

## BOOK ANNOTATIONS

*Beyond High Courts: The Justice Complex in Latin America.* Edited by Matthew C. Ingram and Diana Kapiszewski. Notre Dame, Indiana: University of Notre Dame Press, 2019. Pp.vi, 354. \$55.00 (hardcover).

REVIEWED BY SIERRA ACOSTA

*Beyond High Courts: The Justice Complex in Latin America* seeks to move the collective conversation regarding justice in Latin America beyond the study of higher courts by looking at other important justice sector institutions, providing in depth descriptions of the public prosecutor's office, electoral courts, and public defenders. In looking at these institutions, the authors seek to examine how the courts and the elected branches of government in different Latin American countries interact, and to understand why it has been so difficult for countries in this particular region to entrench the rule of law.

The book consists of ten chapters, each comprising an essay by different contributing authors, and an introductory chapter by editors Matthew C. Ingram and Diana Kapiszewski. The volume focuses on Latin America in order to maintain somewhat constant factors in the study, such as colonial legacy, type of legal system, and other cultural factors. The authors focus on Argentina, Brazil, and Mexico because they are Latin America's largest democracies and markets.

In the introduction, Ingram and Kapiszewski emphasize that their interest in inferior judicial bodies stems from the fact that individuals are far more likely to interact with the institutions examined in this book than their countries' highest courts. The overarching theme of this volume is that justice institutions interact with elected branches of government in a myriad of ways and that comparative study of these institutions needs to go farther. Although the volume is thorough in its study of the de jure elements of the institutions examined, it lacks consideration of how the relevant institutions function on a practical level. Given the authors' concern about "everyday justice," one would expect some discussion of the de facto workings of the judicial institutions discussed.

The first two essays focus on the public prosecutor's office (PPO) in Brazil, Chile, and Mexico, looking at reforms to the PPOs and paying particular attention to the PPO in Brazil. The authors focus on specific time periods for each country, examining reforms that came about during transitions from authoritarian regimes to democracy: Brazil from 1987–88, Chile from 1994–2000; and Mexico from 2006–2008. The author of the first essay, Azul A. Aguilar-Aguilar, identifies two major reforms—criminal procedure and judicial independence—and analyzes these reforms in the three countries. He explains his focus on criminal procedure, noting that in an accusatorial model, the separation of the prosecutorial role from that of the judge fosters impartial judgment. He looks at various features of the accusatorial system, finding that Brazil, Chile and Mexico all adopted elements of the accusatorial model to varying degrees when they transitioned to democracy (Brazil and Chile) or after constitutional reform (Mexico). In evaluating the political independence of the PPO, the author considers factors such as the appointment and removal process, tenure, and salary. He finds that Brazil's 1988 constitution and Chile's 1980 constitution included changes that made the PPO more autonomous, though no similar reforms were introduced in Mexico. Aguilar-Aguilar attributes these reform outcomes to the role played by justice sector interest groups, such as partnerships across nongovernmental and governmental organizations, and includes practical information about how the reforms were made by sharing some of the history of mobilization of interest groups. The second essay, by Ernani Carvalho and Natália Leitão, thoroughly discusses the PPO in Brazil. The analysis in this section sifts through various indicators of external and internal independence before coming to a reasoned conclusion that the internal independence of the PPO is higher in Brazil than external independence. The authors argue that this is owed in part to the weak rules governing the selection and removal of the attorney general. This analysis further illustrates the connections between the PPO and other political entities.

The next essay, authored by Catalina Smulovitz, looks at public defense across Argentina's federal provincial system. The author finds that the provision of public defense varies across the country. She runs an ordinary least squares (OLS) regression that includes variables such as population, geo-

graphical area, poverty, litigiousness, lawyers per capita, political competition, and the institutional regime. The most interesting findings are that the size of the poor population and the degree of litigiousness did not have a statistically significant effect on the supply, leading Smulovitz to conclude that the supply of public defense is not tied to citizen needs but rather to administrative or bureaucratic considerations. Also interesting is the finding that in provinces with a higher number of lawyers per capita, the supply of public defenders is lower. Smulovitz suggests this might be because lawyers perceive public defenders as a threat, or because there is simply less need for public defense lawyers when there is a high number of other lawyers available in the region.

The focus then shifts to the role of electoral courts (ECs) in Latin America, zeroing in on a case study of Brazil's ECs. The authors, Diana Kapiszewski, John Seth Alexander, and Robert Nyenhuis, examine the *de jure* rules of the ECs by looking at the national laws and constitutional clauses regulating their composition, operation, and interactions. The chapter focuses on four formally federal systems: Argentina, Brazil, Mexico and Venezuela, and compares these countries' ECs based on four institutional attributes: stability, powers, authority and independence. The authors argue that the era in which the EC was originally established in each country and its subsequent stability are influenced by the polity's political history and stability, as well as the nature of the regime transition. In the following chapter, by Sidia Maria Porto Lima, the focus moves to Brazil's Special Electoral Tribunal (TSE), a specialized court initially created in 1932 to help ensure free and periodic elections by enforcing critical electoral rules. The author looks at three resolutions passed by the TSE and argues that TSE justices rule purposively when deciding critical election-related disputes. The authors in this section focus solely on the formal rules governing the operation of the ECs in the region, making no effort to expand the inquiry beyond *de jure* aspects. Although they recognize that informal aspects, such as corruption or public opinion, may weaken the formal rules in institutionally insecure nations, the authors justify focusing on the formal by arguing that analyzing formal institutions can reveal expectations about the political future and that understanding formal rules reveals how far actual operations are from the ideal. Though this is true to an extent, analysis of the

de facto elements of the ECs system would have been interesting. There is plenty of analysis about how the ECs *should* be behaving, but no evidence regarding how they function in actuality. Given the unease around elections in this region, further research into the effect of the ECs in practice would have been an interesting addition to this section.

The next chapter focuses on the writ of suspension in Brazil. The writ of suspension is a legal instrument through which the executive branch asks the judiciary to suspend a lower court ruling while the original decision is on appeal if the lower court ruling creates political risks. The writ prevents enforcement of the lower court decision during the appeals process. The authors, José Mário Wanderley Gomes Neto, Ernani Carvalho, Danilo Pacheco Fernandes, and Louise Dantas de Andrade, created an original data set based on all the writ of suspension cases filed with the Brazil Supreme Federal Tribunal (STF) from 1995-2012 and ran a log regression analysis. They conclude that the party affiliation or ideological orientation of the chief justice matters a great deal in determining whether a writ of suspension will be issued. Although the authors note that this analysis explains interactions among judicial institutions, this chapter feels out of place when compared to the other sections. While the other sections of the volume look beyond higher courts to the other elements of the judicial system, this section reverts back to a focus on the highest courts and thus does not seem to fit well into the overall theme of the volume.

Next, Matthew C. Ingram turns to an analysis of judicial councils in Mexico. Judicial councils manage the administrative tasks of the courts and enhance court performance by increasing access, efficiency, competence, and accountability. Ingram builds an OLS model that considers factors such as margin of victory, GDP, population density, and party dummy variables for the left and right political parties, PRD and PAN, respectively. Based on the models, he concludes that councils that have a judicial majority and horizontal selection mechanisms maximize both external and internal independence, and consequently that this composition and selection method should be promoted. Similar to the shortcomings of the chapters concerning ECs, Ingram also focuses on the formal aspects of the judicial councils and leaves the informal effectiveness of their designs for future research. While it is under-

standable that one volume cannot tackle everything, some examples of the practical significance of judicial councils would have been a welcome addition to this section.

The penultimate essay, by Mary L. Volcansek and Matthew C. Ingram, focus on transnational protection of human rights in Latin America and identify areas for future research. In looking at transnational protection of human rights, Volcansek and Ingram focus on the Inter-American Court of Human Rights (IACHR), and how that court has affected the nations within its jurisdiction. The authors use a data set that covers nineteen countries over the time span of 1995–2011, and they use both an OLS regression and a generalized estimating equations (GEE) model. The authors find that the positive effect of an IACHR decision becomes statistically significant when change in human rights is measured five years after the decision. This is an interesting finding, as it shows that the court does have a positive effect, albeit a delayed one. The authors also shared two unexpected findings from the models: a positive effect of inequality and a negative effect of the age of democracy on human rights protections. Normally, one would expect that economic development and an older democracy would increase human rights protection. Unfortunately, the author does not provide much explanation for these unusual results, which makes the rest of the results seem less legitimate. Further explanation of these results would have made the regression more credible.

The last chapter, authored by Martin Shapire, discusses thoughts for future research in comparative law and court studies. The author identifies a disadvantage of focusing on Latin America, namely that since most countries in the region are civil law systems, there are not opportunities for common law-civil law comparisons. The author also notes some players in the judicial system that the volume omits, such as police, lower courts, lawyers, arbitrators, and administrative agencies. One gets the sense that there is much further research that can and should be done in this subject area.

Overall, *Beyond High Courts: The Justice Complex in Latin America*, does a thorough job of analyzing various aspects of the judicial complex across the region. It fulfills its goal of explaining how the courts and other branches of government interact and moves the conversation beyond the study of higher courts. The case studies of Brazil, Argentina and Mex-

ico were helpful examples of how institutions such as the Public Prosecutor's Office, Public Defender Office, and Electoral Courts work at the national level. This volume would have only benefited from further discussion of the de facto workings of the judicial institutions analyzed herein, a topic for further research that the authors recognize as such.

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

REVIEWED BY ANNI BANGIEV

Steffen Rimmer's *Opium's Long Shadow: From Asian Revolt to Global Drug Control* recounts nearly a century's worth of political, legal, and moral battles waged over opium trafficking that culminated in the global drug control mechanism of the League of Nations in 1920. *Opium's Long Shadow* shows how public opinion can cross borders and oceans to change the tides of national policy and create a new international regime. Rimmer's historical account takes the reader on a journey across continents and centuries, with such a strong focus on the individuals and groups who are the sociopolitical players of the narrative that it is often difficult to pin down the principal argument of any given part. Nonetheless, it is clear throughout the work that the overall theme places the transnational above the national in the fight to ban state-sponsored opium trafficking—a concept worth revisiting and learning from in a world turning its back on globalism in favor of isolationism.

Rimmer's book consists of eight somewhat disjointed chapters organized semi-chronologically and semi-geographically. The first chapter begins with a brief history of opium and its trade, starting from the sixth century through the infamous Opium Wars. It describes the efforts and failures of Qing and Southeast Asian nations to ban opium imports, as well as the history of European and Asian opium smugglers. Rimmer's account of the Opium Wars shows a constant tug-of-war between the Qing and British Empire over opium imports. Rimmer rightfully points out that international politics and law served as a barrier to the realization of Britain's legalization desires: Chinese-British treaties prevented Britain from publicly im-

porting the drug, despite the obvious power disparities between the two empires. This dynamic changed with the Treaty of Tianjin in 1858, which ended the Second Opium War and effectively legalized opium imports.

The second chapter picks up a decade later, when the dispute over opium entered the public debate with the demarche of Prince Gong, Qing chief secretary, in 1869. Prince Gong argued that opium imports to China would result in major social and political fallout for Britain, wreaking economic and political havoc in the country. This sentiment spread and was enflamed in the West through newspapers and magazines, books, and scientific journals. Nongovernmental and missionary groups formed to lobby governments and mobilize the public against British opium imports, eventually allying with groups in other nations, like the Society for the Suppression of the Opium Trade in Britain and the K'ueen Keae Shay in southern China. Rimmer argues that the rise in public dissension is evidence of the porousness of international law: despite the legalization of the opium trade, the matter was not as settled as Britain hoped it would be. However, this argument unfairly treats international law in a positivist sense, reducing it to a handful of hard law treaties. In reality, this sort of public dissension is a critical component of the international law regime. Individuals and nongovernmental groups alike work to influence and develop international law along with or against nation-states. International law is not static; it is fluid and versatile.

Chapter three explores anti-opium sentiments in India, the United Nations, and Asia. The chapter principally showcases the work of female activists in the anti-opium movement across all three regions and beyond, as word of their work spread across the world. In India, women like Soonderbai Powar denounced opium as the destroyer of Indian women and families, arguing that men fell victim to the vice and could no longer take care of their families. At the same time, the American women's temperance movement picked up the opium cause and joined Indian lobbying efforts, traveling around the world to "reach and unite 'women of every race.'" Due to the mobilization of public opinion against opium, Britain responded with the Royal Commission on Opium in 1895, as discussed in chapter four. But the Royal Commission was more ritual than substance: committee members were either

staunch supporters of the opium trade or disconnected from the debate altogether. Data and reports showcasing the dangers of opium were all but ignored in favor of evidence to the contrary, and the questions to be investigated and answered were carefully selected to avoid the most pressing matters of the time. These chapters highlight the transnational debates and movements surrounding opium, in opposition to the traditional national approaches, as well as the immensity of public disagreement with British opium policy.

The latter half of Rimmer's work begins with chapter five, dedicated to opium prohibition in Japan. Japan, having witnessed the chaos of the opium problem in China and elsewhere, signed an Amity and Commerce treaty with the United Nations that prohibited opium importation, thereby establishing a legal precedent for prohibiting imports from other nations. When the Philippine Opium Commission (POC) visited Japan, the majority American commission praised the Japanese for their success in preventing the widespread use of opium not only in the mainland, but also in Taiwan, then a Japanese colony. The POC validated the decades-long transnational debates and aided in the push for multilateral action on the matter.

Chapter six then goes on to discuss what Rimmer sees as the beginning of the connection between a nation's reputation and opium control. He explains how a 1907 Chinese-British agreement to phase out opium imports from British India in a ten-year span elevated China in the eyes of the international community, as it showed not only the Chinese government's commitment but also its ability to reduce opium imports. The International Opium Commission (IOC), expanded to drug control more generally, called on nations to enact similar legislation and commended Chinese efforts and Japanese successes as something to be emulated. Rimmer points out that the IOC could only make recommendations without legally binding effect, but fails to speak to the importance of non-binding resolutions in the international legal scheme. He merely notes that "the international legal level was not dropped by the IOC, merely postponed." Similar to today's international legal regime, duties considered legally binding on a nation began first as recommendations by a U.N. committee or as non-binding resolutions. These acts frequently solidify into concrete legal obligations over time, ei-



ther through reinforcement that creates custom or the eventual formation of a treaty.

The final two chapters detail how the anti-opium movement culminated in an international drug control regime. Chapter seven expands the opium discussion to include morphine, an opium derivate that is far more addictive. Journalists uncovered morphine-trafficking into Asia from Britain and Japan. Japan, previously applauded for its success in opium control, was now accused of morphine-trafficking into China and Southeast Asia. Drug-trafficking increased during World War I, as many soldiers became addicted to morphine and cocaine and army demands for morphine skyrocketed.

Chapter eight discusses the moments leading up to the inclusion of opium clauses in the Paris Peace Treaties, including the role of the International Anti-Opium Association, a nongovernmental group that provided nations with more accurate data on opium imports across the world. Support for control of the drug trade went hand in hand with negotiating power during treaty negotiations at the end of the war. Dedication to an international drug control regime was solidified with the inclusion of an opium clause in the Covenant of the League of Nations and the establishment of the Advisory Committee in the Traffic of Opium and Other Dangerous Drugs.

Rimmer's work is first and foremost a historical exercise focused primarily on tracing the roots of international drug control. It is filled with names of people and organizations, treaties, and dates galore, sometimes relegating the narrative to the backseat while the reader tries to process all the details. In addition, breaks in the narrative to explain the identity of a new player or the origins of a group get lengthy and make it easy to forget the purpose for introducing a new actor. Finally, the detail-oriented accounts eclipse the analyses, which are few and far in between. While the information Rimmer presents is fascinating and important, there should be more of the author's own analysis interspersed to orient the reader. The book wants concrete explanations of the importance of the information provided and how it fits into the narrative.

Despite the overriding historical emphasis, the book has much to offer as a study of international law. The main focus—the mobilization of individuals and NGOs in cross-border movements—is a vital part of international law. Though

many professionals in the field rebuke such a conclusion in favor of legal positivism, the story of the opium trade shows the importance of soft law in changing national policies and pushing for new legislation, treaties, and international mechanisms. Decades of NGOs, missionaries, and political groups mobilizing public opinion across the world allowed for new developments in international hard law, like the agreement between China and Britain that gradually phased out opium imports from the largest opium trade route in the world. Without public opinion turning against Britain's opium policy, it is unlikely that such an agreement would have been forged given the power dynamic favoring Britain.

Although not an actual premise of the book, this history of drug control highlights the relative ease of reaching an international accord one century ago as opposed to today. Because so many modern nations were under colonial rule at the time, few nations had to participate in and agree on the formation of a drug control mechanism. Reaching a global consensus now, with or without public discourse, is infinitely more difficult. This is, perhaps, one reason why there are fewer multilateral breakthroughs in the international drug control regime today.

Overall, Rimmer presents a captivating, in-depth account of the height and fall of state-sponsored drug trafficking, a phenomenon hard to fathom in today's world of the War on Drugs. His work traverses continents and oceans to bring attention to a global movement about which the average person is unlikely to have even heard. Those reading from an international law perspective may come away with a positive outlook on the ability of non-state activists to push for change, even though it may take decades to achieve. Although the book gets bogged down in details, making it difficult to keep track of all the names, dates, and arguments, it is certainly worth reading for those interested in the intersection of drugs and the law.

*The Iranian Revolution at Forty*. Edited by Suzanne Maloney. Washington DC: Brookings Institution Press, 2020. Pp. xix, 231. \$36.99 (paperback).

REVIEWED BY WALTER BONNÉ

In 1979, social and political turmoil in Iran reached a boiling point when the Western-friendly Shah was overthrown and replaced by the Islamic Republic in what is today known as the Iranian Revolution. The Brookings Institution (Brookings), led by editor Suzanne Maloney, makes sense of this event and its geopolitical implications in *The Iranian Revolution at Forty*. The volume features a series of passages written by a variety of experts, providing unique and varied perspectives on what Maloney deems one of the most “powerfully transformative” events of the modern era. True to Brookings’ non-partisan mission,<sup>1</sup> *The Iranian Revolution at Forty* provides a holistic and strictly observational view of the revolution and its geopolitical implications, allowing readers—especially younger ones who may not remember a pre-Islamic Republic Iran—to draw their own conclusions about the current world and the events that led to this moment.

The book is split into three parts, each containing a series of narratives focusing on different areas that were fundamentally altered by the revolution. The first part addresses the revolution’s impact on Iran and the Iranian people, the second analyzes the revolution’s profound impact on Washington and its strategic posture, and the final part assesses the revolution’s lasting shadow over the Middle East and neighboring regional powers.

The first part of the book begins with a compelling storyline of the revolution through the eyes of the elderly and doom-fated Shah Mohammad Reza Pahlavi. The Shah, viewed by the United States as a beacon of pro-Western enlightenment, failed repeatedly to suppress the population’s growing distaste for a more modern, urban, elite, and secular Iran.

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1. *Brookings Policies on Independence and Integrity*, BROOKINGS INSTITUTION, <https://www.brookings.edu/about-us/brookings-policies-on-independence-and-integrity/> [https://perma.cc/X4DH-64CQ] (last visited Jan. 12, 2021) (“We strive to set an example of nonpartisanship and civil discourse, using Brookings’s convening power to provide a platform for discussing the most pressing issues of the day.”).

Americans today, who may have trouble remembering a pre-revolution Iran, will be surprised to read that in 1936, the first Pahlavi Shah issued a decree banning veiling, in efforts to bring Iran closer to the West. The 1979 revolutionaries—though originally composed of a large coalition of Marxist, leftist, populist, rural, and Islamist activists—quickly compounded into a regime dominated by fundamentally Shia Muslims shortly after the Shah's ouster. While the book does an excellent job describing the procedural shift from an economically driven revolution to a theologically driven one, the account would benefit from a deeper assessment of the Iranian population's ideological and secular makeup prior to the revolution.

This section then quickly dives into an empirical analysis of Iran's economy before and after the revolution. The numbers speak for themselves: while the poor Iranian rural farmer saw an acute improvement in quality of living, the remainder of the leftist and economically driven revolutionaries were quickly suppressed by the religious and ideological sect of the revolution. Women, minorities, and the secular were perhaps most upended by the revolution, as Supreme Leader Ayatollah Khomeini and the new theologically driven government dominated the Iranian people through Sharia law, supported by violent suppression and surveillance. Though not addressed in the book, younger readers—who may not remember pre-revolution Iran's embrace of modernization and secularism—can draw comparisons to the current U.S. climate, where populist movements vehemently reject globalization and modernization in favor of conservative religious values and isolationism. Similar to the populist movements in the United States that reject modern forms of clean energy in efforts to boost declining, antiquated industries, the original Iranian revolution initially identified itself as pro-poor, pro-working class, and pro-agricultural; but quickly transformed into a religious movement. While firmly establishing this comparison is beyond the scope of this book, Brookings does an excellent job highlighting the broken promises of the Iranian Revolution and the consequences of allowing radical political ideas to overpower moderate voices.

The second part of the book analyzes the revolution's lasting impact on the United States, both domestically and globally. The section begins with an overview of the relationship

between the two countries. Prior to the revolution, Iran was the United States' most strategic ally in the Middle East, even referred to by President Carter as "an island of stability in one of the most troubled areas of the world." The Carter Administration notably blundered the revolution by underestimating the growing indications of upheaval brewing within its biggest ally. The Iranian-U.S. love affair was brought to an abrupt end when Iranian students stormed the U.S. embassy and took fifty-two U.S. diplomats hostage for 444 days. This seismic event ignited the start of the new Iranian-U.S. relationship, which can be summed up with the ritualized "Death to America" chants. After the Supreme Leader Ayatollah Khomeini publicly endorsed the hostage situation, Washington was forced to reckon with the fact that it was now facing a regime whose legitimacy was based on anti-American sentiment. Subsequent U.S. presidents faced a recurring cycle of hope that the Iranian-U.S. friendship could be rebuilt with appeasement and diplomacy, followed by the disappointing realization that the Islamic Republic is based on a fundamentally anti-American ideology.

The Obama Administration's completion of the Nuclear Deal and the Trump Administration's subsequent withdrawal exemplify the recurring cycle between U.S. and Iranian relations that has characterized the last forty years. This roller coaster of a relationship has had profound impacts on U.S. domestic policy. For many Americans, President Obama's Nuclear Deal represented an unacceptable political capitulation, while others saw President Trump's withdrawal from the agreement as a short-sighted and dangerous foreign policy ploy. The book does an excellent job highlighting Iran's often bipolar and irrational foreign policy stance, leaving subsequent U.S. administrations in the precarious position of reckoning with multiple failed attempts to engage with the Iranian regime both militarily and diplomatically. The book reminds younger readers who may criticize the current U.S. administration's hawkish approach to Iran of brutal terrorist attacks on U.S. citizens and troops orchestrated by Iran during the 1980s. Yet for readers who prefer an aggressive approach, Brookings points out sporadic periods in Iranian politics under leaders such as President Ali Akbar Hashemi Rafsanjani that indicated a desire for pragmatism and internationalism. Brookings doesn't offer a clear recommendation for how future U.S. ad-

ministrations should handle the Iranian regime. But perhaps, as previous U.S. administrations have begrudgingly realized, there might not be an answer. The book leaves readers with the unfortunate realization that both combative and peace-minded administrations have faced the same, repeated failure.

The third and largest portion of the book explores the Revolution's ripple effect across the Middle East. Each passage chooses a different focal point, such as the Revolution's impact on Iraq, Lebanon, Israel, Pakistan, Russia, and Shia-Sunni relations. The final installment begins with the basic presumption that the Islamic Republic, a Shia regime, intended to export its revolution across the Middle East in order to liberate other Shia populations, who exist as minorities in most Arab states. This created an extraordinary interruption to the regional balance of power, resulting in the devastating Iraqi war against Saddam Hussein's Sunni regime, proxy wars against Saudi Arabia in various places throughout the Middle East, such as Syria and Yemen, and the funding of global Shia terrorist organizations, like Hezbollah. Shia minorities across the Middle East, long suppressed by Sunni majorities, were suddenly emboldened by the Islamic Republic's call for a Shia-dominated Middle East. The book offers a stark warning to Sunni world powers who created a perfect climate for the Islamic Republic's geopolitical aspirations. Brookings' Jeffrey Feltman warns Sunni governments to avoid "creating the very conditions by which a portion of their own citizenry, whose political and professional aspirations seem constantly thwarted, will at some point give up on their own national leaders in frustration and see no alternative to the offers of help that Iran will be willing to extend." The Brookings contributors leave it to the reader to decide whether Iran is the true agent of chaos in the Middle East, or if the Islamic Republic is simply exploiting existing turmoil created by other world powers to further its own agenda. Brookings successfully highlights the lessons that global leaders must learn from previous mistakes, but the book could benefit from a clear policy recommendation that empowers leaders across the Middle East to make lasting change.

Brookings' experts also analyze Iran's relationship with more established world powers like Israel, Russia, Turkey, and Pakistan. Similar to the United States, Israel and Iran had a value-add relationship prior to the Revolution. And just as the

Islamic Republic's regime exploited its rivalry with the United States for political gain, it also established legitimacy through a deep-seeded hatred of Israel. Iran utilizes its proxies, such as Hezbollah and Hamas, to attack Israeli citizens and non-Israeli Jews, as occurred in the Hezbollah-led terrorist attacks in Buenos Aires. While the book offers a bleak picture of the Israeli-Iranian relationship, it offers hope for improving the dynamic by referring to the relationship prior to the revolution. However, the book doesn't indicate whether Iranian, U.S., Israeli, or Sunni leaders actually want to return to an era of peace, or whether the political capital gained through hawkish policies offer more to each regime.

*The Iranian Revolution at Forty* offers a holistic picture of the unpredictable Iranian regime. Sometimes, the regime appears strategic and calculated in its quest for regional domination. In other instances, the leadership appears irrational and blinded by its ideological principles. While the book may fall short for readers expecting a clear policy recommendation, it provides a complete analysis of the repeated systemic failures committed by both Western and Middle Eastern leaders. Tragically, Brookings makes clear that it is not the leaders who bear the brunt of these policy blunders. Instead, it is the countless victims of terror worldwide, and the Iranian citizenry, who suffer repeated human rights violations from an Iranian regime far different than the government that the Iranian people of 1979 fought for. Yet all hope is not lost: Readers may find solace and renewed optimism from the small, yet invaluable acts of protest by women and other persecuted sects of the Iranian population, who are fighting for a voice and a new Iran.

*Trading Life: Organ Trafficking, Illicit Networks, and Exploitation.*  
By Seán Columb. Stanford, CA. Stanford University Press,  
2020. Pp. xx, 155. \$26.52 (paperback).

REVIEWED BY KAITIE HOLLAND

Seán Columb's *Trading Life: Organ Trafficking, Illicit Networks, and Exploitation* tells the story of the illicit organ trade in Egypt through sixty-three interviews with organ sellers, organ brokers, and other actors within the market. Columb argues that though the illicit organ trade has been framed in both the international and national context as a form of human traf-

ficking, it is better understood as an informal market born of necessity and circumstance. He further argues that the current legal approach to the illicit organ trade and the harsh criminal penalties surrounding it have not solved the problem at all. In fact, they have exacerbated the circumstances that lead individuals to sell an organ and contributed to the development of underground, violent criminal organizations in lieu of the informal social networks that formerly facilitated the organ trade. While the illicit organ trade is not perfect analogous to human trafficking or other regulated criminal markets like narcotics or sex work, Columb proposes that the illicit organ trade would be better treated as the latter and should be regulated rather than harshly criminalized in order to protect victims of the organ trade, who are often refugees and migrants.

*Trading Life* is composed of seven chapters explaining the growth of the organ trade in Egypt, exacerbating factors, and potential paths to regulation. The first chapter provides a general overview of the author's research, conducted through personal conversations and interviews during four visits to Cairo between 2014 and 2020. Chapters two through four discuss the development of the illicit organ trade in Egypt, pointing to political unrest, economic instability, and influx of migrants as factors that led to the development of an informal organ market coordinated by vast informal social networks. Chapters five and six detail Egypt's harsh criminalization of the organ trade, following international models of trafficking crime laws, which forced the trade underground and allowed for violent criminal organizations to take over. These chapters also explore how the international community's response to both organ trafficking and migration has focused more on criminalization and less on the provision of services for vulnerable groups susceptible to both organ trafficking and involuntary relocation. Finally, chapter seven provides some recommendations for regulation of the organ trade, highlighting the need for regulatory measures rather than harsh criminal penalties.

Throughout *Trading Life*, Columb describes the circumstances that led to the proliferation of the illicit organ trade in Egypt. Specifically, the book explains that the globalization of transplant technology and the economic and legal vulnerability of migrants from Sudan and the horn of Africa allowed for the development of an expansive informal organ market in Cairo. The illicit organ market began as an informal economic



activity for migrants without access to jobs or formal legal status and grew rapidly as transplant technology became more readily available. Networks of hospitals, clinics, and organ brokers quickly developed to meet and profit from the high demand for donated organs. The organ trade became more violent as a result of both political unrest and harsh criminal penalties Egypt adopted in response to international pressure to control the organ trade. European States further exacerbated the problem through their punitive response to the migrant crisis, compelling migrants to sell their organs to finance expensive and often violent journeys into Europe.

Columb's portrait of the illicit organ trade gives readers a good idea of how the trade developed from an informal market to a large-scale criminal operation controlled by violent groups. While he does an excellent job of framing the organ trade as an informal market, Columb's recommendations for regulation do not fully address the issues identified throughout the book. For example, Columb links the illicit organ trade to migration, specifically of those seeking refuge and asylum, and to the expansion of the transplant industry. Yet, his suggestions for controlling the organ trade do not address the roles that refugee and asylum law or medical professionals might play in mitigating the harms of the illicit organ trade. Further, while Columb makes a convincing argument that the illicit organ trade is best monitored through a regulatory system, he also acknowledges that the trade cannot be categorized as purely economic or purely criminal and has no perfect parallel to other criminal markets. How regulatory and criminal law could work together to address the organ trade, and what the exact goals of this framework would be, remain unclear.

As explained in chapters two through four of *Trading Life*, a number of factors contributed to the growth of the organ trade in Egypt. First, the country is a destination for migrants from the horn of Africa, specifically Sudan. Though many of these migrants are not actually seeking asylum or resettlement, they are nearly all told to register with the U.N. High Commissioner for Refugees, which cannot grant them legal residence. These migrants often operate with tenuous legal status or no legal status at all, meaning Cairo is home to thousands of "illegal" migrants without the ability to participate in a formal job market. Second, Columb explains that political unrest in

Egypt in the wake of the Arab Spring has caused prices to rise while job opportunities continue to fall, placing already vulnerable migrants in even more insecure situations. Finally, Columb explains that the development and proliferation of transplant technology, coupled with high demand and low supply of donor organs has led to “medical tourism,” where individuals travel abroad to purchase organs at a lower cost. Often the organs purchased in these transactions were donated by poor or disenfranchised people, who are more likely to sell an organ.

Columb’s account of the organ trade and the factors that have allowed it to develop is thorough and supports his argument that the trade is best characterized as an informal economic activity born of difficult circumstances. However, the regulatory schemes Columb suggests in chapter seven do not fully address the role of medical markets and refugee and asylum systems in controlling the illicit organ trade. Columb clearly argues for decriminalization of individuals who consent to selling their organs, who are not recognized as victims under current constructions of the illicit organ trade. However, his solutions do not hold States or international actors responsible for providing the basic services to migrants that may eliminate their need to turn to organ markets in the first place. Further, Columb references the role of the transplant industry in allowing the illicit market to flourish and argues that insistence that the market rely on donations rather than on paid donors has allowed a massive informal market to develop. But discussion on this topic is somewhat incomplete and does not fully address how the transplant industry might allow for regulated organ sales or how the numerous medical professionals who currently operate in the illicit market might be held accountable.

Perhaps the strongest argument in *Trading Life* is in chapters five and six, which explain how the organ trade has been criminalized in Egypt and the extremely harmful effects criminalization has had on organ sellers. Columb explains that international understandings of the organ trade depict organ “trafficking,” in which organized criminals coerce or forcibly take an individual’s organ and then sell it on the illicit market. This conception of the organ trade has led states to enact laws that do not address the reality that many organ sellers are not technically coerced or forced to give up an organ, but instead

choose to sell the organ due to their circumstances. Though poverty certainly has a coercive effect on organ sellers, the current legal framework does not recognize this dynamic. Instead of protecting vulnerable organ sellers, laws criminalize their activity and leave them without formal legal protection from organ brokers and criminal organizations. For instance, Egypt passed the Transplantation of Human Organs and Tissues Act in 2010 and introduced longer sentences for violations of the law in 2017. Columb argues that expanded enforcement and longer sentences increased the risk of participation in the trade for brokers and organized crime groups, leading them to act violently against organ sellers in order to ensure silence. Rather than minimizing the trade in organs, these laws have increased the risk of violence against organ sellers while simultaneously removing any path to legal remedy.

Following Columb's explanation of the negative effects of criminalization, the final chapter of *Trading Life* argues that regulation should replace criminalization in efforts to control the illegal organ trade. The regulations proposed in *Trading Life* focus on finding solutions that mitigate harms to sellers in light of the reality that the organ trade will likely be impossible to eliminate completely. Columb compares the benefits and consequences of legalization versus partial or full decriminalization. Ultimately, he argues for decriminalization of organ sellers, but not necessarily for other actors in the organ trade. Columb supports regulation of the trade, similar to systems that have been used to monitor sex work or the illegal drug trade. However, evidence from these regulatory systems indicate that they can still result in marginalization of vulnerable groups, particularly those without formal legal status. Further, the sale of organs is not perfectly analogous to the drug trade (because it involves the sale of human body parts) or the sex trade (which often includes repeat workers and customers rather than one-off sales). While *Trading Life* convincingly argues that complete and harsh criminalization cannot combat the illicit organ trade or protect sellers, it is not completely clear that regulation of the trade will minimize the harms to vulnerable organ sellers either.

*Trading Life* is an extremely valuable starting point for addressing the harsh realities of the illicit organ trade. Though Columb's solutions may not fully address the numerous issues described throughout his book, his research provides a picture

of the illegal trade in organs which domestic lawmakers would do well to consider when drafting legislation. Internationally, *Trading Life* can help frame the organ trade as an informal economic activity in need of regulation rather than as a criminal form of human trafficking in need of harsh punishment. Columb convincingly argues that characterizing the organ trade only as coerced human trafficking, and criminalizing it as such, fails to end the trade or protect the vulnerable. Although further research is certainly needed to understand the appropriate roles of refugee and asylum laws, the medical community, economic regulation, and criminal sanctions in ending the organ trade and protecting its victims, *Trading Life* is a useful first step in understanding the role of legislation and correcting the international framework for the illicit organ trade.

*The Grip of Sexual Violence in Conflict*. By Karen Engle. Stanford, CA: Stanford University Press, 2020. Pp. xv, 172. \$28.00 (paperback).

REVIEWED BY SHRUTI KANNAN

In *The Grip of Sexual Violence in Conflict*, Karen Engle discusses the unintended impacts of what she calls the “common sense” approach to sexual violence perpetrated during conflict. Under the common sense approach, sexual violence is seen as the worst crime a victim can suffer, perpetrated by male “monsters” and leaving a stigma that lives with survivors forever. The common sense approach assumes criminal law is the best way to address sexual violence in conflict, because sexual violence prevents peace. To illustrate this, Engle uses the example of a video played during a U.N. Global Summit in June 2014, depicting an animated family whose home is invaded by soldiers. The rape itself is obscured, but the video leaves little doubt that it is the mother who is assaulted. The narration highlights that victims are often abandoned by their families before pointing out that “it doesn’t have to be this way,” concluding by showing a judge in a courtroom and finally the soldier-perpetrators behind bars. However, Engle argues that this common sense approach includes underlying, likely unintentional, assumptions, such as ethnic essentialism and sexual subordination of women. Engle then considers the

role of international legal and institutional power in addressing sexual violence. While she shines an important light on the unintended consequences of the common sense approach and the role of institutional power in combating sexual violence, Engle fails to adequately address how her observations might impact the field of international law and politics.

*The Grip of Sexual Violence* is divided broadly into three parts: The first chapter discusses the genealogy of the common sense approach, while chapters two through five are case studies of conflicts in which feminists invited and deployed international legal power to address sexual violence through military and judicial means. Finally, the epilogue considers the voices of survivors themselves.

The first chapter describes how the discussion of sexual violence in conflict became commonplace during conflict policy conversations on the world stage. In particular, it shows how “women’s human rights” and sexual violence became conflated, sidelining sex-positive and Third World feminism in favor of structural bias feminism. Prior to the 1993 Vienna Conference, some feminists lobbied to have women’s rights included on the conference agenda. However, the concurrent war in Yugoslavia and press coverage of rapes committed as part of the conflict affected both the conference and the activities of non-governmental organizations at the time. In the end, “women’s human rights” and sexual violence shared the world stage at the conference, and the resulting enmeshed definition excluded both sex-positive feminists and Third World feminists in favor of structural-bias feminism. Sex-positive feminists who wished to distinguish female sexual slavery and consensual sex work were lost in the overarching conversation about sexual violence. Third World feminist critics, for whom colonialism could not be separated from gender bias, were also pitted against structural-bias feminists, who prioritized gender oppression over all else.

Structural-bias feminists were so focused on rebuilding the field of international human rights to include women’s issues (rather than simply adding women’s rights to the international human rights agenda) that they excluded other considerations, such as race, class, and ability from the conversation. Of course, structural-bias feminism does enjoy a certain universality, as it is focused on the ways in which current structures of international human rights law are built by and for

men, to the exclusion of women's issues. For example, international human rights law delineates the public and private spheres, despite the fact that women are presumed to operate in the private (or domestic) sphere. This is problematic for many reasons, one of which is that the international legal definition of torture does not extend to private relations in the home (because they do not include direct state action). To fix this systematic issue, structural-bias feminists want human rights law to be reconceptualized to include private sphere or non-state actors. But overemphasizing this supposed universality pushes out other feminist approaches and often singles out Third World cultural practices as particularly harmful. Even more detrimentally, pushing these voices out silences criticisms of the military, carceral, and security regimes.

In chapters two through four, Engle uses the 1992 conflict in Bosnia, the 1991 conflict in the former Yugoslavia, and the 1994 conflict in Rwanda to illustrate the military and international legal follow-ups to sexual violence, especially the labeling of rape as an act of genocide because of its reproductive consequences and intent to destroy communities. She describes how the focus on rape as genocidal led to an ethnic essentialism of perpetrators and implied that all survivors feel permanent shame. Various articles of the Genocide Convention were invoked to support the idea that a Muslim woman forced to endure a pregnancy that resulted from rape by a Serb meant her womb was "occupied" by the enemy. Bosnian Muslim women were thought to be especially harmed because rape in Islamic law was thought to break up families and ostracize victims now perceived as undesirable. There seemed to be widespread agreement that a survivor of rape must carry shame as an emotion and an identity. Journalists, humanitarian workers, and medical professionals all assumed that survivors were deeply ashamed of their experience, thereby reducing their ability and agency to be involved in military or advocacy action. In the conflict in the former Yugoslavia, jurisprudence described rape as "the destruction of a person" and deemed surviving rape to be a fate worse than death because of the associated shame. Finally, in the conflict in Rwanda, it was openly acknowledged that the Hutus used rape to humiliate and degrade the Tutsis. This strategy underscores Engle's idea that rape as an act of genocide is both ethnically

essentialist and rooted in a potentially misguided idea of permanent shame.

Finally, chapter five discusses how the United Nations attempted to involve women in peacebuilding and use Resolution 1325 to protect women in conflict. Some women's peace advocates criticized these efforts as disempowering survivors for two reasons: one, because the language centered around women as only victims, not agents of change in the peacebuilding process, and two, because the language focused exclusively on women and girls, excluding men and boys from survivorship. The chapter also discusses the focus on incarceration as a method of peacebuilding, despite the fact that criminal punishment rarely deters sexual violence to the extent that the investment in the carceral system would suggest.

Two of the most interesting ideas Engle discusses, albeit briefly, are the paradoxical idea of shame and military action in Libya. Engle poses a situation and a question. A community is shamed because the public nature of rape is so often mentioned. However, a hallmark of shame associated with rape is that the victim is cowed into silence. How, then, if the shame is not public, is the community shamed and harmed? In other words, if survivors are too ashamed to talk about their rape, how does knowledge of the rape spread to shame an entire community? Regarding military action in Libya, Engle describes how high-level officials in the Obama administration were hesitant to get involved but were ultimately persuaded by female state officials. Secretary of State Clinton, National Security Council Senior Aide Samantha Power, and U.S. Ambassador to the United Nations Susan Rice joined forces to support military action in Libya. Comments at the time indicated these officials were aware of reports alleging pro-Gaddafi fighters were found with Viagra in their pockets to assist them in mass rapes. The rumors spread and eventually dissipated, but were never confirmed. Engle argues the situation became hyper-politicized at least in part because of the rumors of mass rape. In these ways, Engle discusses the impact of rape at two ends of a spectrum: at the micro level, as communities are harmed by the supposed unavoidable impacts of rape, and at the macro level, as state actors take action based on a (potentially false) idea of rape.

Though the next chapter is called the epilogue, it is better described as a counter-narrative to the majority of Engle's

book. Her description in the body of the book is strictly academic, something she acknowledges in the foreword. In the epilogue, however, Engle gives voice to survivors, pulling from literary sources. She uses Ernest Hemingway's *For Whom the Bell Tolls*, the diary of a German woman called *A Woman in Berlin: Eight Weeks in the Conquered City*, and Nadia Murad's *The Last Girl: My Story of Captivity and My Fight against the Islamic State* to introduce the possibility of consensual sex in times of war, reinvigorating the idea of a woman's sexual agency and challenging the dominant narratives about shame by offering stories of women who have not been destroyed by the trauma they have experienced.

Many readers would approach this book with the mindset that sexual violence is a terrible, destructive thing. Engle deconstructs the nuances behind this seemingly simple mindset, making her book best for readers with some knowledge and understanding of sexual violence issues and international law. Engle's arguments around shame and ethnic essentialism require a nuanced understanding of feminist approaches to trauma and healing, as well as some knowledge of critical race theory.

In some ways, Engle's attention to nuance is a drawback because it limits her to the abstract. While her arguments around ethnic essentialism and shame are intriguing, she only discusses them at a high level and does not engage with survivors or their communities. The idea that sexual violence need not be accompanied by shame could perhaps be better addressed on the ground, in communities where survivors are ostracized. But Engle does not suggest how her ideas should influence the progression of international law. By not discussing paths forward, the book relegates next steps to the reader's imagination. Engle's work is insightful and thorough, but it remains to be seen how the discourse—and, more importantly, the action—addressing issues of sexual violence in conflict will proceed.



*The Tribalization of Europe: A Defense of Our Liberal Values.* By Marlene Wind. Cambridge, UK: Polity Press, 2020. Pp. v, 131. \$12.95 (paperback).

REVIEWED BY ILAN LAVIAN

Marlene Wind's *The Tribalization of Europe: A Defense of Our Liberal Values* laments what the author describes as a slow but intensifying anti-democratic drift in parts of Europe. Wind acknowledges the same trend on other continents but focuses on the European variation, specifically as it pertains to the fate of the European Union. Whereas the Union's mission is to promote and sustain liberal democracy, populist movements and cynical leaders are working to undermine that cause—and they are doing so under the guise of democracy. Wind delineates three major elements of this trend: the United Kingdom's withdrawal from the European Union, popularly known as Brexit; the movement for Catalan separatism; and democratic backsliding in Central and Eastern Europe, most notoriously in Hungary under Viktor Orbán's *Fidesz* party. The book forcefully argues that Europe must reinforce its commitment to the European Union's ideals lest it undermine the strides made since the end of World War II and particularly since the fall of the Berlin Wall.

Wind's main culprit for the situation she describes is tribalism. As she defines it, tribalism is "a phenomenon in which cultural, ethnic, and nationalist groupings of various sizes and organization emphasize themselves as the 'true' tribe, nation, or culture while verbally or in practice exclude named 'others' from being a part of the community." And it is this very trait, she argues, that lies at the heart of the problems she lists.

Wind also places blame on the European Union's supporters. Embarrassed for not having foreseen the recent populist successes, many of them fear to raise their voices in defense of E.U. principles. But their timidity only encourages tribalism. Defenders of democracy—or what Wind calls "true democracy"—must stand their ground and quit apologizing for their ideals. Europeans, Wind warns, ought to know what could happen when populist leaders latch onto society's tribalist instincts. Indeed, the European Union was born to prevent just that. To combat the recent anti-democratic trends throughout Europe, believers in liberalism and universalism must recom-

mit themselves to the Union's cause and stand strong against its detractors, before it's too late.

Wind's conception of democracy is a persistent theme throughout the book. More than just naked majoritarianism, democracy "is also about respecting fundamental values, minorities, a free and critical press, and independent courts." True democracy, she asserts, is liberal democracy—and it is this form of democracy that is under attack. Populist leaders like Orbán feed on dissatisfaction and resentment to rally against democratic institutions. A reoccurring tactic they use is the all-too-familiar appeal to "the will of the people." But democracy is held together by more than just the people's will, which is often indiscernible and can change on a whim. In fact, democracy sustains itself through deference to *counter-majoritarian* institutions, such as courts.

Wind powerfully makes the case for a Europe centered on democratic values. The book's argument that liberal democracy is the true form of democracy is compelling, not only because, according to Wind, liberal democracy alone can protect human rights and liberty, but also because of liberal democracy's capacity to protect democracy from itself. Indeed, liberal democracy prevents the majority from piecemeal voting their rights away, only to wake up one day to find that their most basic rights have been forfeited. Under Orbán's Hungary, for instance, the world watches as referendum after referendum usurps power from the people and vests it in the hands of Orbán's leadership. Moreover, liberal democracy has the unique ability to balance power between different groups and thus serves the crucial role of averting crusades for all-out power by a given party or ethnic group. Rivalries, though bitter and heated, are kept calmer than they otherwise would be, and society's fabric is held (somewhat) together. Accordingly, liberal democracy is the best means for continuing democracy.

That being said, Wind assumes that a total recommitment to the European Union is the sole means of ensuring liberal democracy throughout the continent. Nowhere in the book does she allow for less sweeping alternatives. Instead, Wind implicitly creates a dichotomy between the liberal democracies that make up the European Union and the rest of Europe. A reader unfamiliar with the Union's exact makeup may be surprised to know that Switzerland and Norway, two exemplary liberal democracies, are not members of the European Union.

Nonetheless, they enjoy trade and travel agreements with the Union, demonstrating that liberal democracy and intra-European partnership do not necessarily require E.U. membership. Such alternatives could be useful for those countries that feel suffocated by the European Union's excesses, and Wind would do well to explore them. E.U. advocates' persistent insistence on an all-encompassing European Union fails to persuade reluctant countries and may even chase them away. Some countries desire the autonomy that membership in the European Union does not allow, and Switzerland and Norway are proof that such a stance in itself does not convey non-adherence to liberal democracy. Therefore, to accuse Britain of flirting with tribalism for exercising its prerogative to leave the European Union is not just false, it also disregards Britain's autonomy.

Wind also fails to give adequate weight to the autonomy argument in her case against Catalan separatism. Wind diagnoses the Catalan separatists with the same tribalism plaguing other parts of the continent. As she puts it, "the EU is by definition, a multi-state entity and a universalistic project striving both for unity and for the protection of diversity . . . . In this sense, separatism is—and always will be—antithetic to European ideals. It will never become EU policy to encourage identity politics as exercised by the independence movement in Catalonia." Ironically, this passage comes from Wind's case against allowing an independent Catalonia to join the European Union, something which she acknowledges the Catalonian leaders desire. But if the Catalonian separatists are infected with the same tribalism that motivates the anti-E.U. populists whom Wind decries, wouldn't it be inconsistent for the Catalan separatists to pursue E.U. membership? Wind's argument, accordingly, does not hold.

Wind's case against Catalan separatism does not stop there. In another argument as to why the European Union ought to refuse Catalonia's membership should the movement succeed, she cites Joseph Weiler's point that doing so would "provide an incentive for an ethos of political disintegration." Wind explains this line of reasoning as follows: "Even if separatists had no intention of undermining the European project, spreading disintegration and fragmentation could easily be an unintended consequence. In other words: rewarding secession with EU membership is unlikely to be the route the EU takes." More simply put, in order to protect its own interests, a larger

political body like the European Union would be wise to prevent the self-determination of smaller political bodies like Catalonia.

Wind's critique of the Catalan separatists demonstrates the underlying problem in her thesis. The tribalism she correctly identifies in Central and Eastern Europe should not be conflated with the autonomous spirit that motivated Brexit and still motivates Catalan separatism, regardless of those movements' merits. More importantly, doubling down on an unyielding universalism is not a proper correction for a worsening parochialism. On the contrary, arguments like Wind's play right into the hands of cynical leaders who emphasize the creeping dissolution of their people's way of life and culture. Wind would do well to take social psychologist Jonathan Haidt's advice for liberals: do not let your opponents claim patriotism as their own.<sup>1</sup> Instead, make room for people's natural proclivities for love of country and commitment to heritage while appealing to their senses of justice and fairness. To reclaim a united and liberal Europe, supporters of liberal democracy should put aside the false dichotomies. *The Tribalization of Europe* would be a more persuasive book if Wind argued that one can be a cosmopolitan universalist and a proud national citizen, loyal to country and committed to Europe. The fate of the European Union may depend on which strategy its supporters adopt moving forward.

*Feminist Dialogues on International Law*. By Gina Heathcote. Croydon, UK: Oxford University Press, 2019. Pp. CCXIX, 229. \$85.00 (hardcover).

REVIEWED BY MAYLIN MEISENHEIMER

In *Feminist Dialogues on International Law*, Gina Heathcote looks at feminist methodologies within international law and analyzes which reforms have been the most successful. Heathcote incorporates non-legal feminist critiques in her analysis of international law and discusses how academics and activists can think differently about subjectivity to avoid classi-

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1. M. Steven Fish et al., *Make Liberalism Great Again*, SLATE (Oct. 23, 2020), <https://slate.com/news-and-politics/2020/07/liberalism-narrative-national-greatness-patriotism.html> [<https://perma.cc/8FQ6-RMT9>].

fyng women as victims. The book focuses on dialogues that “challenge a monolithic representation of women in gender law reform.”

*Feminist Dialogues* points to concrete examples and questions initiatives such as U.N. Women, highlighting the problems that are created when feminist agendas are siloed. The establishment of bodies like this, Heathcote argues, pushes gender narratives to the periphery, leaving them out of discussions of other issues such as climate change and security. This argument does resonate, and the examples that she provides further illustrate the issue. However, the argument loses sight of the serious gender inequalities still prevalent in many countries, both developed and developing. Furthermore, Heathcote critiques international treaties such as the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) for isolating the issues, yet she does not address the many reservations that limit the scope of the treaty itself.

Although Heathcote’s main argument is sound, she often treats feminist strategies as mutually exclusive. According to the book, if there is a specialized body, the feminist perspective will then be excluded from the mainstream. However, a stronger argument may be that the issues are not mutually exclusive and that there is a need for these specialized bodies and a need to push for the inclusion of the feminist perspective more widely. Heathcote does urge increased dialogue and listening, but the criticisms of the groups and initiatives often overshadow the need for greater cooperation and the steps that could better integrate the feminist perspective into different aspects of international law.

The book covers six major areas over six chapters: feminist dialogues, expertise, fragmentation, sovereignty, institutions, and authority. In the feminist dialogues section, Heathcote emphasizes the need for dialogue that includes transnational feminism. She illustrates her point by practicing structural bias feminism, incorporating diverse voices from around the world to expose the role of assumptions in legal foundations. Chapter two discusses how gender expertise is incorporated in international institutional structures, resulting in a “reification of gender as shorthand for women . . . rather than gender as analytical expertise that raises different, important questions . . .” The next section focuses on fragmentation,

which occurs when different international and regional bodies take varying approaches to gender law reform. Heathcote argues for a legal pluralist approach to international law, emphasizing the need to incorporate diverse feminist ideas. In chapter four, the book examines sovereignty through a feminist lens. This analysis critiques the foundations of international law and examines how to revise international legal doctrine to include women. In chapter five, Heathcote studies three international institutions, the Human Rights Council, the World Health Organization, and the Peacebuilding Commission, to consider reconstruction both within these organizations and throughout the international order more generally. In the final chapter, the book analyzes the complexities of legal authority that create privileges and power.

Although creating specialized bodies can indeed silo feminist perspectives, Heathcote does not spend enough time imagining the alternative of an international system without these specialized groups. Organizations like U.N. Women and treaties such as CEDAW are relatively new, and although they are lacking in some ways, they do prioritize gender equality and the protection of women. Heathcote argues that these organizations cabin off gender issues so they are no longer incorporated into conversations on other topics like climate change and peace and security. Although she does not call for the elimination of these groups, she emphasizes that gender issues are limited to those spaces. It may have been more productive for Heathcote to examine these specialized bodies and explain how their work could be integrated into more general discussions.

Additionally, Heathcote argues against the use of the word gender to refer to women, linking the emphasis on women to their victimization within international law. The “monolithic representation of women” does not address the varied needs of women in different nations and socio-economic positions, but moving away from references to women in these institutions and treaties could be more damaging in the aggregate. Across the world, in both developed and developing nations, there are stark differences in pay, treatment, and protections for men and women. This is an unfortunate fact of our current society, and although women should not be seen as victims throughout the international legal system, moving away from language that gives special protection to women

does not seem to be the answer. Women start off in an inherently unequal position due to these disparities, so adding language that specifies protections for women creates more equality and does not detract from their rights on the whole.

Furthermore, Heathcote could have paid more attention to the shortcomings of existing institutions and treaties. Further analysis on how to improve existing structures, instead of dismantling the entire system, would have been beneficial. For example, Heathcote could have explored the significant structural weaknesses of CEDAW and pointed to the fact that many states submitted reservations when the convention was signed and ratified. Much of Heathcote's solution for increasing the feminist perspective centers around increased dialogue, but when viewed in the context of today's increasingly conservative governments and their retreat from multilateralism, it seems unlikely that dialogue alone will improve these structures. By devoting more time to exploring how standalone bodies such as U.N. Women could be incorporated into the existing structure, Heathcote could have provided a more concrete step for the inclusion of the feminist perspective in the discussion of issues such as climate change and peace and security.

One of the most interesting parts of *Feminist Dialogues* is how the book includes voices that are often left out of the conversation and tackles topics that have been previously neglected. For example, the chapter on sovereignty concludes that although feminism and sovereignty were studied early on, many academics abandoned the topic, leading to a "general neglect of this aspect of international law." Heathcote addresses sovereignty in a novel way, reimagining it as a "split subject." Since sovereignty is such an entrenched concept in international law, it was interesting to see it analyzed from this perspective.

The last chapter on authority was also impressive in how it incorporates non-legal feminist action as a method of feminist dialogue in international law, citing naked protest in Uganda, the historicization of feminist achievements within global spaces, and feminist media activism in China. This inclusion of non-legal action from non-Western authors helps elevate work that is not usually acknowledged in Western academia. Heathcote draws on these examples as new ways to "prod at law" and to "hoist . . . specific feminist knowledge practices as the authority on the law." It was refreshing to read a legal work

that incorporates so many different viewpoints, both legal and non-legal, in order to affect the relatively entrenched system of international law and push for change.

Furthermore, Heathcote urges readers to create new feminist spaces and acknowledge the conditions of privilege present in existing feminist spaces. She argues that the majority feminist view has not incorporated historically marginalized voices and that the system must acknowledge these neglected views and make space for them to speak. A common criticism of international law is that it was established by developed countries without much input from developing states. This book not only adds a feminist perspective to international law, but also incorporates marginalized voices from feminist communities. This inclusive approach to reforming international law has the potential to disrupt and reorganize the system in a positive way, rewriting entrenched assumptions and historical power dynamics.

*Feminist Dialogues on International Law* adds to the study of international law by incorporating both mainstream and marginalized feminist voices. Heathcote is comprehensive in her approach, incorporating views from indigenous communities, disabled persons, and other often overlooked minority groups in each section. In the final chapter, the book “envision[s] a neutral and safe space of encounter that assumes that the making of space for dialogue is accommodating to all.” Although Heathcote could have paid more attention to how the existing structure could be reworked to produce change, the major points are impactful and original. The focus on dialogue and the inclusion of non-legal critiques could produce a better and more inclusive international legal system, benefiting society as a whole.

*No More War: How the West Violates International Law by Using ‘Humanitarian’ Intervention to Advance Economic and Strategic Interests.* By Dan Kovalik. New York, NY. Skyhorse Publishing, 2020. Pp xiii, 319. \$26.99 (hardcover).

REVIEWED BY ALEJANDRA SANCHEZ

In *No More War: How the West Violates International Law by Using ‘Humanitarian’ Intervention to Advance Economic and Strategic Interests*, Dan Kovalik sharply criticizes the United States’



longstanding use of humanitarian intervention as a tool for economic advancement. Without sympathy or admiration for any U.S. president, Kovalik analyzes the ways that leaders from across the political spectrum have advanced the neoliberal agenda of Western “humanitarianism”—a policy he credits for keeping the country in near-constant conflict with smaller nations. A quote by former President Jimmy Carter shapes the entirety of *No More War*, from its dissection of cruel U.S. interventions to its call for an end to economic warfare: “[The United States] is the most warlike nation in the history of the world.” This simple quote, which is emphasized multiple times throughout the book, is perhaps Kovalik’s most controversial argument, and he knows it. Americans’ fragile egos are a frequently discussed topic, as is the illusion that the United States is an example to be followed by the rest of the world. The book explains how the United States, with help from other Western powers, has developed a pattern of invading and destroying countries when it believes there is potential for economic gain. Time and again, the United States causes turmoil within a country, uses that turmoil to justify humanitarian intervention, and then, under the façade of altruism, begins the process of making that country dependent on the United States for economic growth. It is this clandestine truth that weaves together Kovalik’s argument. With a tone that does not hide his disgust with U.S. foreign policy, Kovalik provides a brief history of “humanitarian” intervention before further analyzing a series of topics, including peace, self-defense, feminism, and genocide. Most simply put, *No More War* is an exploration of the contradiction between what international law requires and what the United States does in practice.

The first two chapters of *No More War* outline the history and hypocrisy of humanitarian intervention before explaining the origins of international law and the volatile period that brought it into existence. It is through this interaction between humanitarian intervention and international law that Kovalik creates the foundation for his argument, which highlights how intervention destroys the peace that the United Nations works to create. Kovalik marks the reign of King Leopold in the Congo—a period in which 10 million Congolese were killed—as the birth of humanitarian intervention, noting that the United States was the first country to legitimize King Leopold’s power. He follows with an exploration of the American

slave system and South African apartheid before closing the chapter with a discussion of the North Atlantic Treaty Organization's intervention in Libya, when the United States supported the assassination of Colonel Gaddafi, the country's leader. These examples serve as concrete evidence of Kovalik's argument that purportedly humanitarian intervention is really about "profit, power, and imperial domination."

The second chapter begins with a description of the Second World War. The global scale of this war and the devastatingly high number of resulting deaths were the main reasons for the creation of the international law regime. It was at this moment that the United Nations was established to protect the rights of sovereigns from foreign invasion and prevent the deaths of the countless citizens in unnecessary wars. Kovalik points out that despite clear language in the U.N. Charter that emphasizes sovereignty, condemns intervention, and requires peacekeeping measures to precede war, the United States continuously violates international law. For example, the United States ignores many of the requirements for mediation efforts because this guidance does not fit with the narrative of humanitarian intervention that the United States uses to propel its economic efforts.

Kovalik begins the third chapter with a discussion of the various human rights treaties that govern international law, particularly the Universal Declaration of Human Rights. Peace, he explains, is a right granted to all the world's people. Western nations, which intervene in smaller nations and cause internal conflicts, are a direct threat to that peace. The International Covenant on Civil and Political Rights makes clear that the West's disapproval of other countries' political systems (communism, for example), is not grounds for invasion. Similarly, a discussion of the International Covenant on Economic, Social, and Cultural Rights highlights how Western countries strangle the economic systems of poorer countries for their own benefit, often encouraging systems such as Free Trade Zones, where smaller countries benefit little from the minimal investment of Western nations who hoard immense profits from cheap labor. As a final point on the matter, Kovalik criticizes Western human rights advocates, stating that they should "spend their time, resources, and energies on encouraging the US to fix its own democratic deficits and, as required by international law, leave the rest of the world to work on theirs."

The International Criminal Court (ICC), discussed in the fourth chapter, is “empowered to try individuals, including heads of state, for waging aggressive war and military interventions,” and the United States was one of the only countries in the world to oppose its creation. U.S. intervention in Cuba, Libya, and Iraq are all cited as examples of cases that could be tried by the ICC, but these invasions are instead painted in a positive light by U.S. foreign policy advisors. Because “the US helps write the rules in a self-serving way, and then exempts itself from the rules when it sees fit, it is rarely if ever held accountable . . . .”

The fifth and sixth chapters discuss anti-colonialism and non-intervention, two fundamental policies encompassed in the U.N. Charter. One of the United Nations’ earliest and most important contributions to the world was support for decolonization. “In the first 30 years of the UN,” for example, “dozens of new states emerged from colonial systems.” The Declaration on the Granting of Independence to Colonial Countries and Peoples called for the end of military interventions (the more traditional type of colonialism) and financial and economic strangulation, which could be similarly devastating for states. However, it was also during this time that the United States emerged as a new imperial power, launching interventions in Guatemala, Indonesia, Cambodia, and Vietnam, among others. The United States was successfully tried for some of these violations of international law norms at the International Court of Justice (ICJ) in *Nicaragua v. United States*, which grew out of Nicaragua’s long attempt to overthrow its U.S.-backed dictator, Somoza. Yet even after Somoza was overthrown, the United States armed a paramilitary force that terrorized Nicaragua. In the end, this paramilitary force was successful, and the United States still refuses to honor the reparations it owes Nicaragua.

The seventh and eighth chapters, which focus on the right of self-defense and the responsibility to protect, explain how the United States violates international law by consistently misusing these provisions. While the U.N. Charter strongly prohibits use of force, the one exception is self-defense. This self-defense exception is allowed only when a nation faces an imminent threat or explicitly requests assistance from another nation. In all cases, the counterattack must be proportional to the original aggression. In light of these required elements,

every war the United States is fighting in the name of self-defense per se violates the U.N. Charter and international law. The wars in Afghanistan and Iraq, for example, were justified as self-defense after the attacks on 9/11, but do not meet U.N. criteria because of poor evidence of an imminent threat and a counterattack that was far from proportional. The U.S. attack on Nicaragua in defense of El Salvador is another example: El Salvador did not declare itself attacked by Nicaragua and did not request the assistance of the United States, so U.S. intervention was not justified.

The United Nations also does not condone intervention for humanitarian purposes under the Responsibility to Protect (R2P) doctrine. The United Nations does not “support the Western humanitarians’ notion of R2P as an unbridled right to militarily intervene in other nations based upon humanitarian concerns.” Rather, “it is required that the international community attempt to use ‘diplomatic, humanitarian, and other peaceful means.’” Nations with human rights concerns about other sovereigns should report these concerns to the United Nations and allow the Security Council to authorize use of force based on five criteria: seriousness of threat, proper purpose, last resort, proportional means, and balance of consequences. The U.S. “humanitarian” interventions in numerous countries and territories, such as Haiti, Ecuador, El Salvador, and Kosovo, were therefore in violation of international law.

The final chapters of the book focus on two particular issues: feminism and genocide. Kovalik uses these issues to provide concrete examples of the ways the United States, while promising aid and improvement, actually worsens conditions for women and carries out mass killings in a variety of circumstances.

Chapter nine pays special attention to the relationship between women’s rights and the U.S. military. Kovalik highlights three main problems: (1) occurrences of sexual misconduct among members of the military; (2) instances of rape and assault by the U.S. military in the countries where they are stationed; and (3) the impact of military conflict on civilian women. These issues explain Kovalik’s criticism that U.S. humanitarian intervention harms the invading country by funneling limited resources from other important issues to military

power, and it harms the country being invaded because the conflict it creates often stalls development.

The final issue that *No More War* touches upon is genocide. Like the United Nations, the Genocide Convention emerged after the atrocities of World War II in order to prevent future occurrences of violence. Kovalik argues that this convention is selectively enforced because it has never been used to prosecute Western countries, despite many examples of Western behavior that could be classified as genocide. The problem, however, is that genocide requires a specific intent to kill, harm, or sterilize a particular group of people, which is difficult to prove. For example, while one could make the argument that the United States' prior conduct in Vietnam and its contribution to genocidal efforts in Rwanda could be prosecuted as genocidal acts, "humanitarian" motives are instead used to justify those actions. In sharp contrast, limited evidence was used to prosecute Radovan Karadžić for genocide by the International Criminal Trial for Yugoslavia (ICTY). Kovalik argues that the difference in treatment between genocide committed by the United States and by Karadžić occurred because the latter fits the Western narrative of genocide while the former is classified as humanitarian intervention and is therefore outside the scope of international organizations, like the ICTY, that prosecute genocidal acts.

In the book's conclusion, Kovalik calls upon his readers to question the notion that the United States—or any other country—needs to intervene in other countries in the name of bolstering human rights. Kovalik is reluctant to attribute any fault to the leaders of countries affected by U.S. foreign policy, seldom explaining how the leaders of these governments may have contributed to the downfall of their countries. But this criticism is irrelevant to the book, which aims mainly to prove that the United States should keep out of other countries' internal affairs rather than intervening in the name of "humanitarianism." The argument that the global status of human rights would have been better without U.S. intervention may or may not be true, but that bears little weight on what Kovalik ultimately seeks to prove: The United States overspends on its military efforts and underdelivers for its own citizens, all for the sake of economic benefit and the continuation of Western ideology.

*The Compensations of Plunder: How China Lost its Treasures.* By Justin M Jacobs. Chicago, IL: The University of Chicago Press, 2020. Pp. vii, 348. \$27.50 (paperback).

REVIEWED BY MAXWELL R. VOTEY

The main challenge of developing an effective international cultural heritage law, particularly with regard to repatriation, is establishing what constitutes legal title to an antiquity, a challenge of history. International law provides little guidance, as the authoritative treaty on the matter, the UNESCO 1970 Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property, does not retroactively reach beyond the treaty's effective date in 1972. As such, barring bilateral agreements or individual state law applicable and enforceable extraterritorially, museums have full legal rights to most of the artifacts in their display, regardless of how they were acquired. Repatriation typically depends on lobbying by the requesting state and, more importantly, pressure from activists in the museum's home country. In the court of public opinion, items which were either looted in war or taken from peoples subjugated under colonial rule now often face scrutiny for their continued presence in foreign museums, and moral and ethical arguments in favor of their repatriation are increasingly popular.<sup>1</sup> However, while the provenance of items in these two categories rightfully receives international attention, there is a wider array of antiquities in Western Museums that were neither taken in war nor from a region under Western colonial rule. These objects come instead from states that were nominally independent but often subject to the pressures of imperial competition. The archeological expeditions to the Ottoman Empire, Qing-Dynasty China, Iran, Afghanistan, and the nations of Central and South America in the late nineteenth and

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1. The most well-known and debated antiquities derived from wartime looting are those taken in the looting and burning of the Qing Summer Palace during the Second Opium War and the seizure of the Benin Bronzes (and other items) from the royal palaces of Benin during the 1897 expedition to the kingdom. Recent campaigns to return colonial acquisitions have pushed museums in former colonial powers, like the Quai Branly Museum in Paris, France, to consider repatriating indigenous art to their respective post-colonial nations.

early twentieth century were all crucial to the development of modern archeology and to the collections of many Western museums. How legitimate is the entitlement Western museums have to those artifacts and under what conditions were they acquired?

It is these questions, along with the contradiction that arises in answering them, that are central to Justin M. Jacobs' brilliant book, *The Compensations of Plunder: How China Lost its Treasure*. Jacobs' work challenges common historical narratives about cultural heritage. The popular answer to the question of the legitimacy of such antiquities often generalizes the activities of Western archeologists in non-colonized states in the late nineteenth and early twentieth century, characterizing their work as only possible because of the coercive threat of imperial force should a state refuse their entry. Yet, as Jacobs points out, such narratives leave historical gaps. For example, they cannot explain how Afghanistan was able to keep archeologists out for decades despite being wedged between Russia and British India, or why Western archeologists had relatively free access to the Ottoman Empire but faced serious obstructions in Middle Eastern states a decade after they were formed out of the Sykes–Picot Agreement. This contradiction is the driving force behind Jacobs' compellingly written, well-argued, and meticulously researched book. Jacobs focuses his account on exploring why foreign archeologists could carry out archeological expeditions and remove prodigious numbers of artifacts from the western regions of the weakened, yet still functional Qing Empire in the late nineteenth and early twentieth centuries, yet were unable to remove anything a few decades later, despite China's fragmentation into several warlord cliques. As a professor of history, Jacobs weaves together accounts of European and American expeditions to China in the early twentieth century. He draws on an extensive array of primary sources in both English and Chinese, crafting a comprehensive narrative of the interactions between the foreign explorers, Chinese bureaucrats, and Chinese archeologists. These interactions track the personal motivations and beliefs that initially allowed the removal of archeological heritage in China and how attitudes shifted in under two decades.

Jacobs begins his account in the first decade of the twentieth century, focusing on archeologists such as Aurel Stein, arguably the most famous British archeologist, who received sup-

port and permission from Qing bureaucrats in Xinjiang to conduct archeological explorations. These archeologists even developed close bonds with some of those officials. Stein could carry out his work not because the officials were corrupt or incompetent (as they are often portrayed in contemporary characterizations), but because they saw Stein as a peer elite who was employing familiar practices. Stein's collection of antiquities from the desert ruins of Xinjiang was similar to these officials' collection of steel, manuscripts, and artifacts out of the desert. Rather than priceless parts of an abstracted Chinese nation, these Confucian-trained officials saw Chinese antiquities as precious objects that possessed intellectual and aesthetic value for their owner. While these officials and scholars felt regret at the loss of some items to foreigners, such as the manuscripts of Dunhuang's Library Cave, Jacobs uses personal accounts to illustrate that these feelings were primarily over loss of individual possession. From this perspective, it should come as no surprise that many of Dunhuang's manuscripts that did remain in China found their way into the personal collections of the Chinese cultural elite rather than public institutions. Foreign explorers were permitted to collect artifacts because Chinese bureaucrats and elites believed the political, social, and cultural capital derived from aiding and befriending foreign explorers was worth more than the most precious antiquity. The influence and reputational benefits of close cooperation was an opportunity for career advancement, and the European explorers brought technical knowledge (and sometimes direct assistance) that could be used in the management of the bureaucrat's region.

The 1911 Xinhai Revolution marked the end of Qing Dynasty and the birth of the Republic of China. Jacobs describes how this political change brought a shift from Chinese antiquities being the precious possessions of individuals to the priceless embodiment of the cultural heritage of the Chinese people. Over the next two decades, a new, Western-trained but fully Chinese archeological community formed and championed Western conceptions of heritage as belonging to a conceptualized nation, in contrast to the older generation of Confucian Chinese bureaucrats who viewed Chinese antiquities as valuable, tradable goods of the elite. Aurel Stein found himself the first effected by the shifting notions of nation in China during his 1913–1916 expedition. The post-revolution Govern-



nor of Xinjiang, Yang Zengxin, enforced China's new antiquities export law against Stein's excavations in the ruins around Turfan only six months after it was enacted in mid-1914. However, the Confucian governor only did so to protect his own artifact collection in the area, and he did not restrict Stein's work elsewhere.

While officials in the early years of the Republic of China made antiquities priceless rather than precious when it suited them, Jacobs describes how the new generation of scholars was less flexible in their perceptions of Chinese antiquities. Though the old methods accommodating American and European archeological expeditions still provided political capital to the various warlords and governors who ruled the country's multiple cliques, the archeologists would slowly lose the privileges they previously enjoyed, constrained by regional governors seeking to burnish their image as a protector of the Chinese state by closely monitoring the expeditions. A new generation of Western-trained Chinese archeologists, eager to learn and adapt Western methodologies, accompanied their foreign counterparts in the field and established "mentor-mentee" relationships. Western expeditions brought opportunity to gain experience an access, as Chinese archeologists lacked the means to organize their own expeditions and often faced insurmountable hurdles in convincing local warlords to let them work in their territory, an issue that prestigious foreigners rarely had to address. These scholars were not just passively learning; they were applying the theoretical framework of national cultural heritage to the activities of their "mentors." For example, in 1924, when Langdon Warner was removing entire sections of painted Buddhist murals from the walls of the grotos of Dunhuang for Harvard University's Fogg Museum, he received assistance from the Republican governor and local Confucian elites. However, he met considerable resistance to his activities during a later expedition. In response to the unprecedented taking of Dunhuang murals, the new generation of Chinese archeologists and scholars played decisive roles in persuading Chinese officials to forbid foreigners from removing artifacts out of their regions. Additionally, equal collaboration with Chinese colleagues became a pre-requisite for any Western-led archeological expedition. The Second Fogg Expedition in 1925 was accompanied by Chen Wanli, who was the first Chinese scholar of the "new generation" to join a Western

archeological expedition for the purpose of conducting field work, and who firmly refused to let the expedition collect artifacts for Harvard. Chinese archeologists, trained in Western methodologies and working at Western-modeled Chinese institutions, now stood equal to their peers, and they used this stature to promote their belief in the indivisibility of national heritage from its place of origin.

Jacobs' account culminates with Aural Stein's final expedition to Xinjiang in 1930 and how unprepared Stein was for the vast shift in norms surrounding cultural heritage since he last visited the country in 1916. Despite the financial backing of Harvard University, diplomatic aid from the British Empire, and the enthusiastic support of Nationalist China's government in Nanjing, Stein's expedition would accomplish little in the face of China's new archeological community, which by this point had fully internalized Western nationalist discourses on heritage and archeology. The announcement of the expedition was met by a scathing public statement by the top archeologists of the Academia Sinica and other Chinese institutions, and an unprecedented hostile newspaper campaign began across China against the British archeologist. This bad publicity, coupled with the cold treatment of Stein by Xinjiang's warlord and governor, Jin Shuren, meant Stein's expedition would be brief and heavily monitored.

Jacobs' believes people and courts must consider the action of agents and their context when debating the legal and ethical dimensions of cultural heritage and reparation. It is a mistake to sweepingly treat all antiquities in Western Museums as equally guilty. Moreover, an uncritical adoption of "heritage nationalism" is not without consequences. Though outside the scope of Jacobs' work, heritage nationalism, in which all artifacts belonging to a nation are transmuted from precious to priceless, exists today. The danger of this logic is that it can also make the heritage of those excluded from the national project worthless in the eyes of the state. For instance, the Chinese Communist Party, which currently acts as the protector of China's priceless heritage, has made the destruction of the heritage of non-Han minorities a facet of their nationalist project, attested to by the purposeful and widespread destruction

of Tibetan and Uyghur heritage.<sup>2</sup> While China is the most egregious contemporary offender, states have long used heritage destruction to unify national identity and exclude present or historical minorities.<sup>3</sup> Jacobs' history should encourage careful consideration of how the international community should treat cultural heritage that was neither looted in war nor take under colonial dominion. The future of international heritage law ought not to encourage this strand of nationalism that, while supporting national archeology projects, is frequently used to neglect or destroy foreign or minority heritage and seeks to retroactively and a-historically criminalize any historical removal of a heritage artifact from a state's contemporary borders. Any future law on cultural heritage should embrace Jacobs' deep social, cultural, and legal contextualization of antiquities to separate that which was fairly acquired from what was wrongly plundered.

*Panic City: Crime and the Fear Industries in Johannesburg.* By Martin J. Murray. Stanford, CA: Stanford University Press, 2020. Pp. xxix, 353. \$30.00 (paperback).

REVIEWED BY JORDAN WENIK

Popular conceptions of urban South Africa in the twenty-first century often focus heavily on its reputation for rampant violent crime. In *Panic City: Crime and the Fear Industries in Johannesburg*, Martin J. Murray analyzes how collective fears and anxieties around pervasive crime rates in post-apartheid Johannesburg, and a subsequent obsession with security, have re-

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2. See Steve Shaw, *China Tears Down the Tibetan City in the Sky*, DIPLOMAT (Aug. 3, 2017), <https://thediplomat.com/2017/08/china-tears-down-the-tibetan-city-in-the-sky> [<https://perma.cc/N9BG-8HMN>] (analyzing the eviction of Tibetan Buddhist monks from Larung Gar Monastery and the subsequent destruction of significant parts of the complex by the Chinese government). See generally NATHAN RUSER ET AL., AUSTL. STRATEGIC POLICY INST., *CULTURAL ERASURE: TRACING THE DESTRUCTION OF UYGHUR AND ISLAMIC SPACES IN XINJIANG* (2020) (documenting the widespread damaging or destruction of Uyghur cultural and religious sites in Xinjiang by the Chinese government since 2017).

3. See generally ROBERT BEVAN, *THE DESTRUCTION OF MEMORY: ARCHITECTURE AT WAR* (2007) (discussing the intentional destruction of architectural cultural heritage by state actors in conflicts throughout the twentieth and twenty-first centuries).

shaped the city's physical landscape and social fabric. In doing so, Murray exposes how responses to collective panic on crime in Johannesburg have reinforced hardened racial and social inequities. Murray's cogent and persuasive analysis proves prescient amid ongoing protests against racial injustice and police brutality in the United States, and it presents a clear warning of the potential consequences of "law and order" rhetoric.

Murray's analysis focuses primarily on the reactions to crime that are expressed in the heavily white suburbs of Johannesburg. Murray begins by identifying the sources and targets of post-apartheid crime panic in Johannesburg. He charges sensationalist media coverage, widely spread popular anecdotes, and residents' personal experiences with engendering paranoia towards ghostly, unknown figures who perpetrate crime in unsecured urban spaces. Murray argues that the collective fear of the shadowy unknown has created an "Other" in the urban psyche. This "Other" is exclusively regarded with suspicion and is meant to be kept out of public spaces at all costs, by any means necessary. The "Other," Murray contends, consists predominantly of the Black, poor, unemployed, and immigrant population of unsecured urban spaces. As a result of a widespread perception of the inability of public policing agencies to fight crime, the predominantly white, affluent residents of Johannesburg's suburbs exhibit a paranoid obsession with acquiring security and safety from shadowy threats.

Murray's arguments regarding the development of crime paranoia, particularly when viewed through the lens of South Africa's apartheid legacy, are quite compelling. Indeed, crime appears to act as a proxy by which white, affluent suburbanites of Johannesburg are able to maintain old modes of exclusion and separation by fixating on a facially race-neutral invisible enemy that threatens to destabilize social order. Relying on interviews with local stakeholders and a review of the literature, Murray convincingly shows that the bulk of the consequences of Johannesburg's crime obsession are borne by the urban Black poor. Though Murray misses an opportunity in not providing recommendations for how the very real issue of crime should be addressed in public and private discourse, he convincingly shows that crime narratives need not have any connection with reality in order to have devastating consequences on society at large.

Murray then proceeds to analyze how this security obsession has fundamentally reshaped the physical space of Johannesburg. Affluent suburban residents have retreated to fortified enclaves, their homes and neighborhoods now surrounded by soaring perimeter walls, gates, and electric fencing. These enclaves, Murray asserts, have created clear borders within urban space separating “safe” spaces where the “Other” (i.e. poor Black urbanites) are blocked from entering from “unsafe” spaces that the affluent, predominantly white suburban population avoid. Suburban proponents of walling off towns and avoiding unsecured places have sought to justify their actions through the language of personal autonomy and individual rights. The result of this crusade, Murray argues, is a destruction of the idyllic urban space as a gathering place and a site of chance encounters, as well as an erosion of civil liberties and public rights in the name of security. Murray views this phenomenon as hardening suburbanite paranoia over the poor Black “Other”. Their fears, he argues, are exacerbated by a resulting lack of public encounters outside secured spaces along with a Sisyphean effort to erect new, impenetrable barriers.

The realities on the ground that Murray describes provide powerful support for his conclusions. Murray recounts seemingly endless examples in which suburban neighborhoods have routinely flaunted laws and municipal authorities, transforming once-public thoroughfares and sidewalks into gated and obstructed securitized islands where physical barriers restrict access. According to Murray, the world that suburbanites inhabit is undeniably one where fear for one’s personal safety dominates all other concerns. Murray powerfully articulates how cutting oneself off completely from society due to this obsession causes once-enjoyable social encounters and pleasant spaces to be seen as opportunities for unnecessary risk. In the closed-off world that Murray describes, the engendering of paranoia towards the unseen and excluded poor Black “Other” thus seems inescapable.

Murray then turns his focus to the proliferation of private security agencies in the affluent Johannesburg suburbs. Murray identifies the ceding of the policing and protection of these suburbs to private security providers as a central consequence of a perceived inability of public policing agencies to combat crime. Private security agencies have all but replaced

the police in these spaces, increasingly assuming functions (like daily patrolling, intelligence gathering, and investigating crimes) that were once thought to be the exclusive prerogative of the police. Private security companies are heavily armed, wear police-like uniforms, and employ military-style tactics to legitimize their encroachment into areas traditionally served by the police. Murray argues that collective security obsessions, the collapse of the myth of a government monopoly on the use of force, and the inability of municipal authorities to oversee private security companies have emboldened those companies to employ heavy-handed tactics that criminalize and exclude the urban Black poor, undeterred by legal barriers or public oversight.

Private security agencies actively patrol what were once public spaces (like parks and streets) deemed to be potential havens for criminals. Their officers utilize intimidation, harassment, and violence to expel unknown "Others" from these spaces where they are not wanted. Young Black men, automatically deemed criminal suspects, are routinely subject to indiscriminate surveillance and humiliating public searches. As such, Murray argues, civil liberties are undermined and racial and social inequities are hardened by extralegal private security tactics justified by a need for security and safety amid a dangerous environment. The crime that public policing agencies have failed to contain, Murray concludes, threatens to disrupt the idealized, property-owning suburban lifestyle that holds particular cultural weight in South Africa. Neighborhood associations and suburban residents thus turn a blind eye to their security providers' rampant abuses of the urban poor in their never-ending quest for security and the preservation of their lifestyle.

Murray's scrutiny of the conduct and strategies of Johannesburg's private security companies and their relationship with neighborhood associations proves highly effective. Through interviews with prominent private security officials and neighborhood association figures, Murray exposes just how extensive the private security industry's links are in the suburbs. Murray's research leaves no question as to the contempt and outright hostility displayed towards "outsiders" by private security, and it illuminates suburban complicity with widespread abuses carried out in the name of safety and lifestyle preservation. Murray powerfully displays how society as a

whole, and in particular the urban Black poor, suffers when once-cherished collective social values and individual freedoms are sacrificed for the never-ending goal of security.

Murray's work proves a deep and well-researched account of how fear can quickly spiral into paranoia, and how paranoia can lead actors to undertake drastic measures which immeasurably harm the public welfare. In artfully exposing how paranoia surrounding crime and security can exacerbate preexisting racial inequalities and tensions, Murray shines a light on a problem that may very well take on major significance in U.S. urban life in the near future. Murray's assessment as to how sensational media and discourse on crime engenders the creation of a racialized "Other" is of paramount significance in the wake of the racial justice protests in the United States in 2020. Indeed, right-wing media outlets and commentators have devoted enormous airtime and resources to characterizing the events of the summer of 2020 as violent riots that threaten to destabilize the American social fabric. Depictions of looted stores, burning buildings, and accounts of acts of bloodshed are portrayed as exemplars of a growing threat posed by roving criminal gangs, while labels such as "antifa", "agitators," or "anarchists" are used to identify the shadowy group of malcontents who seek to destabilize society.

The collective response to perceived ineffective policing in Johannesburg that Murray describes could also occur in the United States and lead to a crime "panic" in American suburbs. Prominent officials in the executive branch of the U.S. government, including President Donald Trump, asserted a widespread inability of public officials in large cities to control crime and disorder. Trump repeatedly attempted to instigate panic during his 2020 reelection campaign, emphasizing his commitment to "law and order" while asserting that a Democratic presidency would result in the destruction of the suburbs. Indeed, the belief that public policing agencies have failed and that communities must take a proactive role in their own security has resonated with at least some segments of the American populace. Veneration and defenses in right-wing media of Kyle Rittenhouse, a teenager accused of killing two people during protests for the shooting of Jacob Blake in Ke-

nosha, Wisconsin were tinged with such rhetoric.<sup>1</sup> The reaction to this incident mirrors the sensationalist coverage of crime and interpolation of security with individual liberty to which Murray assigns particular blame in the development of Johannesburg's security obsessions. Furthermore, the participation of Mark and Patricia McCloskey, who brandished weapons at protestors passing by their St. Louis mansion, as speakers at the Republican National Convention suggests that at least some Americans have internalized collective crime fears sufficient to engender a corresponding securitization response like that identified by Murray in Johannesburg.

A potential rise of collective paranoia towards crime and civil unrest contemporaneous with the racial justice protests of 2020 also risks implicating the twin phenomena of racialized "Other"-ization and the erosion of civil liberties in the name of security that Murray documents in Johannesburg. Some commentators will certainly argue that such phenomena have already become widespread in U.S. cities and suburbs. However, it remains to be seen whether American suburbanites will wholesale embrace physical barriers, territorialization of the urban landscape, and round-the-clock private security patrol and monitoring as ubiquitous necessities in a dangerous social world, as Murray charges affluent Johannesburg citizens of doing in the post-apartheid era. American society in 2020 certainly shares characteristics with South Africa that suggest the potential for such a response to a real or perceived security crisis. Indeed, a long history of racial injustice, de jure and de facto segregation, and ever-widening income equality make the fear of such a reaction particularly palpable. What is certain, then, is that Murray's assessment of the destruction of public space, the "Other"-ization of racial minorities, and the erosion of cherished civil liberties in Johannesburg presents a highly plausible warning for the future in the United States, particularly if certain actors continue to deploy panic-inducing rhetoric and exploit existing racial and economic cleavages mirroring those seen in Johannesburg.

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1. FOX NEWS ANCHOR TUCKER CARLSON NOTABLY COMMENTED ON AIR, "HOW SHOCKED ARE WE THAT SEVENTEEN-YEAR-OLDS WITH RIFLES DECIDED THEY HAD TO MAINTAIN ORDER WHEN NO ONE ELSE WOULD?" *Tucker Carlson Tonight* (Fox News television broadcast Aug. 26, 2020).