

BOOK ANNOTATIONS

Pivotal Countries, Alternate Futures: Using Scenarios To Manage American Strategy. By Michael F. Oppenheimer. New York, NY: Oxford University Press, 2016. Pp. x, 260. \$27.95 (paperback).

REVIEWED BY MICHAEL ARDELJAN

The world is chaotic. Every day, both deliberate and unanticipated geopolitical, socioeconomic, and technological changes contribute to rapidly changing global and regional circumstances. In their wake, policymakers are left struggling to apply the fruits of longstanding and false assumptions about the way things will be. This is the premise that informs Michael F. Oppenheimer's work on and advocacy for alternate future scenarios to develop superior policy options for U.S. interests. By opening with a critique of the Obama administration's overarching foreign policy of great power cooperation and restrained use of force—developed in part as a stark reaction to the Bush administration's invasion of Iraq—Oppenheimer highlights that well-intentioned and even logical policy decisions at their inception can be rendered obsolete by sudden disruptions in global affairs, such as Russia's annexation of Crimea and ISIS's ascendancy in Syria and Iraq. Alternate future scenarios avoid the traditional pitfalls of policymaking, Oppenheimer argues, by constructing plausible narratives of future events rooted in current events. The result is an intellectual exercise that makes policymakers more open-minded, and their policies more agile and adaptable.

Oppenheimer's book consists in substantial part of alternate scenarios constructed under his supervision in 2009 and 2010 at the Center for Global Affairs (CGA) in the School of Professional Studies at New York University. As a result, this finished product functions not only as a "why-to," but also as a self-described "how-to" book on alternate futures. However, because the author's primary goal is to educate the reader on the utility and methodology of creating alternate scenarios, rather than on the scenarios themselves, the majority of examples provided throughout lack immediacy and relevance. For

instance, the 2009 scenario projecting Russia's future through 2020 is, by Oppenheimer's own admission, inapplicable to the state of Russia's affairs through 2015. Because the reader is aware of six years of actual history the scenario's participants were not privy to, the exercise loses its speculative drive in the present. Granted, Oppenheimer makes sure to comment on any such divergences throughout the book, and presents the scenarios instead for their demonstrative value. To this end, he succeeds in detailing what alternate futures look like, as well as why we should use them.

In five succinct chapters, Oppenheimer addresses: 1) the sources of uncertainty vis-à-vis alternate scenarios undertaken in 2009 and 2010 by Russia and China, respectively; 2) the consequences of uncertainty exemplified by calamitous historical events such as Yugoslavia's dissolution and the September 11 terrorist attacks; 3) the value of using alternate future scenarios; 4) the process of scenario construction; and 5) topics ripe for future scenario studies. The result is to familiarize the reader with scenarios before deconstructing them. Each consists of a list of "drivers," or "bottom-up" factors which are determinants in a given state's alternate futures, such as global economic trends, domestic political tensions, and social issues. After a detailed narrative of the alternate future, the scenario concludes with an assessment of its significance for U.S. policy.

Despite the historical discrepancies mentioned above, the Russia and China scenarios are detailed and exemplify Oppenheimer's refrain that scenarios be *plausible* and build upon established events in a logical way. Thus, the "working authoritarianism" model of Russian development from 2010 to 2020 does not account for Crimea and Syria, but instead focuses on a hypothetical future in which Vladimir Putin would cultivate economic relationships with the United States, Germany, and South Korea to bolster capital investments in his country. Likewise, the "strong state" China scenario envisions a plausible future decade in which the Communist Party of China maintains monopolistic political control by raising the quality of living by focusing on a services economy. As the book subsequently makes clear, the point of the scenarios is not to provide a prophetic pathway for decision-makers to navigate the future, but rather to be amenable to fine-tuning or even wholly changing policies in light of changing conditions in real time. Oppenheimer attributes the deficient responses to crises like Yugosla-

via's dissolution in the 1990s as the product of institutional unpreparedness in the face of unexpected events. It seems, then, that alternate scenarios are meant to condition the mind to not be taken aback when real life unfolds in full force; unlike predictive policy, life is of a sink-or-swim mentality.

The crux of Oppenheimer's work is that future scenarios are valuable because they keep the policymaker's mind nimble. Instead of being bogged down in elaborate predictions for what *will* happen, one should design alternate future scenarios to contemplate what *could* happen. The reasoning here is that traditional predictive policy tends to reinforce its own biased assumptions by seeking only information to support the predetermined policy, whereas alternate scenarios yield policies based on the different plausible outcomes considered. Not only can experts employ alternate scenarios to create policies, but they can also use them to critique current policies, revise them, and otherwise be prepared to make real-time decisions without being caught off guard by surprising global developments. Scenarios, therefore, help policymakers recognize potential trends and developments on the basis of currently known information, allowing for broader contingency plans to prevent and mitigate future conflicts. Oppenheimer suggests, for example, that the failure of the Doha Round of the World Trade Organization (WTO) could have been offset by earlier recognition that advanced countries would not liberalize agriculture, emerging industrial countries would not liberalize manufacturing, and that the United States had limited leverage at the multilateral WTO level. The compromise would have instead been a more modest and collaborative U.S. diplomatic model, as well as a more concentrated focus on economic issues besides trade liberalization. As he envisions it, alternate scenarios need not have grasped all these factors, but rather could have simply made policymakers more perceptive and less reactive to the breakdown in trade negotiations.

In the final two chapters, Oppenheimer lays out the process for successfully creating an alternate scenario, as well as his commentary on future topics suitable for examination. He refers in great part to the organization, scheduling, and execution of the CGA's scenarios, stressing the need for a balanced group of experts with different areas and scopes of expertise to ensure a productive and multifaceted discussion. It is in this regard that he most succeeds with his "how-to" approach by

complementing his discussion of model scenarios with the nuts and bolts of actually creating them. Combined with his recommended future topics of resource allocation, including the Middle East's continuing conflagrations and the European Union's future, his work reads as a direct appeal to aspiring consultants and think tanks to adopt his approach to policymaking moving forward. As a promotional tool for his methodologies, this is appropriate.

This leaves something to be desired, however, with respect to a critical assessment of the theoretical underpinnings that inform those same methodologies. For instance, Oppenheimer remains silent as to the actual policymaking approaches undertaken by the Clinton, Bush, and Obama administrations in the various examples he references throughout. The reader must instead take for granted that past and present U.S. administrations employed poor decision-making processes without contemplating future scenarios. But one must wonder to what extent poor policymaking process, as opposed to poor execution or politicking, was chiefly or solely responsible for the failings in U.S. policy which Oppenheimer identifies. It is in this regard that he foregoes a more substantive historical and political analysis of U.S. policymaking in favor of categorical endorsement of his approach. Although the book's end goal is to endorse the CGA's work, more critical analysis would strengthen the case for adopting alternate future scenarios in policymaking.

Ultimately, the ever-changing modern world calls for rapid-fire policymaking. Political experts cannot constrain themselves to dogmatic perspectives on the status quo and how to address developing situations around the globe. They should instead be malleable and prepared to respond as necessary, even if changed circumstances were to call for a complete reversal in policy. In *Pivotal Countries, Alternate Futures*, Michael F. Oppenheimer advances the construction of alternate future scenarios by policymakers to accustom themselves to various potentialities. It is through a broad array of plausible futures that they can develop policy in the first instance, as well as be comfortable with the notion that global situations could change profoundly and immediately. This form of agility and prescience is the best tool for U.S. policymakers in today's post-Cold War world, he argues. With both Russia's post-Soviet rehabilitation and China's global economic ascension, the

United States is no longer pitched in a post-war rivalry, nor at ease in a post-Berlin Wall bubble. Despite its analytical shortcomings, Oppenheimer's work explicates in great detail the value of alternate scenarios to the United States as it navigates the twenty-first century.

New Constitutionalism and World Order. Edited by Stephen Gill and A. Claire Cutler. Cambridge, UK: Cambridge University Press, 2014. Pp. xviii, 368. \$39.99 (paperback).

REVIEWED BY HAROLD E. FIGUEROA-BRUSI

In 1973, Salvador Allende, an avowed Marxist and the democratically elected president of Chile, was deposed in a CIA-backed coup d'état. In the government's place was erected a military junta, headed by Augusto Pinochet, which set about reforming the economy in keeping with stringent free-market orthodoxy on the advice of a group of American economists known as the "Chicago Boys." Pinochet's brutal dictatorship, notable for its torture, killing, forced disappearance, and exile of dissidents, is probably the most tangible historical evidence of a conscious, calculated effort to impose a neoliberal political philosophy on the global economy—that a specter, so to speak, is sweeping not just Europe, but the world.

In *New Constitutionalism and World Order*, Stephen Gill and A. Claire Cutler seek to provide an anatomy of that neoliberal project. Beginning with a section entitled Concepts, the collection continues with sections on Genealogy, Origins and World Order; Multilevel Governance and Neo-Liberalization; Trade, Investment and Taxation; Social Reproduction, Welfare and Ecology; and finally Globalization from Below and Prospects for a Just New Constitutionalism. While both editors contribute to this collection of eighteen essays, their chief role is as stewards of the idea they dub "new constitutionalism." In carrying out their design, the authors join the ranks of such writers as Pierre Bourdieu and Ludwig Wittgenstein—inspired, if ineloquent, thinkers, who are at their best when allowing others to speak on their behalf. Each essay is like a dot in a pointillist painting; together they present the contours of a deeply important theory, though at times the essayists lack the courage

of their convictions and shy away from the policy implications thereof.

Of the three introductory essays, the most incisive by far is a piece by Christopher May, a professor of political economy at Lancaster University, entitled "The Rule of Law as the *Grundnorm* of New Constitutionalism." Essentially, a *grundnorm* is the implicit assumption, or the begged question, underlying the logic of the argument in favor of a given position—here, May makes the case that the assumption underlying the arguments of the proponents of new constitutionalism (which, he observes, requires the adoption of "pre-commitment mechanisms" which bind not only current but future governments to market-based reforms) is the ultimate and fundamental desirability of a clear and consistent rule of law.

The section Genealogy, Origins and World Order essentially asks, "What is *constitutionalist* about new constitutionalism?" Tim Di Muzio, a professor of international relations at the University of Wollongong, does this by exploring the "old constitutionalism" of the Founding Fathers of the United States—compellingly arguing that the constitutional project of Jefferson and Madison enshrined wealth inequality in American society—that "[f]or the Framers, the protection of property meant the protection of *unequal* property and thus the insulation of both property and inequality from democratic transformation." In Madison's own words, it was necessary for the constitutional structure of their new government to frustrate attempts "for an abolition of debts, for an equal division of property, or for any other improper or wicked project."

Part III marks the start of the meat of this book: a discussion of what new constitutionalism looks like, how it shapes governance institutions at a national and transnational level, and what the implications are for public policy going forward; for the sake of conceptual symmetry, it can be said that the rest of the book asks: "What is *new* about new constitutionalism?"

The section begins with Saskia Sassen, a professor of sociology at Columbia University and co-chair of the Committee on Global Thought, elucidating a thought by Gill and Cutler that "both old and new juridical and regulatory forms have emerged and combined to constitute some of the key political and legal governance frameworks of 'actually existing' capital-

ism.” What this means is that it is wrong to cling to facile “notions, such as ‘globalization weakens *the* state’ or ‘the rescue of our banks shows us the return of the strong national state.’” Rather, the architecture of the neoliberal project is such that it fundamentally alters the internal workings of states themselves by forcing these to “endogenize new geographies of power,” namely shifts of power toward the executive branch internally and non-state actors externally.

In “New Constitutionalism and Variegated Neo-Liberalism,” the reader is confronted for the first time with one of the more salient policy implications of the existence of a *supremacist*, transnational project of neoliberalism—namely, that a *hegemonic* alternative is the only viable one; in layman’s terms, that a coordinated project acting to shape global governance in the interests of a select few can only be effectively tackled by a project of equivalent scope acting in the interests of the global populace as a whole. While Neil Brenner, a professor of urban theory at Harvard University and director of the Urban Theory Lab, and his coauthors address the possibility of “disarticulated counter-neo-liberalization,” they correctly note that this would do little to shake the “dominance” of the neoliberal project on the world stage, but this is still overly optimistic. Given the powerful incentives faced by countries to adapt to attract businesses within their borders, a disarticulated movement toward policies hostile to those same businesses would likely collapse under the weight of enormous coordination problems.

That the coordination problems mentioned above go unmentioned by Brenner et al. evinces another set of problems coordinating among the essayists in this volume. In the very next essay Adam Harmes, a professor of social science at the University of Western Ontario, addresses what he dubs “market-preserving federalism,” a concept which “finds its most prominent origins in the work of [Friedrich von] Hayek.” For Hayek, federalism offered market actors an “exit option” and thereby created “policy competition within individual countries.” The same policy competition which federalism creates between states, globalization creates between countries, and, indeed, Harmes addresses the “clear similarities between market-preserving federalism and the neo-liberal project as it relates to regionalism and globalism,” an approach he dubs “market-preserving regionalism and globalism.” This renders

the possibility of “disarticulated counter-neo-liberalization” illusory.

David Schneiderman, a professor of law at the University of Toronto, opens the section Trade, Investment and Taxation with an essay that sprawls the subject matter of at least three parts of this volume. His introduction, which examines the “genealogy” of neoliberalism and concludes that it is better understood as the spiritual heir to post-war Germany’s “ordo-liberalism” than the “Chicago School variant,” belongs in Part II, described above. His conclusion, entitled “Rolling Back Neo-Liberalism,” would probably be more at home in Part VI, examined below. That so much of his analysis is devoted elsewhere leaves his meditations on the actual nature of trade and investment agreements anemic by comparison to those of Scott Sinclair, a senior research fellow with the Canadian Centre for Policy Alternatives, who notes the role of agreements such as NAFTA and those that underlie the WTO in restraining the ability of the public sector to provide basic goods and services.

However, Schneiderman’s observation that the neoliberal project relies heavily on its capacity to “structure a ‘universal common sense’. . . even in the face of a recession” rings true. Consider the recent Greek debt crisis, during which Germany, among others, foisted austerity policies on the economically ailing Greece in keeping with common-sense, but economically unwise, principles of frugality. So too with the observations of Dries Lesage, a professor of international studies at Ghent University, that the neoliberal project inhibits “the taxation of the financial sector” (U.S. capital gains taxes are, by some accounts, including that of billionaire investor Warren Buffett, egregiously low), “the taxation of wealthy individuals” (a wealth tax, such as that proposed by French Economist Thomas Piketty, is politically untenable, risks capital flight, and is in any case unconstitutional in the United States), and “the taxation of multinational corporations” (the United States only recently took steps to end the practice of corporate inversions, and many large U.S. corporations paid no taxes in 2015).

Part V is best understood as the “potpourri” category. It begins with a discussion by Isabella Bakker, a professor of social science at York University, on how neoliberal pressures on national tax systems have been a force for regressiveness, lead-

ing to a “fiscal squeeze”: a decline in national spending on social redistribution and welfare. The section ends with Hilal Elver, the U.N. Special Rapporteur on the Right to Food, arguing against the expansion of cap-and-trade frameworks for controlling carbon emissions, and for a new framework “based on cosmopolitan ethical principles, respect for human rights, justice and equity.” Although Elver should be praised for so openly addressing the necessity of a hegemonic alternative to the neoliberal project, while Bakker, by contrast, laments the private “expropriation of the commons” without pointing out that in its absence a public expropriation would likely be required, given the tragic unsustainability of any commons, the argument is profoundly vulnerable to the criticism that it sets up the perfect as the enemy of the good at a time when we can no longer afford the costs of inaction on climate change.

Gavin W. Anderson, a professor of law at the University of Glasgow, opens the sixth and final part of this collection by calling for an adoption of the lens of “constitutionalism as critique.” From there, he goes on to argue for so-called “globalization from below,” which would borrow heavily from the constitutional theories of the global south to arrive at a more just new constitutionalism than that embodied by the neoliberal project. Anderson frames the discussion at a conceptual level, as one of a “[s]truggle[] over hegemony” “clearly differentiated from . . . the ‘supremacist’ project of the past.”

By contrast, Richard Falk, a professor emeritus of international law at Princeton University, in addressing “the prospects for a just new constitutionalism,” focuses on specific examples that render the present new constitutionalism unjust. At one point Falk argues, somewhat bizarrely, that enforcement of the 1968 Non-Proliferation Treaty is unlawful because the document implicitly creates a “hierarchy” with Iraq, North Korea, and Iran at the bottom—begging the question of why preventing these nations in particular from obtaining nuclear weapons is not a legitimate end.

In conclusion, *New Constitutionalism* suffers from the banes common to any similar collection, namely some topical redundancy, variegations in quality, and a difficulty in maintaining the clarity of its common threads. As is to be expected, it raises more questions than it answers. However, as a device for framing a discussion well worth having, there is no question that it succeeds.

International Environmental Law and the Global South. Edited by Shawkat Alam, Sumudu Atapattu, Carmen G. Gonzales, and Jona Razzaque. Cambridge UK: Cambridge University Press, 2015. Pg. xxiv, 631. \$155.00 (hardcover).

REVIEWED BY LUCAS HANSEN

"The persistence of extreme poverty in the global South is attributable not to random misfortune, but to a global economic order that systematically benefits the wealthy and disenfranchises the poor." So says the introduction of *International Environmental Law and the Global South*, a book of legal essays with an axe to grind. Though the specifics of the contributions differ, they work together to make some overarching, highly relevant claims about the modern international system as it pertains to international environmental law. The core thesis can be described as consisting of dual claims. First, there is an intractable connection between environmental problems and global inequality more generally. And second, global environmental justice can only be achieved through a multifaceted effort of critique and change engaging not only formal legal institutions but also economic policy and social movements.

Historical perspective is of paramount importance in understanding the first of these claims. Most, if not all, instances of systemic injustice between the global North and South have roots in colonialism, aggressive neo-liberal trade policy, and a general willingness on the part of Northern states to take advantage of the capacity and institutional deficiencies of their Southern neighbors. The authors consistently draw connections between this history and modern deficiencies in the international environmental system. In this way, the reader comes to see environmental injustice as not simply an isolated problem to be tackled, but also inextricably linked to these greater historical injustices.

It should be noted that, though it uses labels such as "North" and "South," *International Environmental Law* is pervaded with the recognition that such labels are of limited utility. While admitting the commonalities between those countries hurt by the legacy of colonialism (both the historic and modern "toxic" variety), at no point do the authors concede that this linkage warrants the uncritical amassing of these countries into a political or social group. As we see in many of

the contributions, the countries of the global South are at odds with one another as often as they are aligned. Environmental problems such as climate change or toxic waste disposal illicit different responses from different states, and often encourage both inter-bloc divisions and alliances that cross the North-South divide. As such, and in keeping with the collection's larger insistence on the dignity owed to Southern states, the reader is left with the admonition to remember that the phrase "global South" masks a huge diversity, and individual members are due their own individual treatment and analysis.

The essays in *International Environmental Law* are grouped into five sections: History of the North-South Divide and Environmental Governance; Selected International Environmental Law Examples; Trade, Investment, and Sustainable Development; Environmental Justice and Vulnerable Groups; and Challenges and Options. The use of these subjects as an organizing principle speaks to their relevance in global environmental law. Specifically, these subdivisions speak to the modern, sometimes *ironic*, forms that Northern hegemonic practices can assume. In each section, one finds examples of the manner in which the global North has co-opted theoretically beneficial frameworks, such as "sustainable development," in a manner that re-entrenches global inequality.

Consider Shalanda Baker's essay "Project Finance and Sustainable Development in the Global South," in the section Trade, Investment and Sustainable Development. This essay describes the false promise of foreign direct investment through an examination of several case studies in Oaxaca, Mexico. Blessed with abundant wind energy, the region has become home to a number of wind farms financed by major development banks. In theory, these projects, situated on indigenous land, should provide jobs, income, and obviously *energy* to local residents. However Baker's research shows how major corporations such as Walmart, Cemex, and Heineken take advantage of the highly risk-managed investments to obtain sources of cheap energy. They contract away tenants' rights to use the land for traditional sustenance and agricultural purposes by flouting laws meant to ensure the prior informed consent of indigenous tenants. On one such farm, the Mareña Renovables Wind Project, the company tellingly listed its contact information as: "John Doe, Inc., Main Street, Anywhere USA." Such unresponsiveness has left many local com-

munities with no leverage other than civil disobedience. On the basis of these and other case studies, Baker concludes that the development darling of project finance suffers from many of the same inequities that plagued earlier, unabashedly unsustainable development projects.

Another golden calf of the Northern sustainable development movement is critiqued in the essay "Water Wars," by Jackie Dugard and Elisabeth Koek, in the section Environmental Justice and Vulnerable Groups. The authors use the debate over water privatization as a lens into the greater, growing discontent over neo-liberal development policy. Lauded by proponents as a means to support investment, transparency and efficiency, water privatization has become a rallying point for a diverse array of local activists, indigenous groups, and civil society as the commodification of a right. Despite the successful defeat of privatization measures in many South American states, Dugard and Koek raise the specter of quasi-privatized water resources, such as through the corporatization of government-run water utilities. Though less visible, such initiatives threaten to undo the gains of water-rights advocates. As described in Baker's and Dugard and Koek's essays, project finance and water privatization thus serve as windows into the ways in which Northern economic priorities remain dominant, despite the lip service paid towards sustainable development and the green economy.

Indeed, the very viability of sustainable development itself is called into question in the final contribution, "Sustainable Development Versus Green Economy: The Way Forward?," by editors Alam and Razzaque. The authors point to vagueness in central tenants of the concept, like sustainability and participation, as well as disagreement over principles such as common but differentiated responsibility. They also note the oft-remarked divide between the North and South on the prioritization of development over environmental conservation. However, perhaps their most damning observation is the reticence of either the North or South to question the underlying assumptions of the Northern development model, despite scientific consensus on the unsustainability of a world that lives according to the standards of the global North. The importance of this final critique is not to be overstated. It is woven, unsaid, throughout the book, but finds its clearest enunciation only in the last few pages.

This speaks to one major challenge of the book, namely the space between the problems identified and the solutions proffered by the authors. There can be no doubting the scope and urgency of environmental challenges, particularly those facing the global South. The language used by certain contributors—indeed, some of the best contributions—describing these challenges is almost harrowing in its intensity. In light of this skilled advocacy, solutions on the scale of individual international conventions or even within the existing framework of international environmental law often feel insufficient. *International Environmental Law* invests a lot of time casting light on a truly global, systemic perpetuation of environmental degradation and social injustice. However, their many proposed solutions remain entrenched within a broader, inequitable system. Practically speaking, this gap is no doubt explained in part by the notoriously patchwork set of conventions and regulations that constitute international environmental law. However, this issue of legal fracturing is rarely addressed head-on by the essays. Whether this is a conscious support of localized solutions by the authors or simply an oversight is not completely clear. The sad implication of the book, despite its generally optimistic attitude, is that the kinds of actions available within current legal frameworks are insufficient to avert catastrophic environmental consequences, which will disproportionately burden the global South and vulnerable groups who live there.

One is left with the conviction that only unprecedented change could begin to address these problems. Yet unprecedented by no account means impossible. For example, with the exception of the last pages of the final contribution, the possibility of major shifts in the North's consumption patterns are never seriously entertained. Despite the book's clear philosophical alliance with Southern priorities, the unwillingness of Northern states to unilaterally change their behavior is insufficiently derided by many of the contributors. In repeating the narrative that change is possible through "cooperation" (as compared to sacrifice and systemic change) on the part of the global North, *International Environmental Law* sometimes fails to hold those most responsible for global environmental catastrophe accountable.

The organization of *International Environmental Law* is generally well-conceived, with the possible exception of the section titled Selected Environmental Law Examples, which reads

like a miscellany of essays neither clearly tied together in their subject matter, nor contributing to the overall structure of the book. This is not to say the contributions themselves are poor, but rather that the framing of these works could be more specific (for example, an examination of international treaty regimes). By all indications the editors' guidance of the work was with a gentle hand. Individual contributors are united in their espousal of the principles enumerated above, but speak with separate voices. A minimalist but passionate introduction by Judge Christopher Weeramantry of the International Court of Justice is followed by a longer and more analytical introduction by Atapattu and Gonzales. The other two editors, Alam and Razzaque complete the compilation with a final essay, providing a well-executed symmetry to the book. Indeed, their first and final essays are among the best in the compilation.

International Environmental Law is highly readable. This is at least in part due to the works' self-positioning at the intersection of the law, critical studies, and environmental justice. The influences of these different subject areas waxes and wanes between—and sometimes within—the contributions of the book. As several contributions early in the book note, large-scale international organizations like the United Nations and World Bank were created by the global North and thus tend to be dominated by their priorities. Perhaps because of this, *International Environmental Law* implicitly endorses a broad view of the law itself. Trade regimes, civil society, and social movements all need to be taken into account as tools of the trade for solving the large-scale problems of environmental injustice facing the global South. This is not to say that all contributions are free from legal technicality (page 321, for example, contains no less than 10 unique acronyms in two paragraphs). However, the occasional technicality is the exception, not the rule.

International Environmental Law would be an excellent addition to the library of any interested individual—irrespective of legal sophistication. The first section in particular is a stand-alone achievement that is relevant to anyone wishing to understand the mechanisms by which entrenched inequality on the global stage was created, and how it is perpetuated to this day. For those interested in the fine-grained analysis of specific issues, the rest of the book serves as an excellent primer.

An Unfinished Foundation: The United Nations and Global Environmental Governance. By Ken Conca. New York, NY: Oxford University Press, 2015. Pp. viii, 301. \$27.95 (paperback).

REVIEWED BY JONATHAN HEMPTON

Ken Conca's *An Unfinished Foundation* attempts to understand how the United Nations has arrived at a place where its environmental efforts are almost exclusively concerned with law and development, under the slogan of "better law between nations and better development within them," to the neglect of the United Nations' broader mandate, which includes peace, security, and human rights. Conca aims to show that this orientation is suboptimal and, at least partly responsible, for the United Nations' slow progress on many environmental issues. His ultimate thesis is that unless and until the United Nations incorporates environmental governance into the core of its efforts on human rights, peace, and security, all of the organization's activities will fail to reach their potential.

Conca organizes *An Unfinished Foundation* into six chapters. He first introduces the reader to the United Nations' problem, as he sees it, and then provides a brief history of the United Nations, showing how the organization has come to underachieve in its environmental efforts. He uses the second half of the book to argue for a more holistic approach to the United Nations' mandate for peace, human rights, international law, and development—one that puts environmentalism on equal footing with peace and security.

While its main focus is in critiquing the United Nations' effectiveness in managing global environmental governance, Conca's book could just as easily be about the effectiveness of the United Nations more broadly, and whether the organization, as currently constituted, is properly equipped and designed to meet the pernicious challenges facing the global community in 2016. Conca only briefly touches upon this question, which is perhaps one of the most interesting elements of his book, given his self-professed skepticism about the role of "formal institutions" in the "mainstream quest for global sustainability." Still, his focus on the United Nations presupposes that effective global environmental governance requires a robust United Nations. There is plenty of great work taking place at the sub-national level, to be sure, but given the

sheer scope of the impacts from climate change and the transnational nature of many environmental issues, this presupposition makes a great deal of sense. The importance of the United Nations in the realm of environmental governance justifies Conca's efforts not only to understand better the forces pushing the organization towards suboptimal behavior, but also to provide prescriptions that will place the organization on a firmer foundation.

How did the United Nations get to this suboptimal place, where it stands on an "uneven environmental landscape," unable to fully fulfill its objectives? Conca readily dismisses familiar statist and realist critiques of United Nations behavior, arguing that they often oversimplify the realities of the organization and its behavior on environmental governance. Instead he focuses on three alternative explanations, the first of which is that the United Nations' environmental units have insufficient "space and capacity for autonomous action." This is perhaps his weakest argument, as it offers few concrete examples to back up his claim. Although he seems to acknowledge the argument's limitations, he spends little time developing his point.

Conca instead focuses on his second and third arguments: that the United Nations as a bureaucracy is defined both by the "ideas and discursive frameworks" of different time periods and by "organizational path dependence." On these points, Conca is at his strongest. He credits the "unequal ability of different actors to fix the meaning of environmental problems and solutions," and "the staying power of certain frames" as the driving forces behind the United Nations' modern approach to environmental governance. In other words, the organization's structure and related path-dependency are natural by-products of its organizational thinking, which in turn is influenced by powerful external actors and intellectual currents. This is the core of Conca's thesis, and one of the real strengths of his book. Organizations and the people who compose them are often confined by the dominant politics and thinking of the time, and Conca, presumably writing primarily for today's practitioners, serves the United Nations well by supplying a critical analysis of the powerful intellectual forces influencing the organization's current thinking.

To show how the United Nations has developed, Conca takes the reader on a tour of the major political and human

rights movements that have driven the evolution of the United Nations over the past seventy years. From South American nations' push for natural resource sovereignty, to decolonization, to the globalized modern world, Conca convincingly shows how political movements, only tangentially related to environmentalism, influence the United Nations' response to global environmental governance. For example, the wave of nationalizations in the 1950s through 1970s—including petroleum resources in Iraq and Iran, and copper mines in Chile—can be seen primarily as a response to colonialism and a push for economic sovereignty. Nevertheless, these movements had inseparable environmental components as well, and the United Nations played an important role in legitimizing many of these efforts. Consequently, Conca takes a broader view of the international environmental movement, one that he sees as beginning at, and before, the founding of the United Nations rather than the commonly cited starting point of the 1972 Stockholm conference. Environmentalism, he argues, cannot be separated from political freedom movements. It is this perspective that enables Conca to see the environmental movement for what it really is—an under-recognized human rights movement. He notes that “[i]n the United Nations, ideas have consequences,” and the consequences of the political movements of the past seventy years have been the relative dominance of peace and security concerns and the relative marginalization of environmental issues.

Conca states that the United Nations' historic emphasis on law and development as the foundation of a global environmental regime is at least part of the reason why progress on environmental issues has been frustratingly slow. Better, he argues, would be for the United Nations to embrace all the tools within its “four-legged” mandate for “peace, human rights, international law, and development.” Only when its full institutional capacity is brought to bear will the United Nations become an effective institution for global environmental governance. Furthermore, not only does the United Nations' focus on law and development undermine its environmental efforts, Conca argues, but it also weakens the organization's other mandates for peace and security. Since environmental issues are so intertwined with the United Nations' peace, security, and human rights goals, progress on these other fronts inevitably falls short as well.

If his diagnosis of the reasons behind the United Nations' environmental governance problem is the strength of his argument, then his prescribed solution is arguably a weakness. As a general premise, the incorporation of environmental governance into a more holistic and inclusive United Nations peace, security, and human rights framework appears attractive. While moving the environment closer to the core of the United Nations seems more appealing than keeping it at the periphery. Similarly, recognizing the import of clean air and access to safe water and agriculture to human flourishing and conflict prevention seems equally uncontroversial. There is a real risk, however, that by elevating environmental rights as equal amongst the currently recognized human rights, the United Nations could weaken the entire human rights system. For if everything is a human right, then nothing is a human right as the term loses its moral salience.

Additionally, Conca rightly acknowledges the consequences a myopic focus can have on organizational effectiveness in diagnosing the deficiency of the United Nations' efforts on global environmental governance, but his proposed remedy could similarly fall victim to the institutional realities that caused the United Nations' problem in the first place. All organizations are subject to the same general pressures to focus and prioritize scarce resources. It is easy to say that bringing marginalized activities closer to an organization's focus will produce better results, but practice may prove otherwise. It may even be that the United Nations in fact would become less effective across the board.

Furthermore, partly because he covers so much ground in the book, Conca doesn't provide for the specifics that will ultimately be the measure of his plan. Environmental human rights, as is the case with many rights, could frequently bump up against claims from conflicting rights. Conca does not articulate what the United Nations should do in the case of such controversies, and ultimately this is where his prescription is left wanting. This is not to say that his general recommendation is inappropriate, as stronger inclusion of environmental rights in the United Nations' broader mandate for peace and human rights might well be a necessary evolution in the organization's thinking about environmental governance. But the real action will be in the execution, and here Conca needs to be more specific.

The suggestion that the United Nations can improve the effectiveness of its environmental governance by changing its thinking ultimately reflects a deeper irony in Conca's own thinking. Conca seems to be saying that path dependency and external intellectual currents are powerful forces containing the United Nations' potential, while at the same time arguing that the United Nations can fix its problems by changing its own way of thinking. Given how astute Conca is at recognizing the powerful forces impacting the United Nations, he should acknowledge how challenging his prescriptions may be to implement. As crucial as the United Nations is in all aspects of global governance, it is still constrained by the priorities of its member states. Only when states themselves recognize the importance of the environment-human rights nexus will the United Nations become an effective mechanism for global coordination and governance. The United Nations cannot by itself bring environmental issues within its core mandate, but it can help shape the conversation. Despite falling short on implementation strategies, Conca does a terrific job of highlighting the need for change and providing a better destination. By this measure alone, *An Unfinished Foundation* is a worthy project and an important step in challenging the conventional intellectual frameworks on environmental governance.

Ultimately Conca's book is a readable, well-organized and fast drive through the history of the United Nations and its efforts to understand and ultimately manage thorny international environmental disputes. In addition to supplying arguments for how the United Nations arrived at its present environmental strategy, Conca explains why the strategy is likely to fall short of expectations and then prescribes a solution by recommending that the United Nations bring its environmental efforts closer to its core work on peace, security, and human rights. Given the breadth of the topic, Conca is unable to provide satisfying details about how the implementation of his plan would work in practice. Consequently, Conca's arguments fall prey to the very same limitation with which he criticizes the United Nations—they are too vaguely formulated. Tying the environment to human rights and peace seems like the right evolution for the global environmental governance, but the fact that Conca does not provide enough specific details about how such rights would work in practice shows how far we have to go until his vision is realized. Additionally, Conca

simultaneously argues that the United Nations is an important global agenda shaper yet is confined by the prevailing member state intellectual movements. Both cannot be true, at least not in equal measure, and if it is the latter, Conca's proposed remedies will not strengthen the United Nations until its member states themselves recognize the interconnectedness and importance of human rights and the environment. Despite these concerns, as a clear statement for the appropriate direction of the United Nations' environmental efforts, Conca offers a compelling argument, one that anyone involved in environmental efforts should read. In the United Nations as in the broader world, "ideas have consequences," and Conca's ideas in *An Unfinished Foundation* are worthy of attention.

Free Expression, Globalism and the New Strategic Communication. By Monroe E. Price. New York: Cambridge University Press, 2015. Pp. v, 254. \$85.00 (hardcover).

REVIEWED BY CRISTINA PASSONI

In the last few years, no coverage of revolutionary movements, war tactics, or defense policies has been complete without devoting attention to the communication strategies employed. From the uprisings in Egypt and Ukraine to the United States' surveillance system, improvements in technology and information flows have both strengthened and undermined free expression. Indeed, the increased ability of disrupters to challenge the strategic narrative of those who once held media monopolies contrasts with corresponding increases of these powers to suppress free expression through new communicative strategies. Monroe E. Price explores these developments and tensions in strategic communication in his new book *Free Expression, Globalism and the New Strategic Communication*, which was published by Cambridge Press in December 2014. This book expands upon Mr. Price's previous works including *Media & Sovereignty*, which evaluates the effects of globalization on the manner by which states control forms of information that reach its citizens. His latest book incorporates this analysis in order to delve into the frictions created by technological changes and globalization between dissenters and power players, free expression and security, hope and fear. The book artfully balances nuanced complexity with ac-

cessibility through its thoughtful structure and abundance of examples that extend geographically and temporally. These elements allow Mr. Price to successfully attain the book's ultimate goal—to create an “invitation to a dialogue or conversation that recognizes shifts in the underpinnings of the free speech framework.”

The primary method through which Mr. Price achieves an impressive combination of complexity and clarity is the book's deliberate structure. Its twelve, cohesive chapters gradually shift focus from abstract concepts to their modern manifestations. The first five chapters set forth an analytical toolkit by teasing out the central concepts under consideration and introducing the themes and tensions that following chapters explore comprehensively. Chapter 1 introduces the concept of “strategic communication” as embracing technological changes that melt away the traditional concept of state borders, while also rendering the management of communication more pervasive. The next two chapters not only develop the concepts of free expression and strategic narratives, but also demonstrate the internal conflicts generated by the arrival of social media. In Chapter 4, the book relies on examples from Somaliland and Afghanistan to evidence the increasingly crucial role of analytics in strategic communication in order to maximize the potential impact of a group's message. Chapter 5 also develops its discussion of the destabilization of traditional asymmetries by relying on case studies of circumvention of censorship in Iran and China, and of the relationship between the “innovator,” the Taliban, and traditionally dominant “adaptor,” the United States in the Afghan War.

Chapter 6 ultimately provides a bridge to later discussion by adopting a “broader strategic lens” and relying on these prior concepts to develop the idea of the strategic architecture of media and informational systems. This strategic architecture includes efforts by those in power to develop effective mechanisms that further a multitude of more specific goals (as opposed to a singular goal), such as strengthening national consciousness. The discussion explicitly draws from the first chapter's market of loyalties and is itself utilized in the final two chapters. The chapters that follow pursue an increasingly nuanced analysis, teasing out the summative effects of these normative shifts on key players, both independently and in relation to one another. Chapter 7, for instances, illustrates the

magnifying effect of strategic communication on soft power, transforming it from a tolerated instrument reinforcing society's own goals into a tool of "soft war" capable of attaining regime change, as was the case in Iran. Similarly, Chapter 8 and Chapter 9 explore the effects of these fundamental evolutions from the vantage point of emerging actors, specifically religious groups and NGOs, respectively. These analyses synthesize in the last three chapters, in which tensions between the traditional monopolistic powers attempting to maintain their narrative of legitimacy and these emerging disrupters are ultimately explored. In essence, the book builds upon itself from the first page, the result being a rich, thorough exploration of new strategic communication.

Equally commendable is the empirical range of the work. The argument draws from prominent, up-to-the-minute events so as to highlight its relevance. Tragedies like the 2007 Boston Bombing and the discovery of NSA surveillance tactics continue to resonate strongly with the world. At the same time, they bring to the forefront both social media's amplified potential for enabling free expression and structural disruptions on the one hand, and the aggressive efforts to maintain a narrative of legitimacy on the other. The Islamic State provides particularly illustrative and topical insights throughout the work. The book uses the Islamic State as an example of new strategic communication's destabilizing power. First, by chronicling the Islamic State's rise as partially the result of its strong social media narrative. Then, it shifts attention to the United State's efforts to reshape the narrative of legitimacy in response. Furthermore, as part of the "Arab Spring and its aftermath," the Islamic State provides a basis for understanding the growing tensions explored in Chapter 8, such as those between the expanded influence of religiously-affiliated groups, freedom of religion and expression norms, and state entities.

While recent examples render the book's arguments immediately recognizable, the inclusion of historical examples also provides support in two ways. First, the past furnishes existing frameworks from which to better understand the dynamic between the "twin anxieties of hope and power." Chapter 9, for instance, analogizes from the regulatory schema of satellite transponders to illustrate how content disrupters thrive in the absence of a cohesive legal, regulatory regime—as is currently the case with the internet. Indeed, from Hillary

Clinton's freedom of expression speech to China's internet White Pages to ISIS's theorized "halal-internet," the book regularly accounts for dissimilar parties vying to define the internet's regulatory system. Similarly, Chapter 9 refers to the 1980 Moscow Olympics and the 1972 Munich Olympics to delineate the challenges that multi-party participation and appropriation presented to China's effort to employ the Beijing games as a platform through which it could strengthen its own narrative of legitimacy. The historical examples also serve a second, key purpose: they underscore the transformative nature of modern technological and informational developments. Although many of the aims of state actors have remained the same (mainly, maintaining control and legitimacy), the obstacles and the manner by which they are achieved has necessarily changed. For instance, the 1979 Islamic revolution in Iran, a "test bed" for modes of strategic communication, established the foundations of "soft war". From this, the chapter proceeds to develop the concept's growing relevance and effectiveness with regards to modern actors with access to the Internet and social media.

Not only are the examples employed diverse temporally, but geographically, as well. This dimension supports the contention that new strategic communication is a global phenomenon. Given the contemporaneity and widespread impact of activities in the Middle East, it is understandable that the book's focus skews towards Muslim countries and the United States. However, the book presents a rich account even within this narrowed range, pulling from the Arab Spring, Syria, Iran, the Islamic State, Muslim Brotherhood, multiple U.S. administrations and various U.S. governmental institutions. This emphasis does not detract from the book's comprehensive representation of all corners of the globe. The studies alluded to above alone demonstrate the thoroughness of Mr. Price's research. Even more importantly, the support for each sub-argument is as geographically diverse as the book is on the whole. For instance, in evaluating the new role of NGOs in relation to states, Chapter 8 draws from Ethiopia, Eritrea, Uzbekistan, Ukraine, Israel, Palestine, the United States, and the European Union to highlight both the transnational potential of new strategic communication and the backlash resulting therefrom.

Free Expression, Globalism, and New Strategic Communication provides incisive analysis regarding one of the most distinctive features of our time. Social media and the internet have reinforced free expression and hope that change can be attained. At the same time, they have fomented instability, fear, and, as a result, efforts to circumscribe the bounds of free expression. These opposing tensions define communicative strategies not only of states, but NGOs, religious groups, and even private entities. In his work, Mr. Price masterfully interlaces complex and topical concepts with rich examples to establish the foundations for a dynamic "conversation that recognizes shifts in the underpinnings of the free speech framework."

Temptations of Power. By Shadi Hamid. New York, NY: Oxford University Press, 2014. Pp. ix, 269. \$19.92 (hardcover).

REVIEWED BY DAINEC STEFAN

The Arab Spring of 2011 gave Islamists their first chance at entrenching their political power and demonstrating their capacity to govern. How would Islamists react to this opportunity and what would their governance look like? Could it be effective? What effect would their newfound power have on their ideological expression? Shadi Hamid's *Temptations of Power* seeks to answer these questions within the context of the history of Islamist organizations and their relationship with each other, with oppression, with democracy, and with power. Hamid concludes that state oppression has historically had a moderating effect on Islamist organizations and has created incentives for these groups to advocate for democracy. Hamid shows how the public pronouncements and positions of Islamists adapt to the political circumstances they encounter and how this adaptation can create divisions within Islamist organizations and change how they are perceived by their communities. While democracy is often beneficial for the Islamist organizations that advocate for it, Hamid claims that, as a result of the illiberalism of Islamist beliefs themselves, any Islamist democracy will necessarily be an illiberal one.

Hamid's work is the product of years of research on Islamist organizations conducted in Egypt, Jordan, Tunisia, and other Arab nations. The book is especially focused on the Muslim Brotherhood. Throughout the book Hamid recounts

many personal conversations he has had with Islamist leaders, including one with Mohamed Morsi before his ascendancy to, and subsequent removal from, the presidency. These conversations elucidate the intentional malleability of organizations like the Muslim Brotherhood, which have struggled for survival under oppressive regimes for decades. They also do much to bring out the internal debates occurring in Islamist organizations that attempt to balance ideological purity with political pragmatism. Hamid's style makes a potentially scholarly topic highly accessible and enjoyable, even for non-academics. Impressively, he manages to approach Islamist organizations like the Muslim Brotherhood with an objective lens—focused specifically on their political behavior—while not letting the reader completely lose sight of the effects the establishment of an Islamist society may have, ranging from the trivial to the horrific. His arguments are well-supported and compelling throughout, and readers should come away with a better grasp of the goals and situation of organizations like the Muslim Brotherhood.

Early in the book, Hamid first makes the facially counter-intuitive claim that the repression of Islamists has generally led to moderation, not radicalization. This claim may surprise many who are familiar with the paradigm suggesting that oppression predictably results in violent reprisal from the oppressed, especially in the Islamic world. According to Hamid, this view is not actually aligned with the evidence. Islamists not only moderate as they are repressed, but also tend to moderate more as repression increases.

Islamist groups like the Muslim Brotherhood were founded to promote religious values and the application of Islamic law in an effort to fundamentally transform societies. As part of this project, they created vast social service networks and governance structures that rendered them something like “mini-states.” Repressive political environments threaten these structures. To protect themselves, Islamists moderate on issues of democracy, pluralism, and women's rights in order to earn the support of liberal parties, regime reformers, and the international community. Democracy and freedom are essential for an organization like the Muslim Brotherhood to carry out its Islamization goals. While the Islamist's base largely do not subscribe to such ideas, they are nonetheless adopted by Islamist

leadership out of necessity. By the conclusion of Hamid's analysis on this point, its initial counter-intuitiveness is erased.

Hamid outlines the Muslim Brotherhood's rise in Jordan and Egypt in the 1980s and 1990s and the underlying religious revival that buoyed that rise. Islamist influence in the parliaments of these nations led to the redrafting of many statutes to reflect Sharia principles, with especial focus on banning interest in the financial system, restricting alcohol, closing nightclubs, and blocking TV programs the party deemed immoral (one cannot help but be struck at the laughable triteness of these priorities). The Muslim Brotherhood teamed with liberal opposition parties to earn power against ruling parties, and as a group that was fairly representative of the religious populations in Egypt and Jordan, it was able to win large numbers of parliamentary seats in this fashion. Hamid uses this unlikely alliance to further illustrate the lengths to which some Islamist leaders would stretch to gain political power in order to advance the cause of an Islamic society.

These political victories were not to last, however. The Egyptian government under Hosni Mubarak and Jordanian government under King Hussein bin Talal cracked down on the Muslim Brotherhood in the mid-1990s and early 2000s, and the Brotherhood, bearing out Hamid's thesis, moderated in response. It released statements that advocated party pluralism and the rights of women to vote in parliamentary elections and to stand as candidates in the same. Further statements affirmed democratic principles, and the Brotherhood held internal elections for its Shura Council as a demonstration of its adherence to those principles.

Hamdi uses this period of repression to point out one of the most remarkable strategies employed by Islamists for their survival: elections. During this period, the Islamist sentiment in the population still ran rather high, and popular support for the Muslim Brotherhood (or its political party platform, the Islamic Action Front in Jordan) was more than sufficient to win them seats. However, Brotherhood leadership knew that winning parliamentary power meant repression and was an ultimate loss, as illustrated in 2005, when the Brotherhood won 88 seats, and the resulting repression was the harshest in decades. The Brotherhood instead met with national leaders and negotiated how many seats they would seek in Parliament. Invariably, they settled for far fewer seats than they were capa-

ble of winning. However, some measure of political influence was far more valuable than the repression that would accompany major parliamentary wins—wins which an autocrat could easily wipe out.

In the spring of 2011, the Muslim Brotherhood had an enormous presence in Tahrir Square and the movement to overthrow Mubarak generally, but they were very quiet about their identification. Hamid assures us that this was intentional. The last thing the Brotherhood wanted was awareness in the U.S. that the revolution in Egypt was largely an Islamic one.

Upon the fall of Mubarak, the Brotherhood issued statements to clarify for other members of the opposition that they did not want to create a new, religious dictatorship. To demonstrate its commitment, the Brotherhood announced that it would not seek a majority in parliament and it would not run for the presidency. However, a split soon formed in the opposition. Leftists and liberals wanted to draft a constitution before holding elections, while Islamists wanted an election first. By the time the elections arrived, the Brotherhood had changed its position on seeking a majority, and Islamists won 75 percent of the parliamentary seats. Despite this victory, the military and some other parties in the opposition would not allow the Brotherhood to exercise their power. Exasperated, the Brotherhood reneged on earlier promises and put up a candidate for the presidency. The temptation of power was fatal to the Brotherhood's cause. In the summer of 2013, Morsi and the government of the Muslim Brotherhood were ousted in a military coup, and a brutal crackdown on the Muslim Brotherhood ensued.

While the Muslim Brotherhood used democracy to obtain power in this instance, Hamdi questions whether a truly liberal democracy is possible in an Islamist regime. When the Brotherhood did finally get power, they were pulled to the right. Hamid claims that much of this shift can be ascribed to the influence of the highly conservative, activist Salafi Islamists who were insistent on advancing Sharia, and doing it quickly. The Salafis actually captured much of the public attitude (support for Islamic law in 2011 in Egypt was very high, with 80 percent of the population supporting the stoning of adulterers, and 70 percent supporting cutting off the hands of thieves), and made the Brotherhood look liberal in comparison. In order to satisfy the conservative population, the Broth-

erhood needed to move right, even as it was attempting to establish itself as a moderate, democratic government. Now, the same pragmatism that was a moderating force on the Brotherhood under repression became a more radicalizing force when it came into power.

Hamid questions how, even in a successful Islamist government, the Islamist political theology would play out. He claims that it would certainly not start from liberal democracy as Westerners understand it. Rather, it would be a sort of majoritarianism at best, a government that derives its illiberal application of religious law by majority fiat. Hamid notes that if there are irreconcilable differences between liberal and Islamist ideas of the good, liberals would claim that the compromise solution is the creation of a neutral public space. However, Hamid argues that this neutrality only exists within the liberal framework. Islamists wouldn't view this neutral, secular society as permissive of their expressions of deep belief and conviction. In an Islamist society, all are compelled to respect the laws of an Islamist state. For an Islamist, living under a neutral government in America means subjection to laws that run counter to the Islamist's beliefs because establishment of an Islamic government is an obligation on the Muslim community. This conflict is irreconcilable. Hamid writes frankly, "Liberalism cannot hold within it Islamism."

Hamid addresses a possible exception to this rule in the end of the book, which he calls the "Tunisian Exception." The Ennahda party, founded by Rached Ghannouchi, has wielded some influence in the country for some time. While an Islamist party, the organization has many members who are not very concerned with applying Islamic law, and some who are not even Muslim. There is some question as to the extent of Ennahda support for establishing Sharia (or what exactly party members believe Sharia to be). When the Ennahda obtained a plurality in the Tunisian government in 2011, it faced a real secular opposition that wanted religion out of the public sphere. The secularists' opposition to Ennahda helped keep the party on moderate ground. Thus, Hamid seems to think that the Ennahda is not an example of liberal Islamism.

Hamid closes with a chapter on the past and future of Islamist ideas. He notes that the continued existence of large Islamist parties helps to explain the durability of authoritarianism and the difficulty of maintaining democracy. When faced

with the possibility of Islamist parties winning elections, domestic and international actors will often engage in anti-democratic actions to prevent an Islamist government. In this context, Hamid notes America's disinterest in halting the 2013 military coup that removed Morsi, likely due to his identity as an Islamist president. Islamists are thus trapped between two impulses. On the one hand, Islamists tend to despise American interventionism and its support of Israel (Islamism remaining highly anti-Semitic), on the other, alienating America and the West can be fatal for Islamist governments that depend on the international community for economic survival.

On the whole, Hamid has created a compelling work that will be informative and enjoyable for anyone who picks it up. The reader's own views as to the desirability of Islamized culture is left entirely up to them as Hamid directs his attention specifically to how Islamist organizations operate under autocratic regimes that feel threatened by them. While the reader is unlikely to lose sight of some of the undesirable goals that Islamism has for society, they will likely take comfort knowing that Islamism—like that of the Muslim Brotherhood—often seeks to do its work through democratic means and, at least, majoritarian support. Much can be said to recommend this sort of regime over the autocratic status quo.

Iraq and the Crimes of Aggressive War: The Legal Cynicism of Criminal Militarism. By John Hagan, Joshua Kaiser, and Anna Hanson. New York, NY: Cambridge University Press, 2015. Pp. ix, 250. \$34.99 (paperback).

REVIEWED BY AMY M. L. TAN

In *Iraq and the Crimes of Aggressive War: The Legal Cynicism of Criminal Militarism*, John Hagan, Joshua Kaiser, and Anna Hanson provide a data driven analysis of the effects of the U.S.-led invasion of Iraq on the rise of legal cynicism among the Iraqi population. According to Hagan et al., this legal cynicism undermined the Iraqi population's views of the legitimacy of the invasion as well as the governance structures borne of the war, ultimately undermining the democracy and rule of law efforts the U.S. claimed it was intending to foster in post-war Iraq.

In six information-packed chapters, Hagan et al. incorporate quantitative and qualitative analyses, drawn from socio-his-

torical and statistical data, to investigate Iraqi reactions to the U.S.-led invasion of their country, weaving in the theme of legal cynicism and criminal militarism. Chapter 1 focuses on Iraqi perspectives on the regime of Saddam Hussein, drawing from interviews by the Iraq History Project to flesh out the consequences of Saddam's military repression and legal authoritarianism. Chapter 2 considers the U.S.-led invasion of Iraq and finds growing legal cynicism among Iraqis regarding the U.S.-led war and occupation. Chapter 3 analyzes the legal cynicism the U.S. torture policy brought to Iraq and its impact on the Iraqi judiciary. Chapter 4 explores the impact of the invasion on sectarian conflict, explaining the self-reinforcing legal cynicism as it relates to the growing situation of insecurity and how this contributed to sectarian violence. Chapter 5 expands on the matter of inequality between Shia and Arab Sunni communities, and its impact on a strengthening insurgency in Iraq. Finally, Chapter 6 considers data from the autumn of 2007 to examine how feelings of legal cynicism played a crucial role in building widespread support among the Arab Sunni population for resistance against U.S. and coalition presence in Iraq.

Though Hagan et al. privilege a social science perspective to examine the consequences of the invasion, they also employ legally inflected concepts throughout the text. Two key terms are legal cynicism and criminal militarism. Though used throughout the text in numerous ways, the primary definition is derived from Robert J. Sampson and Dawn Jeglum Bartusch's work, which explains that legal cynicism refers to a state of normlessness in which rules or laws are nonbinding. A key contributor to legal cynicism is a sense of insecurity, as this foments the idea that law does not guarantee public safety, and is therefore seen as unresponsive and illegitimate. Criminal militarism is defined as a cultural framework or orientation in which laws of war are often ignored. According to the authors, wars of aggression are among the most serious forms of criminal militarism. Aggressive war is defined as the use of armed force against another state without the justification of self-defense or authorization of the United Nations Security Council.

Hagan et al. also argue that this study can inform and is relevant to judgments and decisions about criminal prosecution and convictions (of whom, for which acts, and through

what mechanism, however, remain unclear). They note this position assumes that acts of war are instances of legal cynicism and criminal militarism, which they concede involves normative conclusions about what should count as crimes and what should be considered evidence. Though Hagan et al. provide a wealth of sociological analysis that sheds light on how Iraqi populations reacted to the U.S.-led invasion of Iraq (especially in the sense of legal cynicism), some of their legal argumentation on this point is vague. It also highlights inherent tensions between what is considered wrong, unfair or unnecessary in armed conflict and what is lawful.

Hagan et al. argue that the U.S. invasion of Iraq was characterized by and modeled legal cynicism, and was therefore met with legal cynicism by Iraqis and a resilient insurgent militancy. Legal cynicism and insurgent ideals were especially present among Iraq's Arab Sunnis, a population that was uniquely advantaged during Saddam Hussein's authoritarian regime and became marginalized in the U.S.-led formation of the post-war Iraqi state. Hagan et al. urge a thorough analysis of the impact of legal cynicism, stating that neglecting to undertake such an analysis will inevitably lead to a cyclical perpetuation of legally cynical orientations that reproduces and sustains the criminal militarism of unjustified and unnecessary wars of aggression.

The analysis shines brightest when it provides insight into Iraqi reactions to the U.S.-led invasion, drawing from extensive qualitative and quantitative data. The use of qualitative data is most effective in "fully reveal[ing] the emotional intensity of many of these interviews [that discuss the impact of authoritarianism and war] in a way that quantitative analysis alone cannot entirely convey." In particular, the authors effectively use interviews from the Iraq History Project, which included 7,000 interviews conducted in 2007 and 2008 with victims and perpetrators of human rights violations in Saddam Hussein's regime, as in Chapter 1 when the authors give a snapshot of the regime's cruelty and oppression.

Another example that warrants discussion is the interview excerpt in Chapter 5 called "Unnecessary Attacks by U.S. Soldiers." In this excerpt from the Iraq History Project's Current Violations Initiative, an individual relates an account of a killing that occurred in 2007 in Kirkuk. The interviewee states that she, her husband, and their daughter were driving to her

father-in-law's house when two American Humvees came in front of the car. Their daughter stood up in the back seat and started waving, which drew fire from the U.S. forces that killed her. The American soldiers arrived at the scene and apologized for the killing, and later followed up with additional condolences. While acknowledging the apologies, the interviewee laments the lack of accountability—there were no apparent investigations or actions against the soldiers. The authors highlight this interview to support the notion that what Iraqis (and international experts) believed were inadequate investigations led directly to a sense of legal cynicism, which undermined rule of law efforts during the occupation and furthered the insurgency. Notably, however, they do not conduct a legal analysis to establish that this act was a violation of the laws of war, which would have been useful.

These qualitative accounts of Iraqi perceptions of the U.S.-led invasion are bolstered by novel quantitative data. In particular, Chapter 3 stands out, as the authors share their unique opportunity to query how U.S. torture practices and Bush Administration legal interpretations impacted the thinking of Iraqi judges. Hagan et al. were invited to observe and assess a two-week training course of Iraqi judges, and designed a sentencing experiment responsive to the following question: would Iraqi judges resist or cooperate with Bush Administration interpretations of forceful interrogation in punishing coalition forces for torturing suspected Al Qaeda terrorists? In this study, each judge was asked to respond to hypothetical cases or vignettes by assigning prison sentences to prison guards accused of torturing prisoners who were suspected terrorists. The study found that there was significant fluctuation in the length of sentences depending on who was tortured and who was torturing. This confirmed one of the team's hypotheses, that some judges "collaborated" with the authorities by imposing lenient sentences for coalition guards convicted of torturing al-Qaeda members, while other judges "resisted" and imposed severe sentences for the same fact pattern. This is interesting information regarding the post-invasion sentencing landscape vis-à-vis allegations of torture.

On the basis of this data, however, the authors conclude that this study reflects "both collaboration and resistance in relation to the Bush Administration's interpretation of torture law." It may be that certain aspects of the experiment were

excluded from the book. However, it remains unclear from the experiment how Iraqi sentencing was causally influenced by the Bush administration's interpretation of torture law. As notorious, incorrect and damaging as the Bush administration's interpretation of the law on torture was, a causal link between this policy and hypothetical sentencing is not clear. Is it possible the judges' choices were motivated by many factors other than the Bush administration's interpretation of the torture convention? Probably, as the authors demonstrate in Chapter 1 by highlighting Iraq's history of government-sponsored torture. The way this analysis is constructed seems to neglect the possibility that Iraqi judges resisted cruelty for reasons that had nothing to do with resistance to the Bush administration.

More problematic than the conclusions drawn from Chapter 3's experiment, however, is the lack of precision around the central idea of "legal cynicism." Apart from the problem of pinning down exactly what it means, who models it and in what ways, and how it develops, reverberates, and magnifies itself, it is unclear why the analysis could not be more simply framed in terms of compliance with international human rights and international humanitarian law. Perhaps this is the bias of a legal education, but it seems to this reader that the analysis could have benefited from consideration of compliance theory. This area of legal scholarship also evaluates the impact of non-compliance with international law and its adverse impact on the rule of law. Further, using the lens of compliance theory would clarify a problem of distinguishing behavior that is lawful and unlawful. Currently, the analysis characterizes certain behavior as an act of "legal cynicism" without establishing that the act is unlawful. This issue was especially prominent in Chapter 5's discussion of "unnecessary deaths" as linked to legal cynicism. As observers of armed conflict know, international humanitarian law governs the conduct of hostilities during armed conflict and permits the killings of civilians. Therefore, a legal analysis must be done for each incident of "unnecessary death" to determine whether it violates the laws of war and rises to the level of war crime, which the authors do not do. Without clearly stating their case on the law, one is left wondering exactly what is meant by the term "legal cynicism," since it currently seems to include actions that cause grave suffering but may nevertheless be lawful.

Lastly, the cover art seems problematic in light of the themes presented in the book. Entitled "A U.S. soldier stands guard over an Iraqi man who drove a car in a drive-by attack on U.S. soldiers, 2003," the photograph depicts a stolid U.S. soldier and a bloodied Iraqi. It is unclear how this image furthers the authors' efforts to relate the experiences of Iraqi civilians in a way that honors individual stories and experiences, as they do so well throughout the analysis.

Hagan et al. should be applauded for highlighting the impacts of the U.S.-led invasion of Iraq through their well-developed quantitative analyses bolstered by stories drawn from qualitative research. Their narrative effectively conveys the growing discomfort with and distrust of U.S. coalition forces throughout the invasion and occupation of Iraq. By the end of the book, Hagan et al. paint a grim picture of the foolishly conceived and poorly executed war in Iraq, leaving the United States subject to public judgment. In this light, it would have been useful to clarify the criteria for judgment in terms of the law of armed conflict throughout the analysis.

Law and Lies: Deception and Truth-Telling in the American Legal System. Edited by Austin Sarat. New York, NY: Cambridge University Press, 2015. Pp. xi, 331. \$106.70 (hardcover).

REVIEWED BY NACIF TAOUSSE

The authors of the chapters constituting *Law and Lies* undertake the task of challenging the intuitive assumption that upholding truth, at least in theory, is the law's ultimate aim and duty. The truth, *Law and Lies* argues, is much more nuanced than that. It does not take long for the reader to realize American law treats "the whole truth and nothing but the truth" as a negotiable proposition that can be forsaken when in competition with higher values. The authors of this book provide a series of examples illustrating this fact by highlighting areas of the law where deception is thought of in utilitarian rather than Kantian terms.

Austin Sarat introduces *Law and Lies* by observing that the Supreme Court has shaped First Amendment law in a way that subordinates truth to the higher value of protecting "open and vigorous expression of views in public and private conversation and expression." The landmark case of *New York Times Co. v.*

Sullivan was one of the first where the Court had to elaborate on the relationship between the First Amendment and lies. In that case, the Court granted constitutional protection to false statements made by the press. In order to protect “erroneous statements that are inevitable in free debate,” the Court held that there must be a showing of “actual malice” (i.e., knowledge that facts reported were incorrect, or reckless disregard as to whether they were) before libel suits can succeed. *Sullivan* explicitly subordinated truth to the preservation of “free debate.”

The Court further strengthened its commitment to this utilitarian approach in *United States v. Alvarez*. There, the stakes were higher, as the question before the court was whether lies were a constitutionally protected category of speech under the First Amendment. Classifying lies as such effectively shields them from all legal restrictions that do not pass the “strict scrutiny test.” As it is famously stated, the strict scrutiny test is “strict in name but fatal in fact.” Ruling that any law curtailing false statements or lies violates the First Amendment unless it survives strict scrutiny is tantamount to declaring that the default treatment American law reserves for deception is toleration. That is precisely what the Court did in *Alvarez*.

The legal framework that the Court set forth in *New York Times v. Sullivan* and *Alvarez* is explicitly utilitarian, and is therefore a paradigmatic illustration of the central argument in *Law and Lies*. American law will tolerate deception whenever it is beneficial to do so given the competing values under consideration (e.g., the freedom of speech and of the press), and will only curtail it based on the same principle (i.e., to serve a “compelling governmental interest”).

Mary Anne Franks starts this chapter by stating that America is “built on a lie.” That lie is the Constitution’s claim that it is “we the people” who consented to it. The truth, Franks reminds the reader, is that only white property-owning men consented. Black men and women of all races never had a say in the document. This lie is the foundation of two of Franks’ main arguments.

First, and after putting forward a Kantian definition of lying (“the making of an untruthful statement with the intention that the statement be believed to be true”), Franks argues that the Framers intended to mislead, via the “we the people” language,

both themselves and nonconsenting populations. In making this argument, Franks assumes the premise that the foundational lie of “we the people” fits within the aforementioned Kantian conception of lying. Because intending that an untrue statement be believed does not imply that you know the statement is untrue, one can lie in the Kantian sense without malice. She then concludes that the Framers must have intended to mislead nonconsenting populations. It is not clear how Franks justifies this leap.

Franks then states that this lie enabled the Framers to self-legitimize the constitutional project by convincing themselves that the task they were undertaking was in the best interests of all. It also served to fend off dissent from nonconsenting populations, whose subordination rendered them susceptible to believe that symbolic inclusion alleviates material exclusion. Given the significance of these claims, the reader expects the author at this point to present arguments in their support. Instead, Franks devotes little time to that end.

Nonetheless, Franks’ claims present another example of the law’s utilitarian approach to truth: legitimizing the constitutional project and shielding it from dissent provided ample justification for ignoring the truth that “we the people” cannot be read literally.

The author’s second argument is that the constitutional lie had consequences that we still experience today. The constitutional lie “produce[d] other, secondary, mutually reinforcing legal fictions that obscure the deception buried deep in the social and political structure.” To illustrate this point, Franks points to two major examples: the legal fictions that facilitate law enforcement’s abuses towards black men, and those that allow police passivity towards violence against women. Franks argues that the generously deferential approach that the Supreme Court granted the police in *Terry v. Ohio* unreasonably discounted the possibility that the police could abuse their discretion and yield to their prejudices if allowed to stop and search people based on their “reasonable suspicion,” and without probable cause. The Court thereby cleared the way for the police abuse that black men disproportionately experience. Franks presents an equally compelling argument to support her statement that legal fictions have also significantly hurt women.

However, it remains unclear to the reader how Franks justifies claiming the existence of a causal link between the original constitutional lie and the ongoing race- and gender-based disparities in the way the American legal system affects the citizens it governs. The fact that the disparities that were prevalent and openly accepted during the time of the Framers still linger on today is undisputable. However, it is not a strong enough basis to conclude that law enforcement abuse of black men and passivity towards violence against women is a *consequence* of the original constitutional lie.

Norman W. Spaulding begins "The Artifice of Advocacy: Perjury and Participation In The American Adversary System" by advancing an intriguing argument: the law tolerates deception from the people whose primary function is to uphold truth, and in places built for the very purpose of excluding deception. Indeed, lawyers routinely engage in deception in courtrooms without facing consequences. They defend guilty clients, withhold valuable evidence, and often facilitate perjury. Spaulding's argument, however, leaves the reader asking whether the law in fact assumes, as Spaulding seems to do, that lawyers are indeed meant to uphold the truth. Additionally, Spaulding's focus on lawyers' courtroom behavior leaves the reader with a sense that his broad conclusion requires further support.

In the last pages of his chapter, Spaulding presents an excellent argument that strongly affirms the theme running through this book: American law views truth through utilitarian lenses. Where the law prohibits deception (e.g., perjury), it does so not for truth's sake, but rather "to place deception in a productive relationship to the artifice of truth." This is desirably so, Spaulding convincingly argues, as any effort to broaden the definition of perjury to eliminate lies is both futile and counter-productive. It is futile because people are systematically self-deceiving (due to the reality of imperfect memory, judgment, and testimony), which implies that a broader definition of perjury cannot deter systematic lying. It is also counter-productive because it ignores the reality that there are often multiple ways to characterize any story, and in order to "engage rather than suppress the anxiety of parties, witnesses, jurors, and the public about the meaning of justice," the legal system must allow these different players to choose their narratives. The current and relatively narrow definition of perjury is

meant not to eliminate all deception, but rather to strike a balance designed, admittedly imperfectly, for the sole purpose of permitting only those lies that are either necessary or inevitable, and eliminating those that obstruct justice. Perjury is therefore another context in which the law is utilitarian in its treatment of deception.

The constitution may protect lies, but it certainly does not protect actually harmful speech. Lies involving the government present a context where the law sees much harm. In "Lies to Manipulate, Misappropriate, and Acquire Governmental Power," Helen Norton, breaks these lies into three categories: lies to the government, lies that claim to emanate from the government, and lies meant to unduly influence the democratic process. In discussing the merits of outlawing any of these categories, Norton argues within a utilitarian framework, and does so quite convincingly.

Norton states that there is a relatively clear case for outlawing lies made to the government, as well as those about being the government. Tolerating the first category of lies is tolerating harm to the collective interest of citizens. In the case of perjury, for example, some lies made in court serve no beneficial purpose, and have the sole effect of obstructing justice. Similarly, lies regulated by the False Claims Act serve no other purpose but to divert the taxpayers' money for the liars' private benefit. In the case of lies about being the government, there is great potential for harm. Those lies "give the liar an air of trustworthiness and power over the listener," and can harm the government's reputation. From a utilitarian perspective, tolerating either of these categories of lies is clearly misguided.

The case for outlawing lies told by politicians to distort the democratic process is more difficult to defend. On the one hand, it would be desirable to regulate these lies in order to prevent politicians from lying their way to government. On the other hand, excessively regulating these lies can have a chilling effect on political debate. Additionally, people expect lies in the context of political campaigns and are therefore less susceptible to believe them. Norton maintains that the harm these lies cause still outweighs the reasons to tolerate them, and therefore remains in favor of regulation. In evaluating the merits of the ways American law deals with this category of lies, Norton's arguments reveal once again the utilitarianism with

which American legal commentary approaches the question of the relationship between law and deception.

In "Lies, Rape, and Statutory Rape," Stuart Green discusses lies in the context of rape. Green observes that, legally speaking, the use of deception by the defendant in order to have sexual relations with the victim is not considered rape. However, a defendant will be convicted of statutory rape even when the victim uses deception (by lying about age) to induce sexual relations with the defendant.

Since the central objective of rape law is to protect the right and ability of individuals to consensually choose their sexual partners. The treatment of lies in the context of rape ought to reflect this basic policy. Green first explains the logic underlying the way deception is dealt with in regular rape cases, and then goes on to argue that the law of statutory rape is inconsistent with this utilitarian principle. Indeed, Green advances, in no way does convicting the defendant of rape even when he or she was lied to by the underage victim protect the victims' right to choose who to have sex with. Green's argument, although potentially controversial, leaves little room for a counterargument to the reader who shares his premise about the central objective of rape law.

In conclusion, Green advances yet another utilitarian principle that the law on rape ought to be follow: the determination of whether deception should lead to a rape conviction ought to depend on whether the deception in question arises to the equivalent of coercion or force, and therefore invalidates consent.

In the book's final chapter, "Law and the Production of Deceit," William Eskridge observes that the law is not only capable of tolerating lies, but is in fact not hesitant to produce and encourage them in the name of interests to which it gives a higher priority. One can find evidence of this both in the "Don't Ask, Don't Tell" policy adopted by the U.S. military, and in the U.S. policy on inadmissible immigrants. These laws, Eskridge observes, created criminal identities that made lying the only option for those whose identity had criminal consequences. In the case of the U.S. military, the "Don't Ask, Don't Tell" policy created a government-sanctioned closet outside of which homosexuals are outlaws. A similar closet exists for im-

migrants who entered the U.S. illegally, and coming out of that closet leads to deportation.

Eskridge argues that this phenomenon is dangerous not only for the aforementioned criminal identities, but also for the rule of law itself, which must retain a certain level of integrity to stand. In doing so, Eskridge adopts the theme running through this entire book, reminding the reader one last time that utilitarian justifications for allowing or disallowing deception are not only prevalent in American law, but tend to also be very compelling.

The five chapters in *Law and Lies* illustrate in ample detail that the Kantian absolutist approach to truth and deception has certainly not had significant influence on American law. Indeed, as the authors repeatedly and convincingly illustrate throughout the book, both American law and the academic commentary it generates are unapologetically utilitarian in their approach to deception. Could American law re-imagine its relationship to deception within an alternative non-utilitarian framework? Would that be desirable? *Law and Lies* leaves these questions open for the reader to ponder.

Politics of Religious Freedom. Edited by Winnifred Fallers Sullivan, Elizabeth Shakman Hurd, Saba Mahmood, and Peter Danchin. Chicago, IL: The University of Chicago Press, 2015. Pp. ix, 337. \$35.00 (paperback).

REVIEWED BY ELIZABETH YAZGI

In *Politics of Religious Freedom*, Winnifred Fallers Sullivan, Elizabeth Shakman Hurd, Saba Mahmood, and Peter G. Danchin have managed to present a work that shines for its variety and breadth, but which nonetheless maintains an impressive coherence. The book is the result of efforts by the Social Science Research Council to study the law surrounding religious practice and persecution across several continents. From a collection of blog posts on the center's Immanent Frame website, their research morphed into this book project—a sophisticated compilation of essays organized into four general sections, each containing six to seven pieces.

In the introduction, the editors lay out their two principal ambitions: first, to clarify what advocates and academics mean by religious freedom, under the contention that it has various

nebulous and context-specific definitions. Second, they hope to undermine the assumption that the only problem facing religious freedom advocates is the “incomplete realization” of a right enshrined in both national and international legal instruments. In short, they attempt to complicate the picture by defining “religious freedom” as a set of spiritual practices, cultural traditions, and governance choices that come into conflict at various points and in varying degrees depending on one’s point of reference.

True to its title, the compilation focuses on the various political and legal contingencies surrounding the right to freedom of conscience and to religious practice. There is a clear emphasis throughout on liberal notions of this as an *individual* right as well as the other side of the coin—the state’s obligation of neutrality in the face of various faiths. Those more familiar with the U.S. context will be pleased to see coverage of well-known establishment and free-exercise case law, including *Smith*, *Everson*, and *Hosanna-Tabor*.

The essays not only describe the evolution of the right in various jurisdictions, but also describe the effects and causes of the absence of the right. They highlight the risk of misidentifying political or economic oppression as religious persecution. Using Pakistan and Myanmar as examples, they contend that misnaming such persecution in this way creates “blind spots” for advocates and observers. Similarly, they avoid fixation on West-East dichotomies. They reject the ideas that neutrality is feasible, or even advisable, for all states, and that the universality of the right is some abstract and inviolable principle. The possibility that religion may include cultural practices and norms, complicating legal structures and the understanding of motivations for actions taken in the name of the law, is also considered. Thus, in their totality, the essays offer a more nuanced understanding of religious freedom as a right, a concept, and an oftentimes-partisan affair. The collection will serve principally to dissect international legal instruments and especially human rights discourses.

The first group of essays, “Religion,” aims to define the ambiguous concept of “religious freedom” through the prism of miscellaneous case studies. Whether discussing the early Hebrew Republic or contemporary Hawaii, the authors all debunk the conception that religion is a notion free from the taint or wrangling of politics. Rather, because religion guides

morals and can be instrumentalized to achieve community goals and needs, it necessarily involves the political.

The takeaway? Religion cannot be relegated to its own space. For example, in "Imagining the Early Hebrew Republic: Christian Genealogies of Religious Freedom," Robert Yelle claims that neutrality and separation notions frequently associated with "religious freedom" are inherently "Christian suppositions," as opposed to what early Protestant thinkers negatively portrayed as frequent Jewish mixing of religious practice and public governance. The traditional irreconcilability of state and religion is therefore an overly rigid view of the secular settlement. Another valuable piece by Yvonne Sherwood shows that this definitional problem has other manifestations. In "On the Freedom of the Concepts of Religion and Belief," she demonstrates how, in order to get protection under English law, a "qualifying belief" must fulfill arbitrary, poorly defined criteria ("a belief and not an opinion or view based on the present state of information available" or "a belief as to a weighty and substantial aspect of human life.")

The Hawaii piece is itself quite fascinating and unexpected. Here, Greg Johnson brings problems of religious minorities "closer to home" for U.S. readers, who often assume that religious freedom is only a matter for recent political debates on Islam and immigration. Recounting how state authorities failed to enforce the law in order to allow a dominant Christian church to use ancient Hawaiian burial grounds against the wishes of indigenous minorities, Johnson stakes out the view that "practical political theory should hold out a space for special recognition (religious or otherwise) for non-dominant peoples." In this way, and consistent with the main thrust of the collection, the struggle on the part of traditional religions to get constitutional protection shows how the *forum internum* model, whereby matters of faith are confined to the private sphere, falls apart when religion becomes part of cultural identity. This supposed separation thus exacerbates the problem of a politically-motivated state policy surrounding religion.

The volume's second grouping, "History," is devoted to debunking several principally Western conceptions of religious freedom, and it underlines the political machinations that played a role in these evolutions. Here, the essayists' *modus operandi* is that of the historian—facts and contexts are specific and cannot be divorced from a given definition of religious

freedom. In some nations, for instance, religious freedom took the form of jurisdictional autonomy, in others of social justice. Indeed, this chapter is valuable for its range of historical settings—from the oft-cited early-modern nation states of Europe both before and after the Edict of Nantes to Coptic Egypt. Samuel Moyn’s illustration of the “Catholic pivot” communicates the context-dependent aspect of religious freedom especially well. He deftly demonstrates how the Catholic Church went from fearing religious freedom to using it as a tool in the spheres of marriage, abortion, and even healthcare (as in the recent *Hobby Lobby* case).

Other themes in Section 2 catch the reader’s eye. A discussion of religious minorities and how religious identity can act as a determinative factor of citizenship is relevant to the migrant crisis and integration in both Europe and the U.S. In the same vein, an interesting summary of English discrimination of Catholics in the 19th century and the ban on public practice of Catholicism even after repeal of the Test and Corporation Acts shows that historical religious discrimination occurred within the Anglo-American tradition, and is not a new phenomenon belonging solely to our hyper-globalized era.

Because history is by definition situational, this section’s finest accomplishment is to show the reader that religious liberty takes different shapes and assumes different functions depending on the setting. It is, however, curious that the authors consistently abuse references to Rawls, Nietzsche, and Mill in the other sections while insisting that religious freedom is not a nebulous, liberal dictum. The last chapter, for instance, includes descriptions of various thinkers’ positions on sovereignty, faith and reason, and notions of the public and private spheres. This might be a gratifying scholarly exercise, but it suggests that in order for readers to “rethink religious freedom itself” they must *a priori* be steeped in a Western perspective. Nevertheless, the work makes a convincing argument that “the practice of religious freedom was never the result of a unitary principle or hegemonic discourse.”

The editors devote their third section, Law and Politics, to the analysis of what they understand to be the quintessential paradox of legal frameworks governing the right to religious freedom. That is, in order to protect individuals’ liberty of conscience, states have endorsed Jefferson’s famous “wall of separation” while, at the same time, regulating religious ex-

pression when it poses a threat to the rights of another. Thus, neutrality becomes a tool for the state's use. The essays develop this paradox and explore related matters. While Waheeda Amien describes religious liberty as manifested in national religious settlements and individual rights and group rights movements in South Africa, Nadia Marzouki takes on similar dynamics in the Tunisian Revolution.

The Catholic Church is again painted in an unflattering light. Peter Danchin notes how American bishops manipulated the right to religious liberty in order to proclaim it a vital part of First Amendment freedoms for parochial interests. Lori Beaman explores a related topic when arguing that the enforcement of First Amendment rights and the history of non-establishment are colored by a dominant "domesticated modern civic Protestantism." The essayists flesh out this institutional theme by asking what governments should do when the boundaries between internal church conflicts and state/individual conflicts become murky. The essayists do well to address these broader questions about the subject and scope of the right by analyzing specific situations through case law. The classic U.S. free exercise and establishment cases (*Everson v. Board of Education*, *Employment Division v. Smith*, and *Hosanna-Tabor*) find their place here, as well as a sprinkling of Canadian cases. Essays about the European Court of Human Rights' holdings in *Lautsi v. Italy* and *Dahlab v. Switzerland* extend the discussion beyond North America. Whereas U.S. courts balance individuals' religious freedom interests against government prerogatives and are more apt to fragment laws by granting exemptions, European jurisdictions are less sensitive to diversity and more eager to adopt uniform standards.

The compilation comes to an elegant conclusion in the final segment, entitled "Freedom."

The goal is to clarify the definitional permutations of "religion" and "freedom" that the book implicates, including the question of whether *any* belief is entitled to constitutional protection. Now and then, given the breadth of the concept, this part tends to become a bit unwieldy. Luckily, the authors save themselves by echoing themes addressed in earlier chapters. This time, however, the problematic is different: religion as determinative of culture and the right to religion as a collective rather than individual phenomenon. The final chapters confront how courts and legislatures might go about drawing

lines. Hussein Ali Agrama in particular offers some indicia, but is careful to note that states often end up aligning with majoritarian beliefs and secularist agendas that actually compromise state neutrality. It was, however, disappointing to have to wait until the final chapter to encounter the classic question of what to do when private religious beliefs, justified by notions of freedom, require public manifestation and thus clash with state regulation.

All in all, the editors have done a fine job. Yet, in their efforts to address a wide audience and reach several disciplines, the essayists display stylistic flaws. A more disciplined and streamlined approach would have presented a cleaner rendering of their themes. As the editors note, the essayists reference various domains, such as theology, philosophy, language, politics, and economics, to reach their points. The tendency is to get lost in definitional concepts that may distract or even irritate the less informed reader. The overuse of philosophical jargon, for example, often makes it seem like the writers are cloistered in an ivory tower rather than attuned to the concerns of human rights advocates. Similarly, a better fleshing-out of the facts of the American case law would have made for richer, more grounded arguments. Not every reader will be an expert in establishment and free exercise jurisprudence. Finally, verbose renderings of the themes seemed to serve no real purpose.

In the end, however, these defects do not cloud the important messages the collection communicates. One particular strength consists in the ability to include pivotal Western moments (the Edict of Nantes, the Wars of Religion, the Treaty of Westphalia) in the narrative without becoming too focused on occidental situations. These histories thus become tools for understanding a broader concept of religious liberty that can be applied to many settings. Additionally, each section turns around to devote some time to the American situation. This is undeniably necessary in today's political climate where, at least facially, religious identity and claims to certain religious profiles both garner and take away certain protections and place individuals within distinct political constituencies. By striking the right balance between abstraction and case-specific analysis, rejecting timeworn histories of Western liber-

alism, and offering insights of value to both students and practitioners, *Politics of Religious Freedom* is an important and eloquent work.