

BOOK ANNOTATIONS

Backfire: How Sanctions Reshape the World Against U.S. Interests.
By Agathe Demarais. New York, NY: Columbia University Press, 2022. Pp. xii, 292. \$22.00 (paperback).

REVIEWED BY CECILIA LI

In *Backfire: How Sanctions Reshape the World Against U.S. Interests*, Agathe Demarais discusses the history of U.S. sanctions to illustrate their negative ripple effects and how they are counterproductive to the United States' rationale for imposing them. Demarais provides specific examples to demonstrate the genesis, effects, and future of U.S. sanctions. Each set of sanctions has a different target, different rationale, and varying degrees of success. Demarais highlights the demise of U.S. unilateral sanctions, which she argues reflects the erosion of the United States' position as the world's sole superpower, and advocates for the United States to implement multilateral sanctions with its allies. This book is a valuable contribution to its field. Americans, both policymakers and the people, are vulnerable to getting caught up in the symbolic importance of sanctions as an attempt to signal American "values" and assert American "dominance" and "superiority" without a deeper consideration of the practical effects of such signaling. Demarais skillfully presents an organized and relatively objective report on U.S. sanctions, which includes diverse reactions to U.S. actions. Her thoughtful perspective is critical of the United States' approach to coercive economic measures like sanctions, but such criticism aims to advance U.S. interests.

U.S. sanctions history began in the 1950s, when the United States started to use sanctions to advance its foreign policy goals. At the time, the only tool for economic coercion was trade embargoes. Demarais conveys the flaws of trade embargoes through the United States' experience with Cuba and North Korea, which showed significant difficulties in monitoring blockades and reaching the well-connected elites of rogue regimes and the dangers of impeding activities of humanitarian workers. In response to these shortcomings, in the early 2000s, the U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) wanted to develop a stronger strategy to pursue its interests. It came up with financial sanctions, which

cut a country's access to the U.S. dollar or to the international banking system and imposed penalties that targeted specific economic sectors like oil production.

After presenting the history of U.S. sanctions, Demarais considers the effectiveness of past and future sanctions. Demarais offers guidelines for how to predict effectiveness: if penalties have not led to results within two years, the target country usually has no intention of giving in to the pressure and thus such penalties tend to be less effective. Sanctions with a narrow goal, strong ties, and allies aboard tend to be more effective. Sometimes U.S. sanctions, such as those against Libya, can result in a rare win, but much of the time, they fall short of their objectives and can foster anti-American sentiment in the targeted country. U.S. businesses often bear the brunt of U.S. coercive economic measures, and some foreign businesses have reported that they prefer to use non-American suppliers to avoid the risk of sanctions-induced supply chain disruptions. Accordingly, Demarais' analysis signals that policymakers should better inform themselves and their constituents and avoid unnecessary domestic damage when imposing sanctions that carry more of a symbolic value than practical efficacy.

Not only does the implementation of sanctions have deficiencies in serving as a coercive economic measure on foreign countries—it also has proven to have negative humanitarian impact. Inflation is a main side effect of sanctions, and it can reduce the local population's continued access to humanitarian goods like food and medical supplies. This ultimately punishes innocent, ordinary families rather than the rich and powerful who have influence on their government's actions. Another deficiency of sanctions is their potential for ripple effects on entire industries and even the collapse of a stock exchange. OFAC can try to avoid such expansive effects by issuing a general license for U.S. and foreign companies to wind down ties to the designated party, but as Demarais outlines, sometimes the damage is done and the United States has no option but to reverse course to recover from its actions. For example, in the sanctioning of the Russian aluminum company Rusal, the damage manifested in upset in global metals markets and fears that the sanctions would cause a global shortage of aluminum. In addition, there were significant losses in the shipping industry's revenue, diplomatic pressure from allies to remove the sanctions, and risk that Chinese metals

producers could fill Rusal's void and greatly benefit from the United States' action. Demarais highlights how, even after the United States lifted the sanctions, they had lasting impacts: a spike in aluminum prices and doubts among allied governments and business executives about the U.S. government's ability to impose sanctions in a structured, coherent manner.

Demarais expertly evaluates the fruitfulness of U.S. sanctions by raising how they are perceived globally. Other countries view United States to be using a national security narrative to justify advancing its own economic interests through sanctions at the expense of its allies. In particular, European Union member states have felt that Washington's sanctions disrespect their sovereignty and force U.S. allies to comply with whatever the United States determines to be desirable to advance the United States' economic interests. As such, states are unable to make their own decision regarding questions like whether and to what extent they want to maintain relations with Moscow or Beijing.

However, Demarais appropriately notes the tension between the European Union and United States in relation to their approach to sanctions because it is important to recognize the potential limits to collaborative efforts. U.S. policymakers regard Europe's approach to sanctions as too narrow and ineffective. It is difficult for the European Union to implement sanctions because all member states have to adopt the measures unanimously. Demarais argues that Europe's approach is unlikely to harm American interests and companies, but that Europe sees U.S. sanctions as a threat to the European Union's global standing and firms. I agree to some extent, given that Europe strongly relies on the United States' allyship for dominance, whereas the United States alone has sufficient influence to convince Europe to follow its lead. European resentment of U.S. sanctions has existed for several decades, but the breaking point was when former President Donald Trump exited the Iran nuclear deal in 2018 and unilaterally reimposed penalties on Tehran. This highlighted to many EU countries that they could no longer assume that the United States would always be a reliable ally.

Demarais contends that the United States will likely have to find new tools to replace these financial sanctions and that investment restrictions and export controls appear to be strong contenders. Investment restrictions and export controls, especially on crucial technology staples, have been highly effective

against China over the past few years, despite there being some limits to these measures. Secondary sanctions are an option, but they would further strain ties with allies and fuel foreign efforts to develop mechanisms to circumvent sanctions. Future sanctions could target digital flows to make the impact of sanctions less severe and more dangerous to U.S. adversaries. However, given the current domination of U.S. tech firms over the digital landscape, this option would likely be counterproductive.

In its economic war with China, Demarais notes, the United States has been using all forms of economic coercion, including tariffs, sanctions on individuals linked to human rights abuses, consideration of delisting Chinese companies from U.S. stock exchanges, and consideration of barring the Thrift Savings Plan from investing in Chinese companies. The strongest option for Washington is to focus its efforts on the technological sector, as China is attempting to develop a domestic semiconductor industry to compete with the United States' domination of the industry. Like financial sanctions, the United States' export regulations seek to force countries and companies to choose sides between the United States and the sanctioned country. The United States bet that the world's largest microchip producers, such as South Korea's Samsung and Taiwan's MediaTek and TSMC, would side with the United States and stop working with Chinese companies. These producers could maintain ties to China, but this would come at a high price: using U.S. technology to design or manufacture microchips for Chinese firms would be impossible. U.S. export controls not only have affected Chinese firms' access to this competitive technological sector and to U.S. allies like the Netherlands, who have had to give into U.S. pressure, but have also had ripple effects on U.S. soil. The consequences will be seen only over several decades, but companies like TSMC and Samsung are already redesigning their global supply chains with U.S. export controls in mind. In 2020, China responded to the United States' restrictions on access to its semiconductor industry by restricting sensitive exports, including of rare earths. China controls eighty percent of global production of seventeen metals that tech companies rely on to build semiconductors and other electronic products. Rare earths are not scarce, so in theory, the United States could rebuild such supply chains over time, but matching Chinese production capacity elsewhere would take a decade at least, and the United States would need massive federal financing.

Ultimately, export controls against Chinese firms are likely to prompt global technological companies to have two different sets of supply chains: one for U.S. and Western countries, and another for China and emerging countries. According to Demarais, this would be a decoupling, and one which would effectively cut ties between the American and Chinese economies. In a decoupled world, export controls would be of limited utility and might end up being beneficial for Beijing's interests. On paper, decoupling would address U.S. national security concerns linked to the use of Chinese-made equipment for U.S. telecommunications infrastructure and halt the rise of China's technology companies by depriving them of access to crucial U.S. know-how. Decoupling would also narrow the large trade deficit since U.S. firms that outsourced manufacturing lines to China would relocate production to U.S. soil, providing jobs to tens of thousands of Americans. However, cutting these extensive ties would be difficult and expensive and would hurt U.S. technology firms because it would remove U.S. firms from global innovation and deprive them of opportunities to shape technology standards. There would also be a significant drop in revenues for U.S. semiconductor firms, which would have to curb R&D, which would, in turn, cause the United States to lose its technological and military superiority and unintentionally bolster Beijing's rise. Furthermore, according to Demarais, a decoupling would have a negative effect on global stewardship over crucial topics where no progress would realistically be made without both the United States and China at the negotiating table; these include climate change, nuclear proliferation, and the fight against future pandemics. Beijing might also then have few reasons not to intervene in Taiwan, and Washington could be faced with the choice of either going to war or losing credibility as a defense ally. War would be a global catastrophe. These are all paramount reasons why a decoupling absolutely should not occur.

Demarais ends the book by claiming that the time of peak U.S. sanctions has passed. Demarais contends that the United States will have to learn to collaborate with its partners and negotiate with adversaries without sanctions, and that the demise of U.S. unilateral sanctions reflects their potency and the erosion of America's position as the world's sole superpower. In a world that often hyperfocuses on sweeping assertions in flashy headlines, Demarais presented a nuanced perspective that

recognized the complexity of sanctions. Because of this complexity, the United States is not guaranteed the top global spot forever and cannot simply shun a competitor like China without carefully analyzing the ripple effects that put the world's order, economy, and future in danger. Demarais' refreshingly practical analysis and proposed next steps should be seriously considered by U.S. policymakers and U.S. allies.

China's Rise in the Global South: The Middle East, Africa, and Beijing's Alternative World Order. By Dawn C. Murphy. Stanford, CA: Stanford University Press, 2022. Pp. 408. \$85.00 (hardcover).

REVIEWED BY OSCAR MILLER

Finding your place in the world is tough. As a rising power, China needs to decide whether it should further integrate itself into the existing world order—within which China has been mistreated but also become rich—or whether it should attempt to break away from it and create an alternate world order in its image. The key question of Dawn C. Murphy's book, *China's Rise in the Global South: The Middle East, Africa, and Beijing's Alternative World Order*, is which of these two paths China is following. To find the answer, Murphy uses Chinese interactions with the Middle East and Africa as measuring sticks to determine where and how China is cooperating or competing with the United States and whether its behavior aligns with liberal international norms. She methodically applies this analysis to every aspect of China's foreign policy in the Middle East and Africa with each chapter covering a different component. In her analysis, Murphy evaluates China's diplomatic, economic, political, and military relationships with countries in the Middle East and Africa as well as with competing foreign powers with interests in the regions. She also discusses China's engagement with international organizations within the existing world order and with those of China's own making (e.g., local cooperation forums). Finally, Murphy evaluates the Belt and Road Initiative, which she characterizes as China's grand strategy for engagement with the Global South. Murphy concludes that China is creating an alternate world order through the creation of institutions and spheres of influence that would preserve China's access to markets, raw material, and political support in the event of an unraveling of the existing world order.

Murphy is affiliated with the U.S. government and military both through her associate professorship at the U.S. Air War College and through the support she received from the U.S. Department of Defense in conducting research for this book. Nevertheless, I felt her book provided balanced insight. She is not critical of any actor and attempts to objectively fit the different aspects of China's foreign policy into her analytical framework. She draws upon a great variety of sources from different state and non-state actors that add significant credence to her work. Where possible, she tries to get the Chinese perspective through Chinese white papers, speeches, and reporting while also drawing insight from officials, governments, and organizations from within the Middle East and Africa.

Murphy's writing can feel repetitive in its repeated application of the same analytical framework to each aspect of China's foreign relations in the regions: Is this activity competitive or cooperative? Is it norm convergent or divergent? However, while initially cumbersome, the book progressed, I found the straightforward and methodical approach both lucid and objective. Both of her analytical questions are subjective, but Murphy broke the subjects of analysis down in such a way that I found it difficult to disagree with her categorizations. Her credibility is underscored by her declining to categorize issues that did not fit cleanly into one of the normative analysis buckets by declaring them norm neutral.

Murphy's analytical framework is useful for American readers because it separates the United States' interests from the normative values of the current world order. Many of China's activities in the Middle East and Africa that are competitive with the United States are still aligned with liberal international norms. It is easy to conflate these two concepts in light of U.S. hegemony, but Murphy's analysis always considers them separately to accurately capture where China is departing from the existing world order. For example, China's emphasis on South-South cooperation and greater representation for developing countries in international organizations like the United Nations undermines the United States' ability to affect or coerce votes from developing countries, but such emphasis is very much in line with the stated ideals of these organizations.

Many of China's departures from the liberal normative system as evaluated by Murphy are motivated by what China calls its five principles of peaceful coexistence: mutual respect for

sovereignty and territorial integrity, mutual non-aggression, non-interference in each other's internal affairs, equality and mutual benefit, and peaceful coexistence. Two of the principles (or at minimum, China's interpretation of those principles) are clearly in conflict with Western norms—mutual respect for sovereignty and territorial integrity, and non-interference with each other's internal affairs. Values that would have left China feeling at home at the signing of the Peace of Westphalia in 1648, or even perhaps at the signing of the U.N. charter (“[N]othing . . . shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state”¹), are no longer widely accepted in light of modern preferences for humanitarian intervention and the penchant of world powers to take sides wherever there is factional conflict. Murphy notes that since Mao's death and the Reform Era, China has been very consistent in applying these values to its actions in foreign affairs. (Mao's China supported national liberation movements, and such support would violate the non-interference with internal affairs principle.) Without the consent of the recognized government of a state (as is the case with U.N. peacekeeper operations and South Sudan negotiations with rebel groups), China will not engage with other factions within that state. These principles also make China ideologically opposed to sanctions and other tools of economic and political intervention. China does not attach conditions for aid based on the politics or actions of the incumbent government (except support for the “One China” principle) in a departure from both U.S. and old Soviet practices. These principled objections to the practices of the current world order, along with heavy state involvement in economic interactions with other states, are the key normative differences between China's “alternate world order” as envisaged by Murphy and the existing world order. Whether these principles are genuinely held or merely built up to deflect international condemnation for China's national unity efforts with regards to Taiwan and ethnic minorities on the mainland is another question for another book. However, it is understandable why those tired of war (like the Westphalia signatories) and victims of colonial aggression would support ideologies that seek to reduce interstate conflict,

1. U.N. Charter art. 2, ¶ 7.

even if they inhibit substantive international enforcement of human rights and other modern priorities.

The scope of the book lends itself to the effectiveness of Murphy's analysis. By focusing on the Middle East and Africa, Murphy is able to go into depth in each region while also highlighting how China acts differently in different contexts. Murphy highlights China's objectives in both regions (energy resources, markets, and security in the Middle East; and energy resources, industrial resources, and agricultural in Africa) and uses them to analyze why China interacts with the regions as it does. The choice of regions provides interesting contrasts: between the United States' different objectives in both regions; of African conflicts as more intrastate and Middle Eastern conflicts as more interstate; between the relative development of the different regions; and of the potential influence of the Middle East on what China sees as its Islamist threat in Xinjiang and China's other western provinces. Murphy ties these differences into her framework well and uses them to explain China's behavior in an effective and illuminating way. By Murphy's estimation, because the United States has fewer interests in Africa and the region is less polarized in general, China is more cooperative with the United States on security issues in the region. By contrast, Murphy characterizes the Middle East and China's Middle East special envoy as dominated by the Israel-Palestine conflict, where China's historical Palestinian lean and current desire to be seen as a neutral party are at odds with the United States' unwavering support of Israel. (If Security Council resolutions are an adequate measure, the United States' stance in this area goes against the norms of the liberal world order.)

I agree with Murphy that China is creating an alternate world order based on its own values and institutions. It is also evident why victims of colonialism and modern interventionism might support China's vision (as represented by the five principles of peaceful coexistence) if the decision were purely ideological. However, the United States' economic, cultural, and political strength serve as very strong deterrents to anyone seeking a different normative system, including China. China has determined that in the short term, it benefits more from trade with the West than it would benefit from a new world order that effectively dissuades the United States, other Western powers, or the United Nations from intervening in the affairs of other countries through regime changes, sanctions,

or the myriad of other tools at their disposal. China is a pragmatic state and will not make any extreme departures from the existing world order unless there is a high probability it will get the state support it needs to sustain its economy and preserve its territorial claims. As long as China is not pushed against a wall with regards to the issues it is not willing to compromise on (e.g., One China), it can work within the existing world order and use it to further its interests.

China may also exercise restraint because of its privileged position in the existing world order as a permanent member of the U.N. Security Council. China's vote and advocacy for developing country causes is a powerful tool to gain political and ideological support. It also provides developing countries with an avenue to voice dissent and prevent U.N. action. Murphy illustrates this point by analyzing how China has voted differently from other Security Council members; she determined that while China previously utilized abstention to show its disagreement, it has begun to use its veto more often as it has become more powerful, most notably on resolutions related to Syria. China is both more willing to accept the diplomatic consequences of disagreement with the United States and has realized the power of its veto. China has also increased its power at the United Nations in other ways that Murphy highlights, including its high contributions to U.N. peacekeeper operations. As Murphy points out, China gives less aid to African nations in both absolute and relative terms in comparison to Germany, the United States, the United Kingdom, and Japan, but its aid practices have still reduced the United States' ability to coerce developing countries into voting with the United States in the U.N. General Assembly through conditional aid. While China develops an alternate world order, it is also seeking influence in the existing order to both pursue its immediate interests and legitimize its value systems through declarations and other diplomatic mechanisms.

Overall, Murphy's book is informative and gives a fantastic overview both of what China is doing in the Middle East and Africa and how those actions fit into either the existing world order or the alternative world order China is building. It provides a useful framework that could be applied to China's practices anywhere and contributes insights that help the reader appreciate and understand China's motivations. *China's Rise in the Global South* is an excellent read for anyone who wants

to better understand China and its increasingly international reach.

Understanding Global Migration. Edited by James F. Hollifield and Neil Foley. Stanford, CA: Stanford University Press, 2022. Pp. xvii, 497. \$45.00 (hardcover).

REVIEWED BY MATTHEW NELSON

Globally, there are over two billion border crossings per year. In 2019, 3.5 percent of the world's population resided outside of their country of birth for one year or more. Migration numbers continue to increase every year. And yet, global governance is weak. Presenting this broad picture, *Understanding Global Migration* offers readers a typology of the various migration states around the world in five parts. Rich in history and empirical data, the book highlights migration as a fundamental aspect of globalization, alongside trade and finance. It offers five major propositions. First, the state matters. Second, human migration is a timeless phenomenon, underscoring the importance of adopting a historical and comparative perspective. Third, following the creation of the United Nations in 1945, migration governance has come to include safeguarding human rights. Fourth, migration has led and continues to lead to greater interdependence among states. Fifth and finally, more than ever before, migration is vital for economic and human development.

Part One sets up these big ideas and identifies four factors that drive migration: security, culture, rights, and markets. In turn, migration drives interdependence of nations. Despite this interdependence, the authors make it clear that there is not one model of migration governance. Rather, this chapter emphasizes broadly how different states balance the contradicting interests of economic openness with political closedness in different ways. The next chapters of the book go on to examine case studies of four geographically based migration typologies, with each case study constituting an essay written by a different scholar.

Part Two houses its analysis in the postcolonial migration states of Africa and the Middle East. In "The Southern Africa Migration System," Audie Klotz provides a macro-historical overview of migration to South Africa in her discussion of the

history of segregation of Indians during British colonial rule, apartheid, and post-apartheid logistical challenges. Klotz demonstrates how migration policies are a product of domestic, transnational, and international pressures, especially within the systems of the Anglosphere, Indian Ocean, and Southern Africa. H el ene Thiollet’s “Illiberal Migration Governance in the Arab Gulf” surveys the migration systems in the Gulf that historically were and continue to be motivated by trade, labor, politics, and religion. In highlighting the different public and private actors involved, Thiollet describes an illiberal model of migration governance wherein the government and private brokers work together to exclude immigrants from society. Next, Gerasimos Tsourapas, in “The Illiberal Paradox and the Politics of Migration in the Middle East,” uses empirical information to explain how historic migration across the Middle East has culminated in an “illiberal paradox” wherein states rely on international mobility to achieve socioeconomic goals such as increased remittances and lower unemployment, all the while restricting migration to maintain political opposition. Finally, Yves Charbit uses a complex set of empirical data to analyze labor migration in “Migration and the Development in North and West Africa.” This data points to two drivers of migration from Africa to the European Union: demographics and remittances as a form of economic development. Overall, this section offers the first glimpse of a much needed historical and empirical analysis beyond the academically ubiquitous Eurocentric view of geography.

In Part Three of the book, case studies examine the various developmental migration states in East Asia. Erin Aeran Chung, in “The Development Migration State in East Asia,” explains how the political economies of countries like Japan, South Korea, and Taiwan have developed while remaining closed to immigration, unlike those of most economically wealthy countries in the Global North. Chung disproves a binary model of developing/developed or liberal/illiberal migration states, identifying instead a “developmental migration state” caught somewhere in between. “International Migration and Development in Southeast Asia: 1990–2010,” written by Charles Hirschman, identifies a chasm between Southeast Asian states’ historical openness to migrants and the region’s contemporary hostility, exploitation, and discrimination of those pluralistic populations. Kamal Sidiq’s “The Indian Migration State”

examines India's role as a sender and receiver of migrants. As migration to India has risen, India has, like many other states, developed a more hostile strategy of narrowed citizenship criteria, increased border security, and promotion of ethno-political identity through immigration policy.

Part Four of the book focuses on the liberal and settler migration states of the Americas. Here, the authors further develop the theory of a liberal paradox identified in earlier chapters wherein states want a free flow of immigrant labor and economic benefits but restrictions for political reasons. The first essay, "The Development of the U.S. Migration System" by Daniel Tichenor, immediately develops the understanding of this paradox in exploring how competing U.S. nativist and liberal policies have historically fluctuated from exclusion to inclusion, making it harder for policymakers to make meaningful reform in the present day. Neil Foley, one of the book's titular editors, contributes his own essay to the collection under the name "Who Belongs?" Foley's work expands the understanding of the liberal paradox developed by Tichenor; his thorough historical research shows that culture and demography have led to immigration paradoxes. Phil Triadafilopoulos and Zack Taylor explore Canada's geography, culture of multiculturalism, and institution of selective immigration in "Canada: The Quintessential Migration State." Unique to Canada, these distinctive attributes have paved the way for popular support for liberal immigration policy, and Triadafilopoulos and Taylor posit that other countries may learn from Canada. In his essay titled "Migration and Economic Development," Philip Martin takes an economic approach. Trade, migration, and aid can all work together to grow, as the U.S.-Mexico NAFTA proved in the 1990s and 2000s. Miryam Hazan's essay, "International Migration and Refugee Movements in Latin America," highlights how Latin American countries are generally more welcoming to refugees than other countries. Finally, Charles Gomes documents how a history of immigration to South American countries led to the development of economies and social rights in "The Migration State in South America." Today, even with nationalist policies present across the continent, a norm of freedom of movement, together with a judiciary willing to enforce liberal rules, has paved the way for a continued robust pattern of immigration throughout South America.

The book's final section, Part Five, looks at the liberal and postimperial migration states of Europe and Turkey. Fiona

Adamson's "Migration Governance in Turkey" analyzes Turkey as a complex host of refugees, sender of labor migrants, and recipient of labor migrants. First surveying the country's unique geography and history, Adamson then identifies how Turkey's rhetoric towards Europe and use of its diaspora as soft power to gain influence have contributed to the emergence of a kind of "neo-Ottoman" postimperial state. Leo Lucassen rejects the common, pernicious opinion that societies have fundamentally changed in "Beyond the Migration State: Western Europe Since WWII." Rather, he argues that what has changed is a shift toward xenophobia and political opinions motivated by rights-promoting institutions and changing demographics. That is, New York City and Amsterdam are not experiencing migrant or demographic crises today; instead, they have always existed as diverse, migrant-dense spaces. Editor James Hollifield, in "Migration and the Liberal Paradox in Europe," returns the reader to the liberal paradox, and he contributes to the discussion by arguing that migrant states need rights-based politics for regulation to work. "How Immigrants Fare in European Labor Markets," written by Pieter Bevelander, looks at empirical data to identify a shift from labor migration to humanitarian migration over time. Bevelander also identifies an integration gap between these groups of immigrants that has been perpetuated by policies making it harder for people to naturalize. In the book's last essay, "The European Union," Andrew Geddes posits that government actions give meaning to international migration. As a result, the European Union has power over other regions.

Understanding Global Migration acknowledges its meaningful contribution in three ways. First, the book looks beyond the often-studied settler societies and includes the Global South in the discussion of international migration. Second, the authors all apply deep historical analysis in communicating how contemporary migration institutions function. Third, the geographic typologies present a model that is global insofar as it spans most of the world. The case studies, which are interdisciplinary in scope, examine liberal and illiberal migration states, countries in the Global North and the Global South, colonial states and postcolonial states, and migrant-receiving countries and migrant-sending countries.

The collection of essays is so comprehensive and interdisciplinary that, in its over 500 pages, the book takes the reader all

over the world in exploring local and international issues and relations. Perhaps most compelling and persuasive is the use of data, including economic, demographic, and other sociological metrics. The book's many charts and graphs indicate the work's biggest strength: the sheer expertise of its authors. Furthermore, the collection of essays is so full of historical information that, while interdisciplinary in every sense of the word, they at times read together like a history book. This foundation provides the authors' analyses with legitimacy and important context that is so often overlooked in the public's understanding of migration.

At times, though, the collection of empirical data and history is so immense that it can be overwhelmingly clinical. While any serious academic work requires objective, critical analysis, the field of migration is decidedly humanistic. *Understanding Global Migration* fails to capture this dimension, with only a single mention of an individual occurring when Hirschman references his daughter. The lack of detail describing the people that the data represent hampers a thorough exploration of the broader human experience so intrinsic to migration, limiting the nuanced and grounded understanding that a more holistic approach could provide.

Furthermore, the book's many essays, while obviously related in geography and general subject matter, read rather independently. Obviously, states organized by geography share similar migration governances, and while the authors highlight universally shared themes such as (il)liberal paradoxes, Westphalian theory, and the four migration-driven factors related to the book's five broad propositions, the case studies stand equally strong alone. Ultimately, the book as a whole falls short of exceeding the sum of all its parts. The strung-together essays take the reader on a trip throughout the world, leaving them with a deep, savvy understanding of its various regions but confused as to how they all add up to one globe. In that regard, perhaps a more apt title for the book would be *Understanding Migration Around the Globe*.

Understanding Global Migration's deep analysis of migration in many regions of the world provides an intellectually important and exceedingly persuasive perspective on how states balance security, culture, rights, and markets to manage the migration of over two billion people annually across disparate social, political, and economic landscapes. But to shift

the conversation so far away from the people who sacrifice so much to flee famine, conflict, or disaster—to find peace, security, or prosperity—does a disservice to the message it works so hard to intellectualize. *Understanding Global Migration* belongs on any migration scholar’s bookshelf, but in this sense, it cannot stand alone.

The Privatized State. By Chiara Cordelli. Princeton, NJ: Princeton University Press, 2020. Pp. 1, 346. \$32.00 (paperback).

REVIEWED BY ALEXANDRA NEWTON

In her book, *The Privatized State*, political theorist Chiara Cordelli ponders the following figure: while federal spending in the United States increased 500 times between 1960 and 2010, the number of civilian workers remained essentially unchanged.² If not public servants, who has been enlisted to carry out the various aspects of public administration that comprise the behemoth of the United States government? Private contractors. Indeed, many of the functions we attribute to the government—education, Medicare, the penal system, and warfare—have been contracted to the private sector. Going beyond familiar criticisms of privatization, Cordelli argues that privatization poses a far more fundamental problem than many political theorists have countenanced: it erodes democratic legitimacy. Cordelli makes a novel case for the dangers of privatization, arguing that a privatized government can only ever masquerade as a legitimate government.³ In a privatized state, Cordelli boldly claims, “justice cannot obtain.”

Cordelli’s argument against the legitimacy of a privatized state is one of the book’s major contributions. She makes the compelling case that what a privatized government delivers is not—and can never be—justice at all. Thus, privatization is the state’s abdication of public functions to agents who are fundamentally incapable of delivering them within a democratic system of public administration. Thus, privatization does not (or does not only) deliver “worse” government; it imposes illegitimate rule. Cordelli’s second contribution is her theory of a more legitimate public administration. Cordelli’s third

2. CHIARA CORDELLI, *THE PRIVATIZED STATE* 143 (2020).

3. *Id.* at 46.

contribution is her attempt to find possible exits out of the privatized state as it currently exists. Declaring privatization an illegitimate mode of governance, Cordelli charts potential ways to rescue the state and reclaim the legitimacy lost by its resignation to private actors.

In the following, I will focus upon certain aspects of these contributions, attending to the utility of Cordelli's project to scholars of international law and politics. Cordelli's work is oriented around the United States, but the questions she raises are relevant to scholars of democracies across the world. First, I will provide an overview of Cordelli's strong argument for the democratic illegitimacy of privatized government. Second, I will consider some of Cordelli's recommendations for how we may reclaim the legitimacy of our democracies.

While privatization certainly has its critics, Cordelli attacks it upon innovative grounds. Cordelli begins by explaining that many critics assume that privatized governmental functions are interchangeable with public ones. These critics argue that the privatized versions are simply worse: for example, because their outcomes are poor. However, Cordelli moves beyond this interchangeability assumption. What privatized governments deliver is not merely "worse" government, but illegitimate rule. Thus, Cordelli's contention is that privatization is a fundamental transformation of democratic governance, rather than a distortion (as its critics claim) or evolution (as its proponents claim) of modern statecraft. Cordelli relies heavily upon the Kantian tradition of political philosophy, alongside empirical social scientific research, to develop her novel claim. For Kant, as for Cordelli, democracy is the only form of governance compatible with individual freedom. This is because it is only democracy that rules via "omnilateral subjection," that is, a will that individuals each share an equal opportunity to shape. Cordelli analogizes the twenty-first century privatized state to the Kantian state of nature, arguing that both scenarios rule, by contrast to the "omnilateral" will of robust democracy, via the "unilateral" subjection of private actors. Thus, the privatized state returns us to a condition akin to a state of nature, where private actors mete out public goods, while lacking the standing to do so legitimately.⁴ This leads Cordelli to the striking conclusion that even in those circumstances when privatized governments

4. *Id.* at 120, 287.

deliver “better” outcomes—be they more efficient, cheaper, or appropriate—they are still morally wrong.⁵

How much can the state delegate its functions to the private sector before it has lost its legitimacy? Cordelli argues that privatization must be examined in the aggregate. Of interest to constitutional scholars is the heterodox account of the nondelegation doctrine that Cordelli develops in order to assess the aggregative impacts of privatization. Unlike hegemonic understandings of the nondelegation doctrine, Cordelli’s account does not demand that each and every delegation of power is invalid. Rather, Cordelli shows how privatization becomes invalid when it is perceived as part of a process of “abdication of the collective capacity for, and right to democratic self-rule.”⁶

Cordelli writes, “When governments keep privatizing important public powers and functions to the extent where the capacity for self-rule is significantly weakened, the private actors who are delegated those functions should be regarded as lacking the legitimate authority to perform them, since the authorization they received from government should be regarded as invalid.” Cordelli’s emphasis on the aggregated impact of discrete acts of privatization keep her from falling into the trap of evaluating the causes, merits, and outcomes of particular delegations of authority. By examining privatization in the aggregate, Cordelli is also able to demonstrate how privatization is a self-reinforcing system; as public agencies delegate to private contractors, these agencies lose the personnel, track record, and general “know-how” of governance, necessitating their further consultation with the private sector.

In developing her qualified understanding of the nondelegation doctrine, Cordelli also contends with more conventional accounts, which, she argues, are insufficient to provide a constitutional justification for limiting privatization. Finding these prevailing interpretations insufficient, she posits “collective nonalienation” as a ground for nondelegation. She defines the principle of collective nonalienation as: a democracy lacks the moral authority to pass laws that amount to the abdication of its citizens’ basic capacity for democratic self-rule.⁷ Cordelli continues, “[I]f it can be proved that the transfer of certain powers

5. *Id.* at 58.

6. *Id.* at 122.

7. *Id.* at 141.

and functions . . . to private actors amounts to an abdication of the basic capacity for collective self-rule, then such a transfer should be *ex ante* ruled out as invalid and nonbinding.⁸ Once more, Cordelli's critique of privatization does not rely upon its outcomes. Rather, privatization is morally wrong because it is the result of a delegation of authority that undermines the people's capacity to rule themselves.

Among other reasons that privatization is an abdication of the preconditions for self-rule, and therefore an illegitimate delegation of authority, is that it undermines civic vigilance. In her discussion of the many ways in which privatization numbs civic consciousness, Cordelli describes a phenomenon that is familiar to legal scholars as the theory of political accountability, although she does not call it this. One problem with privatization is that it obscures the role of government behind private actors.⁹ The veiled condition of the privatized state leaves citizens in the lurch, as they become disempowered to develop opinions about what their government is doing, and who is doing it. Cordelli also emphasizes another aspect of political accountability which is less often discussed among legal scholars: a lack of political accountability blunts the people's ability to form affective attachments to their government. Going beyond the epistemic problems posed by an outsourced government, Cordelli points to the ways in which privatization diminishes the emotional investments that people have in the state.

Cordelli's reading of the psychic and epistemic impacts of the widespread outsourcing of public functions is an important contribution. Privatization is not simply illegitimate in an abstract sense; it has deleterious and corrosive effects on civic culture. It does not simply confer worse outcomes (even though outcomes are important)—it makes people feel less engaged and invested in state projects and policies. Cordelli's training as a political theorist and her interdisciplinary engagement with insights from the social sciences are apparent in this section, and legal scholars should take note. However, Cordelli's argument for a robust understanding of democratic legitimacy leads one to consider how to square the modern administrative state with the conditions of the democratic state.¹⁰ The dispersion

8. *Id.*

9. *Id.* at 146.

10. *Id.* at 82.

of quasi-legislative powers throughout the administrative state, as Cordelli notes, seems at odds with the robust procedural demands for democratic legitimacy that she develops.

Cordelli's framework poses critical questions, not only for privatized governments, but for bureaucratic welfare states. Cordelli recognizes this problem, which she describes "bureaucratic unilateralism." How is the rule of bureaucrats any more legitimate than those of private contractors? Cordelli argues that, while private agents can never legitimately exercise quasi-legislative functions, bureaucrats may be rescued from a similar fate. The author proposes a complex set of solutions to the problem of bureaucratic unilateralism. These recommendations, however, seem rather distant from the current workings of democratic governments. For example, Cordelli suggests that civic juries, endowed with the veto power, should be regularly convened to "codetermine" administrative policies. This kind of recommendation, while ostensibly conforming more closely to a Kantian notion of democracy, may simply be bad policy. It is inconceivable that bureaucracies, which administer everything from health regulations to pension schemes, could ever accommodate such participatory demands. We also may ask whether we wish for the highly technical aspects of government regulation to be scrutinized by so closely by the public. In many situations, there may be good reasons to delegate to experts. The reader wonders whether there are ways to balance Cordelli's legitimacy considerations with other critical aspects of governance, such as ensuring that services are effectively administered, cost-effective, and best tailored to address social policy concerns.

The implications of Cordelli's noteworthy theory of democratic legitimacy do not stop there. Cordelli also has much to say about the role of philanthropic and charitable providers, which are integral actors in policymaking and the provision of government services, both domestically and internationally. Philanthropic organizations, like private corporations, are illegitimate because they impose their private will on the people. Engaging with, and then dismissing as deficient, prevailing critiques of philanthropy, Cordelli argues that philanthropy should instead be conceived as a form of reparative justice.¹¹ Cordelli rightly points out that if the moral imperative of charity is derived

11. *Id.* at 238.

from the idea that the wealthy few have gained something at the expense of the many poor, the wealthy should not be able to determine how their donations are used.¹² Cordelli's most workable policy reform involves restricting the capacity of philanthropic providers to use their personal discretion to direct their charitable donations to causes of their choosing.

While Cordelli's argument is cogent and creative, her perspective, oriented around wealthy democracies, may leave readers with an interest in the developing world unsatisfied. Cordelli's empirical examples are largely confined to the United States and, to a far less extent, the United Kingdom. Although her discussion of philanthropy, described above, makes implicit connections to the developing world, she fails to attend to the particularities of privatization in states where sovereignty is weaker, rates of corruption are higher, and the basic needs of citizens are less likely to be met. This should not necessarily be viewed as a shortcoming of her work, but an invitation to others to assess the morality of privatization in developing democracies.

Even if many of Cordelli's prescriptions seem beyond the capacities of democracies today, her text provides an important reminder, and new grounds upon which, to question the modes of governance that order our lives.

War and Justice in the 21st Century: A Case Study on the International Criminal Court and its Interaction with the War on Terror. By Luis Moreno-Ocampo. United Kingdom: Oxford University Press, 2022. Pp. 648. \$39.95 (hardcover).

REVIEWED BY AMY CHENG

On June 12, 2003, when Luis Moreno-Ocampo was sworn in as the first Chief Prosecutor of the International Criminal Court (ICC), he commanded a modest army of three staff members and six interns. Less than a month later, his office launched its first ever investigation into allegations of war crimes and crimes against humanity in the Democratic Republic of Congo, with national and international support behind its efforts.

In the next decade, Moreno-Ocampo took on nearly two dozen more cases across large swaths of the world and oversaw

12. *Id.* at 239.

an impressive expansion of the ICC prosecutorial apparatus. By the time he left the office, he had secured convictions on heinous charges such as the conscription of child soldiers, created a roadmap for his successors on how to thread the diplomatic needle between state parties and civil society, and most importantly, brought to life the high ideals of international criminal justice that had inspired the Rome Statute, the treaty that established the ICC.

The book, *War and Justice in the 21st Century: A Case Study on the International Criminal Court and its Interaction with the War on Terror*, provides a near-encyclopedic look into the brief yet weighty history of the ICC. At times written from a first-person perspective, the work gives crucial details into human interactions that one cannot glean from news headlines, international law journal articles, or trial documents. But no reader should mistake Moreno-Ocampo's book as a chest-thumping, self-congratulatory memoir. In the same breath as he retells the successes, big and small, that he secured as Chief Prosecutor, Moreno-Ocampo does not hesitate to rail against what he perceives as one of the gravest threats against the effective international criminal justice system envisioned by the Rome Statute. Great powers like the United States lean on their outsized influence to avoid criminal scrutiny and undermine the legitimacy and authority of international legal norms. For example, the former chief prosecutor took to task successive occupants of the White House for creating a military strategy that justified targeted killings on foreign soil as self-defense on the grounds that the United States considered itself to be at war with non-state actors.¹³

In Moreno-Ocampo's recounting of the relationship between the ICC and the United States, the tension started at the very beginning of the institution's life, despite the fact that Washington had participated in the negotiations that gave rise to the Rome Statute in the late 1990s. Less than two months before the statute officially came into force, the United States notified the U.N. Secretary-General that it would not go forward with the treaty ratification process and thus owed no obligations under the Statute. Congress

13. LUIS MORENO-OCAMPO, *War and Justice in the 21st Century: A Case Study on the International Criminal Court and its Interaction with the War on Terror*, 387 (Oxford Univ. Press 2022).

also passed the American Service-Members' Protection Act (ASPA), which prohibited U.S. cooperation with the ICC and sought to shield U.S. military personnel from being subject to the Court's jurisdiction. Moreno-Ocampo cites the post-9/11 national security landscape and its subsequently controversial definition of pre-emptive self-defense as a driving force behind U.S. opposition to the ICC. Anyone or any institution that stood in America's way was viewed as a foe, and the multilateralism championed by the ICC unfortunately became a casualty of this ideology.

Despite the fact that superpowers like the United States and Russia look out for their own interests, either directly or via proxy forces, the U.N. Security Council managed to discharge its duty of maintaining international peace and security and exercised its authority by referring cases to Moreno-Ocampo's office for investigation. The civil war and genocide in Darfur are an example. In a rare alignment of governmental, diplomatic, and civil society advocacy efforts, calls to end the civil war elicited collective action from the Security Council. Both congressional chambers passed a resolution condemning the situation in Darfur as genocide. Prominent journalists like Samantha Power and Nicholas Kristof published forceful pleas for humanitarian intervention and the U.S. State Department officially acknowledged that the Sudanese government and militias had committed genocide. (Article 1 of the Genocide Convention stipulates that all state parties shall undertake to prevent and punish genocide. But as Moreno-Ocampo wryly noted here, then-Secretary of Defense Colin Powell disclaimed any legal action that would follow a determination of genocide.)

After the Security Council voted to refer the Darfur genocide to the ICC, Moreno-Ocampo and his team jumped into action. Every requisite element for triggering ICC jurisdiction seemed satisfied: the alleged violations took place after the Statute entered into force, the claim of genocide is one of the core matters the Court is allowed to hear, and the Security Council referral trumped the fact that Sudan was not a party to the Rome Statute. One final piece of the puzzle took longer to put together: the prosecutors had to confirm, in the spirit of positive complementarity, that there were no Sudanese judicial proceedings on the same crimes that formed the genocide claim. Positive complementarity, a term of art Moreno-Ocampo used

in his inauguration speech in 2003, means that ICC prosecutors will encourage and assist national governments to take the first stab at prosecuting Rome Statute crimes. This is a clever way to establish goodwill with state parties because it prevents the Hague court from appearing as though it is reaching into the domestic domain. Only when states are unwilling or unable to carry their own does the ICC prosecutor step in. In Moreno-Ocampo's own words, the lack of an ICC trial does not necessarily mean a deficiency in international criminal justice. Instead, "the absence of trials by the ICC, as a consequence of the effective functioning of national systems, would be a major success."¹⁴

If the Rome Statute reached its potential in the Darfur case—bringing the international community together under the aegis of the ICC to adjudicate the gravest crimes against humanity—it met its foe in Iraq and Syria, where superpowers became hell-bent on using instruments of war rather than instruments of international law to settle disputes. The United States joined the rest of the U.N. Security Council and voted to free Kuwait by any means necessary from the 1990 Iraqi invasion ordered by Saddam Hussein. This was a watershed moment where Article 51 of the U.N. Charter was legitimately invoked, thus fulfilling the founding vision of an international legal system in which an armed attack is legally permissible only as a measure of self-defense. A little more than a decade later, however, the George W. Bush administration summarily bypassed the Security Council and instead unilaterally declared war on Hussein for alleged build-up of weapons of mass destruction. Rather than acting under the color of international law, the United States subverted the law of war as established after World War II and took matters into its own hands.

For Moreno-Ocampo, the Security Council has the unenviable duty of maintaining peace and security. Collectively, it could decide to delegate its power to international judges and courts, or it could authorize states to use force. Clear-eyed about *realpolitik*, he recognizes that the Council will only empower the ICC when there is political agreement among the Permanent Five. No example illustrates this dynamic better than the Syrian Civil War, which broke out in the last year of the Chief Prosecutor's tenure in 2012.

14. *Id.* at 87.

By the time the Arab Spring came to Syria in early 2011, it had roiled Tunisia, Egypt, Libya, and Yemen, toppling some of the autocratic regimes in these countries. In Libya's case, the Security Council swiftly and unanimously referred claims against its leader Muammar Gaddafi to the ICC. He was alleged to have committed war crimes and crimes against humanity in suppressing mass democratic protests. From what Moreno-Ocampo called the "peak of the global consensus to include international justice to protect citizens,"¹⁵ the Council's fragile synergy quickly gave way to self-interest in Syria.

The Al-Assad regime in Syria responded to large-scale civilian protests with increasing bloodshed and crackdowns, which provoked international outrage and culminated in the use of chemical weapons. President Barack Obama famously said Assad's decision to turn deadly poison onto his own people "crossed the red line." But there wasn't any role for the ICC to play. In fact, Samantha Power, who was then the U.S. Ambassador to the U.N., said the Hague court was irrelevant because it was powerless in disarming Assad and that the only way to respond to such atrocities was through military strikes. It is hard for Moreno-Ocampo to hide his exasperation at precisely this type of attitude toward the ICC. For him, the criticism that the Rome Statute has no value because judges and prosecutors cannot immediately order innocent civilians be taken out of harm's way from their despotic leader misses the objective of the Court. Instead of empowering a multi-lateral institution tasked with fact-finding and law-abiding, successive U.S. presidential administrations have adopted a new blueprint for punishing bad actors. Combining high-tech warfare (like drone strikes) with proxy forces on the ground has cemented "a new permanent state of war"¹⁶ in sovereign countries not officially at war with the United States. Ultimately, no Security Council referral for Syria came. The draft resolution died amid disagreement between the United States and Russia. Both made the Syrian civil war a global conflict by proxy, and both fretted having their own military personnel brought to trial at the Hague.

Upon reflecting on his tenure as Chief Prosecutor, Moreno-Ocampo took a more sanguine outlook. The existence—and

15. *Id.* at 92.

16. *Id.* at 512.

persistence—of the Rome Statute project will always present itself as an alternative to the realist's view of international relations. As long as the institution remains, it can always serve as a model to inspire future legal innovations.