

BOOK ANNOTATIONS

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DALE F. EICKELMAN AND JON W. ANDERSON, EDs., *NEW MEDIA IN THE MUSLIM WORLD: THE EMERGING PUBLIC SPHERE* (Indiana University Press).

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Soft News Goes to War: Public Opinion and American Foreign Policy in the New Media Age. By Matthew A. Baum. Princeton, New Jersey: Princeton University Press, 2003. Pp. xii, 353. \$39.95 (cloth).

With pop culture cachet and guarded regression analysis, Matthew Baum plots the changing landscape of the “high politics” of international crisis in *Soft News Goes to War*. Traditional and institutional “hard news,” like daily newspapers and the nightly network news, have long been the most important sources of information for those Americans attuned to politics. The past two decades, however, have witnessed an explosion of new programming media, not the least of which are cable television, talk radio, and the Internet. In *Soft News Goes to War*, Matthew Baum argues that this trend, and the increasing prevalence of entertainment-oriented “soft news,” is changing the way Americans relate to the media and world affairs.

Soft news shows like *Oprah* and *The Daily Show* attract formidable audiences by presenting dramatic and entertaining coverage of diverse national and world affairs. Politicians and talking heads fuel these shows, eagerly acting as guests on programs like *Saturday Night Live*, even if it means not getting up early on Sunday to *Meet the Press*. Soft news has made it more difficult for the viewing public, which studies show is otherwise less interested in world affairs than in years past, to avoid international events altogether. The tragedy, heroism, and scandal inherent in many soft news headlines have been at least partially responsible for the *increased* number of Americans who are actively aware of international conflicts.

Baum illustrates his point seductively in the book’s introduction. He begins with a discussion of President Clinton’s

August 20, 1998, decision to launch cruise missiles at suspected *al Qaeda* sites in Afghanistan and Sudan, a decision made in the midst of the brewing Monica Lewinsky scandal. Clinton justified his actions as retaliation for deadly attacks against the U.S. embassies in Kenya and Tanzania two weeks earlier. Although major network and cable broadcasters carried Clinton's message both live and again in their nightly news, television viewers were nearly as likely to get their first impression of the story from soft news. *Entertainment Tonight* and others readily compared Clinton's actions with those of a fictionalized president in the then-current movie release *Wag the Dog*. That president launched a made-for-cable war to distract the public from a personal sex scandal, influencing the public to believe that Clinton's missile strike was greatly influenced by the Lewinsky scandal.

Soft News Goes to War is the latest in a series of publications by Baum based on his 2000 dissertation, "Tabloid Wars: The Mass Media, Public Opinion and the Decision to Use Force Abroad." Although his subject is entertainment media, *Soft News Goes to War* is decidedly social science for social scientists. His sophisticated argument and case studies cover an impressive amount of relevant material. Unfortunately, he does so in a manner that is overly technical. Baum fails to explain clearly his highly specialized, scientific analysis in a manner accessible to wider audiences, or to provide them with tools necessary to evaluate his model independently.

Baum's difficulty distinguishing and operationalizing key variables further exacerbates this problem. Indeed, the book never clarifies the exact distinction between "hard" and "soft" news. For instance, the continuing consolidation of news, entertainment, and technology companies has spawned 24-hour cable news programming that does not neatly lend itself to dichotomous categorization. Does a controversial host and confrontational tone make the *O'Reilly Factor* (a top-rated cable news program) soft news? Or is it hard news because its topics and guests are newsmakers? *Soft News Goes to War* does not address these questions satisfactorily.

Soft News Goes to War was published in the days just before the recent U.S. invasion of Iraq, and it already invites an updated edition. In a new version of the book, Baum might revisit two provocative questions: First, Baum notes that the violent sensationalism of soft news coverage, in the absence of a

broad policy debate on the purposes and progress of engagement, tends to foster a distrust of U.S. intervention abroad. Yet, soft news also amplifies the “rally ’round the flag” effect, building support for executive decisions to use force. It is worth investigating how these two effects might balance against each other.

Second, Baum observes wryly that “it is unclear whether more information necessarily makes better citizens, particularly if the quality of that information is suspect.” This statement is particularly apt in the aftermath of the Iraq war; polls continue to show that a large percentage of Americans believe that Saddam Hussein was responsible for 9/11. Although scholars have long lamented what they see as an uninformed public, a *misinformed* public presents its own problems for the health of a democracy. Misinformation distorts the political risks of both success and failure inherent in wartime decision-making. An analysis of the effects of soft news, and the manner in which it has framed the Iraq war, would be both useful and intriguing.

Soft News Goes to War succeeds in raising pertinent, timely issues about the various ways the entertainment media affects public attentiveness to and attitudes about foreign policy. The book is frequently arduous, but it ultimately provides a valuable platform for further research into public perceptions of current and future uses of force and how those perceptions affect crisis decisionmaking.

BY PETER PROWS

United States Hegemony and the Foundations of International Law.

Edited by Michael Byers and Georg Nolte. Cambridge, United Kingdom: Cambridge University Press, 2003. Pp. xvii, 531. \$95.00 (cloth).

United States Hegemony and the Foundations of International Law presents a series of essays emerging from a conference of international legal scholars held in October 2001 at the Max Planck Institute for History in Germany. The conference, planned well in advance of September 11 but held in its aftermath, examined the forces unleashed by the end of the Cold War and their effects on the operation of international law. Collectively, the authors in this volume capture that debate, assessing whether and how the reorientation of political, eco-

conomic, and military forces has had profound implications for the law.

The end of the Cold War in the 1990s altered the geopolitical balance that had characterized the previous forty years. As the sole remaining superpower, the United States assumed a role of extraordinary privilege and responsibility. Yet many have questioned the manner in which the U.S. has played this role, particularly when it has commenced unilateral (or virtually unilateral) military actions in such places as Panama, Kuwait, Kosovo, and, most recently, in Iraq and Afghanistan. Critics have argued that these adventures were premised on fallacious interpretations of long-standing legal doctrines, such as the inherent right of self-defense. At the same time, the lack of U.S. support for major treaties like the Rome Statute of the International Criminal Court, the Ottawa Convention, and the Kyoto Accords has drawn further criticism; the absence of U.S. ratification threatens to render these treaties impotent. These actions, perhaps untenable for any state but the world's remaining superpower, are particularly devastating because they are carried out by that superpower.

United States Hegemony and the Foundations of International Law investigates this troubling and confusing state of affairs. The contributors' papers are arranged thematically and assess six central concepts in international law. Each of the six organizing topics—international community, sovereign equality, the use of force, customary international law, the law of treaties, and compliance—is discussed in two full-length essays, followed by several shorter commentaries by well-established scholars of international law. The principle focus of each of these essays is on how the particular historical state of American "hegemony" might affect the development of the fundamental legal principles under examination. The authors' perspectives range broadly in their evaluation of contemporary American influence, with varying assessments of both the extent and character of America's material impact upon international legal structures. Strikingly divergent moral and political assessments of U.S. policies—ranging from outright condemnation to apology—animate the essays.

In the book's first section, for example, Edward Kwakwa and Andreas Paulus each grapple with the concept of international community, conceived as a fundamental basis of international law's legitimacy. Kwakwa maintains the relatively san-

guine attitude that the undeniable preponderance of common interests among states compels the U.S. to identify itself with the international community. The perception that the U.S. is opposed to the rest of the international community is premised on the exception rather than the rule; the U.S. must, in order to advance its own interests, accept a position within the fold of a generalized international community of nations. Paulus, on the other hand, maintains a more pessimistic attitude, beginning his essay with President Bush's post-September 11th ultimatum to the world that, "[e]ither you are with us, or you are with the terrorists." For Paulus, this statement is emblematic of a long-standing and intransigent U.S. reluctance to subjugate its own interests to those of the international community. He concludes that if the American perception that its interests cannot be served in accord with those of the rest of the world does not change, the growth of legitimate and potent international institutions will remain stymied.

In the next section, Michel Cosnard and Nico Krisch discuss the principle of sovereign equality. Cosnard argues that the principle remains viable, even in the face of actual military and political inequality, as U.S. power can be explained by the ideological consent of other nations. As such, America's exceptional status among equals, founded as it is upon the consent of other nations, represents less of a threat to sovereign equality than it might initially seem. Krisch's meditation on sovereign equality is almost diametrically opposed to Cosnard's view. Krisch draws attention to America's affinity for institutions not premised on sovereign equality—such as the Bretton Woods bodies. He argues that the replication of power dynamics within such institutional structures may signal an undesirable shift in the conceptual foundations of international law.

In Part III, which assesses the legal justifications for the use of force, Brad Roth addresses the inadequacy of critical approaches to the problem of humanitarian intervention. He claims that, by and large, scholars have used one of two approaches in justifying such interventions: "policy-oriented jurisprudence" or "moral positivism." He argues for an alternative approach that would leave the international legal fabric untattered: the ongoing and incremental development of a procedural and substantive legal criterion that would both advance and constrain the possibilities of legal humanitarian in-

tervention. In response to Roth's plea for the development of legal norms, Thomas Franck's short comment takes a highly pragmatic approach. He suggests that a viable system of humanitarian response must make room for "extenuating facts" and casts doubt on the capacity of unbending norms to deal with the grave eventualities that might call for humanitarian response. In the long run, Franck argues, it is more realistic to allow some potential for abuse than to allow international law to reduce itself to impotence in the face of impending disaster.

"Customary law," states Stephen Toope in Part IV, "like all law, is relatively autonomous from material power." Toope argues that the U.S. is unable to influence the creation of customary international norms not because it lacks the power to engender hegemonic norms, but because it lacks the political will to exercise that power. Thus, he argues, the U.S. is at most an imperfect hegemon.

In Part V, Pierre Klein and Catherine Redgwell assess U.S. influence on treaty law. Klein concludes that, "As long as [the U.S.] has limited itself to the promotion of its own interests, the United States has experienced an appreciable success in shaping international law through treaties." Klein also notes, however, that when the U.S. has demanded special treatment to account for its special status, it has found itself "more isolated on the international scene than it probably ever was in the past." Redgwell analyzes the U.S. impact on the law of treaties, as opposed to substantive treaty law, in the context of human rights. She observes that while the U.S. has ratified instruments like the International Convention on Civil and Political rights, it has done so with numerous reservations, understandings, and declarations that have undermined the substantive effect of those instruments. She concludes, however, that these actions have buttressed, rather than undermined, the law of treaties, as the U.S. has typically complied with the procedural requirements of the Vienna Convention approach to treaty formation.

Finally, Part VI analyzes the effect of U.S. noncompliance on the development of international law. Shirley Scott approaches the problem through an analysis of eight cases in which the U.S. departed from accepted international norms. While she recognizes that such actions are damaging, she argues that the adverse effects of U.S. actions can be con-

strained; other states can shape and influence the manner in which the international legal system responds to U.S. actions.

The authors, collectively, demonstrate that the “hegemon” influencing the development of the international legal system is not the U.S. *per se*. The U.S. is simply one sovereign state among other, albeit less powerful, states. Rather, the true “hegemon” is a complex network of economic, political, and cultural interests that transcends the simple national boundaries and unified state interests that international law, in its formality, assumes as its starting point.

BY MARK KLEYNA

The Other War: Global Poverty and the Millennium Challenge Account. By Lael Brainard, Carol Graham, Nigel Purvis, Steven Radelet, and Gayle E. Smith. Washington, D.C.: Brookings Institution Press, 2003. Pp. x, 265. \$18.95 (paper).

The Other War, a joint project of the Brookings Institution and the Center for Global Development, provides an in-depth look at recent U.S. initiatives in the war on global poverty. The book focuses on the Millennium Challenge Account (MCA), created by President Bush in March 2002, and the Millennium Challenge Corporation (MCC), the independent agency charged with the MCA’s implementation. The authors explain the structures of the MCA and the MCC, address their implications for the already existing tension between U.S. foreign policy and development objectives, and offer recommendations for alleviating these tensions.

The MCA is President Bush’s principle vehicle for obtaining his stated goal of increasing U.S. development assistance levels by \$5 billion per year. This increase would almost double the size of current U.S. bilateral assistance and would permit a fundamental reexamination of existing methods of aid distribution and delivery. Despite the MCA’s potential, *The Other War* is careful to note the challenges to the program at the outset: While “the MCA presents an enticing opportunity, the risk is at least as great that the new fund will simply add to the confusion of overlapping policies, agencies, aid programs, and eligibility criteria targeted at developing nations.”

The authors begin with a detailed description of the MCA itself, evaluating the program's purpose before turning to its various structural components. The authors stress two main points. First, they argue that the MCA's objectives should be concrete and limited, and thus achievable. Second, they advocate careful coordination between the MCA's mission and the United Nation's millennium development goals (MDGs) in order to avoid the perception of U.S. unilateralism.

The following section examines the administration's proposed methodology for qualifying nations who seek MCA aid. In addition to per capita income, the MCC would score each nation based on sixteen indicators intended to assess its commitment to "governing justly, investing in people, and encouraging economic freedom." The authors analyze these criteria, highlighting their drawbacks by presenting illustrative lists of countries likely to be included and excluded under the administration's proposal. The authors criticize the apparent eligibility of nations with relatively high incomes, noting that these countries "are more than four times richer than the combined low-income group." The authors further recommend eliminating certain indicators (such as the current trade indicator and the corruption indicator) and adding several new ones (including indicators to measure the extent of state ownership of productive assets and the ratio of boys to girls in primary schools). Different methods of aggregating the indicators are also examined, with an eye toward fairness and efficiency.

After the thorough analysis of the MCA's purpose and structure, the authors take an equally close look at the program's implementation and broad implications. Again, the book describes the administration's proposals before suggesting potential alternatives and improvements. One of the authors' primary suggestions is that "[t]he MCA should pioneer a sharply different approach to aid, one that places responsibility and accountability squarely in the hands of eligible countries." The authors also discuss the advantages and disadvantages of various institutional models for the MCA, addressing the uncertain relationship between the MCC and the U.S. Agency for International Development (USAID), as well as the need for "partnership between Congress and the executive branch" in support of a successful MCA. *The Other War* concludes its analysis of the MCA by identifying "ten key drivers" of success and offering corresponding recommendations.

The Other War is a timely analysis of a new foreign aid program, created amidst a growing debate within and between the administration, Congress, and the foreign policy and development communities concerning the future of U.S. foreign assistance. The authors draw a clear picture of the MCA and the MCC, educating the unfamiliar reader about the program's structural components and related policy issues. At the same time, the authors offer an in-depth examination of the program's strengths and weaknesses, ending each chapter of the book with their own rationalized recommendations for improvement. *The Other War* succeeds as a comprehensive introduction to, as well as an insightful critical analysis of, the MCA and the MCC.

BY YULIYA GERTSBERG

War Crimes: Confronting Atrocity in the Modern World. By David Chuter. Boulder, Colorado: Lynne Rienner Publishers, 2003. Pp. ix, 299. \$55.00 (cloth).

War crimes, and the difficulties inherent in addressing them, continue to plague our society despite an increased awareness of global human rights norms in recent decades. Why do wartime atrocities occur? What are the most effective means of investigating and successfully prosecuting perpetrators? Are current methods of investigation and prosecution likely to prevent future atrocities? In *War Crimes*, David Chuter addresses these critical questions, using the recent atrocities in Rwanda and Yugoslavia as vivid illustrations of the pressing need for answers. Although Chuter occasionally lapses into offbeat theories and unorthodox musings, his overall presentation is methodical and easy-to-follow, although understandably inconclusive.

Explanations for the origins of war crime abound, but Chuter focuses his attention on the socioeconomic context in which such crimes occur. He argues that wartime atrocities are most common in areas rife with poverty and extremism. These factors, combined with an overemphasis on history and its contribution to the general misery of the present, give rise to an ethos of brooding and hatred amongst the populace. This whirlwind of unconstrained emotional hatred can break down the walls of "civilized" or "logical" thought, making wartime atrocities subjectively justifiable.

Chuter's analysis, much of it based on his experience dealing with war crimes issues for the British Ministry of Defense, is informed but generally non-legal. Yet Chuter is well-versed in international law, although a few of his propositions may seem controversial to international lawyers. For example, Chuter argues that the term "genocide" is often misused and overused, and should be distinguished from more generic "war crimes" or "crimes against humanity." Chuter contends that the definition of genocide, as adopted in the 1948 Genocide Convention, has basic cumulative requirements that the massacres in Rwanda fail to meet; he asserts that there were no "ethnic, racial, or religious" differences between the Hutu and Tutsi, as required by the Convention. In Chuter's analysis, the ICTR's contrary conclusion was motivated more by political necessity, and the need to avoid a "furious reaction" by the international community, than by principled legal analysis. Extending this analysis, Chuter posits that more politicized bodies like the ICC could have even more significant legitimacy concerns in their trials of alleged war criminals.

Chuter begins his analysis by devoting a chapter to the history of the law governing armed conflict, suitable for the lawyer and layman alike. He highlights the ambiguities inherent in the law, as well as the difficulties in properly enforcing the law both within and against shifting hierarchical command structures. Chuter argues that because of the changing face of war, the laws of war are becoming increasingly irrelevant; rebel groups and militias in underdeveloped countries fight many of today's wars, yet they know little about the laws of war and might have little reason to comply with them. Chuter also assesses the role of Western norms in identifying and prosecuting war crimes. He emphasizes the Western bias in international humanitarian law, and the tension this bias creates when the crimes of non-Western officials are prosecuted. Chuter further identifies the disconnect between Western values and Western practices, labeling the disparity between the two as "the conflict between idealism and reality." In the end, though, Chuter concedes that, despite these obstacles, there are no feasible alternatives to the current system.

After providing this background information on law and politics, Chuter leads the reader through a step-by-step examination of the elementary aspects of the prosecutorial process, analyzing the organizations which try alleged war criminals,

discussing investigative procedure, detailing the obstacles to a suspect's arrest, and finally addressing the trial itself. He notes some of the difficulties that arise in the course of international trials: In addition to more familiar procedural burdens, tribunals must deal with obstacles unique to the international context, such as the management of multinational staffs and the provision of expensive translation services. Chuter also describes the inherent inequalities endured by the citizens of developing nations; witnesses and defendants who have never before encountered a television set or microphone suffer acute disadvantages in presenting their information compared to those for whom modern technology is part of everyday life.

Chuter then assesses the evidentiary standards utilized in war crimes trials. Again he projects forward, arguing that the prosecution of war crimes is likely to be difficult under the ICC's planned evidentiary standards. He notes that convictions often have been frustrated in the ICTY and ICTR, which maintain lower evidentiary standards. Further, Chuter highlights the difficulties in collecting evidence in nations that have few incentives to cooperate with investigators. Many of these nations lack the will to identify offenders as well as the informational resources to do so. The need to collect evidence while observing standards of due process presents a further obstacle, particularly when governments may manipulate that process to protect suspects.

Chuter is critical of the ICC, discounting its potential as a force for widespread change. He references the weaknesses of the ICTY and ICTR and argues that these same weaknesses are likely to be even more pronounced in the ICC. He also doubts the ICC's potential for deterring war criminals, contending that offenders are unlikely to believe that they will be caught and convicted. Despite this criticism, Chuter concludes that the ICC may still be effective by influencing state policies on the margin just enough to instill some incremental change. Ultimately, the book convincingly argues that the ICC represents progress, albeit imperfect, in the quest to end war crimes. Chuter provides the reader with enough basic history, law, and political analysis to judge the ICC both on its own merits and as another example of a war crimes tribunal in ac-

tion. Those seeking a preview of the ICC, before it begins its work in earnest, will be pleased with this book.

BY NINA GIULIANO

Drawing Lines in Sand and Snow: Border Security and North American Economic Integration. By Bradley J. Condon and Tapen Sinha. Armonk, New York: M. E. Sharpe, 2003. Pp. xxii, 210. \$24.95 (paper).

In the wake of September 11, 2001, domestic security has become a primary concern for the American public and its political leaders. At the same time, trade liberalization has eased transboundary movements of goods, capital, and even people. At first glance it may seem that opening U.S. borders to trade would also open those borders to external threats, placing America's interests in free trade and domestic security in diametric opposition. A deeper analysis, however, reveals that extending international trade can strengthen multilateral security initiatives, leading to a net enhancement of both free trade and domestic security. In the insightful *Drawing Lines in Sand and Snow*, Bradley Condon and Tapen Sinha discuss the importance of regional trade between the United States, Canada, and Mexico, highlighting a number of areas in which the three nations individually and collectively can work to build greater regional security.

Drawing Lines in Sand and Snow begins with a brief history of North America's evolving political economy, culminating in the birth of the North American Free Trade Agreement (NAFTA). The opening chapter discusses the relationships between the U.S., Canada, and Mexico in the years since NAFTA was enacted. Particularly interesting is the authors' portrayal of the deepening integration that occurred prior to September 11, 2001, and the altered political climate that emerged from the events of that day.

After situating NAFTA historically and politically, the next three chapters analyze three discrete aspects of trade integration: the transboundary movement of goods in an integrated economy, the movement of both documented and undocumented laborers, and the transboundary flow of capital. Using an impressive array of economic and social data, the authors discuss the challenges faced by policymakers in providing both free trade and security, and provide suggestions for improving

North American integration in both areas. First, the authors note that highly integrated multinational production relies on just-in-time production, which in turn requires quick and reliable border crossings. However, easing restrictions on the movement of goods and decreasing delays at border crossings would preclude a thorough inspection of those goods, creating potential security risks. Second, the economic disparities between NAFTA nations, and especially the U.S. and Mexico, are likely to spur cross-border labor migration, much of it illegal. Moreover, economic integration requires some level of free movement between the three nations for those engaged in regional economic activity. From a security standpoint, however, the movement of large numbers of undocumented workers across America's southern border is troubling. The need to police illegal labor migration diverts resources from potentially more significant security threats. In addition, illegal migration has spawned a large and profitable business in human smuggling and document forging that could provide easy access to American soil for would-be terrorists. Third, the transboundary movement of capital, ranging from substantial foreign direct investment to small remittances sent to family members, creates opportunities for international money laundering and provides financial networks that might be used by those wishing to finance terror operations within the United States.

Chapter 5 discusses the problem of corruption, a particular concern in Mexico. In the economic context, corruption imposes substantial costs on companies and individuals by making bribery a necessary business expense and undermining the predictability created by the rule of law. In the security context, corruption (or the perception of corruption) may dissuade governments from engaging in the information sharing that is crucial in order to deal with regional security concerns.

The authors conclude that, while free trade cannot make the world a better place directly, it can enhance regional cooperation and security. The data amassed by Condon and Sinha gives the reader a sense of how NAFTA has impacted the economies of each member state, as well as the difficulties that must be addressed in the continuing process of North American integration. The book emphasizes the urgent need for unilateral, bilateral, and multilateral solutions to some of the

more perplexing quandries facing the NAFTA partners and highlights some intriguing possibilities.

For example, the authors suggest that pre-clearance programs for commercial goods could reduce the need for stringent border inspections and speed border crossings. In other areas, such as migration, Condon and Sinha conclude that the divergent reality of life in the U.S. and Mexico likely will require bilateral negotiation outside of the NAFTA context. They also argue that the official recognition of undocumented migrant workers might be beneficial to both nations; Mexican migrant workers—whose remittances to families in Mexico are extremely important to the Mexican economy—would have greater employment protection in the United States, while American border patrol agents would need to devote less time to locating and detaining migrant laborers whose only goal is to make a living. The authors further assert that any immigration reform effort should address the failure of existing visa programs. As Condon and Sinha note, if new programs do not address past failures, illegal migration will continue to sap resources on both sides of the border. Finally, the authors argue that problems such as money laundering are best addressed through multilateral initiatives to refine the regulation of international finance, as no single nation will be able effectively to monitor and police complex transboundary financial networks. Rather, all countries with an economic stake in the free movement of capital within the region will have to work together to minimize the opportunity for illicit activities provided by these financial networks.

Drawing Lines in Sand and Snow analyzes the tensions between globalization and national security, two of the most pressing contemporary social, political, and economic concerns. Since the increasing importance of regional trade has made NAFTA largely indispensable, the hard question is how to make the regional economy more efficient while also enhancing security. Combining in-depth data analysis, insightful critique of NAFTA, and intriguing suggestions for the future of North American integration, Condon and Sinha's work is a compelling read for members of the legal, policy, and business communities alike.

BY KEIL MUELLER

New Media in the Muslim World: The Emerging Public Sphere. Edited by Dale F. Eickelman and Jon W. Anderson. Bloomington, Indiana: Indiana University Press, 2003. Pp. ix, 201. \$19.95 (paper).

In the past two years, the concept of Muslim identity has attained a heightened importance in local, national, and global politics. The forces that shape this identity, however, often are not well understood. In *New Media in the Muslim World*, Professors Dale Eickelman and Jon Anderson have compiled a series of essays exploring the effects of media on conceptions of Muslim identity, with particular attention to the aftermath of the events of September 11, 2001. The authors collectively explore how multiple forms of new media reinforce existing notions of what it means to be Muslim, while making any unitary conception of Muslim identity problematic.

The book consists of ten well-written, thought-provoking essays. An introductory chapter introduces the various forms of new media that are currently altering Muslim political identity. Eickelman and Anderson argue that the emergence of a number of new, horizontal connections between mass education and evolved communications media has created a distinct, cohesive conception of Islam built around Islamic principles. These connections, and the rapid emergence of a Muslim public sphere and civil society, have fundamentally reshaped Muslim identity.

The subsequent essays build upon the notion of a growing and changing international Muslim civil society. The second essay, written by Augustus Richard Norton, uses media images from the start of the *al-Aqsa* intifada in the autumn of 2000 to illustrate how new media can transmit the isolated events of one location rapidly to provoke protests in many other countries; only a few years earlier, Norton argues, the same images would not have had such impact. Norton also underscores the media's response to newly organized Muslim political groups, which have gained greater influence in shaping both national and international politics. Part of this new power, he argues, stems from the media itself: As economically marginalized individuals and communities see ways to improve their life prospects, their new optimism contributes to political movements that form to pursue these goals.

Chapters 3 and 6 consider various mechanisms for organizing and mobilizing Muslim civil society, and query whether there is a single conception of Muslim identity. In Chapter 3, Eickelman begins by observing that it is impossible for governments to control mass media such as faxes, tapes, books, and the Internet because doing so would alienate supporters who must use these media in their day-to-day lives. Consequently, these media have persisted, transmitting messages that have facilitated the fragmentation of existing power structures and encouraged pluralist notions of Muslim identity. Although such fragmentation may lead to short-run strife, Eickelman argues that in the long-run the increased flow of information will contribute to a more vibrant and sustainable civil society.

In Chapter 6, Gregory Starrett discusses how new technologies have allowed Muslim communities around the world to unite by pooling individually held resources and sharing experiences through both religiously-inflected materials and other materials that express the common knowledge of the community. Starrett notes, for example, the unifying power of works discussing the plight of African-American Muslims in the United States. This sharing of information allows the universal Muslim community to transcend the many differences that would otherwise divide its constituent communities.

Chapters 4 and 5 both examine the role that the Internet has played in shaping the Muslim world. Jon Anderson begins Chapter 4 by broadly considering how the Internet has allowed some Muslims to reframe Islam's authority. Anderson claims that in Muslim communities, the interpretation of religion plays a key role in shaping societal norms. The Internet has enabled a greater array of individuals to participate in this interpretation by extending the space in which religious debates occur. In particular, Anderson notes the networked nature of the Internet, its availability to the professional middle-class, and the nuanced conversations it permits through real-time chat forums. He argues that these features generally contribute to a heightened sense of responsibility for identity creation and thus serve as an intermediating step for "civil" society.

Chapter 5 presents Lebanon as a case study of the effects of the Internet on a Muslim society. Yves Gonzalez-Quijano finds that the Internet has been successful in Lebanon because of the receptive characteristics of Lebanese society. In particu-

lar, she notes its relatively liberal political system, its higher level of socio-economic and educational development than that seen in other Muslim countries, and its long and strong history of emigration to industrialized nations.

The role of more traditional media, such as books and magazines, is discussed in Chapters 7 and 8. In Chapter 7, Walter Armbrust considers how conceptions of bourgeois leisure shape modernization and the notion of the modernized Muslim. He argues that leisure and associational life both have political ramifications because they shape conceptions of order and expectations of change that may facilitate new forms of political expression.

Maimuna Huq continues this strain in Chapter 8, in which she discusses the role of Islam-oriented texts in Bangladesh. She considers how different forms of written texts either reinforce or undercut traditional notions of Islam. By tracing changes in Muslim literature, Huq shows that texts both reflect and shape what it means to be a good Muslim, a positive member of the Bengali community, and a loyal citizen of Bangladesh. Huq states that although it is hard to define exactly what Islamic literature is, as long as the work does not conflict directly with existing Islamic norms, it is accepted.

Finally, Chapters 9 and 10 consider two case studies exploring how new media is producing political change. In Chapter 9, Robert Hefner discusses how the Muslim community in Indonesia was able to turn the country into one of the most vibrant centers for innovative Muslim politics in the 1990s. Hefner, however, also notes how quickly this success story was overshadowed by later events that shook the political system. Hakan Yavuz concludes in Chapter 10 by showing the positive impact of media on the Alevi and Kurds in Turkey. Both of these groups have been able to use new forms of media to globalize their local identities and frame their local problems in terms of international discourses concerning human rights, democracy, and self-determination. This reality has had both positive and negative impacts: While it has increased awareness of alternative viewpoints and fragmented authority, it has also oversimplified several complex, nuanced identities and problems.

Overall, *New Media in the Muslim World* is a fascinating examination of the ways in which various forms of communica-

tion are shaping Muslim identities and civil society. The authors root their analysis in strong discussions of civil society and include a rich array of case studies, which illustrate both the diverse and the unifying aspects of Muslim culture. The book should prove valuable to a range of readers, from those who have little background in Muslim culture and politics to those who have devoted a significant part of their lives to studying these issues. The topics are particularly captivating given the prominent role that Muslim culture currently plays in the international media.

BY ANITA GIRDHARI

Ethnicity. By Steve Fenton. Cambridge, United Kingdom: Polity Press, 2003. Pp. v, 220. \$24.95 (paper).

The concept of “ethnicity” has grown increasingly important in the past thirty years, not only in the sociological imagination, but also in policy and political discourse. However, the salience of ethnicity has not led necessarily to a clear understanding of its meaning and implications. In *Ethnicity*, Steve Fenton provides a thoughtful discussion of the concept that serves as a sophisticated synthesis of ethnic discourse while providing a functional framework within which the international significance of ethnicity can be analyzed. Drawing on a wide range of previous scholarship and case studies, Fenton attempts to clarify the contested concept of “ethnicity,” discussing not only what it is, but also when and why it becomes a significant driver of sociopolitical action.

Fenton begins by discussing the ontological question raised by ethnicity. Does the term refer to something “out there” in objective reality, or have observers subjectively created the concept? Fenton suggests a comfortable middle ground that successfully dodges the question. He argues that the creation of an “intellectual construct” does not necessarily mean that it does not exist in objective reality. Thus, while some ethnicity-like concept *is* “out there”—as evidenced by the associations groups form, the wars they wage, and the rituals they practice—the particular term used to describe this concept is a product of elaboration by observers. Consequently, instead of cautioning readers that ethnicity is a purely mental concept, Fenton advises them to take stock of their analytical constructs—the ways in which they interpret objective reality.

Although it seems Fenton brushes over the ontological question by assuming it away, he also makes his assumptions explicit without detracting from the explanatory power of his later analysis.

After establishing the philosophical underpinnings of his argument, Fenton dedicates several chapters to the historical evolution of “ethnicity,” providing a contextual framework for the analysis of its present-day conceptions. He takes the reader on an etymological journey through the Latin and Greek foundations of the term, finding core commonalities between “ethnic group,” “race,” and “nation.” Though the terms are distinguishable at the margin, Fenton argues that they represent a closely related set of images and realities; all three convey “a sense of a people.” Fenton concludes that the idea of an ancestry group—of a people linked by common descent, however loosely that is thought of—is the core idea of all three terms.

Understanding ethnicity, however, is not as simple as tracing the lineage of a particular group. Fenton augments his attention to ancestral heritage by stressing the importance of context. He argues that in popular consciousness, the political imagination, and academic debates, ethnic discourse is heavily influenced by its local setting. Fenton believes boundaries between ethnicities are engineered classificatory systems based on social understandings of descent and culture, encapsulated in a historical context.

To illustrate this point, Fenton focuses on the meaning of “ethnic group,” “race,” and “nation” in different societies, using the United States, Britain, and Malaysia as his principle examples. Fenton explores ethnicity discourse within these countries as a function of their peculiar historical and social contexts. He notes, for example, that the American distinction between “race” (a biologically determined phenomenon) and “ethnicity” (a social construct) would have no obvious meaning in Malaysia. The U.S. classificatory system was influenced heavily by the highly differential treatment of whites and blacks throughout American history, the contextual foundation of the American concept of “race.” In order to facilitate the further conceptual breakdown of “whites,” “ethnicity” was developed as an additional social construct. In the Malaysian context, however, social discourse treats “race” and “ethnic group” interchangeably.

As Fenton demonstrates, understandings of ethnicity are context-dependant, precluding the development of a generalized theory of ethnicity. Instead, Fenton advocates a theory of modernity, which views the modern social world as the material and cultural context for the expression of ethnic identities. Fenton rejects all separation of “ethnicity,” “racism,” or “national identity” from mainstream sociological analysis. Thus, he directs his attention to larger questions of how the modern social world is and was structured; class formations and class cultures, the tensions between private lives and cultures, and the cohesion of communal and public life are all significant.

Fenton’s treatment of migration is indicative of his approach. He highlights migratory patterns as a significant determinant of ethnically-informed social structures and social actions. He argues that migration generally has tended to harden ethnic lines; indigenous workers may become more class-conscious in the face of new competition from recent immigrants, and newcomers are likely to establish communities based on common ancestry. Moreover, Fenton notes that as professionals leave developing nations for more industrialized nations, their home countries often become destabilized. The inability of these states to provide economic or physical security compels its citizens to place greater reliance on familial networks for support, a process which informs local notions of “ethnicity.”

By focusing on economic, political, and sociological considerations in his discussion of the development and operation of ethnicity in late-modern capitalist societies, Fenton directs attention to areas previously detached from the analysis of ethnicity. All in all, *Ethnicity* succeeds as an introductory text for those unfamiliar with the pertinent literature, while providing an innovative and creative approach that will appeal to the more advanced reader.

BY MENNA TESFATSION

Global Civil Society? By John Keane. Cambridge, United Kingdom: Cambridge University Press, 2003. Pp. xi, 210. \$55.00 (cloth), \$20.00 (paper).

To many, the term “globalization” is synonymous with the relentless tyranny of economic and market forces, the incite-

ment of vociferous protest, and the dread of an ever-encroaching terror that cannot be contained geographically. John Keane's *Global Civil Society?* attempts to counteract these associations and reinvigorate positive interpretations of globalization. Keane, a professor at the University of Westminster and the founder of its Centre for the Study of Democracy, aims to identify the origins of "global civil society" and explain why the world is not "going to the dogs." While Keane's reflections highlight some important questions and areas for future inquiry, he ultimately provides few of the answers promised.

Global Civil Society? (the book) is organized around different ways in which "global civil society" (the political science term) can be used to talk about a "global civil society" (the socio-political construct). In the book's first two chapters, Keane attempts to define and explain the term "global civil society" and to identify the origins of the concept. In the third and fourth chapters he moves away from this "analytic-descriptive" use of the term and assesses its function as a "strategic-political calculation." Keane tries to establish what must be done, or avoided, in order to attain goals like freedom and justice, which are presumed to be desirable features of any global civil society. In the final chapter, Keane employs a normative definition of global civil society, articulating a vision of a world without global civil society and explaining why the construct is beneficial.

The volume's strength lies in the intriguing observations Keane makes and the questions he raises, which challenge much of the one-dimensional rhetoric and fatalism that he claims have permeated discussions of globalization to date. For example, Keane notes that many criticisms of globalization have focused exclusively on its economic effects while embracing the non-critical assumption that the evolution of globalization cannot be shaped. Keane advocates a more nuanced separation of the political, economic, and sociological dimensions of globalization. While admitting that such a classification is artificial, Keane employs it effectively to tease out implications of "turbocapitalism" and "cosmocracy" that impact—but are separate from—the civil society on which he focuses. His "global civil society" is the "dynamic, non-governmental system of interconnected socio-economic institutions that straddle the whole earth and that have complex effects that are felt in its four corners[.]" Keane suggests that globalization, with its

focus on pluralism, may accentuate, rather than obliterate, local cultural diversity. As an extreme example, Keane cites the various local specialties that McDonalds restaurants around the world serve.

Despite these insightful musings, the book's utility is hindered by both the explicit and the implicit questions that Keane declines to answer. Keane aims only to frame a discourse within which these questions can be discussed; readers searching for a comprehensive defense of globalization and global civil society are likely to be disappointed. One glaring omission is the lack of any clear specification of what global civil society actually entails. While Keane repeatedly states that global civil society requires pluralism, peacefulness, and self-scrutiny, these assertions are offered as self-evident truisms, with little analysis as to their necessity or particulars. A further complication arises from Keane's apparent inability to decide whether global civil society is a descriptive feature of the international system or an "ideal-type" that does not exist in reality. While Keane initially claims the latter, his use of contemporary examples (McDonalds in India, cross-border NGOs working on global campaigns for peace, etc.) of global civil society in action confuses matters.

Other unanswered questions litter the book. For example, while Keane defends globalization against economic attack by separating the normative and descriptive notions of global civil society, he never explains if or how his ideal global civil society can continue in the face of wealth disparity and aggressive capitalism. Similarly, Keane argues that the growth of global civil society is necessary for peace while simultaneously noting that war is preventing the rise of global civil society in many regions of the world. Keane would have done well to further analyze these circularities, ambiguities, and contradictions.

Keane also fails to provide any theory of how positive change might be accomplished. Does a global civil society arise as a result of deliberate attempts at globalization, or is it the unintended effect of disparate forces? What accompanying political system will best effectuate the goals of a global civil society? While listing numerous antecedents of global civil society (Kantian philosophy, universalizing aspects of Islam, a world history of imperialism, and recent improvements in cartography, communications, and cross-border social re-

form initiatives) and positing alternative visions of political entities to accompany global civil society (maintaining local governance and existing state institutions or creating supranational organizations), Keane fails to articulate a coherent theory regarding the interplay of these factors, or to identify a particular political organization as best-suited for achieving the aims of global civil society.

The book's content and structure also contribute to its problems with clarity. For example, while Keane laments that secrecy and lack of accountability (stemming from the absence of an organizing body) are among the biggest problems plaguing our global civil society, he sometimes does not attribute the ideas he posits to any author or source and fails to explain and contextualize these positions adequately. Additionally, the internal chapter divisions, sometimes bolded, other times italicized, and nowhere listed in an index, are unnecessarily confusing.

Keane is currently working on a comprehensive history of democracy. *Global Civil Society?* would serve as an excellent preface to such a treatise, as it artfully highlights the need for a new type of critical thinking about how democratic ideals best could flourish in societies that in many respects transcend geographic boundaries. Absent such a detailed follow-up, however, *Global Civil Society?* leaves open many of the pressing questions it raises, and, as such, is probably most useful for those already familiar with the contours of the arguments against globalization. Lay readers interested in an in-depth treatment of global civil society, its inherent conflicts, and the potential mechanisms for resolving these conflicts will have to wait for Keane's next book.

BY KAREN BLOOM

An Introduction to International Institutional Law. By Jan Klabbers. Cambridge, United Kingdom: Cambridge University Press, 2002. Pp. xxxviii, 399. \$95.00 (cloth).

In *An Introduction to International Institutional Law*, Professor Jan Klabbers outlines the legal characteristics of intergovernmental organizations (IGOs), with particular attention to the ambiguous nature of these characteristics. Klabbers, a professor at the University of Helsinki with extensive experience consulting with IGOs, smoothly transitions between discus-

sions of theory and practice. In the end, while *An Introduction to International Institutional Law* is no classic, it does fulfill the implicit promise of its title.

Klabbers attempts to fill a perceived gap by providing a textbook which details the legal responsibilities of international organizations. He gives minimal attention to the substantive features of particular IGOs so that he can focus on the law common to them all. Consequently, he details the mechanisms through which IGOs interact with states and each other, as opposed to the substantive goals of the IGOs themselves. Similarly, Klabbers does not assess the justifications for individual international organs but consistently stresses the efficiency gains from international collaboration on a broad scale.

The book is organized into sixteen chapters, beginning with an examination of the historical development of IGOs and the theoretical foundations of their power. He then discusses the process of IGO formation, paying particular attention to the ratification of the IGOs' foundational treaties. The following chapters discuss a variety of practical issues raised by IGO operations: Klabbers studies questions of IGO membership, financing, and privileges and immunities, before analyzing the larger question of institutional structure. After discussing the internal dynamics of IGO operations, Klabbers discusses several varieties of IGO actions with external legal significance, detailing the ways in which IGOs create and enforce international law and settle international disputes. Finally, Klabbers addresses IGOs as international actors in their own right, capable of signing treaties and incurring liability.

Throughout his analysis, Klabbers emphasizes that IGOs should observe the limits of their legal authority strictly, roundly criticizing all organizations that act *ultra vires* (beyond the scope of their power). The author's distaste for grasping IGOs may explain his peculiar treatment of the European Union. Klabbers consistently treats the European Community as if it were still a vibrant IGO that had not been overshadowed by, and in many ways subsumed within, the larger E.U. In so doing, Klabbers may be betraying his own opinion of E.U. development. The reader, however, is left confused in the absence of a fuller explanation for Klabbers' treatment of the E.U./E.C. distinction.

At times, Klabbers seems to enjoy the perverse undertaking of making statements and then proving the opposite, which undermines the book's intellectual integrity. For example, while he laments the politicization of dispute resolution procedures in many IGOs, he identifies those of the WTO as "one of the few exceptions." He then proceeds, however, to discuss the *Tuna* cases, in which the U.S. strong-armed the WTO, effectively stalling an adverse GATT ruling concerning the U.S. dolphin-safe tuna policy. Klabbers' failure to recognize the WTO's perceived legitimacy gap, particularly in the aftermath of the Seattle protests, is inexplicable. Such writing certainly makes the reader think, but it does not necessarily leave the reader wiser.

These confounding tendencies detract from an otherwise superb primer on a vital field of international law. Klabbers is at his best when he steps back to guide the reader through the abstract world of foundations, structures, and limits on the powers of international organizations. His exploration of more practical questions like financing, employment law, and legal responsibility reveals impressive experience and understanding. This "textbook with an attitude" is frustrating at times, but its roughness makes this guide to international institutional law no less fascinating.

By VINCENT J. MAREINO

The Development Dilemma: The Political Economy of Intellectual Property Rights in the International System. By Robert L. Ostergard, Jr. New York: LFB Scholarly Publishing, 2003. Pp. v, 189. \$58.00 (cloth).

In the early 1990s, the U.S. and China stood on the brink of a trade war. By the end of the century, the U.S. and South Africa were caught in a messy, public disagreement over South African efforts to increase access to HIV and AIDS pharmaceuticals developed by U.S. corporations. Both disputes centered on the protection of U.S. intellectual property (IP) in foreign markets. In *The Development Dilemma*, Robert Ostergard takes a critical look at the interplay of political, economic, and moral arguments for intellectual property rights, challenging the traditional wisdom that stronger intellectual property protections encourage economic development in developing countries. Instead, Ostergard argues that developing

countries adopt stronger IP protection as a result of political pressure from developed countries and that such pressure has moral and ethical implications for those countries that apply it.

Ostergard begins with a brief but useful survey of current attitudes toward intellectual property. He argues that there is an increasing global acceptance of a human right to intellectual property, referencing Article 27 of the U.N.'s Universal Declaration of Human Rights. Further, Ostergard notes that WTO members are now required to maintain a base level of IP rights as part of the GATT Agreement on Trade-Related Aspects of Intellectual Property (TRIPS).

Ostergard next considers the traditional justifications for IP laws and the typical explanations for the emerging acceptance of a human right to intellectual property. He begins with various interpretations of Locke's theory of property, which grounds private ownership in the individual's transformation of an existing resource using his own labor. Ostergard identifies two flaws arising from attempts to extend this theory to intellectual property: It may be difficult to divide ownership of intellectual property that is generally the product of cumulative efforts, and it may be impossible to grant IP rights without making anyone else "worse off," as required by Lockean theory. Both of these "flaws," however, are fairly easy to address. First, the problem of divisibility is not unique to the area of IP and is often encountered and overcome in real property law. Second, while IP protections may make others worse off in the short run, Ostergard fails to consider the aggregate effects of those protections over the long run. In particular, Ostergard leaves himself vulnerable to the argument that some intellectual property never would have been developed without the incentive of protection for it. Unfortunately, Ostergard does not offer the kind of deep, layered analysis necessary to answer these basic counterarguments.

Ostergard then addresses the second classical justification for pursuing stronger IP laws in developing economies—that such laws promote economic development and foreign investment. Although developing countries often have little IP of their own to protect, proponents of domestic IP protections often argue that the gains in economic development and foreign investment from such laws outweigh any losses from the inability to appropriate foreign intellectual property. Oster-

gard traces this argument to the work of Schumpeter, who suggested that innovation and technology were the driving forces behind industrial growth and development.

Ostergard attacks Schumpeter's conclusions by reexamining the effects of strong IP laws in developing countries, offering an alternative version of why developing countries might adopt such laws. In Chapter 1, Ostergard lays the foundation for his analysis by introducing a new, normative theory of IP. He argues that the privatization of intellectual property is only acceptable when it does not threaten individual survival. Therefore, in Ostergard's view, developed countries must allow developing countries to appropriate foreign intellectual property freely when necessary to maintain their citizens' physical well-being. While this theory provides a decisive normative solution to a dilemma in which many developing countries find themselves, it is unclear how the theory would apply more broadly.

In Chapter 2, Ostergard provides empirical analysis to attack the assertion that stronger IP protection encourages economic growth. He builds on data from previous studies but takes the unique approach of disaggregating his examination of developing and developed countries. Ostergard assesses growth in GDP as a function of many factors, including the strength of intellectual property protection, and concludes that IP protection may not lead to economic development and may even have a slightly negative effect. Unfortunately, other aspects of his model diminish the impact of these findings. Ostergard's analysis shows, for instance, that consumer consumption and economic investment are insignificant drivers of economic development, despite their widespread acceptance as fundamental drivers of economic growth. While Ostergard explains this odd result by noting the relatively short time period studied, the reliability of the data remains questionable. Consequently, while Ostergard does identify a critical area for further research, he does not convincingly disprove traditional theory.

Similar difficulties plague Ostergard's attempt to provide an alternative explanation of IP laws in developing countries that is not grounded in economics. Chapter 3 presents empirical research analyzing the correlation between the adoption of strong IP laws and four country-specific factors: the level of integration in the global economy, the level of democracy, the

level of technological development, and the level of foreign investment. Ostergard's analysis shows that a country's level of global integration is correlated strongly with its adoption of strong IP laws and also is influenced by the country's level of foreign investment. The data clearly indicate that developing countries which are highly exposed to international trade are more likely to have stronger IP laws.

In spite of the statistical significance of this finding, Ostergard's conclusion that it is best explained by the exertion of political pressure by developed countries is flimsy. Ostergard argues that this pressure creates the "development dilemma": Developing countries cannot resist pressures to create strong IP laws without closing their markets, but they must open their markets to receive foreign investment and access to foreign IP. Ostergard's theory is an intuitive explanation for his data, but it is a stretch to say he has proven that political pressure on developing countries by developed countries is the reason stronger IP laws are adopted. His chief error is his failure to prove the direction of causation: Ostergard assumes that pressures exerted through foreign investment drive the adoption of IP laws, instead of the traditional view that the adoption of IP laws creates incentives for foreign investment. Consequently, Ostergard fails to substantiate his particular explanation for the correlation between IP laws and participation in the global marketplace.

In the last few sections of the book, Ostergard offers what he describes as "qualitative research evidence" to support his model of how and why developing countries adopt stronger IP protections. These are ambitious efforts to describe the development of political consensus on IP laws within the U.S. and in the context of the U.S.-China and U.S.-South Africa disputes of the 1990s. Ultimately, however, they are unsatisfying as either rigorous proofs of his model or historical descriptions of the political processes he aims to explain. It is not that Ostergard is unable to tell these stories convincingly, but that he does so at the expense of rigorous analysis and thorough support for his arguments. Although the cases he discusses have certainly been covered elsewhere, Ostergard dedicates half of the book to retelling these stories in his own words. At the same time, he spends precious little time explaining why these examples provide support for his arguments.

Ostergard begins *The Development Dilemma* with several ambitious goals. His work is thought provoking and readable, but feels incomplete considering its intended scope; Ostergard should have provided a more rigorous substantiation of his various arguments. Despite its weaknesses, the book serves as an interesting introductory work on the justifications for intellectual property that should be considered along with other literature on the subject.

BY SCOTT LARSON

Law, Society, and Culture in the Maghrib, 1300-1500. David S. Powers. Cambridge, United Kingdom: Cambridge University Press, 2002. Pp. vii, 267. \$65.00 (cloth).

In *Law, Society, and Culture in the Maghrib, 1300-1500*, David S. Powers seeks to enrich the study of Islamic law by examining its historical development in the Islamic West. Powers' main contribution is his methodological innovation; Instead of focusing on secondary *fatwas* (collected interpretations of Islamic legal "holdings"), Powers grounds his analysis in primary *fatwas* (expert legal opinions issued in individual cases, which include the particular facts of a given case). In contemporary terms, Powers' approach might be conceived of as the rough equivalent of ignoring the Restatement of Torts in favor of its common law, case-specific origins.

The book aims to provide a better understanding of the work of the *mufti* (legal specialists qualified to issue expert legal opinions on points of doctrine) and the impact of that work on the development of Islamic law. To that end, Powers examines six cases by reconstructing the facts of each and analyzing one or more legal opinions issued in connection with the dispute. Powers follows these cases from beginning to end in order to identify the social and religious values at work and the manner in which those values were channeled through existing legal structures. He looks beyond the surface of available historical documentation to assess the hidden factors that may have shaped the reported facts of the case. Thus, he is particularly conscious of the socially constructed nature of documentation and attempts to expose the elements of the case that may have been obscured by the person or persons responsible for the document's production. In doing so, he

also provides an insightful description of the then-prevailing legal culture.

Powers analyzes five specific areas with respect to each case: the *mufti*'s use of authoritative legal texts to define what it means for a society to be Islamic, the normative contexts underlying various disputes and the interplay between different rule complexes and legal norms, the manner in which men and women used the law as an instrument to negotiate their status in society, the mechanisms available for the resolution of disputes, and the role played by different legal actors in the dispute process. He does so in order to assess whether the application of Islamic law was limited to areas of ritual law, personal status, inheritance, and endowments; what the nature of the work of the *qadi* (the judges) and the *mufti* was and how the work of one complemented that of the other; whether the *qadis* issued their judgments on the basis of ethics, politics, personal expediency, utility, Islamic legal doctrine, or other considerations; whether there was any evidence of creativity in the opinions of the *muftis* and what the nature of any such creativity might have been; how the office of the *mufti* was regulated; how effective doctrine was in resolving disputes and regulating society; and what the relationship was between the legal system and the state. Powers observes that the issues raised in each case, and the opinions drafted by the *muftis*, reveal the manner in which society and legal thought shaped each other amidst a sea of highly contestable norms and values.

Powers argues that, contrary to the contentions of others, it was possible for Islamic jurists to demonstrate legal creativity. Although *muftis* were expected to limit themselves to a legal assessment of the facts of the case, the jurists Powers studies respond to unanticipated circumstances by manipulating established legal doctrine in novel ways. The *qadi* and the *mufti* also used the *fatwas* to send important signals to Muslim men and women about how the law would apply to their actions. The *mufti* in particular drew upon their extensive knowledge of the Islamic literary tradition to select verses of the Qur'an, sayings of the Prophet, and statements of authoritative jurists that, cumulatively, provided the terms for a truly Islamic resolution of the dispute. By collapsing the chronological gap that separated himself and his contemporaries from the period of revelation, the *mufti* placed himself and his audi-

ence within the framework of a history that was perceived as sacred. Through these means, Powers argues, the *mufti* articulated, announced, and disseminated societal values, shaping and reshaping what it meant for society to be “Islamic” in this particular place and time.

For those interested in Islamic law, particularly Islamic law in the Maghrib during this period, this book is enlightening and informative. Powers’ exhaustive look at specific cases provides insight into the state of the law at the time. Legal historians interested in the issues presented by the specific cases, such as inheritance law or water rights, might also find those particular chapters of the book useful. When coupled with a general understanding of Islamic law, Powers’ attention to detail and meticulous citations are illuminating.

The book is less accessible, however, for readers in search of an overview of Islamic law, as it assumes a certain level of prior knowledge. The author frequently and perhaps necessarily employs Arabic terms that are likely to be confusing to someone with no previous exposure to this field of study. Still, with effort a person with no prior background in Islamic law or in the history of the area can glean information about Islamic law and draw comparisons between the state and function of Islamic law in that place and period and the state and function of law today.

Though the study of *fatwas* has gained momentum, Powers appears to be at the forefront of scholarship in the field. Powers use of primary *fatwas* instead of the more commonly studied secondary *fatwas* is pioneering. His book, and its analytic focus and attention to detail, provides a suitable template for other scholars wishing to study Islamic law in other contexts.

By REED DAVIS

Universal Jurisdiction: International and Municipal Legal Perspectives. By Luc Reydamas. Oxford, United Kingdom: Oxford University Press, 2003. Pp. ix, 258. \$60.00 (cloth).

The concept of “universal jurisdiction”—potentially providing a state with the power to hear charges against foreigners accused of committing crimes abroad against other foreigners—has been thrust into the limelight during the last decade.

The rise of universal jurisdiction can be traced to genocidal events in the former Yugoslavia and Rwanda, which vividly illustrated the international community's need for mechanisms of criminal accountability. Extraterritorial prosecution, it was believed, would punish those criminals who would otherwise be left free because their home states lacked either the ability or the will to bring them to justice. Since 1994, when Rwandan refugees filed criminal complaints in Belgium against other Rwandans for their role in the Rwandan genocide, over a dozen countries have attempted to exercise some form of universal jurisdiction. In fact, in the past decade there have been more cases involving a claim of universal jurisdiction than in all of the previous history of international law.

Luc Reydams' *Universal Jurisdiction* is the first work in English to tackle the concept as a whole. Reydams, an adjunct professor at the University of Notre Dame, has published several articles on universal jurisdiction, which he builds upon in the book. Reydams examines the history and theory of universal jurisdiction and the current state of the law in an attempt to answer two principal questions: First, under what conditions is the state investigating or prosecuting the extraterritorial offense internationally competent to do so, and second, what is the basis in domestic or municipal law for the exercise of jurisdiction?

Reydams' study is divided into two parts, roughly corresponding to his two framing questions. Part I, which is divided into three chapters, addresses the issue of competency. Chapter 1 outlines an international legal framework for analyzing the question of extraterritorial jurisdiction. Reydams uses the 1927 *Lotus* case, the seminal Permanent Court of International Justice decision concerning a state's right to exercise criminal jurisdiction, to establish the core concepts and theories essential to his later discussion. Chapter 2 examines the main scholarly views on universal jurisdiction, categorizing them into three groups based on the scope of the jurisdiction: the cooperative general, co-operative limited, and unilateral limited universality principles. Chapter 3 examines universal jurisdiction as treated by international texts—including multilateral conventions, resolutions of intergovernmental bodies, and official drafts and studies—in an attempt to gauge the *opinio juris* on universal jurisdiction among states.

Part II examines the domestic law of fourteen countries, comparing and contrasting differing attempts to analyze and assert universal jurisdiction. Reydams selects these cases (Australia, Austria, Belgium, Canada, Denmark, France, Germany, Israel, the Netherlands, Senegal, Spain, Switzerland, the United Kingdom, and the United States) from the more than 120 countries worldwide that have legislation providing for some form of universal jurisdiction, balancing his desire to focus on the most dominant nations with the need to offer a representative treatment of the world's major legal systems. In each case study, he explores a country's attitude toward extraterritorial jurisdiction, discusses the laws that grant universal jurisdiction to national courts, examines domestic cases dealing with universal jurisdiction, and summarizes the general state of the law.

Reydams' study is a survey of the concept of universal jurisdiction and its application in a representative group of countries rather than an argument for or against any particular approach. The conclusions offered in the final chapter, while brief, are welcome. He ties the preceding material together by focusing on three areas: (1) the extent to which different doctrinal views on universal jurisdiction are discernible in municipal state practice, (2) the international legal conclusions that can be drawn from municipal state practice, and (3) the impact of recent state practice on the establishment of the International Criminal Court (ICC), and vice versa. While each of these issues is important, Reydams does his book a disservice by merely skimming the surface of each. For example, despite the importance of the ICC, Reydams devotes a mere two paragraphs to its discussion. Although he acquits himself admirably in a limited amount of space, the book would have benefited from a more in-depth analysis of each of these issues.

That said, Reydams' writing is insightful. His suggestion that the last decade of expansion in the use of universal jurisdiction may have been "an aberrant intermezzo between Nuremberg and the ICC" is certainly all the more interesting when one considers that on August 1, 2003, after the book's publication, Belgium's parliament repealed its landmark universal jurisdiction statute under pressure from the U.S. Given that Belgium's 1994 assertion of universal jurisdiction was a major catalyst for the rise of extraterritorial prosecution, the

repeal of the statute may be a harbinger of the practice's demise.

In sum, the wonderful survey of the history, theory, and law in international thought and individual countries, combined with Reydams' short analysis, make the book an invaluable resource on the topic of universal jurisdiction. While one can only speculate as to whether the future of universal jurisdiction is bright or dim, *Universal Jurisdiction* will retain its value, either as a compelling treatment of current state practice, or an equally informative piece of legal history.

BY BENJAMIN KLEINE

Women in Contemporary Mexican Politics. By Victoria E. Rodriguez. Austin, Texas: University of Texas Press, 2003. Pp. viii, 322. \$50.00 (cloth), \$22.95 (paper).

While there is no shortage of literature on the influence of women on politics in the United States, scant attention has been paid to the role of women in Mexico's political system. In *Women in Contemporary Mexican Politics*, Victoria E. Rodriguez offers a rich contribution to this previously neglected field. Rodriguez concentrates on the period 1994 to 2000, a time during which the international community in general was undergoing a wave of democratic transitions, with women thrust to the political forefront in Mexico and elsewhere. Rodriguez's longitudinal approach enables her to document and analyze the evolution and transformation of the Mexican political scene successfully, specifically with respect to women.

Women in Contemporary Mexican Politics concentrates on four topic areas that correspond roughly to chapter divisions. The first section discusses the background and political history of women in Mexico. Chapter 1 details the experiences of several women during the formative stages of their careers, a time that appears to influence later political participation heavily. By interweaving various individuals' experiences, Rodriguez offers a composite sketch of women in Mexican political life.

The next two chapters supplement this research. Chapter 2 analyzes the historical role that women have played over the past thirty years, documenting the increasing involvement of women in the labor force and the changing nature of the Mexican family. Rodriguez also assesses female participation in

community organizations and social movements, noting that women generally have been more successful acting through grassroots organizations than through formal political structures. Chapter 3 provides additional background information on the history of the Mexican women's movement, demonstrating the progressive links between mobilization, political activism, and political influence.

Next examined is the political behavior of women in office. Rodriguez begins by providing a statistical analysis of female office-holding in Mexico as compared to other nations. After presenting an overview of the representation of women in the different branches and levels of government, Rodriguez explores the behavior of women in public office, focusing on their mentoring and alliance-building abilities. She then examines controversial strategies for increasing women's participation, paying particular attention to quota schemes adopted in other parts of the world. She concludes by analyzing the policy agendas of female politicians in Mexico and the extent to which these agendas focus on gender issues, promote feminist objectives, and attempt to improve the lives of women.

The third topic is an exploration of the role of women in the electoral process as both voters and candidates. Rodriguez argues that an assessment of the electoral participation of women is particularly important given the dramatic changes in the Mexican electoral system over the past fifteen years. She concludes that these changes have promoted the involvement of women; As political parties aim to attract the female vote, women have been able to press their demands more effectively, becoming better organized and politically savvy. Rodriguez also assesses the participation of women as candidates, focusing on the obstacles they face when seeking nominations and exploring how they have managed the demanding campaign process.

The book's final topic is the future outlook for women's participation as political actors in Mexico's emerging democracy. Rodriguez exudes cautious optimism, concluding that even as women position themselves as increasingly important political actors, they will have to work hard not only to move forward but also to maintain the gains already made. Thus, while past accomplishments should be celebrated, Rodriguez cautions that there is much work to be done.

Rodriguez offers a valuable contribution to an area in which there was previously a dearth of research and documentation. Her analysis is presented in a manner that is substantively rich, analytically rigorous, and interesting at the same time. While Rodriguez aptly displays her academic commitment to her chosen subject matter, her work is nonetheless a creation of the heart as much as the mind.

BY KATHLEEN EGAN

State Failure and State Weakness in a Time of Terror. Edited by Robert I. Rotberg. Cambridge, MA: Harvard University Press, 2003. Pp. v, 354. \$24.95 (paperback).

What makes some states fail while others remain weak but functional? Why do some states collapse completely while others linger on the brink of disaster? In a new compilation of essays entitled *State Failure and State Weakness in a Time of Terror*, academics from around the world delve into these questions, finding surprising and enlightening answers. The book is a product of the Harvard University Failed States Project, housed within the John F. Kennedy School of Government. The Project is an effort to uncover the causes of state weakness and the determining factors that cause some weak states to recover, others to fail, and still others to collapse completely. Over forty scholars participated in the Project, and the results of that collaboration are detailed in this book.

The introduction, written by Robert I. Rotberg (president of the Kennedy School's program on interstate conflict and the president of the World Peace Foundation) attempts to extrapolate conclusions from the Project and the essays that follow. Rotberg goes to great lengths to explain the methodology behind his work: States are placed on a broad continuum from "strong" to "collapsed" states. In theory, a strong state would be classified first as "weak" and then as "failed" before it reached the ultimate state of "collapsed." Rotberg broadly defines each stage in a state's life according to its ability to deliver political goods to its population. For the purposes of his analysis, political goods are divided into three broad categories: security, free and open political participation, and healthcare. Although he describes all four types of states (strong, weak, failed, and collapsed) in his introduction, Rotberg is particularly interested in the dark side of the spec-

trum: weak states on the verge of failure and failed or collapsed states.

Failed states, for example, are deeply conflicted, with little control over their borders. In most of these states, regimes “prey on their constituents,” because they are driven either by inter-communal hostility or by elite insecurity. Most of the institutions of failed states are flawed and their infrastructures are deteriorating rapidly. Similarly, their educational and health systems are in almost total disarray. Interestingly, Rotberg observes that as states fail, any effective educational or healthcare system is either quickly privatized or neglected. Examples of modern failed states include the Congo and Sudan.

Collapsed states are a “rare and extreme version of a failed state.” In these states, whatever political goods can be obtained are usually transferred by private means. Security in these states is governed by Darwinian principles; a collapsed state turns into a “black hole into which a failed polity has fallen.” Examples of such states include Bosnia, Lebanon, Afghanistan, and Somalia.

Rotberg cautions that these diagnoses are not terminal. Some states, such as Lebanon, have wavered in a lower category and then risen to higher one. Unfortunately, the reverse is also true. Zimbabwe, for example, is moving rapidly from weakness to failure. Precisely because movement among the categories is fluid, Rotberg’s project looks to identify indicators of failure that will flag states vulnerable to further deterioration. His introduction describes economic and political indicators that he believes provide “clear and actionable” warnings of impending state failure or collapse.

The chapters following this introduction demonstrate the richness of Rotberg’s project. Without necessarily addressing the conclusions contained in Rotberg’s analysis, each chapter contains a case study of a different state in a transitional period. The chapters are organized into three parts: (1) cases of failure or collapse, (2) dangerously weak states, and (3) safely weak states. Through these essays, readers gain a deeper and more nuanced understanding of why some states have failed or collapsed while others have revived themselves successfully.

Somalia, for example, presents an opportunity for a state to reconstitute itself after a difficult beginning and a horrific recent past. In Colombia, the competing interests of paramili-

tary groups, drug lords, and guerilla movements threaten to turn a “dangerously weak” state into a collapsing one. Lebanon, on the other hand, offers a qualified but optimistic story of a state’s ability to rescue itself from collapse and take gradual steps toward “weak” status.

By the end of the book, the astute reader will realize that although political and economic indicators are useful in predicting state failure and collapse, the specific evolution of any given state ultimately turns on the particular details and the individualized nature of that state’s story. Rotberg’s conclusions about political and economic indicators are difficult to argue against, but they offer only basic guidance as the international community struggles with the problems of state failure and collapse. Only by understanding the context of each state can one truly understand the role of “the hand of man” in state failure and why some actors are unable resist the tide of change. This lesson is especially important today, as the international community struggles to rebuild Afghanistan and Iraq.

None of the chapters in Rotberg’s book attributes the eventual success or failure of a state to one particular event or indicator. However, all of the states analyzed in the book are relatively modern creations, and the circumstances of their beginnings have had a strong impact on their eventual fate. Consequently, Rotberg demonstrates that the enormous and far-reaching costs of state failure may be avoidable through careful planning.

BY MARIANO BANOS

Remedies Against International Organisations. By Karel Wellens. Cambridge, United Kingdom: Cambridge University Press, 2002. Pp. xiii, 295. \$65.00 (cloth).

Though half a century ago their numbers were few and their legitimacy and effectiveness were uncertain at best, international organizations (IOs) now interact with states, non-governmental organizations, and private actors on a daily basis, in virtually every corner of the globe, and on virtually every topic of economic, political, or social interest. IOs set trade policy, intervene in markets, adjudicate disputes, finance development projects, and maintain peacekeeping operations in many of the world’s hotspots. The increasing number of IOs, along

with the ever-broadening scope of their activities and responsibilities, has added to the potential for conflict with a broad array of public and private actors.

Injuries may arise out of an organization's official acts, from the unauthorized acts of a rogue staff, or as a result of accidents at or attacks on U.N. facilities. In some instances, the U.N. has established organizations that are effectively quasi-states, such as the Transitional Authorities in Cambodia, Kosovo, or East Timor, subjecting them to potentially enormous liability. Of course, IOs are often involved in more conventional disputes with suppliers or employees as well. Regardless of the origin of the liability, though, the special status of IOs makes it difficult or impossible for most injured parties even to bring a claim against the responsible organization, much less to obtain a satisfactory remedy.

The broad immunities typically granted to IOs by their foundational treaties are intended to ensure that the organization is able to pursue its mission free from undue harassment or pressure. The U.N., for example, is immune from any sort of domestic or transnational judicial process. Its premises, assets, archives, and documents are inviolable, both the organization and its employees are exempt from income taxes, the Secretary-General and Assistant Secretaries-General have complete diplomatic immunity, and other staff are immunized with respect to acts committed in the course of their official duties. Similar provisions apply to other international organizations, subject only to voluntary waiver. These immunities are required to protect the independence and legitimacy of IOs, but they also create a lack of accountability that may be at odds with major currents in international law and the nature of IOs themselves. For instance, many of the instruments creating IOs explicitly commit them to norms of fairness and individual rights. At the same time, the very beneficiaries of this commitment are unable to utilize these norms against the IOs themselves.

In *Remedies Against International Organisations*, Karl Wellens explores the full implications of IO immunity. In addition to serving as Professor of Public International Law & Law of International Organizations at the Catholic University of Nijmegen, Wellens is co-Rapporteur to the International Law Association's Committee on Accountability of International Organizations. While Wellens' credentials lend his analysis great

authority, they also contribute to the perception that his book is written for his colleagues rather than the novice reader. The book presumes a familiarity with half a century of scholarship and case law that many readers will lack; it is littered with off-hand references to a variety of articles, books, and cases (to say nothing of untranslated excerpts in other languages) that may leave the uninitiated either scratching their heads or hurrying to a library. However, the persistent reader will find that the text returns to the same set of writers and cases frequently enough that one begins to absorb a sufficient sense of them to place Wellens' own thinking in perspective.

Wellens builds an analytic model centered on various "levels of accountability" and "forms of accountability" to demonstrate how the current system functions and highlight apparent gaps in its operation. Within this matrix, he explores the treatment of potential claimants, including member states, non-member states, staff, and non-state third parties. (He acknowledges that this list neglects the case of claims arising *between* IOs but promises forthcoming work on this topic.) Wellens shows that disputes arising out of particular combinations of claimants and in certain accountability contexts imply correspondingly distinct levels of standing, dispute resolution mechanisms, and remedies.

States that are members of IOs normally have access to the widest array of remedial options at any of the accountability levels. To the extent that they maintain an active role in the organization, they may use their influence over its management or continued financing to persuade, punish, or reform it. States acting as hosts to IOs may also have access to special tribunals or other remedies provided for in a Headquarters Agreement. Further, while a state cannot bring an unwilling IO before the International Court of Justice, the U.N. has standing to request an ICJ Advisory Opinion should a difference arise between an IO and a member state.

Staff members, who understandably bring the lion's share of private claims against IOs, often have access to some form of internal remedial procedures and/or permanent tribunals. While this arrangement provides potentially greater opportunities for redress than are available to other third parties, Wellens notes that the confidentiality of most arbitration proceedings makes it difficult to assess their effectiveness. He is critical, too, of other aspects of such regimes, noting that tribunals

typically refuse to hold oral hearings and are unavailable to unsuccessful job applicants claiming improper treatment. Indeed, most non-state third parties have neither access to the organization's internal administrative procedures nor standing before the ICJ, so their only hope for redress lies in the possibility that the organization will waive its immunity voluntarily and appear before a competent domestic tribunal.

Wellens makes it clear at the outset that his goal is the development of "a comprehensive set of means of redress and remedies so as to leave no loopholes at each individual legal level." Thus, after analyzing the workings of the current system, he considers several ideas for closing the gaps he has identified. Given the political and technical obstacles to reform of the regime for legal or judicial remedies, he is particularly inclined toward forms of non-judicial remedy. He emphasizes what he calls "pre-remedial action"—opportunities provided by the IO for parties likely to be affected by a proposed action to make their views known—and "non-legal alternative remedial action"—such as ombudsmen, commissions of inquiry, and inspection panels. Interestingly, he identifies the World Bank's panel as a possible prototype for other IOs, noting its provision of direct remedial access to non-state parties.

In examining more traditional legal tools, Wellens endorses the amendment of the ICJ Statute to enable states to sue IOs directly before the ICJ. He notes that "another window of opportunity may have been lost" when Guatemala and Costa Rica withdrew formal proposals aimed at accomplishing precisely this goal a few years ago. However, he explores both proposals and their implications in great detail, making it clear that another "window" may present itself.

The book is part of the Cambridge Studies in International and Comparative Law series, which also includes the volumes on *International Organizations Before National Courts* (by August Reinisch) and *Principles of the Institutional Law of International Organisations* (by C.F. Amerasinghe). With the recent publication of Amerasinghe's *Local Remedies in International Law*, the series comprises a truly comprehensive body of work on the status of international organizations. Wellens' approach to the topic may make this book a bit of a difficult introduction for beginners when taken on its own. However,

this thorough treatment should be a worthy complement to the other volumes in the Cambridge series.

BY MICHAEL R. SCOTT

