

## BOOK ANNOTATIONS

*Military Professionalism and Humanitarian Law*. By Yishai Beer. New York, NY: Oxford, 2018. Pp. xiv, 224. \$85 (hardcover).

REVIEWED BY JESSICA ALLEN

Yishai Beer undertakes an ambitious goal in *Military Professionalism and Humanitarian Law*: to bridge the gap between rules of international law governing armed hostilities and actual state practice. To accomplish this, he seeks to revitalize the current law—which he deems an unworkable compromise between rival humanitarian and military camps—with standards of military professionalism. He argues that this new paradigm, based on realpolitik considerations, will make full compliance with the law an attainable norm, thereby reducing the hazards of war. However, while offering a compelling case for reform, the author's argument rests on several key assumptions, and it is not apparent that applying the criteria of military professionalism to the law is an easy or straightforward task. Still, the book accomplishes what the author sets out to do—namely, offering the case for a path forward—and the author acknowledges that further work is needed to fully flesh out the details of such an approach.

The author begins by tracing the development of the modern law of armed conflict and explaining his two main aims. First, he argues that his suggested approach—based on effective rules which militaries already use rather than visionary, but impracticable, rules—would make military compliance with the law more attainable than the current framework. Second, and more importantly, he argues that this approach would reduce human suffering, not only by encouraging better compliance with the law, but also by raising the humanitarian threshold by leveraging constraining elements that already exist in military professionalism. For example, utilitarian restraints against the excessive use of force could raise the threshold for targeting under the necessity principle, as discussed further below. The author demonstrates application of his paradigm by examining how military professionalism offers

criteria that could help resolve four controversial issues in international law governing armed hostilities: the concept of military necessity, the use of preemptive strikes in self-defense, military strategy, and deterrence.

The first issue the author explores is revitalizing the concept of military necessity—a principle which theoretically imposes a restraint upon the military by forbidding the use of force in excess of what is necessary to attain a military goal. The author believes that the necessity principle has failed to function as a substantial constraint, and notes that it is quite “embarrassing” and “unacceptable” that the professional considerations and financial constraints of a military set a higher threshold for military targeting than the law. He argues that standards of military professionalism could transform the necessity principle from a permissive rule to a more protective rule that would shield both combatants and noncombatants from excessive brutality. The author argues that, from a utilitarian perspective, military professionalism does not endorse excessive use of force above what is reasonably necessary to achieve a given, lawful military advantage. Rather, militaries have a self-interest in constraining brute force and enhancing operational effectiveness and efficiency—a recognized professional military requirement. Thus, he argues that introducing professional restraints against the use of excessive force into the necessity principle could revitalize the principle with substantive constraining elements. This would thereby elevate the legal threshold for targeting military objects.

The second issue examined is the lawful war of self-defense. Specifically, the author addresses when a self-defendant state may be proactive and strike preemptively—an unresolved legal issue. The author argues that the law of self-defense should allow proactive measures, and that the timing and contours of such measures should be judged by a strategic analysis of the self-defendant’s circumstances. He suggests that the legality of preemptive strikes should be defined as the last reasonable point, based on the self-defendant’s military circumstances, at which it can successfully face the threat and still operationally defend itself. While this “operational last resort standard” is to be primarily scrutinized using professional standards, the author argues that it is not immune from assessment and critique. Although the standard is not clear-cut, he argues that the components of such a self-defense are well-

known and can be examined objectively by outside professional observers.

The third issue is military strategy, which the prevailing law of armed conflict does not address directly. The author argues that because of this blind spot, the direct consequences of war strategy and war aims are disregarded. The author posits that this disregard comes at a price, as it is the strategic level of war which most affects the conduct of hostilities. He suggests that military strategy can be leveraged as a constraint on military action, and that a “vertical nexus” should be required between all levels of war and military targets. It would add to the prevailing legal requirement of a “horizontal nexus,” a connection between a military objective and the military action.

Finally, the author offers a normative framework for introducing deterrence into current law as a part of lawful self-defense. Under current law, deterrence is often considered an unlawful punitive measure, or otherwise viewed suspiciously. The author argues that deterrence can and should be used to contain conflicts, as it is often more effective and less destructive than reactive self-defense if properly regulated. Further, the author argues that legalizing defensive deterrence would close a gap between international law and actual state practice. While acknowledging the arguments against legalizing deterrence, including that states would use it as pretext for aggression, the author believes that utilizing professional military standards and requiring transparency of the decision-making process would minimize reckless mistakes and misuse of the doctrine.

Still, the author himself readily admits that there is no definite solution to any of the four challenging issues he examines. Rather, he argues that military professionalism offers criteria that are useful in finding a reasonable solution.

Overall, the author presents a compelling case that the best way to influence military behavior and convince armed forces to “sacrifice their convenience for the sake of the humanitarian mission” is to use their own professional standards. By acknowledging the reality of state behavior and interests, a new balance can be struck that gives substantial consideration to “core existential interests of states,” while prioritizing humanitarian concerns above merely “convenient interests of

militaries.” Professional standards would force militaries to distinguish between these core and peripheral military interests, and still allow achievement of the military mission. However, the author’s argument rests on several key assumptions, and challenges remain in attempting to deploy such a paradigm.

For example, one assumption upon which this paradigm rests is that there is indeed a coherent set of professional military standards upon which to draw. The author rejects the idea that military professionalism is an “amorphous criterion.” He argues that militaries may differ in war methods, but ultimately share common attributes in planning, functioning, and fighting; further, their professional standards are, for the most part, quite similar. With examples of military professionalism drawn from just a handful of countries, the reader is left to accept the author’s word that such a degree of coherence exists or could be established.

If the reader accepts that such professional military standards do exist and are effective in practice, the question arises of why they would need to be transformed into mandatory legal rules. Further, it raises the question of whether such a transformation would be counterproductive, and seen as “yet another external and ineffective nuisance.” This is another criticism that the author attempts to address, in a somewhat more satisfactory manner. He argues that the legal transformation would have two effects. First, it would compel political leaders, who direct military action but are not bound by their military’s professional standards, to comply with this adjusted notion of humanitarian law. Second, as in the case of the necessity principle, it would elevate the legal threshold for targeting combatants, as well as reduce the lawful collateral damage to non-combatants. Further, to the extent that certain legal issues remained unresolved, military professionalism may offer criteria which are helpful in resolving such controversies.

Finally, as the author notes, there is a fundamental question relating to his methodology: whether it is wise to grant more power to militaries in this space, and whether focusing on militaries’ needs will contribute to, rather than reduce, human suffering. The author fully acknowledges that such arguments have merit, and that problems of pretext and manipulation remain a concern. He further acknowledges that military professionalism has enabling elements as well as constraining elements—after all, “it should be remembered that

wars are not humanitarian projects.” Still, the author seems clear-eyed about these challenges. He harbors no illusions that this is a “utopian solution,” but rather sees it as a compromise. He further makes clear that his aim is not to offer a detailed draft. Rather, his focus is on the macro challenges facing the law of armed conflict, in order to offer a solution to change the direction of current humanitarian law. He admits that further elaboration is needed to deal with the micro details.

Ultimately, the author makes a forceful case that the balance struck in the prevailing law of armed conflict may need to be reconsidered, and that the potential for reforming the law in a way that better promotes humanitarian considerations exists. He presents a compelling argument that standards of military professionalism can revitalize the law, making it more consistent with the strategic considerations and the reality of modern militaries while also reducing human suffering.

*Censored: Distraction and Diversion Inside China’s Great Firewall.* By Margaret E. Roberts. Princeton, NJ: Princeton University Press, 2018. Pp. xii, 271. \$29.95 (hardcover).

REVIEWED BY ANSEL BENCZE

Censorship is a highly evocative and politically charged term. In contested areas such as hate speech and online extremism, the notion of censorship looms large. Depending on one’s viewpoint, this overarching fear of censorship itself may serve either as a crude cudgel, carelessly employed to destroy valid policy proposals, or as a righteous barrier, safeguarding against encroachment on our fundamental rights. But what is censorship? People tend to imagine the censor as an authority wielding great power, and fear a world where those who refuse to comply with the censor’s demands will face the punitive wrath of the state.

If this indeed is censorship, then what do we make of porous censorship—that is, censorship mechanisms that are easily circumvented or underenforced? This is the challenge that Margaret Roberts poses in the introduction of *Censored: Distraction and Diversion Inside China’s Great Firewall*. A traditional view might consider such seemingly ineffective mechanisms to be indicative of a failure of censorship. Porous censorship demonstrates either a government’s inability to censor, or a lack of

dedicated interest in doing so. This understanding might then encourage an overly-optimistic view of the weakness of censorship as a tool of authoritarian regimes in the modern world. This optimistic argument suggests the prevalence of porous censorship shows that systematic censorship is vulnerable to new technologies that have vastly expanded channels of communication.

Roberts directly challenges this perspective and proposes a more expansive understanding of censorship. The theory of censorship proposed is encapsulated in her “three Fs”: *fear*, *friction* and *flooding*. The more traditional view of censorship largely coincides with the *fear* component. This is where punitive measures are at work and operate by encouraging self-censorship among the public. *Friction*, on the other hand, simply increases the costs of access to information. This is illustrated by China’s Great Firewall. The Great Firewall blocks access to many sites from within China, including Facebook and Blogspot. Nevertheless, it does not require an extraordinary amount of technological sophistication to find and use a VPN in order to get past the firewall and access these blocked sites. Under a more traditional view, a Chinese internet user who uses a VPN to log in to Facebook could be seen as having “defeated” the censorship regime; however, Roberts’s framework suggests that in such circumstance the Great Firewall is still performing its job—it is making it more burdensome to reach the desired information. *Flooding*, similarly, is a mechanism that allows authorities to censor without resorting to the need to actually eliminate information. *Flooding* strategies, such as coordinated online propaganda and Twitter bots, work by competing with information the government would like to suppress. Roberts identifies *flooding* with dilution, confusion and distraction.

Having outlined this expanded theory of censorship, Roberts presents China as a case study to demonstrate how the three components of *fear*, *friction* and *flooding* may be employed. The observance of porous censorship in China should not be seen as a failure or limitation of authority. Rather, Roberts contends that this reflects an intentional approach to censorship by the Chinese authorities to use both *friction* and *flooding* techniques to create a more customized censorship regime.

Clocking in at under 250 pages, *Censored* makes for a rather easy read. The accessibility of *Censored* is aided greatly by the consistent organization and structure in Roberts's writing. The book's seven chapters are divided into thirty-four subchapters. Within these subchapters, subheadings are liberally employed so that individual sections rarely exceed a few short pages. Roberts writes with a commitment to clarity, consistently signaling to readers at the top of every section the argument she intends to make. It is difficult to imagine any reader getting lost in the weeds in this work, and that remains true even as Roberts turns to the empirical studies of Chinese internet experiences in the book's second half. Roberts does an excellent job of contextualizing the data she presents, clearly explaining the purpose behind each of the studies, and summarizing the significance of the results. Regardless of whether a reader loves graphs and charts or loathes them, the material is carefully presented in a way that is easily digestible and clearly related to the issue at hand.

That said, *Censored* is strongest when it is dealing with the topic of *friction*. By comparison, *fear* suffers from less attention while *flooding* lacks some rigor in its conceptual clarity. In the context of *fear*, it could be argued that inasmuch as *fear* has been the focus of more traditional approaches to censorship, and as Roberts is explicitly attempting to expand beyond the traditional scope, it makes sense for her not to dwell as much on the presumably more well-trodden subject. But as Roberts herself makes clear, all three approaches to censorship are interconnected, with *friction* and *flooding* potentially creating *fear* and vice versa. In broad strokes, Roberts argues that fear tactics are employed in China on a limited and targeted basis. Rather than being used to control communications between the vast majority of ordinary citizens, it is mostly relevant at the top where it is used to influence higher-profile journalists and activists. But beyond this general big picture, *Censored* dedicates little space to detailing the mechanics of how *fear* is employed at the top level. While Roberts emphasizes that direct intimidation is typically focused on high-profile individuals, she nonetheless acknowledges that ordinary citizens may get swept up by law enforcement, whether by local government actors or in periodic national crackdowns, but the tension raised by this acknowledgment is unresolved.

Much of the attention paid to the *fear* side of the equation instead relates to demonstrating how its impact is minimized. In a matched-pair study, Roberts looked at how internet users respond to encountering censorship and found that rather than reacting fearfully, users seem emboldened after being censored themselves. Survey results similarly show that internet users do not self-report feeling fearful when encountering censorship. This is true whether or not they themselves had had posts censored in social media. Such studies may be particularly eye opening for readers who are only familiar with the occasional story in the Western press of imprisoned journalists or activists in China. Nevertheless, without a stronger understanding of the extent of criminal sanctions as well as extra-judicial intimidation, the picture seems incomplete. When ordinary users report being unafraid, is that a reflection of confidence that the government simply cannot be bothered to deal with small fish like them, or are they completely unaware of the intimidation and sanctions found at the upper echelons?

The topic of *flooding* presents something of a different problem: the underlying theoretical relation to censorship is a bit more tenuous. This is unfortunate because, of the “three Fs,” *flooding* is likely to be the one that many readers will find most intriguing due to its obvious relevance to democratic societies that are currently reckoning with the influx of “fake news” and related issues. In addition to the so-called “50 cent party”—individuals alleged to be paid by the Chinese government to flood social media—Roberts refers to Russian Twitter bots and ready-made press releases issued by U.S. agencies in the context of flooding. In this way, Roberts teases much broader implications for the expanded theory of censorship, but there seems a threat of stretching the concept too far.

On the one hand, one could brush aside the issue as a matter of semantics. The argument of *Censored* is that there has long been too narrow a definition of censorship, which should be understood more broadly to include strategies of *friction* and *flooding*. Another way to phrase this argument could be that the real issue that people should concern themselves with is not mere censorship (narrowly defined), but information control more broadly which would include these strategies. In fact, the phrase “information control” is used by Roberts herself in discussing the history of Chinese press and internet pol-



icies. But if censorship is as particularly charged a term as it seems, then such mere semantics may matter.

That said, the concept of *flooding* need not necessarily lie beyond the scope of censorship, but it perhaps needs slightly more care than Roberts provides. The problem with this portion of *Censored* is that the way Roberts discusses *flooding* does not seem to provide any clear distinction between its use as a tool of censorship and mere propaganda. It is this ability to draw such a distinction that is necessary to avoid the problem of censorship being stretched past its conceptual breaking point. Certainly, Roberts is aware of the need to place limitations on the concept. She brings up the generic example of Olympics coverage, which may have a tendency to drown out and silence other news stories, but she notes it would be silly to consider Olympic coverage a form of censorship. *Flooding*, understood as a tool of censorship, needs to be intentional and targeted.

The first study presented on the topic of *flooding* seems to embrace this limiting principle by focusing on the timing of government-directed news stories. The data shows that such *flooding* efforts are concentrated around sensitive times such as national party meetings, allowing the inference that there is a purposeful targeting in its use. However, the second study falls back to blurring the lines between censorship and mere propaganda. Roberts uses the rate of online reposts of government directed stories as a metric for the success of *flooding* efforts. People reposting government directed stories is evidence of successful propaganda, but what's missing is a more focused look on its effect *as censorship*. Rather than focusing on the success of spreading the governmental message, attention should be paid to the effect on dissenting opinions, which are often the target of censorship. This aspect is missing in the book.

It would be a terrible mistake to take these criticisms to mean *Censored* has failed in its purpose. Ultimately, the book is a great success in accomplishing what it sets out to do. *Censored* targets a broad audience that would encompass anyone with an interest in political science, rather than narrowly confine itself to an audience of China scholars and data scientists. That is not to say the latter group could get nothing from the book, but the incredibly brief history that opens chapter three—covering censorship in China from the Civil War through the Great Firewall in a mere twenty pages—is indicative of its ap-

proach which prioritizes accessibility over exhaustiveness. *Censored* does an excellent job of laying out a very clear thesis. The research it provides, while clearly not exhaustive, gives some interesting data points in support of its central theory. It is not meant to serve as the final word on the topic. Instead, it is a strong introduction to censorship generally, as well as the Chinese experience, that raises questions and should spur further study and research.

*For the Love of Humanity: The World Tribunal on Iraq.* By Ayça Çubukçu. Philadelphia, PA: University of Pennsylvania Press, 2018. Pp. CCXXIV, 224. \$65.00 (hardcover).

REVIEWED BY CANSU ÇOLAKOĞLU

February 15, 2003 was a historic day. Millions of people took to the streets to protest against the war that the United States and the United Kingdom were planning to wage on Iraq. Despite such a large global anti-war movement, American and British troops invaded Iraq the following month. At twenty-three, author Ayça Çubukçu was one of the protestors marching in New York City. Following the beginning of the war, anti-war activists all around the world came together in an international effort to put the United States and the United Kingdom on trial for the war crimes they committed during the Iraq War. They imagined a tribunal to document and bring to light what was happening in Iraq. And thus began the World Tribunal on Iraq, also known as the WTI. About two years after its inception, on June 27, 2005, after numerous sessions all around the world including in Istanbul, New York, Brussels, Mumbai and Tokyo, the World Tribunal on Iraq held a press conference in Istanbul to declare its judgment.

This book entails Ayça Çubukçu's fieldwork between 2003 and 2005 with the transnational network of anti-war activists who founded and participated in various sessions of the WTI. Çubukçu herself was a participant observer during the WTI's conceptualization and formation. She was committed to the WTI both as an anti-war activist and an anthropologist prepared to observe and document the process. Methodologically, the author closely weaves political theory into her ethnographic research from the WTI sessions that she attended between 2003 and 2005 as a participant observer. The result is a

book whose value lies in its examination of how international structures, such as the WTI, can resist and prevent the normalization of war predicated on a façade of human rights. Still, the book would benefit from a deeper analysis of the actual proceedings of the WTI, an aspect that is conspicuously missing.

Çubukçu's work is incredibly valuable because it documents an initiative that recorded what happened in Iraq at the turn of the century. It brings to light how the WTI openly, publicly, and loudly condemned the United States and the United Kingdom for their occupation. It provided a space for citizens of the global civil society to engage with like-minded people who were absolutely against any form of normalization and legitimization of the Iraq War. It created a space that established international organizations like Human Rights Watch and Amnesty International (AI) had failed to provide.

The book consists of four main chapters and a shorter section that the author calls an "intermezzo." The intermezzo concerns whether the network created by the WTI could speak for everyone involved. In discussing this issue, Çubukçu analyzes the controversy over the WTI Brussels chapter's open letter to Amnesty International. In August 2005, AI published a memorandum outlining its human rights concerns in the new draft of the Iraqi constitution. The Brussels open letter primarily condemned AI because it equated the AI's calling for a human rights-based constitution for Iraq, with cooperating with the occupiers and legitimizing the war. While some people were upset by the Brussels letter and wished to make clear that it does not speak for everyone associated with the WTI, the WTI, as a horizontal non-hierarchical network organization, could not censor the activities of its chapters. This incident highlights a good example of why the WTI was such a valuable initiative. The Brussels chapter's critique of AI shows that the citizens of the world who are against the Iraq War were dissatisfied with the existing international organizations for failing to point out the illegitimacy of this war.

Anticipating the most glaring question readers might have, Çubukçu deals with the question of the legitimacy of the Tribunal in the first chapter, *Constituting a Multitude: Founding a World Tribunal*. In this chapter, the author frequently pulls quotes from her transcripts of the meetings she attended. As a result, it reads much more like an ethnographic piece

than a theoretical piece compared to the rest of the book. She critically assesses where the Tribunal derives its legitimacy from and provides two competing views that various members had put forth: the political perspective and the legalist approach. Çubukçu appears to support the political perspective purporting that the WTI has *partisan legitimacy* derived from each participant's commitment to the anti-war movement. Partisan legitimacy refers to the concept that the Tribunal is not trying to create an image of neutrality but rather embraces its opposition to the war on Iraq as the Tribunal's starting point. As such, the WTI might aptly be characterized as a "prosecution without defense." That is to say, the WTI "defendants" are not really given a chance to defend their actions. In fairness, to mitigate this potential criticism, the WTI, as a symbolic gesture to grant the accused a chance at "defense," formally invited George W. Bush and Tony Blair to testify about the allegations, but unsurprisingly neither of them accepted the invitation.

Another critical and interesting question that Çubukçu addresses is "the congruence between neoconservative and liberal arguments supporting the war on Iraq" and the argument that not everyone would oppose all military interventions even if they oppose the occupation of Iraq. For the latter inquiry, Çubukçu relies on Jürgen Habermas's opposition to the Iraq War despite his notable support for the war in Kosovo.

Structurally, the book has the feel of separate articles compiled together. The Acknowledgments section does reveal that parts of the book were indeed derived from two previous journal articles Çubukçu had written on the subject. Nonetheless, each chapter has its internal introduction and conclusion which is a helpful form of signposting that does not break the flow of the chapter. Surprisingly, however, the book lacks an overall conclusion chapter and thus has somewhat of an abrupt ending.

Embedded in Çubukçu's work are the ideas of theorists and philosophers such as Jürgen Habermas, Jacques Derrida, Immanuel Kant, and Michel Foucault. Çubukçu pulls Michel Foucault, among other thinkers, into her discussion about legitimacy for his formulation of international citizenship, the idea that every person has rights and duties as an international citizen and must stand up against any and all forms of abuse of power around the world. It appears that the author and many

other WTI members supported the right to speak out against abuse of power regardless of whether they were directly affected by the American and British invasion and occupation of Iraq. Agreeing with this principle, Çubukçu quoted a participant from Istanbul who argued that someone's justification for taking part in and supporting the WTI simply could be because they believe "this superpower [the United States] should be stopped and only because of that."

With regards to the WTI's proceedings themselves, Çubukçu briefly classified the substantive sessions of the WTI under three categories: (1) The Role of International Law and Institutions, (2) The Responsibility of Governments, and (3) The Responsibility and Accountability of the Media. Under the first category, Çubukçu recounts how the WTI sessions condemned the use of "human rights as swords of empire," referring to how imperialist military interventions are legitimized through a narrative of protecting human rights. The second category is a critique of the governments that aided and abetted the war on Iraq. Çubukçu criticizes Turkey for allowing the United States to use its airspace and military bases. Similarly, she references Khaled Fahmy, a New York University professor, for his criticism of Arab countries for their contributions to the occupation of Iraq. The book also shares accounts of critiques of the United Nations as well as Amnesty International and Human Rights Watch.

Yet, Çubukçu does not really discuss the actual content of the trial and limits the scope of the book to the generalized categories mentioned above. In fact, the book almost exclusively focuses on the formation and conceptualization of the WTI rather than its substance. It does not discuss the Tribunal's prosecution of the crimes the United States and the United Kingdom committed in their invasion and occupation of Iraq, all supposedly in the name of "human rights." Instead, the book uses the WTI as a case study and framework to discuss several conceptual questions including legitimacy, constitutionalism, imperialism, and the global civil society. Nonetheless, Çubukçu's narrative is supplemented with three appendixes featuring the Platform Text of the Tribunal, which is akin to a manifesto on its constitution, the final declaration that came out of the WTI, and a list of all WTI sessions that occurred throughout the Tribunal's two years of operation. The fact that the appendixes directly pull from the substance

of the WTI provides a valuable connection to the substance and helps the reader recognize the importance of the form and structure of the Tribunal.

Additionally, another notable shortcoming of the book is its failure to acknowledge any potential economic reasons underlying the occupation of Iraq. While this perspective is frequently dismissed as too much of a conspiracy theory in discussions of U.S. military interventions around the world, it is hard to believe that it did not surface during the discussions of neoconservative and liberal ideas on protecting human rights. That being said, Çubukçu does a thorough job of spelling out what international law currently is and what it perhaps ought to be according to the WTI's line of thinking. While she rejects that the legalist perspective—utilizing the existing international legal framework as the form of the WTI—is the right form for establishing legitimacy for the Tribunal, she does discuss the different approaches to international law. She imagines international law as an anti-colonial and anti-imperial medium protecting the rights and sovereignty of the global civil society as opposed to a conceptualization of international law premised on an intimate and approving relationship with imperialism. Çubukçu frames this as the difference and tension between what she calls the cosmopolitan law's empire and the imperialist empire's law. History is full of examples of imperialist powers imposing their rule on foreign lands for resources and these conquests are rarely (never) sincerely motivated to establishing a human rights-based regime in those lands. As such, it is surprising that Çubukçu goes as far as discussing “the empire's law” but not the empire's true intentions.

Ultimately, *For the Love of Humanity* is a captivating hyper-analysis of the conceptualization and formation of a transnational anti-war organization devoted to documenting the atrocities committed during the Iraq War. It demonstrates how important the form and structural development of a transnational organization are and how much structure can affect an organization's operation and what it stands for. This book is an invaluable recording of a global resistance to violence and oppression that is no longer left untold.

*Silent Invasion: China's Influence in Australia.* By Clive Hamilton. Richmond, Australia: Hardie Grant Books, 2018. Pp. ix, 376. \$18.35 (paperback).

REVIEWED BY MARK DAVIES

Clive Hamilton holds no punches in his book *Silent Invasion: China's Influence in Australia*. His argument is inflammatory. China, he contends, is Australia's enemy, actively engaged in a determined multi-front campaign to infiltrate Australian institutions, undermine its democracy, and ultimately turn the country into a puppet state for Beijing. However, Hamilton's claims lack the sort of evidence you would expect to support such explosive allegations. Throughout the book, it is unclear what concrete evidence he is relying on to make his varied charges. Instead, he relies on discussions with experts and largely circumstantial evidence. Hamilton offers many expert opinions that align with his own, but mostly fails to offer corroborative support for those opinions aside from stating that other people have the same view. Though the supposed Chinese invasion is "silent," as the book's title suggests, surely there must be some noise if it is as sophisticated and extensive as Hamilton claims. The allegations—while alarming—are difficult to take seriously without concrete proof. Further, even if such an invasion is underway, Hamilton fails to explain why he believes it has even a remote chance of success.

*Silent Invasion* explores what Hamilton describes as China's quest to dominate the world. Those plans, he argues, are in its early stages with Australia and New Zealand serving as test environments for China to perfect its infiltration techniques. Most chapters cover a single technique, each varying in degree of credibility. Among the techniques Hamilton explores are the use of dark money to influence foreign leaders, "China institutes," influence through investments and trade, control of universities, and spying.

The most credible claims are laid out in a chapter about dark money. Hamilton traces Chinese money to numerous Australian politicians and institutions, explaining how these same actors have subsequently taken pro-China positions in foreign policy, business, academia, and other sectors. Hamilton does not hesitate to name names of Australian leaders whom he believes have been bought by Chinese money. He

devotes an entire chapter to Labor party politician Bob Carr, or “Beijing Bob.” Carr has promoted many ideas that could be seen as furthering Chinese influence in Australia through his work with the Australia-China Relations Institute. That organization received billions of dollars in donations from a Chinese real estate mogul named Huang Xiangmo, whose shady political activities are well-documented (a rare example of a Hamilton claim that is corroborated by other sources). Hamilton raises questions about even more prominent leaders as well, such as former Prime Ministers Bob Hawke and Paul Keating, both of whom have had extensive contracts with influential Chinese leaders and tycoons since leaving office—to their personal financial and political benefit. *Silent Invasion* suggests stronger campaign finance laws to remedy this issue, and Hamilton’s explanation of why and how that would work is compelling. He proposes a ban on foreign donations to political campaigns similar to one that exists in the United States to eliminate one of the most obvious means of foreign interference.

Beyond dark money, Hamilton explains that China has used its economic might in other ways to infiltrate Australia. Most notably, he claims that China has made strategic investments and used its market size to make Australia dependent on China. *Silent Invasion* outlines how economic ties between the two countries have strengthened in recent years. This is not in doubt. What is questionable, however, is Hamilton’s claim that economic engagement between China and Australia undermines Australia’s democracy, national security, and commitment to human rights. Hamilton’s argument is too polemical. Yes, reliance on Chinese markets will influence the ways in which Australian leaders handle China on the international stage, but Hamilton overstates the degree to which Chinese and Australian values are at odds. The countries obviously have different priorities but economic engagement between them actually draws those priorities closer together. As China continues to open up with market-based reforms, its interest in global security and international institutions grows in a way that aligns with Australia’s. Hamilton focuses on the negatives of Chinese-Australian economic engagement—most importantly, the use of Chinese money to influence Australian leaders and consumers. In doing so, he completely overlooks the positives, including the economic and security benefits of aligning Australian and Chinese interests.



From there, Hamilton's allegations only become more troubling. Perhaps his most absurd claim concerns Chinese immigrants living in Australia. Hamilton paints with a broad brush, describing them as "billionaires with shady histories and tight links to the party, media owners creating Beijing mouthpieces, 'patriotic' students brainwashed from birth, and professionals marshalled into pro-Beijing associations set up by the Chinese embassy." To Hamilton, it is impossible that a single Chinese immigrant may have a non-pernicious motivation for moving to Australia; in his conceptualization, students do not come for Australia's reputable universities, but rather to brainwash their Australian classmates as was done to them at home. This section reeks of xenophobia and is particularly light on hard facts to substantiate its claims. It reads more like the musings of Stephen Miller, Donald Trump's immigration policy advisor, than the rigorous analysis of a respected academic. Speaking of academics, Hamilton alleges that a whole slew of Chinese-Australian academics regularly commit treasonous acts in deference to the Chinese government. These otherwise highly-regarded thinkers, he says, are secretly transferring critical research on topics like national security, cybersecurity, artificial intelligence, computer engineering, and space exploration to the Chinese government.

As troublesome as some of these claims may be, perhaps worse is that Hamilton offers no paper or cyber trail to substantiate these claims, nor is there any sort of smoking gun that alludes to even the faintest hint of veracity. In fact, Hamilton relies almost exclusively on circumstantial evidence and the opinions of other academics who agree with him in order to make most of his points. For example, he points to the growing number of Chinese immigrants coming to Australia in recent years as proof of "infiltration," practically begging the question as to whether increased immigration necessarily means increased "infiltration." He fails to provide evidence for the linkage between this increased migration and Chinese espionage or other shady dealings other than to say that both have increased, thus conflating correlation with causation—and notably, he does not even provide evidence for the existence of those actions in the first place. Otherwise, Hamilton points to the opinions of experts in the field to support his claims. Sometimes, his sources seem credible, as is the case with John Fitzgerald, a China-Australia expert from Swinburne

University whose work on Chinese migration patterns and the cultural assimilation of Chinese-born Australians is cited in the book. Others are more dubious, such as the New Zealand doctoral candidate's dissertation he relies on for his argument that the Chinese Communist Party expects Chinese people living abroad to maintain loyalty to the party and China. Regardless of his experts' credentials, the same evidentiary problem persists throughout *Silent Invasion*. Hamilton points to those expert opinions but does not point to any underlying evidence that substantiates them.

In the end, Hamilton fails to make a convincing case that there is some covert Chinese plot to infiltrate Australia. That is not to say that such efforts are not currently underway in Beijing. Admittedly, one can understand that if there is evidence of such a scheme, it would not be publicly available. But even if we were to accept that China has a full-fledged scheme to infiltrate every sector of Australian society and undermine its sovereignty, Hamilton does not explain why it would have even a remote chance of success. To take Hamilton's word here would be to agree that it is possible—if not inevitable—that one day Australians will suddenly awake to the Chinese flag being raised outside their windows. That is an absurd proposition. To try to illustrate its potential, Hamilton points to the example of Hong Kong. China, he explains convincingly, exerts a high degree of influence over many of Hong Kong's institutions. Putting aside the many ways in which Hong Kong maintains its sovereignty (which Hamilton conveniently ignores), there are many reasons why Australia is not at risk of becoming Hong Kong. The most obvious is the fundamentally different historical relationships between China and Hong Kong and China and Australia. Hong Kong maintains a certain degree of sovereignty but is not an independent nation. Australia, on the other hand, has complete sovereignty. Any semblance of the sort of power China wields over Hong Kong would have no chance of being accepted by the Australian people. Hamilton anticipates this objection to his argument by suggesting that it would not be necessary for Australians to 'accept' Chinese domination because it is progressing unnoticed and unannounced. He argues that Australia is at risk of becoming a puppet state managed by the Chinese but does not explain how such a takeover could nevertheless occur without

resistance from Australian leaders who certainly would take notice. The line from manipulation to domination is unclear.

Again, none of this is to say that China poses no threat to Australia and its interests. Ties between the two countries are clearly growing, and with that growth comes the risk that Australians will act towards with too much complacency towards China and its policies. Furthermore, Australian businesses and consumers may be naïve in ignoring the influence that Chinese markets hold over them. Meanwhile, corrupt actors in various Australian sectors may put their own political and financial interests ahead of their country's in a way that benefits China. While Hamilton may have thought Australians would accept a Chinese invasion lying down, he should be mollified by Australia's recent calls to action. In June 2018, a few months after the publication of *Silent Invasion*, Australia passed legislation which dramatically overhauls the treatment of foreign interference in the country. Numerous new crimes—such as stealing trade secrets on behalf of a foreign government—were added to Australia's laws, carrying punishments from 10 to 20 years in prison. China received the policy change poorly. The passage of this legislation demonstrates Australia's resistance to foreign interference even without substantial hard evidence (at least publicly available evidence) that such action is required. If that is any indication of the country's commitment to maintaining its sovereignty, it would appear that there is little chance of the nightmarish scenario Hamilton lays out will become a reality.

Hamilton's fiery book is written for those fearful of a burgeoning China and it will make proponents of sovereignty around the world question whether they are turning a blind eye to China's influence. While there is something to be said of China's growing influence and the concomitant problems that this entails, many of Hamilton's claims border on demagoguery and outright xenophobia. In the age of Trump we need more critical and reasoned debate, not fear and hate. Overall, Hamilton's straightforward style makes the work accessible to all and provides a decent overarching framework for the discussion, but his portrayal of an Australian society at risk of completely losing its identity is impossible to take seriously.

*The Third Revolution: Xi Jinping and The New Chinese State.* By Elizabeth C. Economy. New York, NY: Oxford University Press, 2018. Pp. xiii, 343. \$27.95 (hardcover).

REVIEWED BY JESSE FLECK

In *The Third Revolution*, Elizabeth Economy claims China will not take the United States' place as leader of the world. Although Xi Jinping and the Chinese government have implemented large programs ranging from the Belt and Road Initiative to cracking down on local corruption, Economy finds that these grandiose projects have floundered due to increased governmental control and bureaucracy. Economy finds that although China may play a bigger role in the international community due to sheer size and force, it is not in a position to lead the world. To reach this conclusion, Economy paints a detailed picture of China's current regulatory state and its leader, Xi Jinping. Each chapter focuses on a specific type of reform implemented in China during the Xi reign, such as public policy, internet policy, and economic policy. Through interviews with key Chinese figures and on-the-ground research, Economy weaves together an intricate story explaining how Xi's actions tie into China's historic legacy and Xi's future ambitions for China.

Economy begins with the premise that "Xi has emerged as a descendant of both Mao and Deng." Mao Zedong was the revolutionary founder of the Chinese Communist Party who amassed near-total control over China through vicious reforms. Deng Xiaoping was the famous Chinese leader who "opened up" China through economic reform. Economy posits that Xi's dual nature enables him to appear reform-minded like Deng, while at the same time pursuing draconian measures like Mao. As such, Xi is able to consolidate his control over China while Chinese citizens and the international community alike may believe that Xi is reforming China.

Economy's study of Xi's dual nature and its influence on Chinese strategy is clearest in chapters two and three, which explore Xi Jinping's centralization of power through public policy and internet policy respectively. On the public policy side, Economy notes that Xi has launched campaigns against anti-corruption and worked towards institutionalizing good moral character. Reports indicated that corrupt officials were

removed, good civic behavior was promoted, and money was saved. As a result, Chinese citizens have generally viewed these campaigns positively. As for internet policy, Economy finds that in the mid-2000s, the number of internet users in China began to exponentially increase. To capture this audience, Xi embraced the internet and social media. Xi created a Facebook page, live-streamed press statements over Weibo, a popular messaging app, and hosted World Internet Conferences in China. Xi appeared as an approachable and tech-savvy leader, and major international companies like Facebook and Microsoft viewed China as a future booming technology center. Economy argues that these reforms have led the international community and Chinese citizens to believe that Xi, like Deng, would reform China.

Economy reports, however, that these reforms have a more sinister nature that has revealed itself over time. Xi used his anti-corruption campaigns to “stack the political deck in his favor.” While Xi has moved his trusted allies into senior government positions, in 2016 alone the government has disciplined over 400,000 officials with a ninety-nine percent conviction rate. At the same time, policies supposedly reinforcing good civic behavior were in fact proselytizing anti-western attitudes and anti-democratic values. For example, the 2013 *Communique on the Current State of the Ideological Sphere* advanced seven perils: “universal values, press freedom, civil society, citizens’ rights, the party’s ‘s historical aberrations, the ‘privileged capitalistic class,’ and the independence of the judiciary.” Economy posits that the combination of the anti-corruption campaign and government proclamations enables Xi to identify dissidence and further tighten communist control and isolation from the rest of world.

Furthermore, Economy finds that Xi’s internet policy reflects his aggressive aspiration for control. As Xi said in a leaked speech, the internet is “the main battlefield for public opinion struggle.” In 2013, the Chinese government issued a new set of regulations on permissible internet content. Economy finds that these regulations restricted freedom of speech and that the criteria for criminal sentencing suggestively “violat[ed] principles of criminal law.” The Chinese government has also implemented measures to capture dissidents and minimize Chinese citizens’ ability to interact with the outside world through technology such as the Great Firewall, which

blocks internet traffic, and the Great Cannon, which carries out distributed denial of service attacks. Consequently, Economy believes that Xi's focus on increasing his control of his own people makes China unable to direct full attention to handling international issues.

Economy uses the remainder of the book to show that Xi's policies have not been successful, and instead make China a poor contender for displacing the United States as global hegemon. Economy's exploration of Xi's policy for innovation is particularly illuminating. Xi has ardently pursued policies to make China a technology hub, such as favoring domestic development through subsidies and trade barriers and convincing foreign scientists to relocate to China. While Xi's policies suggest economic progress, Economy finds that these reforms ultimately failed because the government "is willing to tolerate a higher level of waste and inefficiency in the cause of capturing market share and . . . other strategic objectives." Consequently, Economy makes a compelling argument that China does not have the wherewithal to lead the international community as the next hegemon.

While Economy provides a compelling narrative explaining why China is not able to take the United States' place as global leader, Economy's book is weakest when she argues that China should Westernize. Economy's narrative throughout the book frames Xi's policies as anti-democratic, anti-western and inferior. The general structure of the chapters or subchapters of the book follow the same flow: where China is today, the history behind it, what is Xi's policy, why it does not work, and why it is at odds with Western society. This formalistic flow suggests an oversimplified East-versus-West mentality that undermines the compelling argument of her book. Westernization, however, should not be considered the only path towards becoming a great state.

There is no reason to believe that China will immediately "wake up" and become democratic and "western." Economy's eagerness for democratization causes her to underappreciate the steps that China has taken under Xi Jinping. Her brief discussion on legal reform in China shows her impatience for change. Although Economy finds that Xi enhanced the legal system in China through the establishment of circuit courts with separate jurisdiction from local courts, recording of party intervention in judicial processes, and professionalization of

judges, she quickly undercuts this progress by focusing on the “the limitations of legal reform under Xi” such as his desire to “enforce preservation of the party state.”

The opinions of political scientists Zheng Yongnian and Shan Wei that are referred to in her book suggest that Economy misunderstands reform in China. They state that “[i]n the West, the rule of law was developed as a means of restraining arbitrary actions of those in power. . . . In China, however, the rule of law is equated with rule by law . . . legalism was simply a means of achieving government efficiency and there was virtually no gap between the judiciary and the state.” Zheng and Shan’s comment demonstrates that the goals of Chinese and western legal systems are fundamentally different. While dissimilar, it should not suggest that one is inferior to the other or that one is unable to provide an adequate legal system. Nevertheless, Economy interprets Xi’s centralization of power solely for coercive effect rather than beneficial to society or as a result of China’s historical legacy. This interpretation appears to unnecessarily demonize China’s style of governance as inferior.

The East-versus-West mentality is clearest in Economy’s analysis of Xi’s innovation policy in chapter five. At the beginning of the chapter, Economy states that China has a markedly different approach to innovation from western society. Namely, she finds that China is skilled in improving technology and making it more efficient but lacks the capacity to independently invent. As a result, she focuses her attention on demonstrating that Xi’s policy aimed at promoting inventiveness and success have had lackluster results.

This issue is most conspicuous in the brief discussion on renewable energy products. In the same sentence, Economy claims that China’s renewable energy technologies are “plagued with issues of overcapacity and quality control” and yet admits that China’s renewable energy products are “world-class products and capture significant, if not the majority of market share globally.” Aside from this sentence, Economy does not delve deeper into the success of China’s renewable energy market. Instead, Economy only makes this claim in order to suggest that “[e]lectric cars may well follow the trajectory of renewable energy technologies in China.” If China is a world class player in renewable energy and potentially for electric cars, why does Economy focus on “Beijing’s willingness to

accept suboptimal technological outcomes in order for Chinese firms to capture the market.” China’s success in renewable energy shows that China can be creative. China could not become a world class producer if customers did not desire China’s products. Thus, Economy leaves a dismal picture that China’s innovation capabilities are backwards and inferior to the West, though reality does not necessarily support this contention.

Economy fails to consider that China’s pursuit of different international programs is a desire for a multilateral international system that incorporates China’s socio-historic norms and values. Economy consistently skeptical throughout her book of international Chinese programs such as the Asian Infrastructure Investment Bank (AIIB) and the Belt Road Initiative (BRI) and finds Chinese military strategies of alliances and military bases simply as “an attack on the traditional world order.” Importantly, most existing global institutions, however, are founded upon Western values stemming from the West’s own historical development. As a result, Xi could be trying to create an alternative co-existing forum for commerce, security and thought. Economy, however, never considers that Xi’s China was never challenging the United States for international primacy in the first place. Instead, Economy focuses on proving that Xi’s China will not be able to take over as global leader. This focus for primacy, however, potentially overexaggerates the zero-sum behavior of China and depicts China as unnecessarily belligerent.

In conclusion, Economy presents an impressive overview of modern-day Chinese politics under the rule of Xi Jinping. Her book provides perspectives on various topics from a wide range of sources including academics, businessmen and politicians. She convincingly argues and proves that China is not in a position to become a global leader. Unfortunately, her book goes too far in its expectation that China should be Western. What Economy claims to be a third revolution in China may actually be just another country deciding that it does not want to replicate Western values and instead create its own path. Succinctly, Economy never considers an East *and* West world; only an East versus West world.



*The Final Act: The Helsinki Accords and the Transformation of the Cold War.* By Michael Cotey Morgan. Princeton, NJ: Princeton University Press, 2018. Pp. xi, 396. \$35.00 (hardcover).

REVIEWED BY KATHRYN E. GHOTBI

Michael Cotey Morgan's *The Final Act* is the first comprehensive historical account of an arduous diplomatic watershed, the Conference on Security and Cooperation in Europe (CSCE), and its ultimate product, the Helsinki Accords. While intended for an academic audience, Morgan presents the complex storyline of the Accords in careful and accessible prose and leaves the reader with a nuanced knowledge of the subject matter. Morgan's central thesis is that while the CSCE was, at its inception, a Soviet idea, the West and its ideologies prevailed in the core achievements set forth within the Helsinki Final Act. Morgan emphasizes the fact that the Western allies won first by organizing and remaining close with their like-minded allies, and second, by refusing to compromise on central, democratic ideals such as individual human rights, free and open markets, freedom of speech and the press, freedom to travel, and political transparency. Although a strictly historical account of the CSCE and its contributions to end of the Cold War, this book is a must-read for all those interested or working in contemporary diplomacy as it lays a delicate roadmap of the strategic and ideological necessities for Western, democratic states to prevail in consequential international relations events.

The introduction provides a helpful overview of the context which gave rise to the CSCE. Morgan emphasizes that after the tumult between the Soviet Union and the West throughout the 1950s and early 1960s, the 1970s ushered in a time where the two were practically matched in political, economic, and military power. The Cold War had grown colder, not due to burgeoning peace but because of mutually assured destruction. The CSCE, originally supported by Leonid Brezhnev and his Eastern allies, was an attempt to negotiate these complex and delicate issues of international security across the Iron Curtain. This background by Morgan is helpful to a more novice reader, providing a map for those familiar

with the broad brushstrokes of the Cold War but not versed in its finer details.

Morgan then moves further back in time to examine the cultural and political shifting sands which contributed to unsteady international foundations during the Cold War. He focuses on the concept of political legitimacy, both in the eyes of a governed people and on the world stage. Much of this legitimacy on both sides of the Cold War was provided by the large weaponry advancements which took place during the contemporaneous arms race. The nuclear capabilities of the Soviet Union and the West, ironically, ensured both stability and legitimacy. Morgan also does a deep dive into the domestic cultural changes occurring within each of the countries involved, all of which caused the leaders of the major states to seek an end to the conflict. These changes include, for example, the rise of democratic ideals in the youth of the USSR, the conflict-fatigue of the American public, and the European Union's collective emphasis on cooperation. Not only was the Cold War growing unpopular with the populations of the states involved, but so were the ideas behind it.

The majority of the text of *The Final Act* focuses on the main event: the CSCE and the complex diplomatic processes which lead to the signing of the Helsinki Accords. At times, it can be overwhelming for the audience to keep track of the dozens of key figures involved in the negotiations which Morgan lays out in intricate detail throughout his account. However, whether purposeful or not, in the end this feature may help the reader by emphasizing the organized chaos of the Conference and the negotiations therein. These negotiations, as Morgan writes, took over three years of organization, compromise, and grinding diplomacy. But, in the end, the victor seems clear, according to Morgan's research. As Morgan concisely puts it, "the principles that emerged reflected Western notions more than Eastern ones." Much of this, according to the author, was due to events and cultural phenomena idiosyncratic to the time in which the Conference occurred. However, Morgan repeatedly emphasizes through the second half of the book the importance of NATO, other the Western alliances forged early on in the process, and their steadfast commitment to democratic ideals. In the end, this Western teamwork allowed the Final Helsinki Act to largely reflect the ideas within

those countries and eventually contributed to the decline of opposing Soviet ideals.

This is why this book, although no doubt a dense, historical account of a single event in the Cold War, presents a compelling case study for those who may be interested in tangential diplomatic matters. In an age where the world seems to be experiencing a marked decline in democracy, diplomacy, and the strength of international organizations, *The Final Act* represents an account of how the West prevailed at the end of the Cold War, and throughout the twentieth century, by pulling these very levers. The American, French, and British governments, most prominently, fought both individually and in tandem throughout the CSCE to ensure that individual human rights, the sanctity borders, and active cooperation among states were key features to the continued security of the world as a whole. By employing relationships, alliances, and ideologies forged in World War II and the economic prosperity thereafter, the democratic, capitalist powers were—according to Morgan—able to triumph over Eastern communism. Diplomacy, cooperation, and international communication rather than isolationism and retrenchment allowed democratic values to be prominently situated in one of the most consequential documents of the Cold War. For both professionals and academic enthusiasts alike, these tactics employed by the West and outlined by Morgan in *The Final Act* provide a compelling strategic option for how the contemporary Western counterparts to the key players of the CSCE can face comparable international political dilemmas today. Maybe, rather than the “America First” mindset and the coinciding ripples of retreat into nationalism felt around the world, the Helsinki Accords and the history surrounding their completion present an alternative international pathway to greatness.

But the book suffers from its own flaws in this general vein as well; it presupposes, from the introduction, that a win for the West represents the downfall of the East. While incredibly impressive in its research and thoroughness, *The Final Act* falls short in its causal explanation of exactly how Helsinki and the signing of the Accords by the various world powers involved in the Cold War led to the downfall of the Soviet Union. Although the epilogue discusses Mikhail Gorbachev’s rise to power and the fact that his social and political reformations aligned closely to those agreed upon in Helsinki, the line is

not finely drawn. The reader may be left wondering why this diplomatic win by the West was so much more crucial than any other strategic development: was it the straw that broke the USSR's back, or merely one that added to the changing tides already shifting against them? What exactly, in the end of it all, did this non-binding agreement do that other diplomatic relations did not?

To be sure, this may be an unfair criticism, as Morgan would be the first to note that a historic event of international diplomacy is as much a sum of its parts as its final product. While the crucial thesis of his book—which he recurrently states—is that Western ideologies ultimately prevailed in Helsinki, it is not clear if Morgan sees a straightforward connection between this fact and the eventual fall of the Berlin Wall. If anything, this book impresses upon its reader that no single event can explain an outcome, nor does any outcome ensure a victor in the larger conflict. As Michael Cotey Morgan says in the conclusion of his impressive debut, “[t]he Final Act may have been a victory for Western principles, but in diplomacy, as in war, no result is ever final.”

*The US vs China: Asia's New Cold War?* By Jude Woodward. New York, NY: Manchester University Press, 2017. Pp. 267. \$29.95 (paperback).

REVIEWED BY LIMAN MIMI HU

Jude Woodward has undertaken the daunting task of delineating the geopolitical state of affairs of greater China and its neighbors, and the United States' various roles in the region. In her book, Woodward analyzes and assesses the United States' economic, military, and diplomatic responses to the rising power of China. Her narrative presents a lopsided tale that champions China's strength while also conveying a disturbing undertone similar to that of the Chinese Communist Party's propaganda. The book's essentially one-sided presentation is in line with China's own claims that Western scholars and media overlook the country. Despite Woodward's inadequate analysis, glaring gloss over the Xinjiang and Tibet issues, and shocking silence on China's human rights violations and disturbing development of security technology, this book still provides an interesting and comprehensive overview of the re-

gional issues surrounding China from China's own perspective.

Woodward begins by introducing the concept of "America's Pacific century." She argues that the focus of U.S. foreign policy has shifted from the transatlantic region to Asia. This shift was launched by President Obama in 2011, and has continued and intensified under President Trump. Woodward posits that the aim of this pivotal shift is to contain the economic development of China and maintain the United States' economic and political leadership in the world. She next debunks the myth of China's imminent collapse by arguing that China is investing in renewable energy, is reducing poverty and improving welfare, and successfully escaped the 2008 financial crisis unscathed. She then claims that China's "peaceful co-existence" foreign policy is largely economically driven, despite its launch of the largest investment bank in Asia, the Asian Infrastructure Investment Bank, and China's increasingly frequent exercises of veto power in the United Nations Security Council.

The book then takes a sweeping look at relations between China and the countries situated along China's long border, from Russia in the north, Japan to the east, the ASEAN (Association of Southeast Asian Nations) countries in the southern seas, and to India in the west. Woodward evaluates the United States' successes and, mostly, failures in constraining China in these regions. Woodward considers U.S.-Russian relations the most important factor in geopolitical developments in the region. Woodward argues that while the U.S.-China relationship played an important role in the Soviet Union's 1991 collapse, the same success will not be replicated should the United States and China head into a new cold war, because China is strengthening its ties with Russia whereas the United States has alienated Russia through a series of disagreements over the Middle East and Central Asia, culminating with the attempted integration of Ukraine into NATO.

Woodward then shifts her attention to Japan and characterizes Japan's recent foreign policy as revisionist and prompted by its rising nationalism. Woodward indicates that the effect of Japan's rearmament, encouraged by the United States, remains to be seen but warns of regional instability. As for Taiwan, perhaps the most salient element of instability in the region, Woodward thinks that economic needs will trump

separatist rhetoric by the ruling Democratic Progressive Party despite their victory in 2014. Similarly, Woodward argues that the U.S.-Korean alliance will be weakened by Korea's economic interest and security concerns in maintaining a good relationship with China.

Economic arguments favoring China continue throughout the rest of the book. Woodward maintains that the United States' efforts to boost its presence in the Trans-Pacific region has achieved little, as the ASEAN countries tend to avoid conflicts, economic and political, with China while opportunistically seeking aid from the United States. The analysis then ends with India, which Woodward claims is one of the most important issues for the United States' strategy in the region. Despite this, Woodward advances the argument that U.S.-India relations nevertheless remain lukewarm and it is instead the Japan-India axis which has undergone the most significant development. However, India's ties with Japan, according to Woodward, will be constrained by the solid Chinese-Pakistani alliance.

Woodward concludes the book by observing that if the United States remains unreconciled to China's rise and continues its unattainable goal of constraining China, it will threaten stability and peace in the region. Whether or not the United States and China will eventually head into a cold war remains unanswered.

The most admirable aspect of the book is its broad coverage of current issues in Asia. Rarely would one read about countries like Mongolia, Brunei, Nepal, or Bhutan in a discussion on U.S.-China relations. Yet, Woodward leaves no stones unturned along China's long border and demonstrates the geopolitical significance of these small countries in terms of their position between China and other powerful countries in the region. However, this breadth in scope is accompanied by lack of depth in the analysis on most of the topics.

For example, the book's overarching argument is that the U.S. economy is in decline and China's economy is on the rise; therefore, containing China serves the United States' main goal of retaining leadership in global affairs. To substantiate her economic arguments, Woodward considers factors such as percentage share of global GDP, industrial output, and GDP growth rate in measuring each country's economy's strength.

Yet employing such a simplistic formula to answer questions as complex as evaluating the strength of an economy could hardly convince even a first-year economics student. For an economy as large as that of the United States, it is arguable whether the growth rate is an accurate measurement of its strength at all. Moreover, it is dubious to judge the strength of an economy only by looking at its industrial output, as most developed countries had long transitioned out of industrial development. While the book briefly mentions the United States' technological advances, it quickly dismisses this aspect by arguing that the general trend is that China is catching up. This analysis proves grossly inadequate, and even misleading.

Most telling is the graph Woodward presents on page four, Figure 1.1, with which she argues that China's economy has been gaining on the United States' since 1980. In the graph, China and U.S. GDP levels appear to have already merged in 2000. But if one checks the vertical axis, the numbers are unusually large, although it is not clear what they denote. The horizontal axis depicts a time frame starting in 1870. Since Woodward's economic argument mostly focuses on the time period between the 1980s and the present, one cannot help but wonder why she has picked 1870 as the starting time for the horizontal axis, as neither China's GDP growth nor the United States' in the 100 years between 1870 and 1970 ever appear as part of her argument.

For the most part, the book's inadequate analysis is simply unconvincing. However, it is in her analysis of the issues surrounding Tibet and Xinjiang that Woodward begins to seem disingenuous. In Woodward's depiction, the Tibet issue originated from the British invasion in 1904. She hints that the difficulties facing Tibet were caused by U.S. intervention through covert CIA activities in the twentieth century, and the United States' continued support for the Dalai Lama. This argument, not surprisingly, is a popular conspiracy theory that has been advanced by the Chinese state media for years. Woodward describes the real issue that Tibet faces as one largely caused by economic grievances. Without citing any sources, Woodward claims that there have not been any major disturbances within Tibet since 2008, when international forces calling for Tibetan independence organized protests during the Torch Relay for the Beijing Olympics. Yet a report by any human rights organization about the region during the

same period would tell a different story. For example, the Human Rights Watch's 2017 world report on China claimed that the Tibetan governor carried out policies of heavy-handed governance and social control. At the very least, an account like this would provide an alternative explanation for why large-scale protests in Tibet are rare these days; however, they are conveniently missing from Woodward's narrative.

Similarly, Woodward conclusively asserts that the Uyghur separatist movement in Xinjiang is caused by economic inequalities and the global rise of Islamic terrorism, consistent with the narrative promoted by the Chinese authorities and state media. Woodward appears to assume that China will be able to solve the problem by including Xinjiang in its One Belt One Road initiative, provided that both Islamic fundamentalism and U.S. influence are kept at a distance. It might be unfair to criticize the author for ignoring mass detention at Xinjiang re-education camps, as the book was published in 2017, and the issue of mass detention in Xinjiang did not fully come to light until August 2018, when a U.N. human rights committee formally raised concerns about the situation. Like Tibet, however, international societies have constantly reported serious rights violations in Xinjiang, yet the author ignores them.

Last but not least, while Woodward is unhesitant in her criticism of Presidents Obama and Trump for their foreign policies, the book's consistently uncritical view of Xi Jinping and his policies is disturbing. As China is reportedly invested in changing western narratives, one could question the motives behind the publication of this book. Keeping all of this in mind, though, the book is actually an enjoyable read if one can look past its not-so-subtle propagandizing. In addition to its clear organization, the subsections of the book contain answers to a comprehensive range of hotly debated issues regarding the greater China region. Woodward provides, at times, compelling arguments and a compelling picture of the region at large. The book's focus on *realpolitik* and analysis of the complex relations at play provide a worthwhile read. However, instead of simply accepting the answers provided by the book, readers are advised to seek answers elsewhere for a more complete picture.



*Consent and Trade: Trading Freely in a Global Market.* By Frank J. Garcia. New York, NY: Cambridge University Press, 2019. Pp. x, 227. \$39.99 (hardback).

REVIEWED BY HEATHER M. JONES

Frank Garcia pursues laudable goal in his book *Consent and Trade: Trading Freely in a Global Market*: to persuade the reader that true consent should play an integral role in trade. Through illustrative examples of contemporary trade agreements between nations with large and small economies, the book sheds light on how important the concept of consent is to trade and how it should play a more central role than it currently does in contemporary international trade practices. Garcia does an excellent job of persuading the reader that trade should be a consensual economic exchange, as well as suggesting how the current trade agreement system might be reformed; despite this, though, his suggestion for how such reform could be obtained seems untenable given its impracticability.

Garcia begins by reflecting on the role consent has played in economic arrangements by considering trade between individuals. He focuses on the term “free trade,” keying in on how this term invokes the idea of freedom not only in the sense of lowering barriers to trade, but also in the consensual manner of the exchange. He argues that true consent is important as a matter of principle. Ultimately, Garcia comes to the view that consent is what makes trade, trade. That is, without actual consent (i.e. not merely formal consent), trade is not trade, but rather, some form of coercion. He takes time here to explain exactly what the terms predation, coercion, and exploitation mean—as transactions “that we do not consider [to be] trade.” This helps the reader see Garcia’s point that trade is intuitively about consensual exchange. This also serves as a primer for the next section, where he illustrates how provisions of current trade agreements fall into some of these categories, thus calling into question the existence of consent. Through fairly un-complicated scenarios, this portion of the book is effective in illustrating how formal consent will not always feel like true consent. That is, there may be an agreement in place, but what if you learned that one of the parties had recently conquered

the other?<sup>2</sup> What initially seemed like trade in actuality seems to instead be the “spoils of war.”

For those readers still unconvinced that consent should be integral to trade in the abstract, Garcia employs game theory in explaining why consent in trade matters on a pragmatic level. In other words, considering the repeat nature of trade, oppressive tactics can result in social, economic, political, and security costs. While predation, coercion, or exploitative tactics may be optimal for the short-term in a “one-shot game,” they are less attractive tactics for a repeat game, as they can poison the well for future interactions. Garcia notes that “[o]ver time, the oppressive nature of such agreements becomes clearer” and that “[p]erceptions of injustice are strong motivators, leading to civil conflict, instability and violent counterreaction.” These assertions are bolstered by somewhat vague reference to such reactions in Latin America and “around the world.”

Garcia next focuses on the negotiation process between states in addition to the actual text of bilateral and multilateral agreements regarding consent, highlighting both its stark absence or impairment in an important set of trade agreements—namely the CAFTA, KORUS, CTPA, and WTO. Garcia first takes the reader through the technicalities of modern free trade agreements (FTAs) by explaining the major common provisions to readers who may lack expertise in international trade. Market access and important principles such as rules of origin, trade remedies, dispute resolution, and law reform provisions of the abovementioned agreements are analyzed as “good litmus tests for the way power and consent are at play in the relationships and negotiations in question.” Of particular focus here is the substantial inequalities in power among participating states. These inequalities affect the rules of the game and limit the possibility of truly consensual exchanges because one party typically has substantially more leverage in the negotiation process.

When viewed in this light, the author notes that such agreements cannot be said to be consensual in a fundamental sense. Garcia highlights several instances of richer and more powerful states using their leverage to coerce smaller, sometimes developing, nations. The regional and bilateral trade agreements (CAFTA, KORUS, CTPA) are presented as smelling strongly of coercion, while the multilateral trade agree-

ment considered (the WTO), though still having a coercive presence, provides a step in the right direction. As opposed to regional and bilateral trade agreements, a large number of countries are party to the WTO. The concessions made when the superpower nations negotiate with one another also benefit the smaller and developing nations, counteracting some of the inequalities seen in the regional and bilateral trade agreements.

Garcia then begins with a reflection on how we ended up with the trade agreements currently in play. The focus here largely revolves around the inequality of power in the negotiation process. This, the author notes, leads to predation, coercion, and exploitation, which he explains are decidedly *not* trade, as they are missing true consent, a key element of trade under his suggested definition. In terms of moving forward, how to deal with the agreements in place and how to effect better agreements in the future, the author says our view and understanding of trade in terms of consent is critical. In this context, Garcia critiques current international trade policy, positing that the aim should be “facilitating a thriving trading environment at all levels of the emerging global market” as opposed to merely liberalizing trade via lowering trade barriers.

Garcia emphasizes that a key part of moving forward is taking seriously his theory on consensual exchanges as well as remembering the reasons why true consent matters. He then tackles how to build “a law of consensual trade,” focusing on reasoning by analogy, watching out for certain types of the provisions discussed earlier in his book, and overhauling the negotiation process. One particularly powerful analogy used here is how contract law in the United States, as well as elsewhere, will void agreements due to the presence of duress, threat, or coercion; that is to say, where there is no real power of choice. Garcia concludes this part of the book with the question of how we can take what we currently have—the agreements in play that the author found coercive, exploitative, and predatory—and move forward with a more consent-centric trade regime. Suggestions include amending, abrogating, and reinterpreting existing agreements.

The last part of this book goes beyond what has been discussed thus far, noting an array of other areas to which Garcia’s analysis could extend by providing other case studies that

would be enlightening. Here the author acknowledges the parameters of the book. Suggestions include extensions to other sectors (such as trade-related IP rights); to other state actors (such as the European Union and China); to other areas of economic activity (such as foreign investment); to consent within a nation-state's own polity in negotiating trade agreements (consent on the part of the citizenry)—Garcia addresses even job loss as an aspect of trade agreements via “trade adjustment assistance” as seen in the Europe. Further, Garcia argues that in a global market society, or where “economic exchanges become global,” the question of consent becomes a global one, no longer solely a matter of domestic or “internal” jurisdiction.

On the whole, *Trade and Consent* is a convincing and well-thought-out appeal to the heart (and even in some respects the pragmatist) in its readers—that the world should adopt a definition of trade that requires true consent, not merely formal consent. One great aspect of the book is that one need not be well-versed in international trade to understand or even enjoy it. Garcia makes his book accessible to an audience beyond international trade experts by providing the necessary background and context when discussing varying trade agreements and their respective provisions. He even makes note that those more versed in the subject can skip certain sections meant for more introductory readers. However, the author did not necessarily speak in a completely accessible manner. His intermingled references to works of philosopher Simone Weil as a running theme throughout the book can be confusing. These references make the book more difficult to read, particularly the introduction, and thus less accessible. At times these references can be helpful in getting Garcia's point across, such as noting how Weil “understood that oppressive tendencies are inherent in all forms of socioeconomic organization, that they are best resisted by protecting consent in these relationships and that one cannot seek consent where there is no power of refusal.” However, at other times, these references are just confusing and seem to frustrate rather than assist in getting the author's point across.

While laudable, the ultimate goal that Garcia posits here seems unrealistic. It is true that there are certain provisions in many, if not most, regional, bilateral, and even multilateral trade agreements that can only be explained via predation, co-

ercion, or exploitation by a powerful nation with a sizeable economy against a developing country with a relatively small market economy. Indeed, such provisions should be voided or altered in some manner to account for lack of consent, much like in U.S. contract law, because consent should be integral to international trade. However, it is difficult to accept that key players in the global economy would ever give up the leverage they wield, even in the face of the pragmatic reasons Garcia provides.

Garcia further, perhaps too idealistically, asserts that it will take everyone, as citizens of nations entering into agreements, to change the current regime; that all will have to demand more transparency and fairer tactics from our governments in negotiations. The issue with this, however, is that it seems highly unlikely that the populations of the major actors would ultimately agree. Many people would ultimately be averse to the idea of their country in some way neutralizing the leverage it can wield in light of the common perception of trade agreements regarding job loss. The aim of trade agreements is to lower barriers to trade, an integral part of which includes reducing tariffs on imports. This means that imports from countries with a lower cost of living may cost less than their domestic counterparts, which in turn makes it more difficult for the domestic companies to compete. This in turn can lead to job loss and/or outsourcing the workforce to the less expensive country. To his credit, though, Garcia is not totally oblivious to the difficulty in implementing his proposals and presents them as aspirational.

Overall, *Consent and Trade* is a great read with a praiseworthy goal. Regardless of the probability that large nations will essentially yield the power they wield to even the playing field in trade negotiations to allow for true consent on all sides, Garcia is quite effective in persuading the reader that it is a goal worthy of pursuit. He provides an excellent theoretical framework for readers looking to learn about the workings of international trade.

*Ending Africa's Energy Deficit and the Law: Achieving Sustainable Energy for All in Africa.* Edited by Yinka Omorogbe & Ada Okoye Ordor. New York, NY: Oxford University Press, 2018. Pp. xxviii, 404. \$125 (paperback).

REVIEWED BY MACKENZIE MERTZ

Almost 600 million people in Sub-Saharan Africa lack access to electricity. What is more, thirty-two out of fifty-six countries in Africa are in an energy crisis. *Ending Africa's Energy Deficit and the Law* aims to explain the causes behind these staggering numbers and proposes various solutions for achieving universal energy access in Africa. Yinka Omorogbe and Ada Okoye Ordor edited and strategically arranged sixteen articles concerning energy poverty in Africa in order to support the overall premise that Africa's developmental goals cannot be fully realized until access to energy is prioritized. Increased access to electricity is essentially a precondition to eradicating poverty in Africa, because electricity drives growth and advances the living standards necessary to achieve other development goals such as universal access to water. The authors featured in the book—ranging from professors of law, researchers, fellows, and general counsels—discuss various sub-topics that must be addressed before widespread sustainable energy access can be achieved. Although the authors discuss varying causes and solutions to the energy crisis in Africa, each article in the book addresses the importance of integrating policy and the law into discourse and planning at both the national and international levels, in order to meet the continent's long-term development goals. Moreover, the authors note that legal frameworks must be instituted and adhered to in order for Africa to emerge from its epidemic energy crisis and actually have a chance at meeting the Sustainable Development Goals (SDGs) that it committed to achieving by 2030.

The book starts off with an overview of energy access in Africa and the extent to which international law recognizes it as a right. Although there is an internationally recognized right to development, there is currently no international binding law recognizing the right to energy access; rather, it is considered a non-binding soft law goal. As many of the authors point out, this is rather ironic since access to energy is critical, if not absolutely necessary, to achieving nearly all of the SDGs.

The first step to ensuring energy access in Africa starts at the investment stage. In the *Financing Energy Access in Africa* chapter, the authors argue that strong legal frameworks and policies are necessary to create a stable environment to encourage private sector investments. The authors use ample evidence to support their argument that national governments need to adopt policies that minimize the perceived risk for investors by addressing issues such as corruption and insecurity in order to encourage investment and close the large financing gap for energy projects in Africa. This often comes down to implementing good governance procedures and increasing transparency, especially in a region like Sub-Saharan Africa where contract enforcement is a concern of investors. Moreover, the authors argue that national government implementation of strong regulatory frameworks is also important since regulations protect against monopolies, while also boosting investment appeal by ensuring that government actors will not interfere in private-sector projects. Although this chapter effectively demonstrates the clear connection between establishing a stable environment for investors and increased access to energy, it fails to accomplish its purported goal of defining the role of the law in creating this environment.

A reoccurring theme throughout the book is the resource curse, where countries that are rich in mineral sources are often severely poverty-stricken. This is due not only to the fact that many countries in Africa export their fossil fuel resources despite being energy-deprived, but also results from weak institutions and poor governance. The authors in chapter three argue that the lack of established institutions and frameworks creates an environment that allows elites to exert significant control over resources for personal gain, which only further disenfranchises the energy-deprived. They claim that working towards equal wealth distribution is simply not enough, due to the inherent structural unfairness that formed during colonization. Moreover, they contend that strengthening the requisite legal and regulatory frameworks is a necessary step towards achieving energy justice and remedying the unequal energy distribution prevalent in many African countries. The authors in this chapter do an effective job of highlighting the issues ingrained in many African countries due to decades of inequality during colonization, but fail to provide concrete solutions beyond the abstract suggestion of full information disclo-

sure by the government and industry, and the establishment of just institutions and clear frameworks.

Many of the authors in *Ending Africa's Energy Deficit and the Law* focus on the idea that achieving development goals and improving the standard of living in African countries is contingent upon access to energy. For example, in chapter thirteen, Nkiruka Chidia Maduekwe and Cheri-Leigh Young discuss the nexus between energy and water; the production of water is dependent on access to energy and vice versa. However, despite water security and energy access being clearly interrelated, only water security is included as part of the SDGs. This is unfortunate, as inadequate access to both impedes human development and acts as a barrier to improving infrastructure, increasing access to health care and education, and ensuring food security. A positive aspect of the book is that it highlights an issue that has only recently gained recognition: lack of energy access has a gendered effect since it disproportionately affects women and girls. Since many women in Africa are traditionally responsible for cooking and securing fuel for heating, women often spend an inordinate amount of time searching for fuel. This not only minimizes their ability to participate in income-producing activities, but it also increases their risk of sexual assault. Unfortunately, this has been a difficult issue to address as funding for electrification projects is allocated almost exclusively to projects that benefit men instead of women. This is generally due to the lack of female participation in the planning stage of energy programs. Further, lack of access to energy marginalizes children since it increases the time they spend doing menial tasks for the home instead of focusing on their education.

Overall, the authors do a great job of demonstrating the importance of energy access as a precondition to eradicating poverty and achieving Africa's long-term development goals. The book would serve as an excellent overview for anyone interested in the nexus between energy access and development, and how the law can help further these goals. The book also demonstrates how energy poverty further disenfranchises those who are already the most marginalized, such as women, children, and disabled people. Moreover, the editors effectively curated a diverse range of articles that address nearly every prominent issue surrounding the energy crisis in Africa.



Nonetheless, the inherent difficulty with any book comprised of essays is to establish a common thread that links all of them together. Even though all the chapters generally had to do with the overarching theme of energy poverty in Africa, it is difficult at times to find the connection between the topics. What is more, it is challenging to pinpoint an overall thesis for the book. The editors of the book include an introduction chapter and a conclusion chapter in an attempt to connect the sub-issues. Unfortunately, these did not effectively establish an overarching theme. Even though each individual article also featured a conclusion, overall cohesiveness is an area where this book fell short. On the other hand, this may be exactly the point that the editors were trying to convey—that it is impossible to pinpoint an overarching thesis or goal for the energy crisis in Africa since the continent is vast and the problem is complex. Nevertheless, a certain level of continuity is required between the articles to justify publishing them all in one book. Further, the authors hashed out all the various impediments to achieving universal energy access in Africa; however, many of their proposed solutions for remedying the issues were abstract and leave many questions on the table as to how they should be implemented.

The book's title, *Ending Africa's Energy Deficit and the Law*, suggests that the law—and how it can help to end Africa's energy crisis—figures prominently into the book. However, the book focuses much less on the law than one would surmise from the title. Instead, the book talks more of policy than law. This is likely due to the fact that achieving universal energy access is not listed as an actual goal of the SDGs; rather, it is usually only a soft law goal of many states. Nonetheless, for a book purporting to focus on the law surrounding the energy deficit in Africa, the text falls short in that regard. Many of the articles discuss the international and national legal frameworks in place in Africa, but only in a cursory manner. Chapters four and six discuss legal integration and regulatory policies in Africa yet fail to offer concrete solutions for how these frameworks should be adjusted going forward to effectuate actual change. Ultimately, the book would appeal more to people interested in development policy in Africa than the legal frameworks and implications of the energy crisis in Africa.

Overall, the book did an effective job of shedding light on how the energy deficit is hindering the attainment of develop-

ment goals on the African continent. Since the UN failed to include universal energy access in the SDGs, it is clear that recognition of energy access as a precondition to development is still not fully recognized. Through the perspectives of various experts in the field, this book helps fill that gap and highlights the nexus between energy access and development. Although not necessarily law-focused, the book provides useful insight into how policy and regulation—and to a certain extent the law—can create an environment in which corruption and instability are replaced by good governance procedures to pave the way for investments in Africa's energy infrastructure. Only when Africa implements a framework like this will it be able to move toward an energy surplus that will enable it to meet its 2030 development goals.

*Economic and Social Rights in a Neoliberal World.* Edited by Gillian MacNaughton and Diane F. Frey. New York, NY: Cambridge University Press, 2018. Pp. xx, 366. \$110.00 (hardcover).

REVIEWED BY JAEWON MOON

Neoliberalism is a set of policy frameworks based on classical liberalism and neoclassical economics. Invoked in political-economic debates within academia, journalism, and popular discourse, the term neoliberalism defies definition with clear boundaries. In this compilation of seventeen monographs, authors explore the cross-sections between neoliberalism and economic and social rights (ESRs), specifically how neoliberalism jeopardizes the realization of ESRs in various contexts. While the authors' backgrounds are diverse in terms of academic discipline, methodology, and geographic expertise, their arguments send an unequivocal and unified message to the readers: neoliberalist policies that have come to pervade the key spheres of our current public governance adversely affect the well-being of the most vulnerable among us and are ideologically incompatible with the goal of ensuring ESRs for the vast majority of citizens. Overall, *Economic and Social Rights* is noteworthy for its steadfast support for ESRs in light of neoliberalism's tenacious grip in many nations, but stumbles in providing a reliable definition, and therefore, feasible solutions to neoliberalism's byproducts and consequences.

The book's monographs are presented in four themes. Part one provides a foundational overview on the impact of neoliberalism on economic inequality, legal systems, welfare programs, education, and civil rights. Part two illustrates the conflicts between neoliberal ideals and ESRs in times of economic, political, and social crises. In Part three, authors focus on examples from specific countries to highlight ways in which neoliberalist policies in the context of economic development hinder ESRs. The final section discusses accountability for violation of ESRs under policy regimes dominated by neoliberal tenets.

It is important to first note that the book presents human rights (civil and political rights) and ESRs as an undistinguished bundle by implication throughout. Treating ESRs as human rights is unfortunately subject to debate among practitioners and scholars, as some are reluctant to "elevate" ESRs to the same status as human rights. Therefore, the fact that the editors and most authors of this book generally chose not to differentiate these rights signals a welcome development for many practitioners who believe ESRs and civil and political rights are mutually reinforcing and fundamentally inseparable. For example, the section entitled "Economic and Social Rights in Development" begins with a chapter on the right to food, to which the chapter's author explicitly refers as a human right. Also illustrative is the editors' choice to include a chapter on the issue of violence against women in Mexico within the section that discusses ESRs in "Times of Crises", thus indicating the editors' and author's view that lack of access to ESRs for women ultimately entrench gender violence and necessarily implicate more "conventional" human rights. The monograph itself puts forward a double-layered argument that convincingly links the two together: as long as policies leave ESRs (e.g., education and economic empowerment) unrealized for women, their human rights (e.g., right to life and to physical safety) cannot be fully protected in practice.

Although the book heavily demonizes neoliberalism, the individual authors would have been more persuasive had they demarcated the boundaries of what neoliberalism stands for in their respective monographs. It is true that the introductory chapter identifies the editors' definitions of neoliberalism, where they define it as an ideal to promote market mechanisms as a guide to optimal governance, with market-based val-

ues delivering solutions for economic and social ills to citizens in efficient and cost-effective manners. According to this definition, neoliberalism is said to position itself in direct opposition to “the State,” an inefficient and oppressive force that interferes with individual freedom and wealth maximization as embodied in the market. Indeed, the editors posit that the key pillars of neoliberalist ideals for free market substitute “all other ethical beliefs.” While this broad overview was needed, it nevertheless would have been helpful to know the specific definitions the authors were arguing against.

Despite the editors’ attempts to clarify neoliberalism, the reader is also left with the impression that neoliberalism as a concept has been broadened in the monographs, not narrowed. This happens in two ways. First, to the extent that this state-versus-market rhetoric applies, neoliberalism is used synonymously with any and all market logic. Second, even non-market mechanisms are presented as neoliberalist as long as they constrain the realization of ESRs. In chapter five, for example, the use of standardized tests is framed as an application of neoliberal rationales to the public education system. The author clearly conveys why the public should be concerned about normalization of the economic approach to education, but falls short of clarifying neoliberalism itself. According to the author, these standardized tests prompt comparisons of student performance and teaching qualities, and such comparisons erode the notion of education as a social right. But the chapter largely turns a blind eye to the fact that these comparisons also function as a tool of quality control of school districts, bringing attention to districts that require attention or incentivizing superintendents and teachers to improve student learning. If behavioral mechanisms as basic as comparison and incentives are condemned as neoliberal, very few forms of management would be free from the same criticism.

Chapter four provides another example of an author arguing against an unclear definition of neoliberalism. The chapter’s author, Maron, sets out to accuse neoliberalist policies (“governance prescriptions”) of putting social goals on the backburner in favor of the prioritization of “efficient management of scarce resources.” Contrasting the substance of the monograph with Maron’s purported goal, the reader is confronted with multiple unanswered questions about just what Maron believes neoliberalist governance prescriptions mean.

In the chapter, the Ministry of Finance (MoF) is accused of being “neoliberalist” for challenging a policy that allows an unchecked outflow of resources to welfare agencies. If so, does Maron recommend that the MoF abdicates its mandate to steward the state’s resources? Her narrative places most of the criticism on inter-ministerial friction and distrust of the other ministries’ competence. Maron ascribes the cause of distrust as sprouting from MoF’s neoliberal attitude, leading the MoF to voice reluctance with the bill’s aberrant incentive structure that discouraged efficiency in implementing social services for children and regard employees at the Ministry of Welfare (MoW) as “self-interested agents.” Maron’s arguments would have been much stronger had she addressed the obvious counterarguments: preventing mis-incentivization of government employees is a form of good governance; assuming MoW employees are self-interested can be premised on non-neoliberal concerns; and efficiency and welfare are not inherently mutually exclusive but instead should go hand in hand.

Chapter thirteen further confuses what neoliberalism stands for. The author, Lee, posits that South Korea transitioned from an “authoritarian developmental state” in the 1980s to a “democratic neoliberal developmental state” while the country’s growth-first ideologies remained the same. First, the terminologies appear to be somewhat of an oxymoron. Recall the introductory chapter that explains how neoliberalism is characterized by the pursuit of economic growth, efficiency, distaste for state intervention, and faith in the free market. “Developmental state,” on the other hand, is defined as a governance framework that believes “economic development requires a state which can create and regulate the economic and political relationships that can support sustained industrialization.” So it should follow that a developmental state is by definition partially neoliberalist to the extent that it prioritizes economic growth, but simultaneously *cannot* be neoliberalist due to its reliance on regulation. Second, Lee identifies the effects of the post-financial-crisis neoliberalism on Korea’s ESRs indicators. While the links are worth exploring, the monograph leaves the relevance of democratization of 1987 unaddressed. Lee treats the political transition as peripheral to the problem of worsening inequality and working conditions observed after 1997, though it played a huge role. Third, the confusion over the role of neoliberalism is compounded by a mismatch be-

tween the editors' paraphrasing of chapter thirteen and Lee, the author herself. On the one hand, the editors write that "neoliberalism has also influenced the transition from authoritarian to democratic governance, which has resulted in the continuation of the growth-first ideologies and the top-down process of social policymaking." In contrast, Lee writes that neoliberalism kicked in more than a decade after the regime transition, and that the key players of the democratic transition were students, workers, and civil society. Even if the editors are right, claiming that neoliberalism-driven democratization results in the continuation of growth-first ideology is downright tautological, since neoliberalism *is* by definition about economic growth.

Last but not least, chapter sixteen is based on a quantitative study with a fatal methodological flaw. Haglund observes that, first, existence of "human rights language" in court opinions are significantly more likely to produce judicial outcomes that uphold the right to water, and conversely, the cases without "human rights language" are significantly less likely to produce such rights-responsive rulings. Examples of human rights language include, among others, "water is essential to a dignified life of citizens" and "guaranteeing the right to health, which would prevent the suspension of water supply." These conclusions of implied causality are, however, derived from regression analyses that suffer from serious endogeneity that Haglund leaves unexplained. A judge enjoys a broad discretion to emphasize whichever philosophy—market logics or human rights to water—that conforms more with the decision. It is only natural, perhaps even inevitable, that the judges who decide to uphold the human rights to water would employ the human rights language and its rationales. Conversely, judges whose decisions allow the litigants' water supply to remain or be cut off would naturally refrain from referring to water rights as human rights. In other words, the presence of human rights language in a ruling and the outcome of the ruling are highly correlated, but causality runs both ways. It is misleading to claim that the former serves as an explanatory variable for the latter, when the causality could be explained the other way around; these two factors comprise one inseparable variable. The chapter title asks: "can human rights challenge neoliberal logics"? They might, but the quantitative analyses presented in the chapter yield no answer.

Overall, one of the main challenges in realizing ESRs is reconciling two seemingly incompatible goals. On the one hand, a *normative framework* needs to evolve until ESRs are universally and comprehensively recognized as human rights worthy of immediate attention and action. On the other hand, *resource constraint* must be recognized. Not all ESRs can be realized for every single citizen all at the same time, due to costs both explicit (like grants) and implicit (as in transaction costs of redistributing available resources). Most of the authors in the book advance the normative goal, but largely eschew the crucial step of confronting the inconvenient truth of limited resources. In the concluding chapter, the editors lament that “[i]t is difficult to know exactly what human rights must target because neoliberalism presents in multiple guises and to different degrees across geographic and policy areas.” Perhaps “neoliberalism” has been made even harder for these ESRs advocates to fight against because it is rendered shapeless by their own discourse. At the core of the book’s vulnerability are its two tendencies. First is attributing all that has gone wrong to “neoliberalism.” Advocates cannot hope to win the fight against neoliberalism if it is circularly defined by that against which they fight. Second is vilifying inescapable market mechanisms such as incentives, efficiency, budget allocation, investment, and quantification. Pointing out underrealized ESRs is the easy part, but readers and advocate communities would benefit more by discussions on feasible alternative policy suggestions.

*A Short History of European Law.* By Tamar Herzog. Cambridge, MA: Harvard University Press, 2018. Pp. vii, 289. \$27.95 (paperback).

REVIEWED BY CHRISTOPHER OWENS

In the introduction to her latest book, *A Short History of European Law*, Tamar Herzog tells of an interaction she had with a student of hers. The student was impressed with having just seen an original copy of the Magna Carta. Herzog, in turn, struggled to describe just how it is that the Magna Carta could be at once a document of enormous historical importance, but also the result of deliberate mythmaking by historical actors who chose to exalt a previously insignificant feudal contract.

The product of Herzog's quest for a brief introduction to these deliberate decisions and historical actors is this book, *A Short History of European Law*. In 250 pages, *A Short History* provides an overview of the evolution of European law, synthesizing its predominant trends and themes, and introducing the events and actors that make the European legal tradition what it is. In doing so, Herzog aptly presents European law as a constantly changing, yet coherent tradition.

In all works of historical overview, there is a tension between detail and generality. Too much detail may come at the expense of broader historical tendency, resulting in a portrait of history as a haphazard series of unconnected events. With too much generality, the work becomes a teleological march of ideas, untethered to the reality of human beings taking uncertain actions in specific historical circumstances. Herzog successfully threads the needle in *A Short History*, aided in large part by the book's structure and layout.

Already short, *A Short History* is divided into six shorter sections, arranged by epoch, each of which contains two or three chapters. The chapters in turn comprise smaller, vignette-like sections that describe an aspect of the law in that period in a couple pages or so. These smaller sections provide just enough historical specificity to enable the reader to see how a particular event, personality or intellectual movement fits into the larger portrait of European law that *A Short History* presents. Meanwhile, the pairing of the chapters in the larger sections allow for a dialogue between different historical tendencies to emerge. For example, from the Late Middle Ages (part three of the book) onwards, each section contains one chapter dedicated to common law and one to civil law. The reader thus easily perceives the similarities and differences between the two systems, and how the propagators of each reacted to historical systems and intellectual movements (colonialism, codification, etc.).

This organization helps the reader to grasp not only the recurrent themes in European legal history, but also those themes that emerge from Herzog's particular telling of it. Foremost in the first category is Roman law itself. As Goethe's oft-recounted metaphor described, Roman law in European history is like a duck diving in a stream: always present, if only occasionally visible above the surface. Yet, if Roman law is a duck, as Goethe says, it is also a supermarket, as legal historian



Peter Stein put it: a place where jurists of all centuries have felt free to take what they need and leave behind what they don't. *A Short History* describes the duck, but is mostly interested in the supermarket.

Herzog's telling of European legal history is thus a story of change, its mechanisms and protagonists. Though the cast of characters varies throughout the epochs—from emperors and Popes to kings and Parliaments—the tensions that give rise to conflict and change seem recurring: the universal versus the local; the codified and static versus the dynamic; the centralized and unitary versus the pluralistic. *A Short History* introduces the reader to how these tensions played out in different historical eras, and how this varying cast of characters each contributed to the European legal tradition.

The reader thus becomes familiar with how Roman emperors sought to freeze legal inventiveness by creating their various codices; how Roman law was remade by successive schools of Medieval jurists to serve their interests and fit the exigencies of their time; and how nineteenth century nationalists rebranded Roman concepts as national custom. Perhaps most interesting for comparative law students, Herzog describes how both British and Continental kings sought to wrest power from lesser nobles through legal innovation, resulting in the division of the common and civil law traditions. Herzog's inclusion of European law in the colonies is also welcome, as it is a subject to which she brings particular expertise, and which is often overlooked in histories of European law. With an entire chapter dedicated to North America, as well as ample space given to the British colonial codes and the Catholic (re)conquest of Iberia and the Americas, Herzog makes the important point that the European legal tradition has been informed repeatedly by the experience of non-Europeans.

The strength of *A Short History* is that Herzog makes these broad themes clear to the reader, without sacrificing historical detail. In this way, the book is also appropriate for different audiences. Those with a deeper understanding of European history will appreciate the recap from the legal perspective. Those with knowledge of the evolution of European law will gain insight from the descriptions of historical events and personalities whose actions contributed to its development. Finally, law students of either the common or civil law traditions

will benefit from the descriptions of these traditions' common origins.

Yet although *A Short History* might find an appropriate audience among readers of a wide range of backgrounds, there are several ways it could be improved for the diverse readership it warrants. First, the book would be greatly helped by footnotes. Summarizing current debates as it does, the book makes numerous mention of "some" and "many" historians who "think," "argue," and "disagree." But without footnotes, the reader does not know who these historians are, and whether their views see fair representation. Instead, the reader is left guessing at the titles listed in a "Further Reading" appendix. Likewise, although *A Short History* does provide ample historical detail, and does an excellent job of showing how the events and personalities it describes connect to each other, certain concepts could perhaps be fleshed out in greater detail. Case in point, the book is largely the story of how Roman legal norms evolved throughout history. However, while the concept of "Roman legal norms" may be readily understandable for law students and legal historians, greater elaboration of this and other fundamental concepts might be helpful to more novice readers.

Finally, all brief histories by necessity summarize certain events and wholly exclude others. *A Short History* is no exception. After comparing the codification movements in Germany, France, New York and Louisiana, Herzog wraps up with a short epilogue on the European Union. Her description of the European Union fits nicely into the themes developed over the previous 250 pages and 2,500 years: a new sovereign attempts to enforce a supposedly universal, rational law on lesser, regional sovereigns, and thereby both are changed. What seems odd about this finish, however, is the nearly wholesale exclusion of the 20th century.

There may be good reasons for this. With the spread of codification across the Continent, there would appear to have been some stability in the idea that legal norm generation is the province of the nation-state. Even if these codes incorporate Roman law to varying degrees, Roman law itself has largely been relegated to the academy as a field of historical scholarship. Yet, if *A Short History* teaches us anything, it is that these phases of apparent stability are likely just the duck of Roman law diving beneath the surface.

Indeed, neither the law writ large, nor Roman law specifically, were unaffected by Europe's twentieth century experiments in totalitarianism. In the Anglophone world, the experience of European fascism led to one of the most famous debates in legal theory history between Lon Fuller and HLA Hart. In Germany, the National Socialists viewed Roman law as another foreign element worthy of expungement; liberal legal scholars rose to its defense, as Paul Koschaker did in his *Europa und das Römische Recht*. It could be that these specialized debates had little real-world import for how the law was actually practiced and enforced in the twentieth century, but a reader of *A Short History* has no way to know. At minimum, it seems worthy of mention that European law spawned, or at least accommodated, the mass self-destruction that was modern totalitarianism, even if Herzog's descriptions of colonialism and the excesses of the French revolution make clear some fascistic precursors. That this self-destruction in turn gave rise the modern international legal system would likewise provide important context to Herzog's epilogue on the European Union and international organizations as legal norm creators.

Instead, it is only in the brief final section of the epilogue that Herzog describes some of the destabilizing forces that confront the democratic nation-state as lawgiver. Many of these—intergovernmental organizations or the expansion of unelected state bureaucracies, for example— have their roots in the twentieth century. Others, such as rulemaking Internet giants or the increasing consolidation of transnational corporations, are new challengers to the state monopoly on legal norms. While naturally unable to forecast what will result from these seemingly gathering forces, Herzog's book is an excellent start for those seeking to understand what might come, because of what has come before.

*The Commons and a New Global Governance*. Eds. Samuel Cogolati & Jan Wouters. Northampton, MA: Edward Elgar Press, 2018. Pp. xvii, 332, \$165.00 (hardcover).

REVIEWED BY ANDREW PIGOTT

*The Commons and a New Global Governance* extends an old debate to a new field. This debate began in 1968 with the publication of Garrett Hardin's seminal paper, "The Tragedy of the

Commons.” Hardin began by invoking “the future of nuclear war.” *The future* cannot coincide with *nuclear war*, yet nuclear war looms on the horizon; thus, the future becomes comprehensible only as its own negation. We *could* halt our rush towards annihilation, but we *cannot*. This is the nature of tragedy, a remorseless process by which the evolution of human psychology and hard facts of arithmetic so frequently combine to despoil common resource pools. To illustrate the point, Hardin proposes a thought experiment: “Picture a pasture open to all. It is to be expected that herdsmen will try to keep as many cattle as possible on the commons.” One herder embraces the logic of utility maximization, concluding “that the only sensible course is to add another animal to his herd. And another . . .”—and this leads to a predictable outcome, which all but the cheerfully deluded perceive, and everyone feels powerless to stop. “Therein is the tragedy. Each man is locked into a system that compels him to increase his herd without limit—in a world that is limited.” The dilemma admits no “technical” solution; instead, it calls for one of two possible modes of coercion, both underwritten by the threat of state violence: parcel the commons off as private property, or impose strict regulations on its use.

A tidy and compelling story, this, but the facts belie it. Elinor Ostrom, author of the watershed book *Governing the Commons*, devoted her career to showing where, and when, and how. Swiss Alpine pastures, Spanish irrigation systems, Sri Lankan fisheries—these and other local networks have managed a wide array of common spaces in the absence of property rights or state control. As the editors of *The Commons and a New Global Governance* (hereafter *CGG*) explain, “one of the reasons for their long-enduring success is that commoners do not always act like *homines economici*.” Since the publication of Ostrom’s *Governing the Commons*, the literature on the subject has not ceased to grow in complexity, producing a model called “Institutional Analysis and Development” (IAD) and enumerating “design principles” that typify successful commons. The details need not detain us here. What matters is that, as the editors of *CGG* explain, “Ostrom’s work serves as the background to this book.” From the rich and variegated field that Ostrom inspired, the *CGG* editors distill a tripartite scheme of “the commons as a social system”: (1) a “common-pool resource”; (2) a “community that has exclusive access to the

resource in question and that manages it in common”; and (3) a “practice of *commoning*: that is the concrete activity of governing a resource through collective action and according to *ad hoc* rules.”

This, however, accounts for only half of the book’s title. The other half, *A New Global Governance*, sweeps Hardin’s “tragic” pessimism into the background of *CGG*’s argument. It bears remembering what exactly IAD tends to disprove: a freely-managed commons not beset by tragedy. This shows only that the death spirals of common resource pools are not inevitable. Furthermore, the best of IAD impresses by its immersion in site-specific detail, explaining how *this* local space responded to *that* local scheme of management; indeed, IAD has consistently touted the virtues of thick description, proving time and again that local communities better understand the resources they govern than a World Bank bureaucrat armed with de Soto’s treatise on development. IAD does not contemplate *the globe* as a commons. Even traditionally designated common spaces like the Pacific Ocean cover far too wide an area, and attract far too diverse a crowd of “herdsmen” to accommodate the IAD framework. Meanwhile, the Pacific garbage patch has swelled to the size of a large country, and Hardin’s judgment of pollution seems quaint when stacked against the threat of global warming. Can a commons-type scheme scale to encompass the entire planet? Can we forge a style of global governance commensurate to the globe’s most serious troubles, and if so, will it incorporate the commons that already dot its surface? Will it take inspiration from their varying designs, or obliterate them? For all the variety that it contains, *CGG* returns doggedly to these questions. And if, as befits an edited volume, it leaves the matter unresolved, it is not for lack of answers. Rather, answers abound, at times overlapping, at times clustering into stark dichotomies. Through these correspondences and tensions, *CGG* sets a program for future experimentation and research.

The contributions—twelve in all—are uniformly excellent. That alone would recommend this volume, but their organization makes for an even stronger selling point. *CGG* is divided into three sections, each embedded within a distinct disciplinary perspective. Each group follows a trajectory launched by a provocative thesis that subsequent pieces endorse, emend, or contest.

The first group, “Democratic Perspectives,” draws on political theory. “What Democracy for the Global Commons?” condenses the leitmotifs Dardot and Laval explore in greater depth in *La nouvelle raison du monde* and *Commun: essai sur la révolution du XXème siècle*, among other important works. It helps to have some familiarity with their critique of “neoliberalism,” a hegemon which, as they see it, dissolves the distinction between market capitalism and state power. In brief: Whereas classical liberalism sought to remove obstacles to commerce, neoliberalism, a constructive political project, imposes market rationality by way of permanent state intervention; as a result, people are remade as “entrepreneurs,” and the world contorts itself into a vast conglomeration of goods, assets, and capital flows. Neoliberal “rationality” contaminates many well-intentioned efforts to stave off the Anthropocene extinction: “Many are unwavering in their belief that the biosphere as a whole should be treated as natural capital . . . . [T]he biosphere should not enter the commercial sphere merely as a *commodity* . . . but also and most importantly as an *asset* . . . .” Over against this army of bad metaphors, Dardot and Laval imagine a global process of communing, detached from the rhetoric of financialization and the state apparatus that sustains it. Two factors in particular distinguish *le commun*. First, commonality does not inhere in any particular resource, but rather constitutes “the collective activity of those who take charge of . . . preserve . . . maintain . . . and take care” of a given resource. Anything can become common, even planet Earth, and that indeed is the goal. Second, this process excludes by definition intermeddling from or recapture by the state. Dardot and Laval endorse instead a polyarchic sphere of “non-centered federalism” derived, in part, from the theories of Proudhon. Brando and De Schutter, in “Federal Commons,” take them to task for their vagueness and propose a “friendly amendment” to their theory, “pushing it in a more federal direction.” The coordination problem posed by the global commons would, they argue, prove intractable to a confederation of localities endowed with the (theoretical) power to limit one another: “Coercive state-like institutions at the global level” will need to play a role. Christiaan Boonen likewise emends the Proudhonian dream, which in Dardot and Laval’s telling, would unspool with minimal violence. If, as all seem to agree, “[i]solation and competition . . . prevent soli-

parity from emerging,” and so incite public hostility to collective actions like squatting, then violence might occasionally be exerted to defend commons-based forms of life, at least in their fragile early stages.

The second group, “Institutional Perspectives,” examines the plausibility of extrapolating IAD to the global level. Hagan and Crombez, in “Governance of the Global Commons,” point out an obvious problem: In local settings, where participants know and trust one another and can all more or less be counted on to cooperate, “institution formation is easier”; actors in far-flung locales, on the other hand, will have every incentive to opt out. Hagan and Crombez propose “polycentric governance regimes” as a solution—nodes that interlink local populations to a variety of institutions, the better to coordinate locally-sourced knowledge and institutional clout. Craft and Karlsson-Vinkuyzen, in “The Rule of Law and Accountability,” portray international law itself as a global public good, that is, a non-competitive essential resource that works to everyone’s benefit when properly managed. They then prescribe a “cultural transition,” wherein governments respond to the public’s desire for a better funded and more robust international system of coordination and control. In “Expropriation by Definition?” Thomas Eimer takes a less sanguine view of both global governance and the capacity of complex institutional frameworks to advance their purported aims. Using the regime on biodiversity as his case study, he argues that international cooperation may reinforce structural power imbalances, as subordinate actors will make their claims compatible with the demands of the structurally powerful and opt for policy outcomes that the structurally powerful will most likely embrace, and then look the other way as the structurally powerful comply selectively with the obligations they nominally accept. In this way, cooperative frameworks may “effectively expropriate less powerful actors and deprive them of their already scarce resources.”

Ugo Mattei introduces the third and final group, “Legal Perspectives.” His piece, “The Ecology of International Law,” reads like a grim extrapolation of Eimer’s hypothesis. Drawing on the radical ecology of Ron Prieur (as set forth in the memorably titled essay, *Civilization Will Eat Itself*), Mattei delineates an “evil” progression born of technology and arcing towards planetary collapse. First, a group leverages some new tech-

nique to isolate itself from its ecological context; meanwhile, the skills and aptitudes that once enabled it to prosper atrophy; and always the appetite of the group expands, necessitating more elaborate schemes of extraction. “In relation to human communities, in particular, the use of technologies can be seen as the spark that, by positing ‘man’ in antithesis to the ‘environment,’ sets off the exploitation of the latter by the former, igniting the growth of unsustainable human communities that are out of sync with the landbase they dwell on and require secure inflows of energy to sustain themselves.” International law, from its inception a methodology of colonial exploitation, enshrines this dynamic across hemispheres, resulting in highly unequal—and morally indefensible—modalities of consumption. Thus, international law proves a hopeless medium by which to salvage the planet from tech-propelled despoliation. Both Olivier de Schutter’s contribution (“From Eroding to Enabling the Commons”) and that of the editors (“International Law to Save the Commons”) strike a more hopeful posture, pointing to a wide variety of international legal concepts—most powerfully, human rights law—that resist the commodification of natural resources and embody a dawning respect for local communities and the common spaces they govern. Jutta Brunée, in “Procedure and Substance in International Environmental Law,” argues with great incisiveness that, given the complexities of global environmental concerns, treaty-bound procedural obligations might better protect the global commons than formal substantive duties.

As the cursory review above should indicate, this volume contains multitudes: dreamers and pragmatists, skeptics and optimists jostle, debate, concur, and agree to disagree. Yet the book’s perspective does not waver. The tragedies that now befall the global commons call for redress. *CGG* proposes numerous strategies toward that end, and other voices contest or amend them. Readers of diverse backgrounds can follow these dialogues without undue difficulty, although in style and emphasis, they encompass not one but three areas of specialization. Given the stakes involved, all twelve pieces—taken individually and as a whole—merit close consideration and prove well worth reading.



*Opium's Long Shadow: From Asian Revolt to Global Drug Control.*  
By Steffen Rimner. Cambridge, MA: Harvard University  
Press, 2018. Pp. x, 373. \$39.95 (hardcover).

REVIEWED BY TAMARA SAKIJHA

A long time ago, Western accounts described the nineteenth-century assault on Chinese sovereignty as the simple and regretful story of the Qing Emperor who said “No.” China had many commodities the West desired but wanted little from the West. However, the opium trade came to gradually shift this balance, with long term consequences for the Chinese economy and society. It is within this context that the Opium Wars (1839-1842; 1856-1860) are perceived as a Chinese defeat at the hands of British imperial power. By the First World War (1914-1918), however, the notion of states going to war to protect free trade had been deemed illegitimate. At the birth of the League of Nations in 1920, nations began to prioritize anti-drug trafficking laws as an indispensable component of international law.

In *Opium's Long Shadow: From Asian Revolt to Global Drug Control*, Steffen Rimner examines how this transformation in international thinking and practice came to be. This shift, as Rimner charts, did not come from government initiatives; rather, it was the result of civil society groups and nongovernmental organizations. The evils inflicted by the opium trade on Asian societies brought together some strange bedfellows, such as Indian feminists, Qing officials, Marxists, and religious groups. These groups and individuals crossed geographical, religious, ethnic, and ideological lines to form a burgeoning, global protest against the opium trade.

Before enabling transnational nongovernmental forces to take center role in his story, Rimner describes the events that tipped the Sino-British relationship into open confrontation, and, in turn, made the perniciousness of opium's political economy visible to all. Particularly, Rimner describes how Lin Zexu's destruction of three million pounds of British opium disrupted Britain's opium trading strategy, thus leading to the First Opium War. The war concluded with the 1842 Treaty of Nanking, where Qing ceded Hong Kong to the British, opened new ports to foreign trade, and paid a hefty indemnity for the opium Zexu destroyed. Although the treaty refrained

from legalizing the trade officially, Rimner reveals how Qing officials viewed British imperial finance as a prerogative of imperial power, and opium as a prerogative of imperial finance.

From its inception, Rimner's account encourages us to think beyond opium as an exclusionary Sino-British problem. The Asian opium political economy continued to attract other colonial powers such as Spain, Portugal, the Netherlands, France, United States, and in the early twentieth century, Japan. These colonial powers used different forms of state intervention to secure opium profits in state coffers. Further, Rimner challenges traditional thought by illustrating how the legalization of the opium trade could not be claimed by the British as the spoils of war. To Rimner, it was the civil war between the Qing Dynasty and the Taiping Rebellion which tipped the debate in favor of legalization. Occurring six years before the Second Opium War, the civil war sapped Qing resources, forcing a radical shift in dealing with the opium problem. China perceived legalization as the solution to British property claims on opium, in order to make it an article brought into China by the Chinese alone. This led to the inclusion of the legalization clause in the 1858 Tianjin Treaty.

However, following this historical foundation, Rimner exposes the porousness and permeability of international law in the face of transnational nongovernmental dissention. Although it took over fifty years for nations to cease their complicity in the opium trade, Rimner examines how the anti-opium movement succeeded at keeping the opium debate in a state of progress while shielding it from appearing as a repetitive complaint. Accordingly, Rimner maintains that while Prince Gong, the Qing Chief Secretary, made an early protest in 1869, his reflections far outlived his initial campaign. Gong's demarche transcended the realm of international diplomacy and became the most widely cited expression of a Chinese official and most popular opinion on opium legalization and why its consequences could no longer be ignored. Reproductions and confirmations abroad turned Gong's campaign into a literary commodity serving an increasingly politicized global audience for over forty years. From 1860 to 1918, anti-opium articles, pamphlets and books endured the original protest with empirical, medical, and sociological evidence which stood in stark contrast to British official information. Remarkably, Gong's reflections infiltrated nongovern-

mental channels to create Britain's Society for the Suppression of the Opium Trade (SSOT) in 1874. The group operated beyond imperial boundaries and drew diverse networks together in protest of the opium trade. Noting the influence of Gong's demarche on the formation of SSOT, Rimner indicates that the organization was not engaged in a proselytizing or "civilizing" mission; instead, it focused on imperial abuse in Asian societies from Asian perspectives.

Rimner considers multiple diverse actors, including British Quakers, Asian and Western travelers and thinkers, Indian feminists and scientists, the Women's Christian Temperance, and the Sharada Saran (a girls' school in Bombay), among others. Still, Rimner insightfully emphasizes that transnationalism was not a byproduct of the anti-opium movement. Rather, the movement was born into it. The anti-opium movement embraced various strategies—including collecting, harnessing, and publishing new information—in order to procure political leverage. By using the power of adverse publicity, the movement managed to reshape both societal and governmental perceptions on the opium trade. As Rimner shows, it was only in response to their transnational mobilization that the British government sponsored the Royal Commission to quench anti-opium critiques. Published in 1895, the Commission's report was not only replete with contradictions, but it also failed to comprehend the opium problem as an Asian sociopolitical controversy extending beyond British India. The commission concluded that a ban on the opium trade would jeopardize free trade and that opium was no more harmful than alcohol. Rimner reasons that in reframing the opium problem along regional rather than colonial lines, the commission's report galvanized an unprecedented confederation of transnational activists and journalists. Journalists took the role of informants, repudiating official information and exposing the corruption of the government's opium department, police, and contractors in the British Raj. In this way, Rimner's book is also about knowledge and the way in which it is shaped, delivered, written, falsified, and disproved across transnational networks.

Rimner's transnational framework provides an essential aspect of the study of world history by revealing how information, ideas, and people move in various directions and not simply from the West to the East. His study weaves together state

politics with international events to establish a history that challenges a Western-centric understanding of anti-opium efforts in particular, and global drug control in general. What's more, by centering discussions around the opium trade between Asian countries, Rimner effectively reminds us of the heretofore unacknowledged resistance to opium in those places. The 1912 International Opium Convention (IOC) marked the first instance in drug control in which an international agreement impelled national legislation. But after all, as Rimner illustrates, it was the Qing 1906 edict of opium suppression which pushed the British government to be a signatory to this effort. This is one of the many examples in Rimner's book of ideas and influences moving from the East to the West.

Although synchronicity defies any effort at giving equal weight to the different forces that resulted in global drug control, Rimner's transnational fabric allows him to weave together those various forces without sacrificing the central focus of his book. Thus, Rimner's account reveals the multifarious strands underlying the complex web of influences which propelled the codification of global drug control. Rimner places international events in a way that allows the reader to discern their effect on the opium debate regardless of their emphasis. For instance, Rimner demonstrates how the spread of morphine in the West during the second half of the nineteenth century made it impossible to ignore opium as a global rather than a Chinese, or Asian problem. Therefore, while not explicitly stated by Rimner, we can observe how opium's evolution into a global problem contributed to its prioritization in international law.

Where international public opinion and scientific research fell short, an epochal, exogeneous influence impelled the codification of drug-control into international law: the chaos of World War I. By the outbreak of WWI, there were only eight ratifications of the Hague Convention of 1912; Rimner reveals how the war changed this situation in two major ways. First, smuggling of drugs showed that controls were indeed interdependent at the international level. Second, the rise of the drug scare in the West and its effects on soldiers could no longer be assuaged with free trade rhetoric.

Regrettably, despite the depth and rigor of Rimner's narrative, it does not give sufficient weight to the changing eco-

conomic landscape that played a major role in altering British thinking and practice towards the opium trade. In the late-nineteenth century, the economic importance of opium to Britain significantly declined. Following the Second Opium War, China became a major producer of opium, producing two-thirds of its domestic consumption in 1879. Overall, opium imports into China from British India declined by about half between 1880 and 1908.

Moreover, Rimner fails to clarify whether it was the cumulative effect of the various anti-opium movements or their independent diversification which succeeded at changing public perceptions towards the opium trade. This ambiguity leaves the impression that the 1918 International Anti-Opium Association (IAOA) was the final hero among the many advocates of Rimner's narrative. Further, in attempting to distinguish the success of the IAOA from those that came before it, Rimner neglects to highlight an important contemporaneous development to the success of the IAOA: the establishment of the League of Nations in 1920. This development provided the international community with a centralized body for the administration of drug control which was heretofore unattainable.

Similarly, Rimner does not critique the anti-opium movement's failure to assess how best to implement drug control measures on a national or international level. The movement's failure to anticipate the creation of repressive opium suppression regimes and their consequences might have been reasonable. Still, given their intimate involvement in dismantling the opium trade's political economy, why did the movement fail to examine the implications of international drug control, particularly on opium-producing nations? Rimner does not provide an answer. Lamentably, the abuse suffered by Chinese opium farming communities had wide-reaching effects on China's society and political stability.

Apart from these weaknesses however, Rimner's book would be of interest not only to historians, but also legal scholars and drug-control policy analysts. *Opium's Long Shadow* is a treasure trove of policy experiments, within which one can find an extraordinary variety of policies regarding opium supply and demand, ranging from an almost total absence of regulation to an almost total prohibition. From its inception in 1909 and up to WWII, international drug control has favored regulation over prohibition, with considerable latitude given

to states in addressing both supply and demand. The lack of a clear prohibitionist rationale at the dawn of international drug control is one reason history is able to advance our insight on the strengths, limitations, and pitfalls of different policy choices.

The regulatory regimes of the colonial era are intriguing for yet another reason: governing bodies were continually presented with substantial conflicts of interests—reconciling demand depletion with profit accretion. Would a flexible regulatory approach be possible today? Would it be able to reduce parallel illegal markets? By revealing the mutability of international systems of controls, *Opium's Long Shadow* reminds us that change is possible in the future as it was in the past. Opium's history, and long shadow, demonstrate that the concepts, reactions, and structures of control are not fixed and impermeable. Importantly, Rimner's book challenges traditional understandings of international relations as unfolding between nations. As the transnational anti-opium experience clearly shows, non-state actors can, and have, been the vanguards of legal reform in spite of powerful colonial opposition.

*The China Questions: Critical Insights Into a Rising Power.* Edited by Jennifer Rudolph & Michael Szonyi. Cambridge, MA: Harvard University Press, 2018. Pp. ix, 337. \$21.46 (hardcover).

REVIEWED BY WEI YOU

In honor of the sixtieth anniversary of the Harvard Fairbank Center for Chinese Studies, *The China Questions* is an anthology of 36 short essays produced by experts affiliated with the Center. In each essay, an expert answers an important question about modern China. As Michael Szonyi, one of the co-editors of this book, states in the introduction, the book serves to narrow the "understanding deficit" of the United States about China despite the increasing mass media coverage of the famous and popular issues concerning the East Asian country. In this respect, the anthology is largely successful, providing an eclectic selection of important topics concerning China today. Unfortunately, its strength is also its weakness, as the book's sacrifice of depth in favor of breadth necessarily limits the ambit of each discussed topic.

The thirty-six essays are divided into six main sections, namely politics, international relations, economy, environment, society, and history and culture. Some significant and representative issues covered by these sections include the legitimacy of the Communist Party, the Anticorruption Campaign under Xi Jinping, China's leadership in Asia, economic growth in China, air pollution, the One Child Policy, and the legacy of the Cultural Revolution.

The chosen essay topics reflect the wide and interdisciplinary backgrounds of the expert authors. At the same time, however, they are written in a less academic and scholarly fashion, making the underlying information more accessible to an ordinary reader with an average level of knowledge and understanding of China. Many questions that the essays address are regularly covered and followed in the media of the United States and other Western countries, but the authors place those topics under deeper analyses and scrutiny, offer their leading and unique insight, and in some ways correct the presumptions or even biases and stereotypes about China.

Some of the selected essays carefully elaborate on some of the most popular questions concerning China today. The authors use unique insights and arguments to disclose the complexity involved in those questions. Indeed, the essays usually present new insights and establish new conclusions on those issues pertaining to China that may otherwise seem already explained. Some essays even render seemingly simple issues more complicated by questioning the conventional understanding and assumptions, rather than simply offering a straightforward answer. This in turn reflects the diverse expertise of these authors in their respective fields. For instance, in the chapter "Can Fighting Corruption Save the Party," Professor Joseph Fewsmith claims that the impetus for the anticorruption campaign under President Xi was because many government officials (who were at the same time Party members) had gone astray from the ideals and convictions of the Party spirit, which in turn threatened the dominance of the Party. According to Professor Fewsmith, the anticorruption campaign was helpful in turning back the Party's decline. While this conclusion may seem expected, Professor Fewsmith also digs a little deeper and points out that the short-term nature of the anticorruption campaign may actually be inconsistent with the long-term Communist Party goal of political and so-

cial dominance. A widespread anticorruption campaign eventually would lead to a more open, educated, and politically-involved society. In another piece entitled “Can China’s High Growth Continue”, Professor Richard Cooper from Harvard’s Economics Department describes the rapid economic development in China from 1980 to 2018 as occurring in a “dream world”. He nevertheless reaches a rather pessimistic conclusion that this high growth will not continue and indicates a clearly declining trajectory. He concludes, however, with an intriguing remark, noting that even the slowdown and declining economic growth does not indicate a total failure of governance. This might inspire an ordinary reader to consider what the new “normal state” of the Chinese economy would be after a decade of rapid growth.

In another essay which might prove highly relevant to the United States’ growing class of college students, Professor William Kirby seeks to answer “Why Do So Many Chinese Students Come to the United States?” Professor Kirby’s response, based on quantitative analyses, is premised on both historical and practical reasons. He finds that as early as the late Qing dynasty, the Chinese government had already realized the strength of the U.S. education system by sending students to study in the United States. This realization has seeped into China’s collective conscious and continues to the present day, with Chinese parents still admiring the U.S. education system for its capability at developing leadership amongst its students. However, Professor Kirby points out the possibility that China has the potential to become the most popular place for studying abroad in the future, a bold prediction that at the very least contradicts the mainstream notion of many Chinese families who would prefer to have their children educated in an American institution. Readers in China would benefit greatly by reading this essay to inspect the merits and shortcomings of their educational system from a new perspective, and re-evaluate this ongoing study-abroad trend in China.

The essays, as a whole, draw conclusions that offer unique insights and open up new perspectives on some common and well-known questions concerning China. They strengthen the reader’s overall understanding and attack stereotypes and misconceptions about China. The ultimate goal of the essays is usually not to give a full and comprehensive answer to any particular question, but to provide context, sketch a brief re-



sponse, and open up new angles for the reader to further consider the answers. In this vein, the anthology largely succeeds.

However, this is also where the anthology falls short. As a book that aims to provide the Western readers with a panoramic critique of contemporary China, it is framed to be more accessible to the average reader and therefore is relatively free from academic jargon. The depth of each article is therefore, at times, unsatisfactorily limited. For example, Professor Kirby's piece discussing the trending topic of Chinese students studying in the United States does not mention critical issues such as how some American institutions' increasing exchange with the Chinese educational world, and even dependence on Chinese students and scholars as a financial source, might cause controversies and tension in academic circles. Just last year, for instance, Cornell University paused two exchange programs with Renmin University of China because the latter was accused of cracking down on student groups advocating for worker rights.

Moreover, the book, to some extent, does not even succeed in its own goal of providing a diverse and wide breadth of important topics. For instance, the international relations section lacks discussion on China's presence in Africa and Latin America, a topic that is more popular and discussed more both inside and outside of the country. Even more surprising is the absence of discussion on Hong Kong, perhaps the most important Chinese city given its special status under the "one country, two systems" principle and its economic significance across all of Asia. Concerns about the future of Hong Kong and tension between the local and mainland populations are neglected in this book.

Another flaw is the lack of connection or coherence within and among the sections. For instance, while the essays in the section on China's economy address key issues well, they as a whole do not seem to address important broader questions such as the nature of the Chinese economy that Deng Xiaoping once characterized as a "socialist market economy." Additionally, the division of the book according to topics, while clear to the readers, separates issues that are closely connected and intertwined. For instance, the development of China's economy in many ways influences and even shapes its domestic politics. The book does not address this question be-

cause it is strictly divided by sections, and so does not discuss issues spanning more than one section.

Fortunately, the Fairbank Center offers at least one solution to the omission of significant issues regarding China as well as to the relatively preliminary and straight-forward nature of the essays. The Center's website provides a list of supplemental readings to each essay, so that interested readers may explore the respective topics more deeply and keep track of updates on the issues.

In conclusion, the book offers excellent preliminary background knowledge for non-specialist readers who are interested in understanding issues pertaining to China. It provides the perspectives of leading experts on a wide range of popular questions related to the country, and in many ways supplement or even correct the conventional depiction of China portrayed by Western media. Due to its choice of target audience and selection of essay topics, however, the book inevitably neglects important topics that are arguably as significant as those chosen, and the selected essays themselves are at times necessarily constrained by the limited objective of providing a simple and preliminary outline to the questions raised. Readers who are interested in a particular issue should take the book as a starting point, cross-reference the essays in the book, and use the supplemental reading list the Fairbank Center website provides for the purpose of further study.