Supreme Constitutional Court (SCC), and then analyzes the SCC's development in a chronological fashion. However, Moustafa's decision to organize the book in a semi-chronological as opposed to a thematic order leads to the unnecessary repetition of certain ideas.

Moustafa attempts to provide an alternate approach to analyze rule-of-law institutions in authoritarian regimes. He posits a theory that advocates the possibility of judicial autonomy even in the context of an authoritarian system. This idea is limited, however, by the caution that rule-of-law institutions

should not be studied in isolation as a means to solve the economic and political problems that developing countries face. Rather, there is a need to assess the political environment in which judicial actors operate.

Initially, Moustafa sets up a theoretical framework that explores how authoritarian regimes choose to empower courts in order to address certain pathologies intrinsic to such regimes, such as the inability to attract foreign investment, the lack of transparency in the administrative process, the lack of cohesion among elites, and the tendency of the regime to shirk blame by unloading unpopular decisionmaking tasks on other institutions. The author employs a comparative approach in order to demonstrate that regimes in Brazil (1964-1985), Chile (1973-1990), and Franco's Spain (1936-1975) used courts in a similar fashion to address such problems.

Moustafa focuses primarily on Egypt's desire to attract foreign investment to explain the creation of the SCC. In discussing this issue, Moustafa integrates empirical data to illustrate the relationship between foreign investment and rule-of-law institutions. First, he explores the difficulty Egypt had in attracting foreign investment under Gamel Nasser's rule, which emphasized nationalization of the public sector and thus led to investor concerns about expropriation. According to the author, the subsequent presidency of Anwar Sadat addressed this problem and signaled that property rights would be protected by creating rule-of-law institutions such as the SCC. However, Moustafa overstates the correlation between the creation of the SCC and a rise in foreign investment and fails to take into account other political and economic factors, such as Sadat's policy of *infitah* (Arabic for "open door"), that may have also contributed to the increased volume of foreign investment.

Moustafa critically analyzes the success of the Sadat regime's objective of mobilizing the SCC to remedy internal problems. Moustafa shows that the regime's plans were frustrated, as the SCC evolved into a quasi-independent force that provided a public forum for citizens to air political grievances against the government. In response, the regime employed several methods to curtail the SCC's increasing political tendencies. Thus, Moustafa shows that courts such as the SCC are able to act independently of the authoritarian regimes that

created them, but are still vulnerable to crack-downs by the Executive.

Chapter Four initiates the chronological exploration of the SCC's evolution by analyzing the Court's first year of operation. The SCC's early political decisions illustrate the emergence of a coalition between the SCC and opposition parties, as exemplified by the SCC's decision declaring the electoral laws to be unconstitutional.

Chapter Five explores the way in which the SCC leveraged the influence it gained from a series of economic decisions overturning Nasser-era nationalization laws to institute a progressive political reform agenda during the 1990s. Much of the post-Nasser regimes' legislation was later challenged in litigation that led to landmark decisions in the areas of freedom of the press, freedom of association, and electoral reform. The SCC's growing influence in the political sphere also gave rise to human rights organizations making use of the SCC in order to challenge repressive legislation and to introduce international standards of human rights in interpreting constitutional provisions.

The author also traces the SCC's loss of autonomy during the period of 1998-2005, when the Mubarak regime instituted policies designed to strip the SCC of its powers. One such policy was Mubarak's departure from the historical norm of choosing Chief Justices from among the existing Justices of the SCC in order to appoint Chief Justices loyal to the regime. The regime worked to undermine the SCC as well as its support networks among human rights organizations and the legal profession.

Moustafa's purpose in *The Struggle for Constitutional Power* is to explain the rise and fall of power within the SCC and why the Egyptian regime turned against an institution of its own making. His contention is that the regime sought to limit the SCC's power once it became clear that constitutional litigation posed a threat to the regime's control. The example of Egypt is a useful challenge to the assumption that legal institutions alone can be used to combat the economic and political problems that developing countries face. Moustafa criticizes an insulated view of institutional progress divorced from political analysis, claiming instead that it is necessary to address the political context in which these institutions operate in order to

understand why they have difficulty surviving and progressing. In his analysis of the rise and fall of SCC autonomy, Moustafa tries to employ the technique he advocates by exploring the relationship between the courts, civil society, and the Egyptian regime in order to understand how and why rule-of-law institutions have difficulty surviving in authoritarian regimes. The shortfall of this portion of the analysis is that it loses its focus when the author veers into a discussion of institutional reforms in seventeenth-century England and France that seems to be out of place in an examination of the problems that beset developing countries ruled by authoritarian governments.

Overall, while *The Struggle for Constitutional Power* contributes a new approach to the study of judicial institutions in authoritarian regimes, Moustafa fails to take his own advice in parts of the book. In his discussion of the SCC and foreign investment, he overstates the role of the Court in increasing foreign investment without referencing other economic and political factors which may have been at play. In this sense, the author seems to fall prey to the same mistake he criticizes in other scholars: namely, overemphasizing the role that judicial reform can play in remedying economic and political problems. Overall, however, the book provides an accessible introduction to the history of the SCC as well as broader insights about the role of judicial politics in authoritarian regimes.

Central Asia: A Chessboard and Player in the New Great Game. By Rein Müllerson. New York, New York: Columbia University Press, 2007. Pp. 382. $ 144.50 (cloth).

REVIEWED BY JAMES HALLOCK

Central Asia has long fascinated travelers, historians, and policymakers. Geographically remote from world population centers, it has often played a peripheral role in world history. It has also periodically occupied a more prominent position, however, acting as the staging ground for the Mongol conquests of the Middle Ages, the playing field of the so-called "Great Game" for influence between Russia and the United Kingdom in the nineteenth century, and, since September 11, 2001, a geopolitical focus in the global war on terrorism. Rein Müllerson underscores this alternating cycle of prominence

and obscurity while connecting it to current issues of geopolitics and human rights.

Müllerson freely admits his deep personal interest in the region: As an Estonian, he grew up and worked in the Soviet Union and has traveled extensively through Central Asia—including in his recent capacity as United Nations (UN) envoy to the region. Relying on his personal and professional contacts, and stressing his discussions with ordinary citizens in the countries he describes, he paints a complex—and, above all, nuanced—picture of the region's present situation and future prospects. His primary aim is to provide background and context for a discussion of human rights in Central Asia. For all the shades of gray in his portrayal, Müllerson pulls no punches. He repeatedly emphasizes that he is a fierce opponent of political correctness, bureaucratic soft-pedaling, and the general failure to describe things as they really are rather than as we wish they were. While he occasionally paints in broad strokes, his observations represent his distillation of a professional lifetime of experience in the region. He is intentionally provocative, but he is (generally) careful to buttress his opinions with historical, statistical, and anecdotal evidence.

Müllerson divides the book into seven chapters. The introduction sets out his theory of "eclecticism" in approaching any subject, the vast sweep of Central Asian history, and the structure of *Central Asia*. The first chapter then sets out the "international context in which Central Asian countries exist." In particular, he labels the current struggles for influence in the region on the part of Russia, the West, China, and others "Great Game II," and explicitly draws out the parallels with the "Great Game I" of the nineteenth century. He suggests that this struggle is a microcosm of the more-global jockeying for position to come in an increasingly multipolar world.

Müllerson uses the second chapter to consider how Central Asia's unique historical legacy has led to its unique present-day political, economic, and social make-up. Of particular interest is his analysis of the ways in which the region's inclusion in the Russian, and then Soviet, empires both reinforced and transformed its traditional character. Contextualizing the current predominance of authoritarian governments in the area in terms both of a supposed historical quest for tribal unity (he is careful to note that this "quest" is easily perceived in hindsight, while reality is, as always, more com-

plex) and the heritage of the Russian and Soviet political systems, Müllerson argues forcefully that those calling for regime change in the region should be careful what they wish for. While human rights groups and Western governments are justified in highlighting human rights abuses, he says, they have to understand that "the alternative to authoritarian rule will not be a Swedish-style democracy," but rather another authoritarian ruler or, worse still, anarchy.

To set out what he sees as the inherent paradoxes and missed opportunities of closed societies in Central Asia, Müllerson next considers two countries in greater detail: Uzbekistan and Turkmenistan, arguably the two Central Asian countries with the worst records on human rights. In the section on Uzbekistan, he describes (among other things) a surprisingly edgy art theater, a fifteenth-century observatory whose story highlights the country's tendencies toward both religious liberalism and dogmatic reaction, and the Uzbek entrepreneurial spirit that the government has stifled. In discussing Turkmenistan—ruled by "Turkmenbashi," the self-appointed father of all the Turkmens, until his death last year—Müllerson predictably compares the country to North Korea (although he notes that Turkmenistan's tragicomic aspect is more weighted to the comic than its secretive analog). He laments that the rule of a misguided despot has crippled Turkmenistan in spite of its abundant oil and gas resources.

In the fourth chapter, Müllerson turns to religion. He stresses that Central Asia has historically embraced moderate Islam, and that the increasingly popular strains of fundamentalism are not native to the region. He notes that one religious group in particular, Hizb ut-Tahrir, is more dangerous than human rights observers have suggested, and argues that more religious freedom does not necessarily translate into more human rights overall. For fundamentalists, religious freedom can mean freedom to impose their views and prohibitions on others. He extends his reasoning to argue that any religion, carried to "excess," can be harmful to human rights, and suggests that the history of moderate Islam in countries like Turkey and in the nations of Central Asia demonstrate that Judeo-Christian societies do not have a monopoly on respect for human rights.

In the fifth chapter, Müllerson considers the intersection of the war on terrorism and human rights in Central Asia. He

reiterates his theme that human rights groups and some Western governments give too little credence to the real threat of Islamist extremism and terrorism in Central Asia in condemning the human rights abuses of the region's regimes. He argues that it is reprehensible and dangerous to imply that terrorism against autocratic regimes may be justified if it is cannot be justified against democratic governments. He uses the 2005 Andijan tragedy, in which a protest in Uzbekistan which also involved armed militants was violently suppressed, as an example of a situation in which neither Central Asian autocrats nor Western human rights advocates adequately addressed the causes of terrorism.

In the sixth chapter, Müllerson ties the current human rights discourse of Western NGOs in Central Asia to the historical *mission civilisatrice* of Western powers in the nineteenth century. Noting that this mission, even if partly motivated by genuine humanitarian concern, is only deployed when economic or political interests coincide (as in Iraq) with such concern, he argues that, fairly or unfairly, the overt racism and paternalism of the original civilizing mission further discredits the present incarnation.

In the seventh and final chapter, Müllerson claims that the relatively low state of economic development in Central Asia means that true, liberal democracy will necessarily take some time. Governments must provide for the material needs of their people if they are to have any credibility, a factor which accounts for the endurance of regimes such as Turkmenistan's in spite of their penchant for political repression. The Central Asian countries, unlike India, lack certain historical factors that promote democratic development, Müllerson argues, and are moreover struck with the "resource curse" of oil and gas, which correlate with less democracy and a poorer human rights situation. "Instead of conclusions," Müllerson offers an expansive hope that, in spite of obvious and important differences in various societies around the world, humanity's commonalities will ultimately prove more durable than its differences.

The author enthusiastically endorses an "eclectic" approach to the subject of human rights in Central Asia. This explains the book's meanderings between history, anecdote, headlines, and what can fairly be called musings by the author. This, in combination with *Central Asia*'s rather sloppy editing

and Müllerson's less than native English, makes for an endearingly idiosyncratic work. It reads more than anything else like a series of lectures by a rather eccentric professor who has decided to throw caution to the wind and who intends to speak his mind freely to his students. If that seems like a mixed compliment to Müllerson, it is. Parts of the book meander aimlessly, albeit fascinatingly. The author's iconoclasm can be his best and worst asset at the same time. Smashing idols is always thought-provoking, but it loses its effectiveness when it is reflexive.

But it would be a mistake to dismiss the work because of Müllerson's grammar or his combativeness. Müllerson's central theme is that Western governments and nongovernmental organizations, in raising legitimate questions of human rights with respect to Central Asian governments, unfairly ignore the both the reasonable motives of those governments in suppressing dissent and restricting freedoms and the historical differences that set this region apart from the West (as well as from its neighbors like Afghanistan). Not all repression, he argues, is driven by venality and the corrupt desire to remain in power. Islamic fundamentalism is a real threat, and one that the West should take very seriously indeed. The importance of building up a stable economic framework before civil society can take root is often underestimated. Finally, and perhaps most provocatively, he suggests that not all human rights norms are truly universal (the right to marriage equality, for example). Müllerson's call for greater understanding of the unique challenges facing Central Asia in its period of transition may fall on deaf ears in the human rights community, but it would be a shame if his arguments went unanswered and unconsidered.

The International Judge: An Introduction to the Men and Women Who Decide the World's Cases. By Daniel Terris, Cesare P.R. Romano, and Leigh Swigart. Waltham, Massachusetts: Brandeis University Press, 2007. Pp. xxii, 315. $ 45.00 (hardcover).

REVIEWED BY LINDSEY RAUB

What is an international judge? This question, seemingly simple yet inexorably complex, is what Daniel Terris, Cesare

P.R. Romano, and Leigh Swigart seek to tackle in their book, *The International Judge: An Introduction to the Men and Woman Who Decide the World's Cases*. The judiciary is one of the most revered and arguably most important facets of any legal system, and the international legal system is no different. In the wake of recent historical developments, states have attempted to bring order to the international system via the creation of a new set of legal institutions designed to mediate conflicts between states and global actors in diverse fields. "The success of these institutions rests ultimately on the shoulders of just over two hundred men and women who serve in a role unheard-of less than a hundred years ago: the international judge." In this book, the authors paint a portrait personifying the men and women who constitute the frequently intangible international judiciary. Directed at scholars of international law and novices alike, *The International Judge* is particularly applicable in the United States, where the work of international judges is poorly understood and often subject to misinformed criticism. Despite their unexamined status, international courts remain "small and fragile institutions, subject to the cooperation and the pressures of powerful actors on the world stage."

While there is no straightforward, universally accepted definition of an international court, according to the authors, five basic elements characterize those courts with the widest and most substantial impact: 1) permanency (or at least long-standing duration); 2) establishment by an international legal instrument; 3) the use of international law to decide cases; 4) the use of rules and procedure in making decisions that pre-exist the individual case and generally cannot be modified by the parties; 5) the issuance of judgments that are legally binding on the parties to the dispute. In 2006, there were seventeen courts meeting these criteria: the International Court of Justice (ICJ); the International Tribunal for the Law of the Sea (ITLOS); the International Criminal Tribunal for the Former Yugoslavia (ICTY); the International Criminal Tribunal for Rwanda (ICTR); the International Criminal Court (ICC); the Special Court for Sierra Leone (SCSL); the European Court of Human Rights (ECHR); the Inter-American Court of Human Rights (IACHR); the World Trade Organization dispute settlement system, and in particular the Appellate Body (WTO AB); the Court of Justice of the European Communities (ECJ); the European Free Trade Area Court of Justice (EFTA Court); the

Court of Justice in the Andean Community; the Caribbean Court of Justice (CCJ); the Permanent Review Court of Mercosur; the Common Court of Justice and Arbitration of the Organization for the Harmonization of Corporate Law in Africa; the Court of Justice of the Economic Community of West African States; and the Court of Justice of the Economic and Monetary Community of Central Africa. The first thirteen of this list are the most active, and thus the focus of *The International Judge*.

Based on interviews with over thirty international judges, the book's six chapters cover a wide array of topics. Beginning with a brief history of international adjudication and a general overview of the various international courts, the authors deliver an accessible portrayal of the intricate workings of the international judiciary, providing a balanced account of both the strengths and weaknesses of its jurisprudence. Chapter Two focuses on the judges themselves, who they are, and how they got on the courts on which they serve. The snapshot biographies interspersed throughout the chapter of five international judges including Navanetham Pillay of the ICC and Thomas Buergenthal of the ICJ are the heart of the book, conveying rare insight and bringing an almost collegial feel to men and women who have in large part devoted their lives to the quest for justice. Buergenthal, for example, relays how his experience as a victim of the Holocaust has given him a perspective on human rights violations and the crimes committed by states that few of his colleagues share. While the judges hail from all corners of the globe, reflecting an ever-increasing push toward diversity, an examination of their professional and educational backgrounds reveals striking similarities, perhaps most importantly a penchant for justice. For example, international judges have held three principal careers prior to their service on the courts: the national judiciary of their home countries, academia, or civil service. Unsurprisingly the world's top law schools, including Harvard, Columbia, Yale, Oxford, Cambridge, and the University of London, boast several alumni on the international bench.

Chapter Three takes a closer look at the courts themselves, exploring the everyday work, deliberations, and judgment writing, and examines the challenges of cultural and linguistic diversity and the pace of justice. The authors broach the difficulties of working in frequently under-funded and un-

derstaffed institutions in which judges try to ensure justice while drawing from the various legal systems of the world, in particular the civil and common law systems. Despite the magnitude of their work, the authors reveal that international courts and tribunals are no different than any other place of work: Both cultural and professional tensions pervade the halls of justice, just as they do any workplace. These frustrations, however, often remain unspoken in an effort to promote the integrity of the institutions and inspire public confidence, as it is paramount that judges maintain their neutrality. International justice is likewise often criticized for its "glacial pace." Overall, according to the authors, the challenge for judges is to "take full advantage of what their colleagues bring individually to the table . . . while seeking to maximize the spirit of cooperation that is crucial for both fair and efficient work." After all, "the shared mission of international courts—to mete out justice across borders—is . . . founded on an acknowledgment that that peoples and nations belong to a larger human community that needs to think beyond political, ethnic, or linguistic boundaries for the greater well-being of all."

The fourth chapter centers on the challenges of interpreting an ever-evolving body of international law, a field that already has less clearly demarcated and patrolled rules than national law. These challenges result in more than the simple application of the law to facts, and though there are limits, international judges are often pushed to become lawmakers in the course of solidifying the positions of their respective courts.

The role of precedent in international law has yet to be studied and remains largely unresolved. Nevertheless, the authors point to a gradually emerging "theory of precedent" in international law that consists of five primary elements. First, international judges do not appear to feel bound by the jurisprudence of other international courts. Second, if the judges of one court disagree with the decision of another, they rarely "correct" the earlier court, instead choosing to omit recognition of the inconsistent judgment. Third, the finality or formal nature of judicial conclusions are of little significance, since international judges are willing to consider a spectrum of judicial findings ranging from preliminary and appellate decisions to non-binding advisory opinions. Fourth, specialized courts tend to defer to the jurisprudence of the ICJ (consid-

ered a generalist court) on matters of general public international law. Fifth and finally, "universal" courts will refrain from citing to, though not considering, regional jurisprudence.

Chapter Five of *The International Judge* turns to the entanglement of international law and politics. Funding, staffing, the appointment of judges, the selection of cases to be heard before the courts, and even the establishment of the courts themselves remain tied to international politics. The authors argue, however, that "if a judge is going to live in a world of politics, better to be aware, involved, and shrewd in the service of the law." The final chapter therefore tackles the challenges of maintaining integrity and establishing ethical standards in the evolving world of international law and points out the vulnerability of international courts. "The effectiveness of international courts depends on their visibility. This need to be seen forces judges into the public eye, often presenting a challenge to men and women who are expected not only to exemplify the "highest standards of integrity and judgment" but also to "separate themselves from the values that underlie their professionalism."

The International Judge is a thorough depiction of a little known and under-studied—though extremely important—profession. These are, after all, the men and women engaged in the process of making international law, arguably comparable to the justices who serve on the U.S. Supreme Court. In light of this, the dearth of literature is surprising and Terris, Romano and Swigart's book is a welcome contribution to our understanding of the international judiciary.

The Arms Trade and International Law. By Zeray Yihdego. Portland, Oregon: Hart Publishing, 2007. Pp. xxi, 357. $105.00 (hardcover).

REVIEWED BY SHAWN PELSINGER

Small arms and light weapons (SALW) are estimated to be responsible for roughly 500,000 deaths annually. As Zeray Yihdego notes, they are considered by many to be more realistic "weapons of mass destruction" than the widely publicized and feared but little-used biological and nuclear weapons. *The Arms Trade and International Law* is Yihdego's summary of the

advances achieved and obstacles encountered during the global arms proliferation of the twentieth century, and it functions as a sweeping inventory of the various definitions, interpretations, and policies that have governed the treatment of SALW in international law. In fact, *The Arms Trade and International Law* was published only months after the General Assembly's Armament Committee approved a Draft Resolution requesting the input of member states on a potential arms trade treaty. It is an industrious retrospective, littered with the conflicts and inquiries that will frame the global debate on the modern treatment of the small arms trade.

Yihdego divides the book into two halves. The first half focuses on the features, definitions, and manufacturing of SALW, while the second half focuses on the limitations and problems of SALW transfers. The chapters are meticulously organized into multiple tiers (for example, within chapter 2 we find 2.2 Definition, 2.2.2. General Definition SALW, 2.2.2.3 Domestic Legislation).

The "definitions" chapter introduces the most fundamental challenge to a uniform instrument governing SALW: namely, that writers, diplomats, regional organizations, global organizations, scholars, and warlords each adopt a different definition of "small arms and light weapons." Additionally, this chapter introduces the reader to the lengthy parade of acronyms that become a prerequisite to understanding the history of the arms trade, including but not limited to the Guidelines on Conventional Arms Control/Limitation and Disarmament (GCAC), Sporting Arms and Ammunition Manufacturers (SAAMI), Programme of Action to Prevent, Combat, and Eradicate the Illicit Trade in Small Arms and Lights Weapons in All Its Aspects (PoA), and the Framework Convention for International Arms Transfers (FCIAT). Definitions dating from the League of Nations era to the present are examined in an effort to highlight the range of weapons that might be included in the upcoming instrument. Specifically, definitions adopted by the UN, the North Atlantic Treaty Organization (NATO), the Organization of American States (OAS), the National Security Agency (NSA), the South African Development Community (SADC), and in both domestic and international legislation categorize small arms and light weapons differently based on the potential size, weight, level of lethality, and use of the weapon. The chapter illustrates that the most daunting

task in the creation of a uniform standard on arms trade may be the debate over exactly what weapons are to be regulated.

The very same problems persist in the "manufacturing" of SALW. The English Law Dictionary, the UN Protocol on Firearms, and the OAS Convention on Firearms all disagree on exactly what it means to "manufacture" weaponry. Among the most distinctive conceptual problems associated with defining weapons manufacturing is the divide between state-manufactured and privately-manufactured and licitly versus illicitly manufactured weaponry. While there is little agreement as to how to characterize the manufacture of SALW, even less agreement exists on how to limit this production. Within this context, a heated debate exists over the merits of quantitative versus qualitative restrictions on weapon production.

Likewise, limiting weapons production is a particularly murky area of law. The only treaty on the subject is the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction. Yihdego's unsuccessful search for a uniform policy on the limitation of SALW manufacturing spans decisions of the International Court of Justice (ICJ), reports of the International Committee of the Red Cross, and the language of the West African Moratorium on the Manufacture, Importation, and Exportation of Small Arms of 1998. The issue is made even more difficult by the fact that most nations consider the right to manufacture SALW an indispensable component of national security.

The second half of *The Arms Trade and International Law* explores the transfer of SALW between key actors in the international arms trade. Yihdego devotes the opening pages of this section to the definitional comparisons that dominate the first half, but he ultimately uses these issues as a springboard into more substantive and controversial issues of weapons trade. There is a global norm, he maintains, of limiting SALW transfers. Opinio juris and state practice within the Security Council, the General Assembly, and various regional and domestic bodies indicate a strong trend of restricting SALW transfers. In the face of this custom of limiting weapons proliferation, Yihdego considers the balance between imposing substantive limitations on arms growth and the right of countries to both receive weapons and to engage in self-defense. The discussion of self-defense invites the book's most

interesting subject: the global norm of non-intervention as applied to weapons transfer.

Treaties dating back to the League of Nations have attempted to regulate the transfer of SALW. Whether explicitly articulated in the Draft Convention for the Control of the International Trade in Arms or indirectly inferred from article 2(1) of the UN Charter, regulations have narrowed both the types of weapons that can be transferred and the conditions under which weapons can be transferred. Various decisions of the ICJ (specifically the *Nicaragua* case), the express prohibitions in treaties, the policies of regional organizations, and domestic legislation further complicate the treatment of weapons transfer. Regional agreements such as the OAS Convention on Firearms, the SADC Protocol on the Control of Firearms, and the Nairobi Protocol on SALW each impose unique and disparate regulatory frameworks for the receipt and transfer of SALW. Although these treaties almost unanimously prohibit the transfer of weapons to non-state actors, Yihdego carves out a handful of exceptions wherein the transfer of SALW to dissident groups is justified (e.g., for the purposes of resisting colonial oppression, racial rule, maintenance of public order, etc.). Government to non-state actor transfers of weapons is unique in that the practice exists despite being widely prohibited by both treaty and custom, but states are reluctant to acknowledge this reality by codifying any exception to a universal ban.

Yihdego's final consideration is the role of weapons transfers in the context of international human rights law and international humanitarian law. In the broadest sense, an increase in SALW is correlated with an increase in violations of humanitarian law. SALW are quite often used in ways that do not comply with international humanitarian law (most specifically, the Geneva Conventions), and evidence indicates that humanitarian law prohibits the transfer of weapons to parties that maintain a record of non-compliance with general humanitarian norms. The connection between SALW and international human rights is less direct, though weapons proliferation often enables the violation of civil, political, social, and economic rights. Weapons that appear to be necessary for legitimate law enforcement are often utilized for serious human rights violations either by the state itself or by armed non-state actors. As a result, little progress has been made on the codifi-

cation within international human rights law of restrictions to weapons transfers.

The Arms Trade and International Law is a well-researched catalogue of treaties, conventions, policies, and practices that explain the history of the arms trade and offer advice for the homogenization of SALW policy. Yihdego's research cites draft papers, panels, country statements, briefs, reports, articles, and the like to establish firmly what the reader is justly convinced of after the first chapter, namely that "very little, if any, consensus has emerged on the treatment of SALW policy." Eventually, though, the book becomes a helplessly redundant account that spends paragraphs reiterating that the entire arms trade rests precariously on a set of jarring definitions and mercurial characterizations.

The Arms Trade and International Law is a particularly mundane treatment of a potentially fascinating subject. Yihdego correctly recognizes the most unique contradictions of arms law (such as the different definitions provided by criminal tribunals, global nongovernmental organizations, and domestic governments, and balancing the right to sovereignty with the case for collective security), but occupies most of his time lost in a purely descriptive narrative. His findings and recommendations constitute a narrow postscript that restates the absolute chaos that has characterized the arms trade since the establishment of the League of Nations. The book arrives at the heels of the upcoming UN arms trade treaty, but provides little guidance for the future of the arms trade. The chapter on "findings and recommendations" is an opportunity for Yihdego to take normative stances on substantive limitations, state to non-state transfers, and definitional disparities, but he continues to rely on the West African Moratorium and the Framework Convention for International Arms Transfers. The result is an epilogue that suggests unsatisfactorily abstract solutions to well-articulated and documented hurdles.

Ultimately, *The Arms Trade and International Law* succeeds in recounting the diversity of opinion that has paralyzed major efforts at regulating the arms trade. Its limitation is its inability either to extract reasoned guidance from its exhaustive research or to offer interesting solutions to the problems detailed.

A China More Just. By Gao Zhisheng. San Diego, California: Broad Press, 2007. Pp. xii, 255. $14.95 (paperback).

REVIEWED BY MATTHEW K. WARNER

Gao Zhisheng's *A China More Just* begins critical and ends fiery. Gao, one of China's most famous and vocal human rights lawyers, is known for representing victims in politically dangerous cases such as the imprisonment of Falun Gong practitioners. In the book, Gao barrages the Chinese legal system with criticism and his personal indignation; many of his attacks, however, go beyond the legal system and target the Chinese central government. Gao describes a Chinese legal and political structure so plagued with systemic problems that only drastic change will cure it. *A China More Just* does not delve into detailed legal discussions; instead, it focuses on the emotional impact of his cases. Gao is famous for taking cases no one else will, and the book portrays his anguish in taking these cases against a broken system fueled by immeasurable corruption.

A China More Just begins with a description of Gao's childhood. He grew up in desperate poverty in Shaanxi province, a condition magnified by the death of his father. The initial chapter shows Gao's intense drive, ambition, and stubbornness; for instance, Gao managed to pass the very difficult Chinese bar exam almost entirely self-educated. Before the exam, he fought a fellow test taker who claimed that Gao could not pass given his lack of education. Gao responded that not only would he pass, but that he would return as a guest lecturer for the exam. The next year, Gao made good on that promise. The story foreshadows the intense ambition, passion, and pride that characterize Gao's single-minded approach to China and Chinese legal issues.

The second chapter, "The Plight of China's Lawyers," establishes the perspective with which Gao views Chinese Law. He sees the Chinese state as a propaganda machine, an idea which has made him "hopelessly pessimistic" with regard to the Chinese Legal System. He argues that China is operating without any meaningful regulations, as existing regulations are routinely disregarded and abused. In this chapter he begins the strongest motif in the book: The Chinese Communist Party and government is a lawless and murderous gangster or-

ganization. He emphasizes that this lawlessness pervades the entire non-functional system, making even minor cases unsolvable. The chapter also analogizes Chinese lawyers to dogs begging at the hand of the government, a relationship that leaves no room for honest lawyers.

The third chapter focuses on specific legal cases which Gao has litigated. Gao has advocated on behalf of numerous needy and politically controversial parties, including children disabled by hospital negligence, a company prevented by corrupt local officials from building a road to an isolated village, and abused members of the Falun Gong. In the case of the disabled children, Gao is acclaimed for having obtained the highest damages awards in a Chinese medical malpractice suit. He is still frustrated, however, by the years of lengthy proceedings involved. The cases that Gao describes all portray local government officials as apathetic or actively hostile to law. Nevertheless, he specifically broadens his attack to include the central government, writing that it "doesn't pay even the slightest attention to the constitution and law" and that it is just as responsible for the wrongs in the legal system as are the local officials.

In Chapter Four, Gao reprints his open letters to the National People's Congress, Chairman Hu Jintao, and Premier Wen Jiabao. These letters contain numerous descriptions of alleged torture against Falun Gong members, Gao's interaction with plain clothes policemen stationed to patrol him, and a call for Hu and Wen to transform Chinese government.

The next few chapters all reproduce original-source documents, such as a journal that Gao wrote while surrounded by plainclothes policemen. These stories are often tragically funny: In the story involving plainclothes policemen, the author vividly portrays an absurd operation with droves of policemen following him constantly. This section has a lot of life: It personalizes Gao and provides needed context, helping the reader to see a side of Gao other than that of a constant crusader and adding a different dimension to Gao's story. The sixth chapter includes a letter by Gao's wife announcing that she is resigning from the Communist Party and an essay by Gao on how his quitting the Party was "the proudest day" of his life. The last section of the chapter, in which he describes his belief that the Chinese Communist Party is incapable of

reform and will inevitably collapse, is entitled "On the Verge of Collapse."

The seventh and last chapter describes a "relay hunger strike" that began in 2006. The strike in question moved between cities and incorporated foreign participation, all with the goal of bringing attention to injustices in China. Strikers were encouraged to record their thoughts online. The hunger strike was originally to last until "unlawful persecution ends." Gao defends the hunger strike against criticism that its vague goals made it impossible for authorities to answer, arguing that the strike's victories were the widespread participation in the strike itself and the attention therefore brought to illegal persecutions.

Gao's demands for justice are difficult to analyze. Throughout the book, Gao uses "legal" as if it were a magic word independent of politics and society. Gao notes that simply because the central government approves of something does not mean it is legal, and lists off examples such as the Cultural Revolution and the Tiananmen Square Massacre. Gao's appeal to natural law has a lot of strength in the context of China's struggle with the rule of law; however, this approach gives short shrift to legal realism. Although Gao frequently points to the Chinese government ignoring its own laws, he is trying to fight a larger battle against the entire governmental institution. This leaves unanswered how any progress short of revolution can be made.

Gao's harshest rhetoric can alienate a reader. He rather absurdly states that for Chinese people alive today, "no one on this earth has ever had to experience or witness the suffering that has befallen us." He consistently asserts that Chinese law is no better today than it was during the Cultural Revolution. Even granting that China has a long way to go in establishing a rule of law, the contemporary China that Gao describes is surely better than the anarchic Cultural Revolution. Gao asks Hu Jintao and Wen Jiabao to, "summon the courage and moral strength to admit that there is no end in sight to the misery of the Chinese people, who have lived under oppression for thousands of years." These statements leave the reader feeling as if the situation is hopeless.

Gao's forceful opinions pervade the book, and government officials come off as patently—and nearly universally—

wicked. He describes the system as run by a clique that "is extremely efficient and energetic when it comes to doing evil." Although Gao's numerous stories of great atrocities are persuasive, he does not add much insight as to how the system has become so corrupt. This lack of explanations is a common flaw of the book. In one instance, Gao reports that a public hospital stated that they would pay a fortune to top lawyers rather than pay a negligently disabled child one cent. In a similar case, a Health Bureau head declared that even if the child Gao was representing won in court, the bureau would not pay. Gao writes that this comment disturbed the child's grandmother so much "that she fainted on the spot and died a few hours later." Throughout these stories, the reader is left begging for more context and can feel disconnected.

The closest Gao comes to explaining these incidents is when he mentions the central government's irrational fear of instability. The government's fear of instability is often cited as the reason for its persecution of Falun Gong. Gao does not really develop this assertion, however, especially as regards cases other than that of Falun Gong; instead, he simply settles with the idea that the entire system is evil. This leaves the government's motivation in a number of the cited incidents unexplained.

On a more positive note, Gao asserts that the persecution of Falun Gong has become a popular topic of conversation and is recognized throughout China as unjust and lawless. He describes this as a "rapid, widespread change in attitude." Although this claim seems overly broad, the point that the government will need to evolve to meet changing attitudes is convincing. In an excellent line, Gao writes that "there will come a time when people can no longer content themselves with indulging in material things alone." As China's governmental stability has largely been built on economic growth, Gao is likely correct: Even if China can sustain economic growth, it will need to seriously address human rights, spirituality, and law.

What *A China More Just* lacks in answers to legal and political problems, it makes up for in passion. Gao often refers to his emotions and is nearly constantly tormented in the book. Gao has dedicated his life to the toughest and most tragic cases, and his disdain for the system is thus not surprising. Although Gao does not provide a clear path for change, his writ-

ten work adds a knowledgeable and committed voice to the discussion. Gao's depiction of the system is gloomy, and his vantage point extreme, but his passion inspires readers to support those fighting for the rule of law in China.

The Post-Soviet Wars: Rebellion, Ethnic Conflict, and Nationhood in the Caucasus. By Christoph Zürcher. New York, New York: New York University Press, 2007. Pp. 304. $45.00 (hardcover).

REVIEWED BY BENJAMIN BROD

To the Western ear, mention of the Caucasus brings to mind black-hooded Islamic fighters battling against the full might of the Russian army in the ruined streets of Grozny, or perhaps vague recollections of hostage-taking in a crowded Moscow theatre or in an elementary school in Beslan. The reality, however, is much more complex. Often overlooked in favor of the conflicts in the heart of Europe in the former Yugoslavia, the Caucasus has seen five major internal wars since the fall of the Soviet Union. Indeed, the wars in the Caucasus and the former Yugoslavia together account for two-thirds of all conflict in Europe since the end of the Second World War.

Although the Caucasus was a region of immense political uncertainty and instability in the vacuum following the disintegration of the Soviet Union, not every society in the area descended into violence. This inevitably begs the question, why? It is against this backdrop that Christoph Zürcher has written *The Post-Soviet Wars: Rebellion, Ethnic Conflict, and Nationhood in the Caucasus*. Taking the form of a series of case studies, Zürcher attempts to shed light on the conditions and institutional settings leading to conflict by comparing the wars in Chechnya, Nagorno-Karabakh, South Ossetia, and Abkhazia with situations in which war was averted in Dagestan and Ajaria.

Zürcher's essential argument focuses on the role of institutions: He claims that a given Caucasian society's success or failure in avoiding violent conflict depends mainly on the cleavage structures of local elites. Specifically, this relates to three factors: the elite continuity, the capability of new elites to form coalitions with the old Soviet elites (*nomenklatura*), and the degree of internal fractionalization of new elites. As a co-

rollary, he also notes that the collapse of Soviet institutional authority created shadow economies that in all cases facilitated the financing of rebellion.

The book is effectively organized, with each chapter discussing a discrete issue. An introductory chapter concisely summarizes the rest of the book. Chapters Two and Three set the stage by providing the relevant historical and analytical frameworks. Chapters Four, Five, and Six utilize case studies to discuss the conflicts in Chechnya, in Georgia, and between Azerbaijan and Armenia over the Nagorno-Karabakh exclave. Chapter Seven is devoted to Dagestan and Ajaria, and explores how and why these societies were able to escape the violence that engulfed their neighbors. Each of the case studies includes a historical narrative and a discussion of the implications of conflict theory. Finally, the book concludes with an attempt to add to existing conflict theory on the basis of the Caucasian historical record.

In Chapter Two, Zürcher provides a somewhat cursory overview of the region's modern history, beginning with the bloody conquest of the region by Tsarist Russia during the nineteenth century. Though the historical narrative is necessarily abbreviated, what emerges is a picture of an ethnically, linguistically, and religiously Balkanized region greatly affected by Soviet policies of ethnofederalism. This political structure, which resulted in the creation of layers of nominally autonomous ethnic homelands, had the effect of politicizing ethnicity by creating a hierarchy of ethnic groups.

The review of conflict theory in Chapter Three provides greater elaboration of the author's central thesis. Zürcher surveys recent literature in conflict theory, noting that quantitative studies point to six broad theories to explain ethnic conflict—low levels of economic development, state weakness, opportunities for war financing, prior conflict, complex ethnic geography, and mountainous terrain—before focusing on state weakness as the most determinative factor. Implicitly recognizing that such a single explanation is at best overly simplistic, Zürcher then expands on this idea by noting the extent of the role played by institutional actors in organizing violence. Institutional frameworks provide actors with "the rules of the game" and constrain their behavior, accounting for institutionalization of ethnicity, distribution of social capital, mobilization, and state consolidation. Thus, the focus on institutional

frameworks in the context of conflict theory helps create a coherent and consistent narrative for explaining organized violence.

For the first case study in Chapter Four, Zürcher examines the sequence of the two Chechen wars. These conflicts were the most protracted and bloodiest of the Caucasus, resulting in the deaths of over 50,000 civilians, the internal displacement of some 200,000 refugees, and the complete destruction of Grozny. Zürcher, however, disagrees with the traditional nationalist-secessionist explanation that the conflict resulted in large part from elements of bitter historical memories, a tradition of violent conflict, and a history of Soviet oppression. Instead, he argues that the primary reason for Chechnya's descent into violence was the collapse of state institutions. To support this claim, Zürcher points to the immediately post-Soviet regime created by Dzokhar Dudayev, which supplanted the organizational capacities of Soviet institutions and created a shadow economy based on smuggling. This provided both the institutional vacuum and the financing capacities which made protracted conflict with Russia almost inevitable.

Zürcher then turns in Chapter Five to two internal conflicts in Georgia over the breakaway autonomous republic of Abkhazia and the autonomous oblast of South Ossetia. Enfeebled by the collapse of Soviet institutions and its own internal fragmentation, the Georgian government lost its monopoly on the use of force and its ability to maintain law and order, paving the way for private armed groups to organize and finance violence. The new Georgian nationalist leadership was unable to close its ranks and bring ideologically-aligned paramilitary forces within state control. Finally, conflict erupted in each of these cases when ultra-nationalist paramilitary groups miscalculated and escalated simmering conflicts into violence.

Chapter Six focuses on the war between Armenia and Azerbaijan over Nagorno-Karabakh, an Azerbaijani province predominantly populated by Armenians. Beginning in 1988, a low-intensity conflict was fought between private militias. With the end of the Soviet Union, this conflict quickly escalated into a full-scale war resulting in significant Armenian victories and the de facto independence of Nagorno-Karabakh. Again, Zürcher dismisses traditional perspectives on the development of the conflict, noting that an exclusive focus on Azerbaijani

oil wealth and Nagorno-Karabakh's mountainous terrain ignores the Soviet Union's own role in mishandling the nascent dispute by attempting ill-informed territorial adjustments. Further, the institutional weakness of Armenia and Azerbaijan, as well as the settlement patterns within Nagorno-Karabakh, are of critical importance in explaining the conflict.

In Chapter Seven, Zürcher contrasts these examples with Dagestan and Ajaria in an attempt to examine why war did not arise. Dagestan, the argument goes, was stabilized by the continual presence of the *jamaat*—a community-based social and political unit—and because the old Soviet elite was able to successfully co-opt potential contenders into its ranks and thus to deprive them of access to the resources and finance necessary to organize violence. In Ajaria, an autonomous region of Georgia, conflict was avoided (and identity not politicized) in part because of the mechanics of Soviet ethnofederalism, but also because of continuity among elite groups and because of a gentleman's agreement to maintain Georgian territorial sovereignty in exchange for Ajari fiscal independence.

One of the primary strengths of these case studies is their historical erudition. Recognizing that each of these conflicts (or near conflicts) traced its historical origins, in part, to the structural failures of the Soviet Union and involved disparate and often colorful actors, Zürcher provides a comprehensive overview that provides the reader with an appropriate background. These descriptions are often fascinating. For example, the reader learns that intellectuals (and samizdat publishers) figured prominently among the emerging post-Soviet elites. This was particularly true in Georgia, where the paramilitary Mkhedrioni was organized and led by a former bank-robber turned playwright.

The final chapter offers a concluding "script": that institutional change fueled by the legacy of Soviet ethnofederalism "increased the incentives for both state capture by nationalist elites and nationalist secession." Zürcher ends by summarizing his key finding that post-Soviet wars do not support the association of mountainous terrain and civil war and by emphasizing the causal links between state weakness, the importance of demography, and the importance of obtaining financing to the success of rebel movements.

In the end, this is a provocative book insofar as it reassesses the traditional analysis that conflict theory offers on ethnic conflict. By focusing on institutional frameworks, elite cleavages, and state capacities, Zürcher undoubtedly adds to the existing literature on the causes of violent ethnic conflict. However, the focus on the primacy of elite structures likely discounts the role of ethnic cleavages. This was particularly true in the analysis of Dagestan, where Zürcher pays scant attention to religious demographics, and of Ajaria, where Zürcher glosses over the extensive shared Ajari-Georgian cultural history that was likely determinative in avoiding secessionist violence. This critique not withstanding, the central thesis of *The Post-Soviet Wars* is illustrative of the dynamics of contemporary ethnic conflict, and the book will likely be a valuable addition to the field.