

## BOOK ANNOTATIONS

*Extraordinary Justice: Law, Politics and the Khmer Rouge Tribunals.*  
By Craig Etcheson. New York, NY: Columbia University Press,  
2020. Pp. xiii, 470. \$65 (hardcover).

REVIEW BY MEERA AIYAGARI

*Extraordinary Justice* explores how different ideologies about law's purpose shape international war crimes tribunals by focusing on the Khmer Rouge Tribunal (KRT). The KRT is a Cambodian and United Nations-backed war crimes tribunal created to try leaders of the Khmer Rouge for crimes they committed during the regime. Author Craig Etcheson focuses specifically on ideologies about how law and politics should be intertwined and calls these ideologies "legalism." Etcheson argues that three forms of legalism in particular determined both the struggles and successes of the KRT.

Etcheson succeeds in showing how multiple legal ideologies converge on and coalesce around war crimes tribunals. He achieves this by committing himself to a comprehensive and highly detailed narrative style in order to analyze the KRT through his recurring legalism theme. Together, these two elements of style and theme work together to support Etcheson's secondary but omnipresent purpose—showing the everlasting complexity of war crimes tribunals generally and the KRT's hybrid justice model specifically. *Extraordinary Justice* adds to our understanding of war crimes tribunals by mapping out the ideological landscape all war crimes tribunals, including the KRT, must live within and providing a framework to help navigate that terrain in the future.

The Khmer Rouge?—officially the Communist Party of Kampuchea—was a guerilla movement led by Pol Pot that seized power in Cambodia on April 17, 1975, and ruled until January 7, 1979, when the neighboring Vietnamese Communist Party toppled the regime. The Khmer Rouge ruled through violence, genocide, re-education camps, and, as Etcheson states, "arguably had been the most totalitarian and, in terms of its treatment of its own population, the most violent regime of the twentieth century."

Etcheson does not, however, recount the terror inflicted by the Khmer Rouge during their rule. Instead, *Extraordinary Justice* offers a detailed, fly-on-the wall retelling of how Cambodia, the United Nations, and the world tried to address the Khmer Rouge's crimes by establishing a new kind of war crimes tribunal—the Khmer Rouge Tribunal.

First, Etcheson grounds the story in his personal experience. He explains that he became an “engaged scholar” near the end of the Khmer Rouge regime and then dedicated the next quarter century to bringing “the leadership of Cambodia’s Khmer Rouge to justice.” Etcheson himself eventually worked as part of the KRT and his personal experience and insights periodically appear.

Second, Etcheson establishes the analytical framework he argues guides the creation of the KRT: legalism. Etcheson identifies three types of legalism that span the broad spectrum of how law and politics are, or should be, intertwined. On one end sits classical legalism, which puts law on a pedestal and aims to sever politics from the rule of law completely. The United Nations, Etcheson argues, is most comfortable here. On the other end of the spectrum sits instrumental legalism, where actors mold or bend law to serve political ends. Etcheson argues that instrumental legalism shapes Cambodia’s approach to the KRT. In the middle sits strategic legalism, where “the relationship between law and politics becomes more flexible and intertwined.” The United States, Etcheson argues, used strategic legalism to make the KRT possible, carving out a space between the United Nations and Cambodia to help realize their common goal.

With Etcheson’s personal experience and analytical framework in place, he proceeds to trace a profound part of history. Etcheson reaches back to the roots of Cambodia’s legal ideologies developed in the early Soviet Union, through the waning days of the Khmer Rouge in 1979. Etcheson takes the readers through the creation of the People’s Revolutionary Tribunal (PRT) in 1979, a first bite at the apple of a war crimes tribunal for the Khmer Rouge that was, according to the author, driven by institutional legalism. Next, Etcheson recounts in painstaking detail the decades-long process of creating and operating the KRT, the second bite at the apple to create a war crimes tribunal. Etcheson gives readers an on-the-ground look at how Cambodia, the United Nations, and the

entire international community struggled to create a tribunal that was consistent with international legal standards (towards classical legalism) and still served Cambodia's needs (towards institutional legalism). Finally, Etcheson marks where we are today, what is still unknown, including the remaining cases still in process at the KRT, and what we might never know. Is the KRT a success and what will its legacy be?

The KRT differs from other war crimes tribunals because it attempts to blend the international legal order with Cambodia's legal order. The result is a form of what Etcheson terms "hybrid justice." Cambodia created two special tribunals within its national system to exclusively try crimes stemming from the Khmer Rouge. However, international and national legal systems and legal personnel inform and operate the KRT, representing the hybrid element of the tribunal. The creation of the special chambers and this unique hybrid justice system are what gave the KRT its colloquial name in Cambodia, the "Extraordinary Chambers."

Etcheson's detailed narrative puts the reader in the room with the main players of this history. Through extensive research and reliance on primary sources, the narrative reads like a novel. Characters, setting, action, dialogue, and Etcheson's assumption of the role of an almost omniscient narrator all play a role in how he unravels the creation and operation of the KRT. The style sets up the major tug-of-war that defined the KRT. The United Nations, represented by Former Secretary-General Kofi Annan and former Under-Secretary-General for Legal Affairs Hans Corell illustrate the classical legalism perspective while the Cambodian leadership, represented by Prime Minister Hun Sen and former Deputy Prime Minister Sok An, illustrate the institutional legalism point of view. Unlike a treatise on the KRT, Etcheson lets the story unfold, mimicking the stop-and-start negotiations between the United Nations and Cambodia with the United States, Japan, and Australia making appearances. Etcheson devotes the same time and attention to the negotiation process for the KRT, which took place from 1997 to 2003, as he does to the operation of the KRT, which began in 2003 and continues today. Like the negotiations and operations of the KRT, Etcheson's analysis of justice is focused more on process and how we find justice than the result of what we find.

By submerging the reader in these details, Etcheson personifies his three approaches to legalism. Etcheson typifies the classical legalists by former Under-Secretary-General Hans Corell. In Etcheson's retelling, Corell is steadfastly committed to the highest international legal standards for the KRT. However, because of this rigidity, Corell encounters reluctance, reticence, and sometimes refusal to cooperate from his Cambodian counterpart. On the other side, Etcheson portrays Sok An, the former Deputy Prime Minister, as trying to advance the KRT but putting Cambodia's goals of national reconciliation ahead of maintaining international legal standards for process at the KRT. Meanwhile, John Kerry and others from the United States dip in and out of the negotiation and operational process, occupying the strategic legalism position, to bridge the gap between Corell and the United Nations and Sok An and Cambodia.

The detailed style and Etcheson's personification of his legal framework entrench Etcheson's second theme—complexity. Etcheson succeeds in revealing how complexity is both the source of the United Nations' and Cambodia's frustration at the KRT and the only solution for creating a truly blended tribunal.

Etcheson's argument, therefore, serves two roles in understanding international war crimes tribunals. First, Etcheson highlights the unique role the KRT plays in the development of international war crimes tribunals by creating the hybrid-justice model. In this model, the KRT blends every element of tribunal process. The civil law system of Cambodia integrated adversarial elements from common law. At each stage of the process, international and national prosecutors, judges, and defense counsel participated. Etcheson shows that the benefit of this innovative approach was that it was the only solution that satisfied both the United Nations' and Cambodia's visions for an international war crimes tribunal. At the same time, developing a new process led to new problems. The main problem that has plagued and, as Etcheson points out, continues to plague the KRT is negotiating the line between "international standards," governed largely by the United Nations' definition, and "procedures in force," governed by Cambodian national law. Second, Etcheson's detailed but incisive account of the KRT is a foundational study of the common features present when international politics is intertwined with war crimes

tribunals. Etcheson starts from the broadest view, putting three stakes in the vast ground for the three different forms of legalism that form his thesis. But he uses this framework to step closer and closer in, revealing the other elements that persist when seeking any form of international cooperation and justice: different bureaucracies, the large amount of time spent negotiating, money and lack of it, and perhaps most importantly the challenge of navigating different personalities of people who may have the same ultimate goal but disagree on the steps to get there.

However, such intense focus on the formation and operations of the KRT comes at the expense of the broader context, particularly Cambodia's fragility following the end of the Khmer Rouge. Cambodia's leadership's adherence to institutional legalism up until the present day seems to be a reflection of present circumstances just as much as it is a result of historic roots. However, while there is some detail given to times of political strife within Cambodia and global events affecting the KRT, such as the 2011 tsunami, Etcheson's focus on the KRT causes him to gloss over some national context.

Etcheson encourages embracing complexity and provides an approach—his legalism framework—to make sense of that complexity. Etcheson's legalism understands that people intertwine their end goals with their perspectives on law's purpose. By analyzing all of the details of the negotiation process, Etcheson shows how legalism is the fire in which the KRT was forged. He also shows, however, that knowing this does not mean we know how we will remember the KRT. Legalism is a framework, but what comes through in Etcheson's work is the importance and influence of the people who animate that framework. We do not know yet how the story of the KRT ends but Extraordinary Justice carves out a path to pierce through the duality of international and national justice at the KRT and carry out the ambitious task of bringing the Khmer Rouge's leaders to justice.

*Standing Up for Justice: The Challenges of Trying Atrocity Crimes.* By Theodor Meron. New York, NY: Oxford, 2021. Pp. xii, 372. \$32.95 (hardcover).

REVIEWED BY DANIELE DURKIN

International criminal justice is a burgeoning field which, by its very nature, leaves much up for debate. Professor Theodor Meron, one of the leading practitioners in the field, attempts to answer many of the questions posed by the field's supporters and critics alike in *Standing Up for Justice*. The book relates the "judicial perspective of trying atrocity crimes" to the myriad of issues that the profession and field at large entail. In this respect, Professor Meron is undoubtedly successful. By combining personal anecdotes to pique the reader's interest alongside technical insights that only a seasoned professional could offer, Professor Meron succeeds in creating a book so brimful of expertise that it's not hard to understand why some of the relevant legal nomenclature—the so-called "Meron gap"—bears his name. Meron's mastery shines in his exploration of some of the most important debates within contemporary international criminal justice. However, the breadth of his knowledge acts as a double-edged sword. In choosing to address so many of the foremost concerns within the field in one book, the discussion of each concern is inevitably restricted.

*Standing Up for Justice* is divided into three main sections: "Setting the Scene," "Principles, Goals, Processes," and "Selected Decisions." The first section details Professor Meron's life, his path to judgeship, and some of the watershed cases for which he served as arbiter. The latter two sections discuss, among other topics, the rule of law in international criminal justice, the establishment and legitimacy of international criminal tribunals, the deliberation process of international judges, and one of the most controversial acquittals of Meron's career. In walking readers through the judicial deliberation process—and illustrating that process with some particularly salient examples such as the acquittal of General Ante Gotovina, news of which promptly took the international legal community by storm—Professor Meron seamlessly blends personal anecdotes with historical narratives to discuss the strengths and failures within the current international crimi-

nal system. These topics reflect the depth of Meron's knowledge and background, but Meron's prose is free of pomp or pretension and accessible to everyday audiences who would like to learn more about the field.

Meron respectfully engages with both sides of each debate he mentions and handles sensitive issues with the care they deserve. For instance, in a chapter entitled "State of the Law: The Example of Rape," Professor Meron discusses how some of his most prominent scholarship stems from his position sitting on an appeal case for one of the largest atrocities committed in modern times. Meron, then a newly appointed Appellate Judge in the International Criminal Tribunal for the Former Yugoslavia (ICTY), was tasked with rendering his first judgment on *Prosecutor v. Kunarac, Kovac and Vukovic*, a watershed case concerning the international criminal law on rape and sexual slavery. The Professor, along with his fellow Judges, "rejected the defense claim that rape could only occur when the victim showed 'continuous resistance' and when physical force was used," holding instead that non-consent need not be explicitly proven and can instead be inferred on the basis of circumstantial evidence. The Judges also found, in turn, that rape met all of the criterion necessary to constitute torture under international criminal law due to the severe pain and suffering that it causes victims. They concluded that rape and sexual slavery were sufficient to constitute war crimes under customary international law, as well. As one of the first chapters in *Standing Up for Justice*, this essay primes readers to expect honest, insightful commentary from an author whose unflinching commitment to international human right and humanitarian law is apparent in every statement.

In another chapter, "Encourage and Invigorate Prosecutions under the Principle of Universal Jurisdiction," Meron notes that *jus cogens* and peremptory norms largely support a State's ability to prosecute genocide even when a potential perpetrator is not present within the State's territorial jurisdiction. While he agrees with these arguments in favor of universal jurisdiction, Professor Meron also lends credence to the argument that engaging in such trials in *absentia* may very well raise due process concerns and induce politically motivated trials. Ultimately, Professor Meron expresses optimism about the increasing prevalence of States exercising universal jurisdiction when confronted with the harsh realities of atrocity

crimes, though he recommends that States also take precautionary measures by reviewing and adjusting their respective foreign policies to avoid becoming safe havens for such criminals. This chapter, as well as the many like it scattered throughout *Standing Up for Justice*, would be ideal for trained academics and newcomers to international law alike. It inspires readers to take a closer look at the gray area within the international criminal justice system and, upon considering both sides of the argument, determine on which side they fall.

The book, when considered in its entirety, draws a number of conclusions that offer refreshing new perspectives on some common—and some obscure—questions about the field of international criminal justice. It both strengthens readers' overall understanding and deftly navigates some of the most complex debates in the field. It seems Professor Meron's ultimate goal is not simply to contextualize and define some of the most pressing issues in the field, but to also offer his own unique perspectives as a leading legal practitioner and present new angles that readers can utilize to solidify their own thoughts. With regard to this goal, the book is a resounding success.

This breadth of issues, however, is also the book's Achilles heel. Perhaps inevitably for a book that explores topics as far-ranging as the author's professional career, the Ovcara Massacre and how best to keep prisoners of war safe, and the history of international criminal justice from World War II to the modern era, discussions of some topics and subtopics feel almost incomplete. For example, the subtopic "Selective Accountability" briefly mentions the failure of the current system to prosecute all atrocities equally and fairly. Clocking in at just over one page, the argument seems almost more of an aside rather than a fleshed-out critique. This is surprising, as Professor Meron acknowledges that issues such as these are some of the biggest concerns for international criminal justice's detractors. Perhaps even more surprising is the absence of a discussion on the ways in which Eurocentrism affects the international criminal justice system by allowing institutions to doggedly pursue certain individuals while leaving others effectively free to carry on with impunity, as demonstrated by the ICC's alleged Africa bias. Rather than stating that "selectivity may be an intractable problem" and focusing on the ways in which States are already working to rectify said problem, the subtopic

would feel more complete if Professor Meron examined why selectivity is so damaging to the legitimacy of the field. The extensive detail in the preceding “Principle of Legality” section—which includes several personal anecdotes, an overview of relevant legal and historical context, and an in-depth investigation as to how various international criminal tribunals have interpreted and addressed the principle of legality through their statutes and casework—makes “Selective Accountability” feel bare by comparison.

Another flaw in this book is the occasional lack of connection among its many sections. While Professor Meron skillfully transitions from autobiographical essays to overarching historical narratives, his segues between sections concerning different facets of international criminal justice feel a bit more disjointed. Small illustrations of interplay between these categories are strewn across each chapter, but they seem more like scattered afterthoughts than thoughtful interweaving. At times, they also compromise the effectiveness of separating the book into distinct sections to compartmentalize complex topics into more easily-digestible subtopics.

Nevertheless, the book is an excellent read. Professor Meron, one of the most influential practitioners of international criminal justice, provides such a thorough overview of the field’s landscape that non-specialist readers and legal academics alike will undoubtedly benefit from a close reading. His perspective is as easy to comprehend as it is nuanced, and as personal as it is doctrinal. *Standing Up for Justice* successfully supplements, and provides insightful additions to, countless debates and hot-button issues within the field today. It also offers a humanizing, sincere journey through Professor Meron’s life, from his childhood as a survivor of the Holocaust to his position as a highly regarded member of the NYU Law faculty. The witticisms Meron includes and his love affair with the works of Shakespeare will further endear readers to the man behind the book. Due to its broad scope and the at times stilted transitions between topics, the book does tend to overlook or gloss over many issues that are just as if not more vital to the field than the topics Meron chooses to discuss in depth. Much to his credit, however, Meron seems to acknowledge this in the text through his references to questions that are “ripe for debate” and allusions to the limitations within each chapter. While Meron is naturally unable to foresee exactly what

the future of international criminal justice will hold and accordingly does not speculate much as to what such a future might entail, *Standing Up for Justice* is still an excellent start for readers looking to learn more about one of the most dynamic fields of law today.

*Legal Lessons: Popularizing Laws in the People's Republic of China 1949-1989.* By Jennifer Althenger. Cambridge, MA: Harvard University Press, 2018. Pp. xviii, 388. \$26.56 (paperback).

REVIEWED BY SUMNER FIELDS

2021 marked a year of dizzying legal change in China: a ban on cryptocurrency mining, a restrictive overhaul to the afterschool education industry, age-based limits on online video games, and a forced restructuring of financial behemoth Ant Group.<sup>1</sup> Microsoft's withdrawal of LinkedIn's social network function in mainland China is the latest sign of the increasing difficulty for foreign entities of complying with onerous Chinese data security and censorship laws.<sup>2</sup> Against this backdrop of increasingly technical and sophisticated regulatory supervision and action, understanding the content of the law is as important as understanding the role of law in contemporary Chinese society. Jennifer Althenger's *Legal Lessons* provides a history of law popularization in China during the latter half of the 20th century, detailing the government's cam-

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1. See, e.g., Alun John, Samuel Shen & Tom Wilson, *China's Top Regulators Ban Crypto Trading and Mining, Sending Bitcoin Tumbling*, REUTERS, Sep. 24, 2021, <https://www.reuters.com/world/china/china-central-bank-vows-crackdown-cryptocurrency-trading-2021-09-24> (explaining the cryptocurrency ban); *China Says Government to Set Prices for After-School Classes*, BLOOMBERG NEWS, Sep. 6 2021, <https://www.bloomberg.com/news/articles/2021-09-06/china-says-government-will-set-prices-for-after-school-tutoring> (citing ban on holiday time and for-profit tutoring and setting of national prices); Keith Zhai, *China Limits Online Videogames to Three Hours a Week for Young People*, WALL STREET J., Aug. 31, 2021, <https://www.wsj.com/articles/china-sets-new-rules-for-youth-no-more-videogames-during-the-school-week-11630325781> (reporting on a ban on youth playing videogames during the weekdays and limited to a certain number of hours per week); *China Forces Jack Ma's Ant Group to Restructure*, BBC NEWS, Apr. 13, 2021 (stating the new regulatory requirements placed on Ant Group).

2. See Liza Lina & Stu Woo, *Microsoft Folds LinkedIn Social-Media Service in China*, WALL STREET J., Oct. 14, 2021 (reporting that Microsoft will suspend the social media function of LinkedIn in China).

paign to simultaneously spread awareness of legal reforms and control their interpretation during a period of dramatic societal upheaval. *Legal Lessons* offers a focused analysis on the tenor of the law popularization campaigns of the 20th century, revealing their connection to modern Chinese nationalism and highlighting opportunities for further research into regional and minority policy differences in law propaganda, as well as historical and contemporary comparisons to other socialist regimes' law propaganda.

*Legal Lessons* does not focus on the wording or actual legal implementation of the law, but rather on the history of campaigns to inculcate the general public with a consciousness of and respect for new laws and constitutions through education in the civic attitude desired by the state. It covers two major periods of Chinese legal history: first, the period from liberation in 1949 to the start of the Cultural Revolution and second, from the aftermath of the Cultural Revolution until the collapse of the socialist bloc in the early 1990s. In the post-liberation period of the early 1950s, the newly socialist state sought to radically rearrange Chinese society through drastic legal and economic change. In the post-Cultural Revolution period from the 1970s onward, the government sought to restore belief in institutional power while simultaneously dealing with an opening and changing society.

Althenger's research uses internal cadre reports, propaganda, educational material, and artistic works to show a series of experiments in instilling legal knowledge consonant with central party thinking. These campaigns were inconsistent over time and regionally within China, and the complex game of telephone from intellectuals and leaders in Beijing to grassroots cadres evinced the difficulty of transforming the high idealism and political machinations behind the campaigns into approachable learning modules for ordinary people. Unlike more straightforward campaigns such as land ownership reform, legal education's ultimate intent was to instill a particular analysis of the laws and the constitution. Soviet socialist legal tradition and Chinese Republican legal reform after the end of Qing Dynasty rule in 1911 both emphasized a simplicity of language aimed at making legal texts accessible. However, they paradoxically made legal interpretation more complicated as the sparse text raised many questions when applied to everyday life. More detailed guidance could not resolve these

practical questions as such a publication would undermine the idea that the CCP's laws were a perfected, ready tool of the proletariat. This left local cadres with an ambiguous task which required regular people to engage with laws to understand their 'basic spirit' (基本精神 *jiben jingshen*) without providing specific legal advice. The basic spirit approach usually emphasized how obedience to the law would help achieve a model worker life but led to great confusion and admonishments from superior officials when cadres tried to apply the new laws to actual cases. For example, the 1950s Marriage Law campaign championed the Law, which banned among other things selling children into marriage, polygamy, and domestic violence by emphasizing how following these new rules going forward would lead to a happy and productive socialist society and family life. When cadres and judges tried to implement the law, however, the flood of cases contravened the Party's desire for social stability. The central government thus discouraged officials from processing disputes or requests for the new rights arising under the law but encouraged using the laws' principles to model to people the correct behavior expected of them in the new socialist society.

The government's desired behavior and the concept of being law-abiding changed over the 1950s, making law propaganda into a powerful accessory to other political campaigns. The Cultural Revolution violently ejected institutional powers and interrupted this legal reform process. The return to law propaganda after the Cultural Revolution employed techniques from the first period but had to contend with the public's loss of faith in institutions during the Revolution. The 1970s Chinese campaign mirrored similar Eastern European and Soviet socialist regimes' law propaganda campaigns as China, along with the rest of the socialist bloc, had to contend with an increasingly connected world where consumers enjoyed a growing media market which competed with official propaganda. The socialist bloc attempted to use law to keep socialist legal institutions relevant and legitimate in the face of growing internal and external criticism of socialist regimes. Eventually, the popularization of law informed the calls for reform which ended socialist rule in Eastern Europe and culminated in the 1989 crackdown in China. In contemporary China, law popularization continues in forms which emphasize a top-down, didactic 'scientific' analysis that emphasizes legal

knowledge as attainable but laws as not interpretable outside the confines set by the government.

Legal Lessons' conclusion traces the concept of being "law-abiding" to the rhetoric of contemporary Chinese nationalism but does not engage directly with contemporary Chinese politics. "Law-abiding" emerged in law popularization to change the emphasis of powerful documents such as the constitution away from destabilizing topics like rights (权力 *quanli*) towards a civic idealism based around correct societal behavior and duties to society modeled after the spirit of enacted laws. Today, calls to and criticisms for a lack of law-abiding behavior allow the state to cast political dissidents, rivals, and disfavored minorities as wrongdoers without having to demonstrate clear illegality.<sup>3</sup> Therefore being lawful extends beyond obeying the law—which in terms of civil codes and regulation often remains under-defined, indeterminate, or allowed to operate in a gray zone—into a moral framework of being civilized (文明 *wenming*) and scientific (科学 *kexue*) in thinking and comportment. Since the judiciary's independence from the central and regional governments remains unclear, this conceptualization of law allows for large policy moves like the anti-corruption campaign to move forward without having to provide extensive due process or unbiased application.<sup>4</sup>

Althenger's research in spotlighting Beijing and Shanghai shows an arguably mainstream narrative of law popularization and invites further research on how laws were popularized among the rural population and ethnic minorities. Althenger several times emphasizes that the populations of Beijing and Shanghai, as better educated and cosmopolitan urbanites,

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3. See, e.g., Rob Schmitz, *Reporter's Notebook: Uighurs Held For 'Extremist Thoughts' They Didn't Know They Had*, NATIONAL PUBLIC RADIO NEWS, May 7, 2019 (referring to Uyghur detainees in a vocational training center "[t]hey broke the relevant laws, but their crimes are so minor that they are exempted from criminal punishment. The government wants to save and educate them, converting them here at this center.").

4. See Emily Feng, *How China's Massive Corruption Crackdown Snares Entrepreneurs Across The Country*, NAT'L PUBLIC RADIO NEWS (Mar. 4 2021) (stating that many corruption allegations are politically motivated or made on formulaic and exaggerated charges). See also JOHN M. GRIFFIN, IS THE CHINESE ANTI-CORRUPTION CAMPAIGN AUTHENTIC? EVIDENCE FROM CORPORATE INVESTIGATIONS? 28 (PBCSF-NIFR 2016), <https://ssrn.com/abstract=3832629>.

were expected to participate more actively in the law propaganda process, especially in offering feedback on the constitution. Legal Lessons shows how complex this process was in leading urban areas and mentions occasionally how the efforts turned out differently in rural Chinese-speaking regions. Further regional studies of legal propaganda could help elucidate differences in the ideology and style of governance in different regions of China. Since cadres were encouraged to find the relevance of new national laws to their local environment, there may be distinct regional differences in the implementation of legal education. Alongside regionalism, Maoist legal and political thought enshrined different rights for established ethnic minorities which have played out in their different treatment in everything from the one-child policy regime to university admissions. An understanding of how the distinctive constitutional rights granted to minorities influenced the translation of law-abidingness and socialist law to minority populations could help contextualize Xi Jinping's increasingly restrictive approach to non-Han minorities.<sup>5</sup> For instance, many of the policies enacted in Xinjiang draw on Mao-era mass campaign tactics, showing that understanding the history of such campaigns can inform analysis of ongoing changes in governance of minority-dominant regions of Western China.<sup>6</sup> Law popularization has kept the law a malleable tool for political purposes and has built an arena for discussing parts of the law that the government wants to discuss for policy purposes, while signaling for continued silence on the insoluble contradictions such as those exemplified between China's written constitutional rights and minority cultural suppression.<sup>7</sup>

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5. See e.g., Xinjiang Document Project, UNIV BRITISH COLUMBIA, <https://xinjiang.sppga.ubc.ca/> (last visited Nov. 29 2021) (storing documents related to the Chinese government's treatment of Xinjiang and Muslim minorities).

6. See VICKY XIUZHONG XU ET AL., THE ARCHITECTURE OF REPRESSION (Australia Strategic Policy Institute 2021) (explaining the resurgence of mass show trials, public denunciation sessions, loyalty pledges, propaganda lectures, and chant rallies).

7. Compare XIANFA art. 4, 36 (1982) (China) (promising free religious expression and protection of minority heritage as long as these activities do not subvert societal order) with NATHAN RUSER ET AL., CULTURAL ERASURE (Australia Strategic Policy Institute 2020), <https://www.aspi.org.au/report/cultural-erasure> (detailing destruction and modification of mosques and cultural sites like graveyards and tombs).

More broadly, *Legal Lessons* provides a narrative that allows for high level comparisons with similar law popularization movements in Eastern Europe and the Soviet Union and that could provide for further comparative approaches between the processes of law popularization in Vietnam, Laos, and Cambodia. Comparisons to Vietnam may be especially fruitful for understanding how the socialist legal system of Vietnam has dealt with market liberalization and how its approach compares to China's. While most socialist bloc countries have liberalized their economies, further research into the political and cultural legacy of communism may provide nuance to analysis of regional political studies.

*The Sociology of Children's Rights* by Brian Gran. Cambridge, UK: Polity Press, 2021. Pp. viii, 259. \$47.51 (paperback).

REVIEWED BY MATTHEW FORGETTE

Brian Gran begins *The Sociology of Children's Rights* with a short story. In the story, the author invites the reader to inhabit the role of a young migrant child who has fled a host country due to violence. In this fantasy scenario, an ombudsperson has just informed the child that they possess rights, a concept that the child has not previously encountered.

At the beginning of each chapter of *The Sociology of Children's Rights*, Gran employs this fictional child as a learning tool to demonstrate what children's rights are, how children's rights are monitored, advanced, and sometimes inhibited by various institutions, and what children's rights do to impact young people and society more broadly. The author examines children's rights on an international level, considering transnational factors such as cultural relativism, the limited enforcement mechanisms of international treaties and other human rights instruments, and the relatively limited data on the effectiveness of implementing children's rights. Gran concludes that, while children's rights hold the potential to enhance young people's well-being and interests, in practice, the current regime often actually deters children from realizing and benefiting from their rights.

Ultimately, however, *The Sociology of Children's Rights* shies away from offering concrete solutions on how to improve the international children's rights framework to make it more

beneficial for children. In the final paragraph of the book, Gran emphasizes that “children’s rights can be and have been used to demand social change.” However, the author mostly leaves it to the audience to ascertain how to effectively employ children’s rights to enact social change, rather casually concluding, “young people are smart enough to employ their rights to protect environments adults are destroying.” The book could benefit from positing more tangible proposals for how to use children’s rights to help children, rather than leaving it up to children to help themselves.

Gran begins *The Sociology of Children’s Rights* by explaining what children’s rights are and why children need unique rights. After all, the United Nations Universal Declaration of Human Rights (UDHR) applies to everyone, including children. Indeed, many of the rights listed in the United Nations Convention on the Rights of the Child (UNCRC) mirror those listed in the UDHR, such as the right to a nationality and the right to a free and compulsory education. Gran clarifies the necessity of specifying children’s rights by alluding to the UNCRC’s preamble, which states that a child “needs special safeguards and care, including appropriate legal protection, before as well as after birth.”

In the opening chapters, Gran soundly contends that because children are physically and emotionally growing, they lack the maturity and independence to fully realize their human rights and thus need special safeguards and protections. Gran also effectively counters the argument that parents can simply represent children’s civil and political rights for them. For example, Chapter 2 references a study that found that across the Organization for Economic Co-operation and Development (OECD) countries, governments spend nearly twice as much money on pensions as they do on education. This study indicated that parents are more likely to vote for policies that serve their own self-interest, such as pensions, rather than policies like education that enhance children’s interests.

Although Gran makes a cogent argument for the exceptionality of children’s rights, the book fails to offer exceptional solutions for their implementation. Perhaps one way of doing so would be to empower the national ombudspersons appointed by the UNCRC to partner with national children’s rights movements to lobby for lower voting ages. Gran right-

fully notes that the age of competency for marriage or military service is often lower than the age of competency for voting, but could have more explicitly emphasized how children's rights advocates can utilize this data to draw attention to child agency and freedom of expression.

Gran carefully stresses that the mere listing of children's rights in international instruments such as the UNCRC does not mean that governments successfully fulfill their commitments to the treaty. While the Convention is the most widely ratified human rights treaty—Gran pointedly and repeatedly stresses that the United States is the only U.N. member state to not ratify the UNCRC—States often fail to fulfill their international obligations towards children's rights. Gran powerfully illustrates this discrepancy between intention and practice in the realm of capital punishment. The author writes that although all U.N. member parties have agreed to prohibit the practice, nine countries imposed death as punishment for young people during the period 1990 to 2018. Gran then systematically lists the countries as well as the number of children killed and their ages. It is in sections like this where Gran is most devastatingly impactful. By starkly pointing out the hypocrisy of national governments in signing children's rights treaties while blatantly violating children's most fundamental rights—the right to not be killed by their own government—Gran illustrates the ineffectiveness of the current international children's rights regime.

The author's argument could be strengthened even further, however, if Gran were to delve into the narratives of the children who suffered the death penalty. Doing so could further draw attention to these injustices and highlight areas for activists to fight for change. Gran could also specify what role the United Nations could play in effectively enforcing countries' treaty obligations, such as strengthening the complaint procedure under the UNCRC individual optional protocol. As it stands, the protocol allows the United Nations Committee on the Rights of Children to hear individual cases in which the UNCRC has been violated; however, the Committee's action is limited to merely recommending that the child's national government respond and remedy the child's right. Gran should openly advocate to endow the Committee with the right to enforce children's rights rather than simply make recommendations.

Gran also devotes a chapter of the book to analyzing the current international framework for children's rights, which he terms the "World Society Approach." Essentially, this approach relies on the assumption that, because nations share values and norms despite differences in government, international institutions and instruments are effective ways to realize children's rights and enhance young people's quality of life. These international institutions and instruments include the United Nations Committee on the Rights of the Child, independent children's rights institutions, non-profit organizations, and the United Nations Convention on the Rights of the Child and its optional protocols. In evaluating these various institutions and instruments, Gran grapples with many problems that often arise within international law and politics.

For example, Gran confronts the issue of cultural relativism, citing social scientist Jack Donnelly's explanation that, "moral rules and social institutions evidence an astonishing cultural and historical variability." Essentially, even if almost all states have ratified the UNCRC, different societies have different ideas about what the UNCRC says and demands. Gran pushes back on this assertion by pointing out that certain cultural practices, while widely accepted, are almost certainly wrong and incompatible with children's rights. The author utilizes the United States Supreme Court case *Deshaney v. Winnebago County Department of Social Services* as an example in which the cultural practice of corporal punishment left a four-year-old boy suffering permanent brain damage. In that case, the social services department failed to remove the boy from his father's custody despite documented evidence of beatings, and the Supreme Court ultimately ruled that the boy was not denied due process. Here, Gran castigates the inability of the current children's rights regime to guarantee this boy's right to safety and protection from abuse to the extent that it failed to hold anyone accountable after the abuse has occurred.

The United States' failure is emblematic of the larger international human rights regime, whose treaties often include lofty, aspirational language but whose enforcement mechanisms are limited to "naming and shaming" and inaccessible individual complaint procedures. While Gran notes that the United States has yet to ratify the UNCRC, the book emphasizes that ratification of the treaty should not be a prerequisite

for ensuring that child abuse is prevented and punished. The author rightfully points out that the United States has in fact ratified two optional protocols to the UNCRC and the treaty has been referenced in Supreme Court arguments, and yet children's rights abuses persist. Gran also cites cases of children's rights abuses in countries that have ratified the UNCRC to underline the inadequacy of the treaty regime and illustrate that the United States is not alone in failing to ensure children's rights. For example, he offers the Victoria Climbié case in the United Kingdom, in which a young girl died of torture and abuse after slipping through the cracks of government social services.<sup>8</sup>

The book is not completely bereft of suggestions for improvement. One of the book's more elucidating discussions focuses on youth parliaments, which span the globe and "empower young people to exercise their political rights in two ways: through assembly and through voting." By highlighting youth parliaments, Gran helps younger readers looking for ways to engage politically and create change. After all, the Flash Eurobarometer research indicates that 93.6 percent of European youth surveyed gave high priority to "providing more information to children about their rights and where to inquire about them." The data indicates that young people are searching for ways to improve their well-being and have greater impact, and thus it could be helpful for Gran to incorporate more of these opportunities and solutions into the book.

The *Sociology of Children's Rights* is a well-researched and insightful look into the importance of children's rights. Gran succeeds in supporting the book's assertion that the current international framework on children's rights often fails to deliver on its lofty ambitions. However, the book would be stronger if it provided recommendations on how to effectively implement the children's rights regime. While undoubtedly a difficult task, Gran's expertise could help guarantee children's rights in the future.

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8. Pg. 188

*Reframing Human Rights in a Turbulent Era*, By Gráinne de Búrca.  
Oxford, United Kingdom: Oxford University Press. 2021. Pp  
viii, 224. \$38.50, (paperback).

REVIEWED BY COLTON JACKSON

*Reframing Human Rights in a Turbulent Era* seeks to respond to a growing chorus of voices criticizing the international human rights system as inadequate, ineffective, and normatively undesirable. As summarized in the introduction to the work and periodically thereafter, criticisms of the international human rights system have focused on both its ineffectiveness—arguing that the system is peripheral, ill-equipped for real world challenges, and unacceptably slow-moving—and its normative undesirability, characterizing it as imperialist, apolitical, and primarily a tool of elites. Author Gráinne de Búrca does not seek to respond to each criticism individually or to stake out a debate on the merits of specific criticisms, but instead presents a different model of how international human rights works: the experimentalist model of human rights. Through an explanation of this model and an exploration of three case studies—the implementation of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) in Pakistan, the struggle for disability rights in Argentina, and the movement for children’s and reproductive rights in Ireland—this book offers a view of international human rights as a system that can be and has been an important force for the positive development of human rights realization. While the author’s account of international human rights leaves one pessimistic about the system’s capacity to address some of the more pressing human rights issues of our time, the book’s argument is persuasive in the sense that it presents numerous contexts in which the international human rights system has demonstrated applicability and effectiveness.

The account of international human rights promotion advanced in this book is one of a highly iterative process that, while relying heavily on domestic mobilization, also requires frequent interaction between domestic advocates, international bodies and institutions, and independent domestic actors such as government officials and national officers. de Búrca takes great pains to distinguish this view from both the “top-down” theory, which paints international human rights as

a system whereby norms and values are imposed from above through coercion by elite bodies and powerful actors, and from a “bottom-up” theory that characterizes the process of human rights promotion as being solely driven by grassroots activism. Rather, de Búrca argues for a conception of international human rights as an ongoing process involving a series of interactions between organizers on the ground, international actors such as treaty bodies and U.N. organs, and domestic actors such as courts and officers. All these actors are involved in a repeated series of interactions by which public support is inspired and harnessed, pressure is brought to bear against governmental actors from a variety of sources, and domestic institutions are altered to promote and enhance human rights.

The book presents three case studies that illustrate the application of its model and provide evidence of its effectiveness. In all three studies, important international human rights treaties were at play: CEDAW in the first case study in Pakistan, the Convention on the Rights of the Child (CRC) and the Convention on the Rights of Persons with Disabilities (CRPD) in the second study in Argentina, and both CEDAW and the CRC in Ireland in the third study. In all three cases, the States have ratified the applicable treaties. The illustrative and collaborative nature of each case provided a helpful illustration of the author’s theory. For example, in Argentina, individual activists catalysed support on the ground over decades in the lead-up to Argentina’s ratification of the CRPD. Those same activists were then involved, alongside domestic NGOs, in the drafting of shadow reports to the CRPD and litigation against state actors, relying on, *inter alia*, CRPD provisions and statements from the CRPD committee. This illustrates de Búrca’s framing of international human rights as being neither unidirectional nor a one-off process. Rather, it is a series of give-and-take interactions between multiple actors—including international human rights law bodies—that ultimately drives change.

Throughout the three case studies, actors that are traditionally thought of as being part of the “international human rights law” system, including treaty bodies, other U.N. organs, international courts, and even other states, interact with domestic activists in a variety of ways. At different times they are used as a forum to air complaints to a global audience, a source of persuasive precedent for domestic litigation, sources of external pressure on non-compliant governments, and a fo-

rum to debate and interpret the meaning of and interaction between international and domestic law. This is one of the more persuasive counterarguments to the common critique that international human rights law is unenforceable and ineffective. Through these examples, de Búrca effectively shows that international actors can be useful in ways beyond the traditional conception of the legal system as an enforcer. With this framing, de Búrca demonstrates that the international legal system, while not the sole or even primary driving force behind the positive changes explored in the book, is nevertheless a crucial part of a multi-actor system that has demonstrated effectiveness, provided that certain conditions are met.

The case studies also present evidence that attempts to counter contemporary critiques that view the international human rights system as top-down, imperialist, and as a set of norms imposed from the outside. While the book stresses that it is not presenting a solely “bottom-up” conception of human rights, the grassroots domestic activism is seemingly the most important piece of the puzzle in each of the three case studies.

In addition, the book’s account offers support for domestic advocates as driving the content of international human rights instruments, not merely their enforcement. This is illustrated by the wide variety of rights sought across the three cases. Some—particularly the children’s rights in the CRC—enjoyed near-universal support. Others, like the issue of reproductive rights in Ireland, faced a much steeper uphill climb. In the case of abortion rights, which faced wide opposition in the predominantly Catholic country, international human rights bodies provided a forum in which to air complaints and judicial forums in which to establish legal arguments. They also collaborated with domestic groups to interpret treaty provisions, but it was far from a case of external norm imposition. While the experimentalist account de Búrca offers here describes treaty ratification as often having a ‘galvanizing’ effect on domestic groups, the human rights gains it advances reflect the ambitions of existing domestic advocates. The degree to which domestic actors are actually able to exert their will on the content of international treaties merits additional research, but de Búrca offers at least some support for the idea that community-level actors can influence what provisions make it into treaties and, more importantly, which provisions are implemented at the state level.

The largest limitation of the system described in the book, and the arm of the “ineffective” critique to which it has the weakest response, is its somewhat limited application. While the case studies provide examples of the system’s efficacy across a variety of contexts, de Búrca acknowledges that certain requirements must be present for the multi-actor, iterative process to work. Most crucially, the experimentalist account of human rights requires at least some level of civic society engagement in a reasonably robust democracy. Obviously, many of the most urgent and serious human rights abuses occur under circumstances where these requirements are not met. Nevertheless, it is undoubtedly the case that even in stable democracies there are numerous human rights violations occurring on an ongoing basis. As such, a framing of international human rights as a system that can work through civic society engagement in democratic states still provides the potential for an enormous amount of good.

Another important limitation is that all three case studies involve change that occurred over decades. Put simply, this system needs a lot of time to work, and some of the most important looming threats to human rights—particularly climate change—do not afford us that time. Although de Búrca’s argument addresses critiques of ineffectiveness in certain contexts, but it is unable to offer solutions to such existential concerns. De Búrca gets around critiques of ineffectiveness by framing the applicability of the international human rights system narrowly, but this opens the system up to further attacks and characterizations as marginal. As a result, although this book demonstrates some of the system’s clear successes—and stresses its framing of the international human rights movement as a necessary rather than entirely sufficient tool—readers hoping to see international human rights conceptualized as a way to address more novel challenges may be left searching.

Reframing Human Rights in a Turbulent Era offers a conception of the international human rights movement that is both narrow and expansive. It acknowledges that there are challenges for which it may be ill-equipped, and that collaboration with and learning from other movements and disciplines is crucial to tackle problems such as Covid-19, climate change, and inequality. But it also pushes back effectively at a number of critiques that may be overblown, advancing a compelling argument that the international human rights move-

ment is more participatory, more iterative, and more effective than its critics would have you believe. It argues that while it is not a system equipped to solve every injustice, it has contributed to the attainment of a wide variety of rights across multiple continents and decades. While the book's somewhat narrow framing of the international human rights system's applicability leaves it open to critiques of the system as marginal, de Búrca effectively argues that it should not be abandoned, because it nevertheless offers powerful tools for advocates around the globe to combat rising illiberalism and degradation of their rights.

*Public Sector Reform in the Middle East and North Africa. Edited by Robert P. Beschel Jr. and Tarik M. Yousef. Washington, D.C.: The Brookings Institution, 2021. Pp. i, 328. \$44.99 (paperback).*

REVIEWED BY MAXWELL JENKINS-GOETZ

The onset of the Arab Spring in 2011 reminded the entire world of the deep governance challenges facing the Middle East and North Africa (MENA) region. Beginning in Tunisia before spreading to neighboring countries, widespread popular demonstrations protested a lack of economic opportunity and democratic governance. Repressive and violent state reactions to these demonstrations often galvanized support for the reformers and revolutionaries and a growing understanding that MENA governments had to change.

Ten years later, the results of the Arab Spring underwhelm. Most revolutionary protests resulted in harsh crackdowns or toppled regimes, prompting civil unrest and sectarian conflict. Tunisia, the Arab Spring's clearest success story, still faces major challenges in maintaining stable democratic governance, as recent unrest and an unfurling slow coup make clear.<sup>9</sup> Economic inequality and a widespread lack of opportunity pervade the region. The popular focus on the Arab Spring and government responses emphasizes the importance of democracy and justice, and for good reason. But good govern-

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9. Ishaan Tharoor, *Behind power grabs in Sudan and Tunisia, the shadow of Gulf monarchies*, Today's Worldview (Oct. 27, 2021, 12:01 AM), <https://www.washingtonpost.com/world/2021/10/27/sudan-tunisia-coups-gulf/>.

ance has many attributes, and for years both before and after the region took over headlines, popular demands for change expressed themselves in much smaller revolutions.

Public Sector Reform tells the story of efforts to improve government function in several MENA countries in the years leading up to (and in some cases extending beyond) the Arab Spring. Each chapter, written by different authors, identifies an attempt to overhaul or modernize a particular public-facing agency or set of public service provisions. Besides a focus on public agencies and their geographic proximity, little else is common among the efforts, with outcomes ranging from near-universal success to complete failure. Each chapter highlights factors that contributed to ultimate success or failure, however, and editors Beschel and Yousef do their best to identify common themes.

The greatest success stories were an overhaul of document processing in Jordan, advancement of e-government portals and access in Dubai, deregulation of business certification in Egypt, and the modernization of public sector bill payments in Saudi Arabia. Other efforts, including the implementation of public financial management systems in Palestine and on-line public transparency measures in Tunisia, also experienced at least moderate success. On the other end of the spectrum, attempts to reform high-level cabinet structures in Jordan and strengthen public sector human resource management in Lebanon were largely or entirely unsuccessful. In all, ten reform efforts are detailed, providing readers not only the unique circumstances of each effort, but also the common themes of public engagement, bureaucratic entrenchment, political will, and committed leadership as indicators of likely success or failure.

Beschel and Yousef flag a host of key barriers to successful reforms. Each barrier emerged in unique ways among the different cases, and the way reformers dealt with them often dictated the results of the reforms. Most common was pushback from entrenched bureaucratic interests, particularly existing career civil servants who were unable or unwilling to respond to proposed changes. This resistance often extended to political elites, who viewed the allocation of finances and opportunities in public sector agencies as valuable political resources that they had a right to maintain despite efforts at meritocracy.

At the same time, some unsuccessful reforms suffered from a lack of public buy-in and enthusiasm.

The amalgam of bureaucratic inertia and lack of political will among elites reared its head perhaps most convincingly in the case of Lebanon's attempts to strengthen meritocracy in its civil services. There the practice known as *wasta*, the entrenched use of patronage systems for civil service appointments, created strong incentives for autonomy-preserving career bureaucrats to push against reforms at every turn. Other reform efforts faced similar challenges, but in this case the problem was compounded by overarching political dynamics. The entire Lebanese government, from high political posts down to the various civil services positions subject to reforms, is held in a strict balance between Christian and Muslim sects. This balance—known as the Lebanese confessional system, which was established in the 1991 Ta'if agreement that ended 15 years of civil war—provided political elites with strong incentives to resist reform just as much low-level civil servants. The mutual concern among confessional sects over loss of autonomy in civil service appointments proved impossible to overcome.

The authors also identify a few key factors in successful efforts: early and regular engagement with both key stakeholders and the public, committed and effective reform leadership, and flexible responses to opposition and setbacks. The negative impacts of poor stakeholder engagement were clear in the Lebanese civil service cautionary tale: reformers failed to secure buy-in from elites, which otherwise might have strengthened efforts enough to overcome lower-level inertia. On the other hand, the relatively glowing success of Saudi Arabia's efforts to modernize public check payments demonstrates how stakeholder engagement early and often can bring about results. Many stakeholders were relevant to the process, from the government to banks to individual citizens. After government officials coalesced around the effort, care was taken to incentivize both citizens and the private sector to engage. Marketing of the program, which included increasing capacity to electronically deposit payments for government services including utilities, was substantial, and citizens were engaged in the process through outreach and dialogue that identified what services they wanted streamlined. Achieving bank buy-in was more complicated but was achieved through concerted efforts

to get the largest banks to participate first. Once they were willing participants, smaller economic players were incentivized to join as well, to avoid losing business. Authors of the chapter identified key participation in all levels of government, as well as public enthusiasm, as crucial to the effort's success.

The stories of Saudi Arabia and Lebanon present two extremes on the spectrum of reform results, but they are not unlike the other case studies. Common themes, like those identified above, recur throughout, and are highlighted by Beschel and Yousef in the text's introduction and conclusion. But the efforts of both individual authors to confer details and the editors to highlight trends leave readers lacking a sense of depth and meaning. Depth is lacking because the social and circumstantial origins of key vectors for success are often left unexamined. Meaning is missing in the sense that neither authors nor editors seem interested in engagement with more than a mere cursory analysis of how reform efforts were connected to (and perhaps in tension with) popular democratic impulses that led to the Arab Spring and the repressive government values that shut it down.

Perhaps no indicator of success demonstrates the lack of depth more clearly than what Beschel and Yousef refer to as "leadership." Multiple chapters devote significant time to the importance of particular individuals leading ministry reform efforts, and the editors focus on the presence of particularly efficient, passionate, and creative internal champions leading agencies as perhaps the single more important success vector. But at the same time, the editors openly describe leadership as "frequently intangible." This may be true, but neither editors nor chapter authors make serious efforts to unpack the intangible factor by, for example, tying propensity for strong leadership to healthy training programs, engagement with external donor communities, or any other underlying factors.

Greater depth would provide greater clarity about the underlying mechanisms facilitating successful public sector reforms in a region that often suffers from a bloated, inefficient, and corrupt public sector. It would also provide a clearer picture of how the public sector in some MENA countries fits into larger socioeconomic and political frameworks. Perhaps, though, a lack of clear fit is why the public sector suffers from these issues. Both authors and editors seek to provide concrete

and fact-driven stories of discrete reform efforts. Expanding beyond that scope by tying efforts into larger trends and dynamics may be too difficult.

Analyzing public sector reform with an eye more clearly directed at its connection to larger social and political trends in the region seems essential, however, if readers and the public are to effectively consider the value of the efforts described. This is in part true because the Arab Spring was in so many cases unsuccessful. With outright revolution unable to bring about meaningful change in many governments, one hopes a book chronicling public sector changes might consider whether the processes described therein can pick up some of the slack. And in fact, it seems that in some instances they can: improved document processing in Jordan, for example, provided citizens not only with more efficient services but a greater sense of civic respect and accountability. In the absence of more radical change, what does this mean? Can we look for internal governance processes that fight corruption, improve transparency, and facilitate economic progress as alternative mechanisms for achieving many of the goals that underlay the Arab Spring? On the other hand, many of the factors that led to successful reforms – political will, organization, and strong leadership – were most present in highly repressive systems like Saudi Arabia and Dubai. Both of those countries used those resources to facilitate electronic atomization of services, which may come along with increased public monitoring and suppression of free expression. Might we take from this that more consolidated repressive systems are better at implementing reforms? Or do successful public sector reforms in the context of autocratic governance serve only to further entrench and empower anti-democratic power?

Neither authors nor editors directly confront these questions, choosing instead to stay focused on empirical descriptions of how reforms unfolded, which existing dynamics were most determinative, and sometimes, how the Arab Spring served to disrupt implementation. This is understandable: unifying this analysis with larger social and political inquiries into the role of public sector reform in furthering or stymying the public desire for more accountable and democratic governance is a massive undertaking, and perhaps one book can only provide the groundwork for future analysis. This is of course what Beschel and Yousef have in mind, as the editors express

their hope that future scholarship will build on their own. But even so, these questions seem too pertinent and important to ignore, and directly raising, if not answering, them in this book would have served readers well.

*Reconsidering Remoteness: The Atacama Desert and International Law.* By Christopher R. Rossi. Ann Arbor, MI: University of Michigan Press, 2021. Pp. ix, 292. \$80.00 USD (hardcover).

REVIEWED BY LEAH MIANO

Despite its seemingly dry and barren appearance, the Atacama Desert is rich with history and culture. The region has experienced great fluctuations of its borders due to colonialism, war, and industry. Christopher Rossi's *Remoteness Reconsidered* seeks to give a history of the desert in the context of the relationship between remoteness and international law. Rossi argues that the history and remoteness of the Atacama Desert has resulted in a novel combination of neoliberalism and international law. Rossi especially highlights the two countries containing the majority of the Atacama Desert, Chile and Bolivia, and their differing political outcomes of Chilean neoliberalism and Bolivian extractivism.

*Remoteness Reconsidered* opens with a chapter dedicated to exploring international laws' struggle with remoteness and periodization. International law is traditionally thought of in periods of time, or epochs, with epochs starting in Europe and then expanding to the "new world." The traditional notion, which Rossi rejects, is that as Europe colonized other parts of the world, it brought civilization and law to previously "uncivilized" nations. Rossi points out that this is simply untrue and displaces 130 years of international legal development in the Americas prior to colonization. While the beginning of the book reads somewhat like a textbook, Rossi does an excellent job providing context and explaining complicated relevant developments in international law.

Rossi then goes on to describe remoteness through different lenses. The first, temporal remoteness, relates to the aforementioned "epochs" of history. The long history of the population of the Atacama Desert and its interaction with international law resists the traditional, Eurocentric model of international law. Rossi criticizes the international law theories

of Wilhelm Grewe and Randall Leshaffer, which argue that international law is a “series of great imperial epochs”. These scholars suggest that international law began in western Europe and expanded to the rest of the world as Europe expanded through imperialism. Rossi instead outlines a more modern elastic view that seeks to decentralize Europe in legal history. Moving on from temporal remoteness, Rossi next explores the relationship between geography and remoteness. Geographic remoteness refers to both the physical remoteness of the people occupying the desert and their relationship to the rest of the world in an age of increasing globalization. Rossi also points to the physicality of the land and the issue of drawing cartographic borders in an ever-changing landscape of desert and mountains. Throughout the book, Rossi provides several historical maps of South America, showing the potential political motivations of these speculative maps such as a clear route to Asia which the Portuguese desperately wanted. Lastly, Rossi touches on doctrinal remoteness. Europe, until ousted, was the voice of these countries and their history is clouded by that lens. Rossi argues that remoteness needs to be further explored and separated from western interaction with the Americas in order to accurately view the history of international law in the Atacama Desert.

In the next two chapters, Rossi explores the theory of *nomos* and its relationship with remoteness and international law as well as the colonial history of the area. *Nomos* is best defined as a habit or custom of social and political behavior that is socially constructed and historically specific. It refers not merely to explicit laws but to all of the normal rules and forms people take for granted in their daily activities. Rossi also highlights the Roman idea of *uti possidetis*, which holds that territory and other property remains with its possessor at the end of a conflict. Rossi argues that *uti possidetis* was the controlling doctrine behind the Spanish colonization of Latin America and that the spatialization theory of Carl Schmitt (1888–1985), rooted in the concept of *nomos*, can be applied to the land appropriation of the Atacama Desert. Schmitt’s controversial spatialization theory in this context refers to the idea that social activities, phenomena or processes take on spatial forms in geography and cultural studies. The term generally refers to an overall sense of social space typical of a time, place or culture. Rossi aligns the theory with the spatial design

of pre-Incan familial connections and community associations. These connections were disrupted by the Spanish following the discovery of silver ore in the Atacama. Rossi's analysis of both the history and the physical characteristics of the desert is excellent and brings together theory and fact into a very credible hypothesis.

The final few chapters are all distinct but ultimately related to the resources of the desert and how the history of their use has impacted the region's relationship with international law. This section connects the history of industry and conflict in the desert to more modern politics. From guano in the 1850s to lithium mining today, the desert's vast resources have long made it a focal point of conflict and competition. While the desert contains a plethora of resources, for example, extracting them by mining requires an enormous amount of water, and Rossi links the rising effects of climate change to the increasingly scarce resources in desert communities and resultant conflicts. Though the global market remains tightly controlled, mining is expected to increase in the desert where potent copper and lithium veins have been located, with lithium mining in the salt flats of the Atacama anticipated to surge up to 650 percent. The Atacama has an advantage over other areas as the extreme dryness of the desert makes a concentration of lithium readily available alleviates the need to crush stones. This type of mining, however, requires even more water.

Industry's access to water in the Atacama is at the core of the tension between Bolivia and Chile over the use of water and waterways. In 1883, The War of the Pacific between Bolivia and Chile produced the mutual benefits treaty. However, the issue of who owned the waterways persisted and 150 years later water is still a contested resource in the region. Bolivia still has a Day of the Sea, which commemorates Bolivia's loss of its coastline. Additionally, Bolivia has brought multiple claims against Chile demanding to be compensated for the use of a unique water source called the Silala that flows partly through the Atacama. Riparian disputes are not new, but this dispute comes with the added confusion of what the Silala is—a river, or perhaps a transboundary watercourse? The answer to the question may result in a difference that could one day have the resource change hands as Bolivia fully intends to bring the matter before the International Court of Justice. Rossi argues

that the conflict between Chile and Bolivia is born not just from a dispute over the Silala itself but a deep history of tension, the psychological effects of the War of the Pacific, and that the conflict is ultimately theater with the two countries' performances not intended to create resolution.

While Christopher Rossi gives an excellent history of the geographic and temporal remoteness of the Atacama Desert and its political results, the book can at times lose its train of thought in a sea of information. The book is unflinchingly fact-heavy and academic, delving into history, geography, chemistry, and politics through the lens of the Atacama. Rossi also starts off each section with definitions that, while making the work more accessible, can at times create loops where Rossi examines every aspect of the underlying philosophy and its criticisms and sometimes strays away from the major arguments of the book.

Rossi succeeds, however, in making a compelling argument that the innate remoteness of the desert contributed to the unique political makeup of Bolivia and Chile. By taking the reader on a long path through the history of the Atacama desert, Rossi gradually builds a very strong theory. Connecting the history of the desert to industry and then to conflict and finally to modern politics allows Rossi to lay a solid foundation for his theory built on thousands of years of history and social context. The strength of Rossi's argument makes *Remoteness Reconsidered* a valuable resource for those well versed in international law who want a deep dive into the history of the Atacama Desert and the potential hand remoteness has played in the modern politics of each country. Rossi delves through the ideas of a wide array of lawyers, histories, and philosophers to capture a very full picture of the ideas that inform modern Chilean neoliberalism and Bolivian extractivism. While *Remoteness Reconsidered* may in some areas feel scattered, not a single fact goes unsubstantiated or avenue of thought unturned.