

## BOOK ANNOTATIONS

*The Limits of Judicialization: From Progress to Backlash in Latin America.* Edited by Sandra Botero, Daniel M. Brinks & Ezequiel A. Gonzalez-Ocantos. Cambridge, United Kingdom; New York, New York: Cambridge University Press 2022. Pp. xiii, 350. \$120.00 (hardback).

REVIEWED BY HECTOR CORREA GAVIRIA

The Limits of Judicialization is a timely and illustrative survey of the role that courts play in Latin American societies. The book evaluates the current state of the judicialization process in the region. Judicialization is the process through which courts become battlegrounds for the realization of civil, political, cultural, and socioeconomic rights, and through which minority groups use the law and legal institutions as principal avenues to pursue their rights claims.

The central contribution the authors make to the scholarship on judicialization is the documentation of the ways in which the promise of judicialization—that courts can be effective actors in punishing abuses of power, redressing egregious wrongs, and challenging entrenched inequalities—falls short when the political institutions are too weak to implement relevant court decisions and courts remain detached from larger power dynamics.

The first set of essays on Mexico, Colombia, and Guatemala explore the first shortcoming: courts often fail to account for persistent state weakness, pushing ambitious conceptions of rights on states that are too ineffective to realize them. The first essay on Mexico, “Progressive Jurisprudence and Tenacious Impunity in Mexico” by Janie K. Gallagher and Jorge Contesse, is a perfect illustration of this shortcoming. The essay shows how Mexico’s weak and fragmented state, along with the lack of implementation of progressive jurisprudence, nearly rendered most of the 2011 constitutional amendments—which fully incorporated international human rights standards into their national law—ineffective.

The essay on Guatemala, “The Rise and Fall of the CICIG in Guatemala” by Rachel E. Bowen, critically supplements the

Mexican case by describing a similar kind of state weakness in the face of ambitious legal reforms. On one hand, this essay illuminates one solution to the problem of state weakness: the establishment of an international prosecutorial commission with capacity to prosecute high-level domestic corruption. On the other hand, the very nature of these temporary measures means that, although they are able to undertake important anti-corruption investigations, they create a promise of legality that, once the commission ends, the state's judicial apparatus may be unable to fulfill.

Finally, the essay on Colombia, "Backlash against Corporate Accountability for Grave Human Rights Violations" by Laura Bernal-Bermúdez, adds a crucial piece to the puzzle by showing how ambitious accountability efforts can be seriously undermined when the broader society is not willing or able to accept them. This essay details the backlash generated in response to Colombia's effort to bring corporate actors to justice for supporting grave human rights violations. It then shows that an organized opposition by civil society to judicialization can effectively curtail a weak state's ability to advance ambitious rights claims.

The second shortcoming, which the "Backlash against Corporate Accountability for Grave Human Rights Violations" also illustrates, is that the judicialization process has been met with heavy resistance from traditional conservative power structures, which in some cases the system itself seems inadequate to address. The book describes this phenomenon as social contestation. The essays on Argentina, Brazil, Mexico and Peru explore this point.

"Judicial Backlash or Resources and Political and Legal Opportunities" by Alba Ruibal sets the stage by explaining the backlash thesis and examining its theoretical limitations. The backlash thesis holds that the judicialization of some critical political issues, such as abortion rights, will result in increased backlash by traditional social groups and will therefore be counterproductive to progressive movements. However, Ruibal argues that a better way to understand the backlash process is by analyzing social movement dynamics and the particular countermovement's resources and opportunities in each context.

The essay, “When Winning in the Court is not Enough: Abortion and the Limits of Legal Mobilization Without Grass-roots Involvement in Peru” by Camila Gianella, is a perfect illustration of Ruibal’s argument. The essay places Peru as a clear example of a country which, despite advancing progressive sexual and reproductive health rights norms through supranational and national litigation, experienced strong and sustained contestation from well-organized anti-abortion organizations. These organizations were able to disrupt domestic progress in codifying and expanding reproductive rights. Such ability, Gianella argues, resulted from the NGOization of the feminist movement and their resultant disconnect with grass-roots organizations.

Lastly, two essays regarding the court system in Brazil explore the backlash caused by one of the most well-known and high-profile corruption cases in the region: The Lava Jato case. First, in “Kickbacks, Crackdowns, and Backlash: Legal Accountability in the Lava Jato investigation,” Luciano Da Ros and Matthew M. Taylor describe the pushback that the Lava Jato investigation generated from all three branches of government. This pushback resulted in part from a combination of self-inflicted wounds in the investigation combined with widespread public exhaustion, and has led to what the authors describe as a gap in performance between the Curitiba trial court (a remote court where the Lava Jato investigation started) and the high court in Brasilia (a court closer to the Brazilian political class).

Then in “Prosecutorial Agency, Backlash and Resistance in the Peruvian Chapter of the Lava Jato” Viviana Baraybar and Ezequiel Gonzalez-Ocantos explore how the Lava Jato investigations unfolded in Peru and describe the internal and external backlash that the investigations created. As the authors highlight, political backlash in Peru ensued when a prosecutor filed a pretrial detention request against Keiko Fujimori at a time when her party controlled Congress. This move led to the dismissal of Rafael Vela, one of the investigation’s main prosecutors, and to sustained political efforts from the Fujimoristas to undermine the courts and other relevant prosecutors. This crisis ended with the dissolution of congress and a very politicized judiciary.

In general, this collection of essays provides theoretical as well as empirical contributions to the study of judicialization in

Latin America. The book argues for a somewhat restrictive conception of the judicialization *promise*—what judicialization movement in Latin America is supposed to achieve. As such, this book explicitly evaluates the shortcomings of judicialization not with respect to an idealized theory of social change, but in terms of the responsiveness of courts to the claims of minority groups.

From the outset, the book limits judicialization to a process meant, not to create egalitarian societies where social, cultural, economic, and indigenous rights were fully realized, but rather to open the judicial system to rights claims from minority groups. Naturally then, the judicialization process was bound to create backlash from groups opposed to such claims.

We see this in the essays about Colombia (opposition from economic groups to corporate accountability), Peru (opposition from conservative groups to increased protections for reproductive rights), and Brazil (opposition from established political elites to anti-corruption investigations). As the book correctly points out, this backlash should not be considered a failure of the judicialization process. Instead, it is a natural result from increased involvement of the judiciary in contentions and controversial social issues, which the political branches often fail to address. And as Alba Ruibal argues in her essay, the judicialization process is often not the cause of backlash *per se*. Rather, backlash exists as a somewhat independent phenomenon from judicialization inasmuch as it is determined by pre-existing social dynamics and the countermovement's resources. This idea suggests that the study of backlash in Latin America is incomplete if it does not take account of these elements.

Empirically, the book takes stock of the major legal developments in Latin America over the past decade. Understanding that a theory must be constantly tested against new sets of facts, the book updates a conversation that began in the 1980s, when the “superstructure” and, therefore, the promise of judicialization was created, and shows how this superstructure reacted to ambitious and often surprising developments. From Colombia's effort to bring an end to its decades-long civil conflict through transitional justice to one of the most ambitious anti-corruption investigations in the region emanating from Brazil, the different essays represent a comprehensive reper-

toire of critical developments in Latin America and their implications for the judicialization process.

What the book does not explore, however, are the lessons that can be learned from these developments with regard to the appropriateness of judicialization as a mode of social change. In other words, the judicialization process (or promise) gives an expansive license to courts to decide issues which may be better left to the political branches. Or put differently, the courts may not be an appropriate substitute for a weak and inefficient political system. As the book itself recognizes, one of the major issues with the process of judicialization is that it imposes heavy demands on often weak states, thereby promising more than it can deliver. However, the implications of this issue are not fully fleshed out. The cases of Peru, Mexico, Brazil, and Ecuador can be read instead as showing that the judicialization process forced the courts to address issues that they are not well-placed to tackle because their decisions are often disconnected from the larger social and political dynamics that should be the driving forces of ambitious legal changes. As such, the cases hint at the proposition that the judicialization process supplanted much-needed political reforms. Theoretically, at least, such proposition implies that the judicialization process could negatively impact democratization efforts in the region by shifting the focus from improving political access and advancing rights-protecting legislative reforms, to relying on courts to resolve contentions rights-related social issues.

By all accounts, this book is a must-read for students looking to understand the role that courts play in Latin American societies. It is a thought-provoking and informative survey of how the “superstructure” of judicialization has responded to contemporary social and political issues. It provides both theoretical and empirical contributions to this area of study and paves the way for future research. This book is equally relevant for U.S. readers who, in light of recent controversies surrounding the U.S. judicial system, may be interested to learn more about the benefits and limitations of having high courts involved in deeply contentious and controversial social issues. All around, this book is a must-have for law students, legal academics, advocates, and social leaders.

*Penalty in the Underground: The IRA's Pursuit of Informers.* By Ron Dudai. Oxford, UK: Oxford University Press, 2022. Pp. ix, 239. \$105 (hardcover).

REVIEWED BY CLAUDIA FERNANDEZ

“Whatever you say, say nothing,” wrote Irish poet Seamus Heaney in 1975, referencing an Irish Republican Army mantra. For Irish Republicans, informers are a folk devil to be loathed and feared, a resource used consistently by British and loyalist forces to undermine the struggle for a united and independent Ireland. From 1968 to 1998, Northern Ireland was engulfed in a low-intensity war, colloquially known as the Troubles. During this time, the Republican forces were led by the Provisional IRA (IRA), or the “provos”, a splinter group that emerged in the late 1960s and became the dominant armed faction of the Republican movement. Like their predecessors in the Easter Rebellion, the Provisional IRA held a deep disdain for informers and punished them accordingly. However, this punishment followed an established procedure with court-martials, investigations, sentences, and even amnesty.

In *Penalty in the Underground: The IRA's Pursuit of Informers*, Ron Dudai embarks on an ambitious project to reconceptualize why underground rebel groups pursue informers in the way that they do and how this pursuit serves broader purposes. Though the IRA has been studied extensively, the question of informers does not fit neatly into the analytical frameworks typically applied to rebel groups, such as terrorism studies. Similarly, though the IRA undoubtedly violated human rights when dealing with informers, betrayal is a relational act and its consequences are perhaps too parochial for an international human rights lens. Thus, Dudai argues that the best way to unlock our understanding of the IRA is to conceptualize the IRA's treatment of informers as punishment, and to analyze the IRA using the theoretical apparatus of the sociology of punishment. By applying this framework, Dudai illustrates how the IRA pursued informers not just for security purposes, but also to appear more legitimate, control its constituents, and evoke stateness. Dudai convincingly uses a sociology of punishment framework to capture the nuances of how and why the IRA dealt with informers in the way that it did. However, he does not sufficiently address the limits of this framework,

which emerge most clearly when Dudai attempts to use it to understand the IRA's behavior after the peace agreements.

The sociology of punishment is typically reserved for the study of states, though it has been extended in recent years. Just as a state would punish crime, Dudai contends, the IRA punishes informing. Thus, by treating the IRA as a pseudo-state, Dudai provides a convincing account of how the IRA capitalized on the issue of informers to evoke legitimacy and exert both internal and external social control. As a "meso-level" study, Dudai's book treats the armed group as its unit of analysis. Dudai relies on a decade of historical research, including twenty-five in-depth interviews with former IRA leaders and members of civil society. The IRA is Dudai's only case study, but he contends that this sociological framework could be illuminating if applied to other armed groups, and he occasionally weaves in comparative references to groups like the Palestinian Liberation Organization and the Karen National Union in Myanmar.

Dudai's case study begins with dual concepts of legitimacy—"legitimacy of punishment" and "legitimacy by punishment." The IRA deeply desired to be seen as legitimate, so it had to constrain its punishment of informers to be within the bounds of what would be acceptable to its members, its constituents, and even foreign audiences. At the same time, punishment represented an opportunity for the group to prove itself as a disciplined and legitimate political actor. This required that the IRA act pragmatically and taper its desire for revenge. For example, the IRA held amnesty periods during which informers, particularly those who were not IRA members, could come forward without repercussion. If informers were executed, the IRA would publish the details of the investigation that led them to believe the accused were in fact guilty.

As Dudai reminds us throughout the book, the IRA presented itself as the sole legitimate government of a united Ireland. This image was in tension with the reality of the struggle, which was usually understood as a struggle for liberation from British rule. Thus, the IRA had to evoke not just legitimacy, but stateness. Stateness emerged, most obviously, in the very terminology the group used: IRA combatants served in battalions and brigades, court martials imposed sentences, and those arrested by British forces were prisoners of war. But the IRA also evoked stateness in its pursuit of informers. The IRA

rehearsed its stateness “in the here and now” by punishing *like a state*. To punish a betrayal as treason, the IRA had to construct a “people” that was being betrayed. To exile an informer, the IRA had to convey sovereignty over the territory from which the informer was being exiled.

In Chapter 5, Dudai argues that the IRA pursued informers as a form of social control. This often took a pragmatic and adaptive form, since IRA leadership knew informing was so pervasive that they could manage but not eradicate it. Using pedagogy and threats, the IRA enlisted the help of civilians to identify informers. As Dudai notes, one fascinating implication of this social control framing is that the IRA had to “define down” and depoliticize informing, painting it as a weak and greedy act rather than an ideological gesture. The group therefore developed a more lenient stance toward informers, abandoning older purist positions such as that anyone who gave in during interrogation would be punished as a tout.

Dudai’s last three chapters extend and adapt his analysis to the transitional period that emerged after the 1998 Good Friday Agreement (GFA). Though Dudai provides some context on GFA, these chapters would have benefited from a more detailed introduction to the GFA and, critically, to the continuities and discontinuities between the IRA, its political counterpart Sinn Fein, and the IRA dissidents that continue their armed struggle. Nevertheless, the post-transition chapters contain some of Dudai’s most nuanced and compelling observations. For example, Dudai notes how informers were actually treated more harshly after the GFA. No longer actively pursuing statehood, the IRA was unburdened by some of the strategic incentives that would have led it to filter its loathing of informers, for example by granting amnesty. Ironically, Sinn Fein has now had to *promote* informing in order to maintain legitimacy and discredit dissidents, who themselves view Sinn Fein as traitors to the cause. Here, Sinn Fein leaders have run up against the staunch anti-informing attitudes that they once helped to cultivate.

Of course, the mainstream IRA and Sinn Fein did not stop seeking legitimacy once they put down its arms. On the contrary, Republicans continued to evoke legitimacy even as they confronted the more brutal aspects of their past. Dudai points out, for example, that when the IRA issued formal apologies for its past behavior, that behavior was understood as de-



viating from an otherwise legitimate system. When forced to reckon with the families of those alleged informers that had been forcibly disappeared during the conflict, the IRA thus “admitted mistakes, excesses and occasional deviations from their norms, but without challenging the basic tenets of their punishment policies—that informing was a crime and that they had the authority to adjudicate guilt and punish accordingly.”

Dudai’s book provides a refreshing look at the IRA. By using the sociology of punishment, Dudai observes nuanced behaviors that are not often recognized in studies of rebel groups. Though the sociology of punishment framework is compelling, Dudai could have written a more analytically rigorous book had he more explicitly grappled with the ways in which this sociological framework *does not always* work well in the context of armed groups. Indeed, some of his most compelling points actually emerge at the margins, where the framework starts to dissipate. How can we conceptualize the IRA as a state-like punisher, for example, when the IRA itself was the subject of the British state’s punishment? What happens when two systems of punishment intersect? Dudai hints at this tension in Chapter 5 but does not address it directly when he notes that, by depoliticizing informing, the IRA fed right into the longstanding British strategy of depoliticizing the IRA. Similarly, is there value in applying the sociology of punishment to a rebel group once it lays down its weapons? Dudai maintains that there is, yet he spends most of the post-transition chapters vacillating between two very different stories—that the forms and functions of the IRA’s punishment of informers largely stayed the same or that they fundamentally changed. Even if there is no simple answer, the reader is left wondering why Dudai did not more explicitly compare the pre and post transition periods, at the very least to set the bounds of his own theory.

*The Conflict in Syria and the Failure of International Law to Protect People Globally: Mass Atrocities, Enforced Disappearances and Arbitrary Detentions.* By Jeremy Julian Sarkin. New York, NY: Routledge, 2022. Pp. 1, 308. \$48.95 (paperback).

REVIEWED BY CULLEN GILLESPIE

The start of 2022 brought first the specter, and then the reality, of a major war of aggression in Europe—the first of its kind since the end of the Second World War. It also launched renewed debates over the efficacy of international law in containing rogue states and protecting individuals against human rights violations. Those worried about international law’s legitimacy in the face of Russia’s blatant affronts would do well to read Sarkin’s case study of the Syrian conflict: *The Conflict in Syria and the Failures of International Law*. Sarkin provides a detailed account of how the Syrian conflict exposed the inability of international law to act in the face of long-lasting violations of human rights—namely, the widespread use of enforced disappearances and arbitrary detentions throughout the decade-long conflict. He further provides a persuasive diagnosis of the source of this failure: international law’s state-centric framework and the resulting lack of attention paid to the needs of victims. These sources, Sarkin holds, prevent action by the United Nations to protect victim’s rights at the time of violation despite a plethora of organizations dedicated to human rights issues.

The narrow focus on enforced disappearances and arbitrary detentions—which Sarkin notes almost always combine in the case of Syria—provides a solid foundation for Sarkin’s call to reorient international law around victim’s needs. This is because victims of these crimes are ostensibly still alive and the potential for protection still extant either through outright release or assurances of humane conditions. By contrast, he notes, there are more international efforts focused on identifying the perpetrators of casualty crimes such as mass summary executions even though such efforts can no longer protect the victims of those crimes. The failure to protect both sets of victims is at the root of Sarkin’s pessimistic account of international law. That pessimism leads Sarkin to what he himself calls “utopia[n]” recommendations for sweeping reform of the U.N. The breadth of these proposals contrast with the nar-

rower and more programmatic suggestions Sarkin makes regarding a new organization dedicated to victims of enforced disappearances. But the difference between each set of recommendations does not present as incoherence. Rather, the latter recommendations are held to be vital if a conflict like Syria is to be resolved in the future, while the former, more limited set, are held to be limited steps that the international community can take immediately to address the tragedy of the disappeared.

Sarkin's critique of international law's state-centric form occupies the opening chapter while he provides potential solutions to this issue in Chapter 7. As these chapters form a foundation for his analysis of the Syrian conflict and actions that the international community should take thereto, it appears sensible to address them first. Sarkin's criticism of the state-centric nature of international law does not necessarily break new ground as he himself notes by citing earlier scholarship on the subject. He describes how the political interests of states dominate voting habits in the U.N. as well as the appointment process for organs such as the Human Rights Council (HRC). Nonetheless, it is the placement of this criticism alongside the case study that produces one of *The Conflict in Syria's* most effective interventions. He shows how international humanitarian law, derived from the Geneva Conventions, is hindered by the doctrine of state consent when it comes to non-international armed conflict. This is demonstrated by the fact that Syria has not ratified Additional Protocol II, which addresses the rights of victims in internal armed conflicts. As a result, the reach of international humanitarian law is limited precisely where it is most needed. Similarly, Sarkin notes that the International Convention for the Protection of All Persons from Enforced Disappearance has not been ratified by most states in which such disappearances are most prevalent.

Outside of treaty law, Sarkin draws attention to the rise in veto use at the U.N. Security Council as another area in which state-centered law hinders protection. While Russia's role as a member of the Permanent Five on the Security Council has received much scrutiny in the wake of their invasion, the overall rise in the number of vetoes or threats thereof is examined in a different light here. The rise in veto use by Russia, with the support of China, is argued to create conditions akin to

clientelism in international law. He describes how the veto has been wielded at least sixteen times, mainly by Russia, since the start of the Syrian conflict to protect the Assad regime. With the support of the Chinese government, Russia's vetoes have created conditions akin to clientelism in international law.

This clientelism appears destined for further success, at least by Sarkin's lights, as the rise in authoritarianism creates more opportunities for Russia and China to support non-compliant states at the U.N. While Sarkin does not address this explicitly, his evidence raises an interesting chicken-and-egg question: has the rise in veto usage by Russia and China encouraged the aspirations of putative authoritarians or has the rise in authoritarians given Russia and China more confidence in bucking international law? While the former seems more persuasive, the outcome appears the same in either case; with the U.N. Security Council's exclusive right to coercive authority in international law becoming an untenable obstruction. Such obstruction of the Security Council's exclusive coercive power indicates that the more aggressive forms of intervention that Sarkin champions are not possible in the current arrangement. This tension is most evident in his discussion of the Responsibility to Protect (R2P). Adopted by the U.N. following the Rwandan genocide and ethnic cleansing in former Yugoslavia, R2P held that a state's sovereignty was conditioned on the protection of citizens from crimes against humanity, war crimes, genocide, and ethnic cleansing. Sarkin notes that R2P, while novel, represented the return of the "conceptually older humanitarian intervention" doctrine. Indeed, he notes that R2P explicitly contemplated such intervention under the guise of "reaction," one of the three pillars—the other two being prevention and rebuilding.

To his credit, Sarkin does not shy away from his own logic. The politicization of the U.N. leads him to two conclusions. First, if the current institutions of international law are to protect individuals, the U.N. must become more autonomous and expert-driven, and second, it must develop formidable coercive power on its own. For example, he suggests that the powers of intervention be handed to an "elected committee of experts and civilians operating outside of the Security Council" but whose recommendations would bind the Security Council without discretion. This recommendation is followed by Sarkin's engagement with existing proposals for a U.N. standing

police and military force. Both recommendations are well outside of the scope of what is possible, yet Sarkin makes a stirring argument in their defense, nonetheless. The former recommendation, however, appears more novel than the latter insofar as it contemplates the full powers of intervention being outside of state control. To some extent, this recommendation, as well as similar technocratic proposals for the office of the Secretary-General (Sarkin proposes it be reformed to closer resemble that of a CEO with full executive powers) and human rights treaty bodies (where he argues for more independence from states in the form of expanded unilateral powers, interpretative authority, and expert staff), raises concerns about the democratic legitimacy of those offices. His reform proposals may benefit from cross-pollination with the debates occurring over the power of the European Union (E.U.) where Member States, jealous of their prerogatives, have cast the E.U. as an undemocratic technocracy.

Nevertheless, if one assumes the success of these reform efforts, it is easy to see how Sarkin's logic operates. A more independent U.N. would be, in his words, capable of "making R2P real" and applied to future conflicts such as Syria. However, other issues would remain. For instance, Sarkin notes that the 2011 humanitarian intervention in Libya, operated by NATO countries under the guise of R2P, harmed the prospects for future invocation of the norm insofar as it is now associated with the project of regime change. Sarkin's reform efforts do not eliminate the conceptual closeness between humanitarian intervention and regime change, with all its attendant democratic and logistical challenges, and insofar as they were to reduce the democratic legitimacy of the decision to invoke R2P, they may be viewed even more suspiciously globally.

The second, and sadly more realistic option, Sarkin argues, is that a real system of human rights protection will only emerge when one or more of the Permanent Five, or in the alternative enough members of the U.N. General Assembly, depart the U.N. for a new multilateral organization with the powers described above. It should be of concern that an individual with deep knowledge of the U.N.'s human rights processes has come to such a despairing conclusion for the state of international law.

The focus on state-centric lawmaking is less explicit in Sarkin's proposal for a "new mechanism to search for the disappeared" in Syria. But, as Sarkin makes clear, state-centrism serves as an explanatory device for why the current set of mechanisms are insufficiently suited to the task of protecting victims of enforced disappearance. For example, the UN General Assembly established the International, Independent, Impartial Mechanism (IIIM) in 2016 to assist in the gathering of evidence for future prosecutions. While he admits the importance of justice and accountability for perpetrators in Syria, Sarkin, in perhaps some of the strongest portions of the work, points out that accountability and justice are not sufficient in addressing the real-world needs of victims. While victims are increasingly part of the judicial process, prosecutions do not always satisfy the right to truth, described as the right to know what has happened to disappeared relatives, nor do they provide guarantees of non-repetition, reparation, or material compensation. Sarkin could have gone further on this point, however. The increased focus on prosecutorial or retributive justice can serve as a useful fig leaf for world leaders who are hesitant to intervene more forcefully in ongoing conflicts. By demanding accountability in *the future* for perpetrators, world leaders can limit their commitments to existing warrant and extradition systems or the gathering of evidence, all while atrocities continue. Where international criminal law has been successful, furthermore, has most often been where the international community is involved directly in the conflict in some form or another. This is perhaps most evident in the potential for criminal trials of Russian soldiers apprehended by Ukrainian forces funded and aided by a large regional military alliance in NATO. It is no surprise that Sarkin does hold some hope for more robust protection systems emerging in regional alliances or multilateral organizations.

Sarkin also raises the existence of the Commission of Inquiry for Syria (COI Syria) and the role of the International Committee of the Red Cross (ICRC). Both, he argues, are not suited to actively address the needs of victims in the immediate term. While Sarkin refers to COI Syria's work in collecting information, it does not serve to assist victims in their search for family or to secure their release. Similarly, the ICRC can be effective in securing entry into certain detention centers, but this is dependent on their relationship with the current re-

gime. They are further limited to investigative powers rather than compliance and reporting. Lastly, the ICRC position outside of a multilateral organization such as the U.N. limits its protective capacity. Beyond the ICRC, Sarkin also addresses the role of the Working Group on Involuntary or Arbitrary Detentions (WGAID), the WGEID, and the International Commission on Missing Persons (ICMP). The first two, he notes, do have the power to investigate and, in limited cases, resolve a detention with the state concerned. The latter is limited insofar as it is focused on missing people generally rather than people in detention. This mixed terminology is another source of ire throughout the book as Sarkin laments the confusion that this lack of clarity engenders.

These deficiencies, Sarkin holds, militate for the creation of a new mechanism. This new mechanism would, he acknowledges, still be highly limited given the difficulties of entry into Syria if the conflict continues. Its goal should be to impact or influence the events on the ground and connect families with a single point of entry for inquiries or testimonial or documentary evidence. In keeping with his criticism of a prosecutorial approach alone, this mechanism would eschew gathering evidence for future judicial processes in favor of “humanitarian principles, follow a humanitarian approach and implement lessons learnt from the Syrian context as well as from other conflicts.” It should coordinate with existing bodies referenced above with members of WGAD, WGEID, ICRC, and ICMP comprising a board. In addition to such representatives, Sarkin attributes great importance to the representation for victims’ themselves on the board. He notes that the Syrian civil society organizations have themselves called for greater focus on enforced disappearances and praises the ongoing work such NGOs are already doing. The mandate of the new mechanism would be, while entry to Syria is limited to “determine the fate (for those who have died) and whereabouts (for those who are alive) of detainees and the disappeared and, where possible, secure their release.” To that end, it would also collect, maintain and collate a single database containing information to the above effect. Sarkin makes use, again of his deep personal knowledge, by noting the large amount of information already existing but is dispersed and limited due to siloed institutions and differing mandates. He further notes that such a single institution, focused purely on humanitarian ends, may

be more likely to build trust with victim communities than justice and accountability mechanisms such as the IIIM. This is in part due to the victim's valid concern that prosecutorial investigations into their missing loved one may result in more harm to them in the immediate term.

There is, however, some discordance between the limited powers of the mechanism described and the sweeping recommendations described earlier. This can be resolved insofar as the mechanism proposal is situated in the current set of institutional arrangements and is a concession to their limitations. In the end, however, a reader is unlikely to walk away from this work without a deeper appreciation for the severe hurdles to creating a more humane global community. While the conflict in Syria may have dominated Western headlines in recent years, there is no doubt that that attention has waned anew in the face of a new European war. It shouldn't for precisely the reasons Sarkin highlights. An internal conflict driven by a repressive regime, the backing of sponsor state's veto power, and complex belligerent compositions are likely to be standing features of some of the future's most violent conflicts, indeed more likely than the anachronistic war of aggression in Europe. As a result, Sarkin's work is no doubt a useful and penetrating intervention in the unending debate on how to achieve the supreme goal of international law: the protection of peace and human rights.

*Revolution in Development.* By Christy Thornton. Oakland, CA: University of California Press, 2021. Pp. 301. \$29.95 (paperback).

REVIEWED BY MITCHELL HIGHTOWER

In *Revolution in Development*, Christy Thornton aims to disrupt our traditional understanding of how the global governance institutions of the twentieth century emerged. In particular, Thornton argues that Mexico—a state whose role in developing these institutions has traditionally been seen as minor—was in fact a pivotal player at several key moments from the 1920s to 1980s. The narrative that Thornton puts forth is enlightening, deeply researched, and at many points persuasive in demonstrating that Mexico's impact on global governance is worth closer attention and broader acknowledgment. At the



points where the narrative is less satisfying, however, Thornton's approach may have benefited from a closer look at the global context of ideas and political forces within which Mexico was attempting to exert its influence. Although it effectively uncovers Mexico's unique historical role, the book leaves the reader hoping to get a better understanding of how exactly the country fits into the broader story of the developing world's complex reaction to global governance.

In each chapter of *Revolution in Development*, Thornton analyzes a particular moment in the story of global governance and international diplomacy, highlighting the ways that Mexico helped to shape conversations and outcomes. Thornton asserts that Mexico's efforts were informed by the complementary concerns of "representation" (i.e., an interest in ensuring that states in the "Global South" received an equal voice and platform in discussions of the global economy) and "redistribution" (i.e., a desire that the "Global North" join the South in tackling inter-state inequality by directing capital in the developing world), both of which were crucial as the country emerged from the Mexican Revolution in the 1910s.

Thornton begins in Chapter 1 by examining Mexico's diplomatic interventions at the 1919 League of Nations negotiations in Paris, as well as the 1923 meeting of the Pan-American Union. In these forums, Mexico positioned itself as a defender of economic sovereignty, diplomatic equality among nations, and non-intervention into the affairs of other countries. This stance had tangible effects. In the case of the Pan-American Union, for example, Thornton describes how Mexico successfully rallied a coalition of Latin American governments to reform the regional trade forum from a U.S. Department of State-dominated body into one with more democratic and regionally representative leadership. Such interventions, Thornton asserts, laid the "ideological groundwork" for further promotion of equality and representation in the following decades. Next, Thornton describes in Chapters 2 and 3 how Mexico's post-revolution isolation from capital markets—a consequence of a 1914 default and global investors' concerns about the revolutionary Mexican State's view of property rights—motivated the country to advocate through the 1920s and 1930s for a reformed international financial system that would enable "redistribution," i.e., facilitating capital flows towards developing countries. During this period, Mexico be-

came a regional leader in advocating for an Inter-American Bank, a concept initially resisted by the United States but one that would ultimately emerge as a priority as U.S. officials came to appreciate the need for greater investment in regional development in order to protect U.S. interests. Ultimately, even though the development bank concept was stalled in 1942 due to private sector opposition, Thornton argues that the experience of negotiating with Mexico informed the U.S. approach to building post-war development finance and global governance institutions, whose development is considered later in the text.

These opening chapters are among the most effective in supporting Thornton's claim that Mexico was a more consequential shaper of global governance than is traditionally acknowledged. The text successfully conveys how the diplomatic exchanges between the United States and Mexico during this period helped to refine the emerging hegemon's views on multilateralism and push it to appreciate the strategic value in regional development as a facet of foreign policy. That said, contextualizing Mexico's positions and advocacy within the era's intellectual and political trends might have been valuable in order to ground this narrative. For example, although there is mention of Mexico's assertion of the Drago Doctrine<sup>1</sup> as part of Mexico's calls for a new international financial order, *Revolution in Development* overall does not spend significant time examining the sorts of intellectual and political movements that gave rise to Mexican Revolution and underpinned the ideas that Mexico had begun to advocate globally during this period. The question of how the broader environment within which Mexico was acting affected its ability to be influential on the global stage is one that seems even more important as the narrative moves to the post-war period.

The next portion of the text reviews Mexico's push in the 1940s and 1950s to ensure that post-World War II institutions would benefit the Global South. Chapter 4 focuses on Mexico's reaction to the Global North's proposals for the institutions that would become the World Bank and the Interna-

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1. I.e., the principle—originating in early 20th-century Argentina and informed by earlier thinking in Latin America around the rights of foreign investors—that use of force by a creditor state is impermissible to collect debts

tional Monetary Fund (IMF), and highlights how Mexican diplomats worked to secure language in the bylaws of the World Bank guaranteeing that post-war reconstruction (a Global North priority) and long-term development (a priority of developing countries) would receive “equitable” consideration in the institution’s activities. Chapter 5 then looks at the role of Latin America in the development of the United Nations, describing how Mexico provided the developing world’s most extensive and critical feedback in response to U.S. proposals at the Dumbarton Oaks Conference, including critiques of the power imbalance created by the proposed Security Council, the lack of representation for Latin America on the Council, and the need to ensure that international law bound all states to their duties regardless of wealth or power. The chapter also looks at the 1945 “Inter-American Conference on Problems of War and Peace,” a meeting organized by Mexican officials in order to cohere U.S. and Latin American visions for the post-war development agenda by way of an “Economic Charter for the Americas.” Chapter 6 turns to the negotiations of the 1940s to establish a charter for an “International Trade Organization” (ITO), and highlights how Mexico and other developing world partners successfully secured a number of concessions from the United States on issues such as tariff policy and differential treatment for poor countries. As with the American Development Bank, private American business interests advocated against the ITO, but for Thornton, the negotiations are another instance of Mexico’s priorities emerging as a core consideration in discussions of how to shape the global economic order.

Thornton uses the above instances of Mexican engagement in post-war institution-building to demonstrate that, although the country has often been characterized as among the “client supporters” of the United States, Mexico in fact engaged with the United States with “far more contention than is usually assumed,” critiquing the dominance of wealthy countries and inserting developing world priorities into debates. As discussed above, more of the global intellectual and historical context could be helpful, but perhaps even more useful would be some additional attention to the dynamics among developing countries at this point. Mexico’s leadership of regional advocacy around things like the Pan-American Union and the Inter-American Bank features prominently in earlier chapters,

but at this later period, when U.S. priorities increasingly reached horizons far beyond the Western Hemisphere, one might wonder how other countries' "revolutions in development" reinforced or undermined Mexico's positions. That said, the question of how other countries—especially many newly decolonized States—vied for influence with Mexico becomes prominent in the final portion of the text.

Thornton shows that Mexico's focus from the 1950s and 1960s onward shifted away from reforming the international system and towards defending existing institutions that were now helping to generate capital to finance the country's state-led development approach. Chapter 7 finds Mexico in the post-war period as a beneficiary of increased flows of credit from institutions like the World Bank. With foreign capital flowing steadily into the country to support an array of state-driven development efforts, Mexico took an approach to international engagement that shifted away from contestation and towards more limited intervention and a preference for the status quo. This included either abstaining from or actively countering efforts in the Global South to revise the existing development apparatus. In Chapter 8, Thornton argues that by the 1960s and 1970s Mexico had come to occupy an "intermediary" role between the Global North and Global South, most evident in its role advocating for the "Charter of Economic Rights and Duties of States." Proposed by Mexico in its 1971 address to the U.N. General Assembly, this Charter was proposed as a way to "strengthen the precarious legal bases of the international economy." Although some headways were made in negotiations to secure support in the Global North for such a charter, U.S. officials grew concerned that Mexico's advocacy might come to dovetail with that of the Non-Aligned Movement countries, which were developing a "New International Economic Order" document far broader than what Mexico had put forth. The result, Thornton states, was that Mexico found itself in the "contradictory position" of trying to secure its developmental interests on the international stage without alienating allies like the United States by allying with certain other Global South actors.

Ultimately, Mexico's charter was adopted by the General Assembly, but Thornton deems this maneuver to be the "last gasp" of Mexico's role as a shaper of the international economic order. In the following years, leading up to the early

1980s, Mexico's debt grew to become unsustainable and the country acceded to an IMF-designed austerity and structural adjustment program. Further, conditional loans from the World Bank through the 1980s, along with a new generation of technocrats within the State, ensured that the country's economic policy guideposts looked very different by the end of the twentieth century compared to where they were mid-century. In this way, Thornton argues, the institutions that Mexico had helped shape and benefited from became "key instruments in dismantling Mexico's state-led developmental project," and from the 1980s onward, the stance of Mexican officials shifted towards that of the "dutiful pupil" of neoliberalism and the Washington Consensus. Thornton suggests that this re-positioning of Mexico as the "dutiful pupil" in the late twentieth century has contributed to a misunderstanding of the country's historical role in world affairs, "obscur[ing] the fact that Mexican experts had in fact had a great deal to teach U.S. and European economic experts at key moments in the twentieth century."

In light of this discrepancy, *Revolution in Development* is a valuable text, one that disrupts the now-standard narrative and demonstrates that Mexico was far from a passive recipient of global norms conceived abroad. Furthermore, the text demonstrates that the systems put in place after World War II were not just "brilliant and nefarious imperialist imposition," but the product of regular contestation with the developing world over, through which the United States "learned to rule." As discussed above, putting Mexico's efforts into broader context—e.g., examining the global intellectual and political movements underpinning Mexico's advocacy or exploring Mexico's influence relative to other developing world actors—would have made for a clearer picture of how the country managed to exert influence in spite of its relatively limited power and wealth. Additionally, it remains ambiguous whether the Mexican experience can or should inform contemporary efforts by developing countries to "punch above their weight" on the world stage—certainly in this case, Mexico's proximity to and importance for the United States makes it a unique case. These remaining questions are not fatal to the core message of the text, however, and future country- and region-specific studies could add color to the picture. If nothing else, *Revolution in Development* is proof that such studies, by digging

into traditional narratives and critiquing them, are likely to yield fruitful insights.