

# Recent Publications

## International Trade

*Customs Modernization and the International Trade Superhighway*. By Michael H. Lane. Westport, CT: Quorum Books, 1998. Pp. ix, 226. Price: \$59.95 (Hardcover). Reviewed by Josh Cohen.

In the wake of the Cold War, political economists have theorized extensively about the role of international trade in an interdependent global economy. Little has been written, however, about the offstage mechanisms that enable today's intricate tapestry of trade agreements to function properly. Effective monitoring and enforcement at U.S. borders are prerequisites for meaningful trade negotiation.

*Customs Modernization and the International Trade Superhighway* provides a rare, behind-the-scenes look at an essential but oft-overlooked component of the world's trade machinery: national customs processes. Michael Lane, Deputy Commissioner of United States Customs, has spent his entire career in various departments of the Customs Service. This, his first book, is an effort to explicate, promote, and direct the implementation of the International Customs Modernization Process (ICMP). It is dedicated "to the men and women who serve their nations through customs," and its expository style, checklist format, and paucity of color commentary do indeed recommend it primarily to readers who have a direct stake in the day-to-day operations of the customs service.

In brief, Mr. Lane argues that customs administrations, building on a basic understanding of modern international commerce and a foundation of core customs skills, can harness emerging technologies and business practices to develop into organizations that function like effective businesses rather than ungainly bureaucracies. The tool for this metamorphosis is the ICMP. Although Mr. Lane never discusses the origins of the ICMP, he makes a sound case for its utility, contending that changes in the ways international business is conducted (e.g., the growth of the air courier industry) require a fundamental shift in the role played by customs and, in turn, operational changes to discharge that new role.

Mr. Lane presents the ICMP as a four-level pyramid, assigning a section in the book to each layer and an additional chapter to the pinnacle. The sections are subdivided into building blocks, each of which is the subject of a separate chapter. This organization is both a tracking device and a metaphor for the ICMP's holistic approach to reform, whereby each block is integral to the process's success. The author's efforts to demonstrate this interdependence, however, result in some redundancy, as each chapter must explain its relationship to the others.

The book's first section, "Fundamentals," emphasizes the importance of

ongoing environmental assessment, solid and ongoing training to develop organization-wide expertise, and an environment that ensures integrity. The second section addresses a trio of “enablers,” or fairly recent developments in business that enable customs to transform from a slow, transaction-focused bureaucracy to a highly efficient, customer-driven service provider. These include data analysis, automation, and process management (i.e., managing customs as one continuous work-stream rather than a series of discrete functional silos). Atop the fundamentals and enablers sit the “advanced processes”: improving enforcement, auditing, managing risk, and encouraging industry compliance with customs regulations through the effective flow of information.

Customs managers will appreciate the bulleted lists of recommendations that conclude each chapter, while business managers who interact frequently with customs will welcome each chapter’s suggestions for ways the private sector can work with customs officials to streamline the system. For the reader with less of a hands-on stake in customs matters, however, the book’s real substance is the handful of themes interwoven throughout the operational detail. In addition to the overarching assertion that advances in the ability to collect, combine, and analyze data will transform the capabilities and operations of customs, one latent theme is the inescapable tension facing the customs officer between general facilitation of international trade and enforcement of minute trade agreement provisions. A second is the tremendous potential for customs administrations to form efficiency-enhancing partnerships with industries and other government organizations. A third is the need, as the number of customs transactions multiplies more rapidly than customs resources, to abandon efforts to examine each individual import and export in favor of targeted identification of high-risk transactions. In addition, the reader will detect numerous references to popular concepts from business literature, including appeals to “core competencies,” “best practices,” cross-functional organizations, interdisciplinary teams, employee empowerment, and performance indicators.

Mr. Lane’s prose is clear, direct, and easy to follow. He is realistic in his approach, conceding immediately that the ICMP will not “automatically propel a nation to the top echelon of industrialized nations,” but suggesting that neglecting to follow its recommendations will keep a nation mired at “the bottom rung of the economic ladder” (p. 2). In addition, given the personal investment the author has in the subject, he is to be applauded for resisting the temptation to complain about resource shortfalls. On the other hand, a reader unfamiliar with customs may wonder, in the absence of empirical support, whether some of the author’s assertions—for instance, that multinational corporations’ geographic investment decisions are guided largely by the efficiency of customs processes—aren’t a bit overstated. Indeed, the book would benefit from more substantial case examples; studies on Poland and New Zealand, relegated to the Appendix, supply the only robust anecdotal support for the author’s thesis aside from fleeting references to successes in Peru. Finally, some of Mr. Lane’s recommendations are disappointingly

passive. Entreaties to “recognize” or “be alert to” particular phenomena, for instance, are too nebulous to have the significant impact Mr. Lane envisions for the ICMP. Other suggestions seem elementary (e.g., customs officers should “read the major newspapers”) or question-begging (e.g., in the chapter entitled “Analyze Data,” “Develop a competency . . . in data analysis”).

These quibbles notwithstanding, Mr. Lane has made a useful contribution to a collection of international trade literature that has often neglected the practical ramifications of free trade theory. While the reader may crave more profound treatment of the issues that created the need for the ICMP in the first place, or desire more actionable front-line recommendations, s/he can expect these gaps to be filled by the long overdue discussion that *Customs Modernization* should inspire.

### International Dispute Resolution

*The Iran-United States Claims Tribunal.* By Charles N. Brower and Jason D. Brueschke. The Hague: Martinus Nijhoff Publishers, 1998. Pp. xvii, 931. Price: \$270.00 (Hardcover). Reviewed by Steven Hill.

In late 1979, Iranian revolutionaries invaded the United States Embassy in Tehran, taking Embassy personnel hostage and touching off 444 days of agonizing crisis and intense political maneuvering. A negotiated solution was not reached until January 19, 1981, in the waning hours of Jimmy Carter’s presidency. By the terms of the Algiers Accords, the United States agreed, in exchange for the hostages’ release, to suspend the vast body of litigation pending in U.S. courts against Iran over debts, contracts, assets, or property canceled, expropriated, or otherwise disrupted during the Islamic revolution; these claims were to be transferred to a newly created arbitral body, the Iran-United States Claims Tribunal. Despite a litany of crises, both political and judicial (between the respective governments and among Tribunal members themselves) the Tribunal has resolved ninety-eight percent of the 3951 claims submitted to it, worth a total of some US\$ 2 billion.

The Tribunal’s relative success under these trying conditions reminds co-authors Charles N. Brower, a sitting Tribunal judge, and Jason D. Brueschke, a former legal assistant at the Tribunal, of “a dog’s walking on its hind legs: it is not done well; but you are surprised to find it done at all” (p. 657). In ambitiously setting forth what they hope to be the “definitive treatment of its subject” (p. xvii), their comprehensive and detailed volume describes just how the Tribunal has managed to walk on its hind legs and, in so doing, create a jurisprudential legacy in the field of international arbitration and dispute resolution.

The volume is conceptually divided into six sections devoted, respectively, to the Tribunal structure, internal organization, and procedures; its jurisdiction; its contributions to international arbitration; its substantive contributions to public international law; its elaboration of the concepts of

liability and compensation in takings doctrine; and some concluding observations and lessons learned.

After a brief account of the Tribunal's structure and basic operating procedures, the authors proceed in Part I with an analysis of how the Tribunal has interpreted its jurisdiction, which is strictly circumscribed by the Algiers Accords to include only claims of United States nationals against Iran and those of Iranian nationals against the United States. This section includes a particularly thorough discussion of the Tribunal's approach to the problem of choice of law for determining nationality.

Part II lays out the Tribunal's contribution to international arbitration. In a variety of hotly contested disputes, the Tribunal was forced to address some of the most challenging procedural problems faced by international arbitrators. The authors devote a separate chapter to each of five questions: how the arbitral panel is to be composed, particularly when arbitrators retire or fail to act; how arbitrators are to be appointed when the parties cannot agree or when one party raises a challenge to the other side's arbitrators; how evidentiary standards are established; how interim measures of protection (e.g., stays, injunctions) are to be handled; and how moves for reconsideration, revision, or review of an award are to be addressed. In Part III, the authors both describe and criticize the Tribunal's treatment of a number of controversial questions in the public international law fields of treaty interpretation, dual national claims, exchange controls, and wrongful expulsion.

Part IV focuses on the large number of claims stemming from expropriations or other kinds of takings. The authors point out that the Tribunal's awards constitute an important contribution to the relatively few international decisions on what constitutes an expropriation, although they agree that no one standard emerges from the Tribunal's fairly case-specific approach to the question. On the topic of state responsibility, the Tribunal has applied a two-step analysis requiring, first, specific acts or omissions attributable to the accused state and, second, causation between that state action and the loss in question. The final three chapters of the section are devoted to compensation, including valuation of lost property.

The final chapter is a discussion of "lessons learned" over the course of the Tribunal's experience, framed as an inquiry into why, given trying circumstances, the Tribunal has been able to resolve almost all of its claims. The authors attribute the success to the Tribunal's hesitation to address overtly political questions. This tendency to avoid political confrontation, they note, stems in part from the inherent dynamics of three-party panels. For example, when the judges appointed by the United States and Iran are fervently at loggerheads, as they often are, the third-country president is bound to come out somewhere in between. By contrast, the authors argue, the Tribunal's darkest days came when politics was injected directly into the proceedings. The account of an infamous 1984 incident in which two Iranian judges physically assaulted the Swedish president of the Tribunal, Judge Mangård, not only provides an insider's view into just how heated Tribunal deliberations can get, but also looms large as a cautionary note in the authors'

narrative regarding the unique challenges presented by a multicultural, multinational panel established to arbitrate claims between often very hostile parties.

Perhaps the greatest strength of the book is its rich documentation. The text is densely footnoted, with extensive citations to Tribunal awards, including many recent awards not yet published in the official reporter. The particularly useful appendices contain the text of the Algiers Accords, the Tribunal's Rules of Procedure, and a hefty bibliography of publications on or referring to the Tribunal and/or specific awards.

## Courts in Europe

*Foreign Law in English Courts: Pleading, Proof and Choice of Law.* By Richard Fentiman. Oxford: Clarendon Press, 1998. Pp. xxiii, 333. Price: \$115.00 (Hardcover). Reviewed by Joshua C. Tate.

Every mature legal system must wrestle with the question of how to treat foreign laws. Yet this question has long been neglected by legal scholars narrowly preoccupied with domestic topics. In his new book *Foreign Law in English Courts*, Richard Fentiman directs his full attention to this issue by closely analyzing the system of pleading and proof of foreign laws in English courts. Fentiman's book is the second contribution to a series entitled *Oxford Monographs in Private International Law*. Writing in a climate of increasing legal dialogue between England and the civil law systems of Continental Europe, Fentiman both defends the English treatment of foreign laws against its detractors and argues for modest reform.

Fentiman begins his discussion by reviewing the traditional account of how foreign laws are treated in the English legal system. According to this view, English courts treat foreign laws as facts, which the parties must plead in the same manner as other facts. If the parties fail to plead a foreign law, or plead it inadequately, the foreign law is presumed to be the same as English law. Much of Fentiman's book is devoted to showing how this simplistic view fails to capture the manner in which foreign laws are actually treated in modern English courts. Fentiman demonstrates that "it is wholly misleading simply to intone that foreign laws are facts" in English law (p. 6). In reality, English courts treat foreign laws as something of a hybrid between domestic laws and ordinary facts, as do the courts of other nations.

One of the most important issues discussed in Fentiman's monograph is the extent to which the pleading of foreign law in English courts is voluntary. Various aspects of "party choice" with regard to the pleading of foreign law are treated in Chapters 3-5. Fentiman establishes that, contrary to popular belief, the pleading of foreign law is sometimes mandatory within the English framework, e.g. in criminal proceedings and certain cases involving European conventions. Overall, however, Fentiman concedes that "the mandatory introduction of foreign law is exceptional in English law" (p. 138). This

tendency to regard the pleading of foreign law as voluntary is perhaps the single most prominent characteristic of the way the English legal system treats foreign laws.

In Chapter 5, Fentiman calls attention to an important practical consequence of the voluntary nature of foreign-law pleading in the English system. Since parties can choose whether or not to plead foreign law, cases with strong foreign elements are sometimes decided purely on the basis of domestic law. As an example, Fentiman cites the *Romalpa* case (p. 159). *Romalpa* involved a Dutch company that contracted with an English buyer for the sale of aluminum foil in the Netherlands. Although the contract was expressly governed by Dutch law, and hence Dutch law should technically have applied, neither party chose to plead Dutch law in the English court; English law was applied by default. Fentiman suggests several reasons why this might be the case, including the additional litigation costs associated with hiring experts on foreign law.

Like the other Oxford monographs in the series, *Foreign Law in English Courts* is addressed to practitioners as well as scholars, and thus Fentiman's treatment of the issues involved is often refreshingly practical. Chapters 6–8, which discuss the proof of foreign law by expert witnesses and by other means, will be particularly interesting to English attorneys involved in transnational litigation. Fentiman explains how English judges weigh expert evidence (Ch. 6), and considers the advantage of party-selected experts over court-appointed experts in proving foreign law (Ch. 7). In Chapter 8, Fentiman discusses various methods by which foreign law can be established without using experts—for example, by citing previous English opinions on the relevant points of foreign law, producing certain foreign documents, or arguing that a particular foreign law contains a general principle of law requiring no proof. Fentiman suspects that these alternative techniques are used infrequently due to a mistaken belief that expert witnesses are required to plead foreign law (p. 264).

Scholars outside the United Kingdom may find Chapter 9, "Comparative Excursus," to be the most interesting section of *Foreign Law in English Courts*. In this chapter, Fentiman puts the English regime into perspective by discussing the pleading of foreign law in other countries. German law adheres to the principle *iura novit curia*, under which the court is presumed to have full knowledge of all foreign laws. The German regime differs most strikingly from the English system of voluntary pleading, under which a presumption exists that the court has no knowledge of foreign laws. The French and Swiss systems, along with the U.S. system under Rule 44.1 of the Federal Rules of Civil Procedure, occupy various points along a spectrum between the German and English extremes. Fentiman points out, however, that the varying approaches toward foreign law adopted by these legal systems reflect their different approaches toward civil procedure as a whole. An adversary system of justice cannot treat foreign laws in the same way as an inquisitorial system of justice.

Fentiman concludes his discussion by conceding "the antique and

formalistic character of English law's traditional approach" and by sounding a final attack on the inaccurate statement that foreign laws are "facts" (p. 315). Fentiman proposes several possible statutory amendments, arguing that the defects in the current English system can best be remedied through legislation. In particular, he suggests that Parliament both clarify the occasions in which the pleading of law is mandatory and offer greater flexibility in the manner in which foreign law is proved.

*Foreign Law in English Courts* will no doubt be read with interest not only by English academics and lawyers, but by anyone working in the field of private international law. Fentiman returns to his main themes repeatedly throughout the book, with the result that those who are only interested in a particular issue will find most of the background information they need in the relevant chapter. The aim of the *Oxford Monographs in Private International Law* series is "to publish work of high quality and originality in a number of important areas of private international law." *Foreign Law in English Courts* certainly fits the bill, and is a worthy contribution to the series.

*The European Court of Justice: The Politics of Judicial Integration*. By Renaud Dehousse. New York: St. Martin's Press, 1998. Pp. xii, 213. Price: \$55.00 (Hardcover). Reviewed by Igor V. Timofeyev.

In his recent book, Renaud Dehousse, a law professor at the University of Pisa and the European University Institute in Florence, aims to provide an overview of the European Court of Justice (ECJ) that both explores the political and legal dimensions of the Court's work and is accessible to legal scholars and social scientists alike. To this end, Dehousse "attempts to sketch the contribution of ECJ jurisprudence to European integration, and to bridge the gap between lawyers' and political scientists' standard perceptions of the Court" (p. 3). Although ultimately successful in this ambitious undertaking, Dehousse invariably has to sacrifice some of the doctrinal complexities of the Court's jurisprudence in order to make his work accessible to the non-legal audience. Dehousse, nevertheless, is to be commended for providing an illuminating, cross-disciplinary perspective on some of the most fascinating contemporary legal developments.

Chapters 1–2 of the volume present a general overview of the structures and functions of the ECJ, and of its role in shaping the basic elements of the European Union's legal order. After describing the composition and functioning of the Court, Dehousse analyzes the evolution of European Community law from an international legal system to a quasi-constitutional one. Chapter 3 examines this process more closely, focusing on the influence of the ECJ on the process of European integration. According to Dehousse, the Court, invested with "considerable law-making power," has proved able to act as "a catalyst in the integration process, through the innovations it has introduced in Community policies and through the pressure it has exerted on the legislature" (p. 71). In the author's opinion, this pro-integrationist attitude

has been a result of the judges' "enthusiasm for Europe" as well as their adherence to "the continental legal tradition" of "systemic" interpretation of constitutional and statutory frameworks (pp. 95–96). Guided by this civil law approach, the court has "focus[ed] on the aims of the treaty [of Rome] and its institutional objectives" (p. 96), namely an integrated community of European nations.

Chapter 4 closely examines one facet of this integration process: the way in which the ECJ has "affected the relationship of the principal actors in the Community political system," compelling them to recognize the Court as "a force to be reckoned with" and to integrate the Court's jurisprudence into their political strategies (p. 97). Dehousse traces the Court's jurisprudence in a number of seminal cases involving the major political actors on the European Community level (the Council of Ministers, the Parliament, and the Commission) as well as private parties from the European member states (particularly large corporations). Dehousse highlights the two-fold nature of this development: on the one hand, the ECJ has been willing to act as "guarantor of the rule of law . . . beyond a literal interpretation of the treaty [of Rome]" (p. 104); on the other, political actors in the EU have realized that a litigation strategy can be an effective means "to have the scope of [their] rights first recognized and then expanded by the Court of Justice" (p. 103). The result, as Dehousse shows, has been "[t]he development of judicial policymaking and the ensuing juridification of the policy process" in the European Union (p. 114). By providing both institutional and private actors with incentives and instruments to pursue their policy objectives within the legal sphere, the Court has effectively shifted an important number of decisions from the political to the judicial arena.

This process has been buttressed by the Court's unparalleled success (examined by Dehousse in Chapter 5) in ensuring compliance with its decisions by national actors. This success resulted from the Court's ability to "offer[] a number of functional benefits" to the key participants in the European political process (p. 146). Indeed, Community institutions, member governments, and various categories of private actors have come to see the advantages of a strong judiciary endowed with the tasks of monitoring the implementation of Community law. This, in turn, has conferred on the latter "a degree of effectiveness which is rarely achieved at [the] international level" (p. 146). The ECJ has greatly facilitated this process by engaging in dialogue with the national courts of member states through a system of judicial referrals for questions involving Community law.

Despite this success, Dehousse emphasizes in Chapter 6 that the juridification of the political process has aggravated the democratic legitimacy crisis of the European Union. In the process, it has made the Court itself uneasy about the possibility of a political backlash to its activist pro-integration role. This perception, aggravated by the rise of an anti-integration sentiment in some of the member states since the late 1980s, has caused the ECJ to exercise "ever greater caution in challenging member states' interests" and "greater restraint in most of its activities" generally (p. 148).

Dehousse traces the underlying cause of the Court's newfound restraint to the ambitious integrationist program undertaken by the European member states in the late 1980s. Following the 1992 Maastricht treaty, which espoused the goal of the European Monetary Union, "the atypical equilibrium which had allowed the ECJ to act as a driving force in the integration process came to be significantly altered" (p. 176). The ECJ is now "confronted with a much more dynamic political process" on the Community level, coupled with "greater public attention to the deeds of European institutions, including of course the ECJ" (p. 176). With this new public visibility, the Court's rulings are often perceived as a source of disruption in both national legal systems and the (relatively more democratic) European political process. Anxious to avoid unnecessary clashes with national political bodies, and aware that the integrationist process is now developing along the political, rather than judicial track, the ECJ has adopted a policy of restraint and deference to national governments and their domestic legal systems.

As Dehousse argues in his Conclusion, this process should be welcomed, rather than resented, by supporters of the European venture. It demonstrates, in his view, "a sign of institutional maturity for the EU as a whole," a sign that in the European system "political decisions tend to be left to the political process, with judges ensuring the fairness and the correct functioning of this process" (p. 186). While a sensible conclusion, and one that explains much of the ECJ's changed attitude over the past decade, it leaves unexplained many of the issues Dehousse raises in his own analysis of the Court. The crucial question is how a Court with a history of activism and a substantial capital of legitimacy will function in the constitutional climate of an ever more closely integrated Europe, where new institutional and political conflicts will unavoidably demand the Court's attention and, ultimately, its judicial resolution. Dehousse's study is bound to elicit more of the interdisciplinary scholarship that is vital for a full understanding of the mutual interaction between the ECJ's jurisprudence and the EU's political developments.

### **International Human Rights**

*The Universal Declaration of Human Rights: Fifty Years and Beyond.* Edited by Yael Danieli, Elsa Stamatopoulou, Clarence J. Dias. Amityville, NY: Baywood Publishing Co., 1999. Pp. v, 465. Price: \$46.00 (Hardcover). Reviewed by Melanie J. Markowitz.

In commemoration of the half-century anniversary of the Universal Declaration of Human Rights, the United Nations has published *The Universal Declaration of Human Rights: Fifty Years and Beyond*. With a foreword by U.N. Secretary-General Kofi Annan and epilogue by U.N. High Commissioner for Human Rights Mary Robinson, along with brief contributions from several Nobel laureates, including Nadine Gordimer and

Archbishop Desmond Tutu, the book receives the imprimatur of the U.N. leadership and many prominent human rights activists. This stamp of approval is conferred upon a volume that argues that the "unfinished human rights agenda of the Universal Declaration" (p. 9) calls for a victim-oriented perspective toward human rights. Justice, the editors argue, necessitates not only punishment of perpetrators, but also remedial measures for victims.

This individual-focused, rather than state-centered, approach is highlighted by the book's incorporation of first-person accounts by victims of human rights abuses. These short essays, termed "voices," are interspersed throughout the chapters of the book. They are led by a piece by Elie Wiesel, who urges that protests that do not change human rights policies in and of themselves are nonetheless effective in their "message to the victims: you will not be abandoned, you have not been forgotten" (p. 3). Further reinforcing the primacy of the victim's perspective, and humanizing a volume focused on instruments of international law, are the accounts of a boy soldier from Mozambique and a girl counterpart in Uganda, both deeply troubled by their violent deeds. Another essay is by a Korean "comfort woman," forced into sexual slavery by the Japanese during World War II. The woman's testimony highlights the conflict, one largely ignored by the rest of the book, between U.N. declarations on state responsibility, on the one hand, and actual state acceptance of responsibility, on the other. A U.N. Special Rapporteur has found Japan responsible for the abuse of comfort women, but Japanese acceptance of responsibility has not been forthcoming.

Part I of the volume (Chapters 1-9) chronicles the development of the international human rights treaty system and outlines the aims of some of the conventions and covenants adopted by the United Nations. Highlighting the U.N.'s tardy recognition of the victim perspective in human rights, law professor Theo van Boven notes that it was not until the 1985 adoption of the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power that victims became a subject in their own right in the U.N. system. Yet, this new attention to victims came not in a human rights context, but rather in the realm of criminal justice. Fourteen years later, with the U.N. Commission on Human Rights considering principles for the right to reparation for victims of human rights abuse, van Boven makes a strong case for the right to individual and collective reparation as an "imperative norm of justice" (p. 14). Van Boven insists that "*lack of reparation* for victims and *impunity* of perpetrators are two sides of the same coin" (p. 16).

Part II (Chapters 10-17) focuses on the human rights struggles of specific groups: women, children; indigenous peoples, minorities, refugees, migrants, the homeless, the disabled, the mentally ill, the elderly, and those discriminated against on the basis of sexual orientation. In Chapter 10, Shanthi Dairam, a NGO director, highlights the problem of narrowly viewing women's rights only in terms of rights to bodily integrity, rather than a more expansive notion that acknowledges that poverty disproportionately affects women and limits their opportunities. Marta Santos Pais, in Chapter 11, calls for a reinterpretation and intensified focus on the human rights of children

who, while "acknowledged in moments of distress," are rarely viewed "as subjects of rights, entitled to committed action" (p. 131-32). Pais views the 1985 Convention on the Rights of the Child as having inaugurated a new era of protection for children, in which they are "subjects of rights and participants in actions affecting them" (p. 132). Exemplifying how a victim-oriented perspective can prompt the creation of national institutional protective mechanisms, Pais notes that in the wake of the Convention's adoption, some countries have established child-specific ministries while others have incorporated children's rights into their policy-making processes.

Clearly, more than changes in institutional perspective are needed if human rights are to be effectively protected. Part III, thus, focuses on efforts to promote human rights cultures and human rights education at the national and local levels. In Chapter 18, torture victim Jamal Benomar writes that the establishment of a culture of human rights is necessary in order to achieve compliance with international standards of human rights. Benomar indicates that the U.N.'s technical assistance program has, at its worst, functioned as a mechanism by which offending countries' abuses were merely disguised to prevent further scrutiny. The Technical Co-operation Program, a subsidiary of the Office of the Commissioner for Human Rights, has improved in the 1990s; it is now concentrating on norm implementation and compliance. Benomar offers several recommendations for a significant expansion of the program into such areas as national capacity-building, participatory democracy, sustainable development, and promotion of economic, social, and cultural rights. In Chapter 19, Peter and Heather Thuynsma focus on the role of human rights education in the creation of a strong human rights culture. Using South Africa as a model, they offer suggestions for effective educational programs, plans, and curricula in national contexts. The very success of the new South Africa, they argue, depends on a new value laden educational system reversing years of discriminatory education.

Moving on to examine regional human rights perspectives, Part IV (Chapters 20-24) gives special focus to regional human rights protection schemes in Latin America, the Asia-Pacific region, Africa, and Central and Eastern Europe. The treatment of the latter is particularly useful. In Chapter 24, a Polish social scientist, Malgorzata Fuszara, notes the recent introduction of the office of the Ombudsperson to many Central and Eastern European nations. This official establishes a means for citizens to defend their rights as well as to monitor possible violations. Less hopeful for the region is the unfair treatment accorded the Roma, a long-suffering group victimized by continuing ethnic rights violations and doubly afflicted by an uninterested prosecutorial corps and a judiciary lenient toward their tormentors.

With additional selections on the trauma of human rights violations (Part V) and mainstreaming human rights (Part VI), the volume continues the theme of directing the human rights agenda to the victim's perspective. The increasing human rights involvement of the medical profession, which deals with victims on an individual basis in care-giving situations, is discussed, and the less honorable history of physicians as collaborators with abusers is duly

noted. A final chapter looks to the future of human rights, concluding that, with the end of the Cold War, attention should be focused on non-state actors, chiefly corporations, whose growing power and multinational identities make them less accountable to traditional state institutions, and more likely to wield potentially abusive power. Prevention of such abuse requires that non-state actors be held responsible for respecting the human rights principles embodied by the Universal Declaration.

This anticipatory conclusion ends a book that, for reasons of justice and societal harmony, urges that the human rights community focus concerted attention on the victims of human rights abuses. This individual-oriented perspective is mindful that prosecution of human rights perpetrators is not the sole, or even best, solution to human rights abuses. The volume's "voices," effectively reminding the reader not only of victims' suffering, but also of their strength and creativity, reinforce the need to look beyond the text of international treaties and statutes to those most affected, not only by human rights abuses, but also by the international human rights community's words and deeds. The editors have succeeded in assembling a comprehensive volume of advocacy that is both instructive in its descriptive outline of international standards and effective in arguing for the reformulation of the human rights agenda to include a more victim-centered approach.

*Legal Protection of Children Against Sexual Exploitation in Taiwan: A Socio-Legal Perspective.* By Amy H.L. Shee. Brookfield, VT: Ashgate, 1998. Pp. vi, 280. Price: \$76.95 (Hardcover). Reviewed by Lisa R. Hasday.

Despite the prevalence of child prostitution in Taiwan, surprisingly little has been written on legal issues of child sexual exploitation in that country. Amy H.L. Shee's new book not only begins to fill this gap, but does so from an informed, insider perspective. Indeed, the author has been involved in anti-child-prostitution campaigns since 1990, and has served as the legal advisor to the International Campaign to End Child Prostitution in Asian Tourism. Shee drew upon these professional connections in researching her book, which is based largely on interviews with activists in the anti-child-prostitution movement as well as with former child prostitutes. The book is far from anecdotal, however; it is a well-researched work of social science, utilizing both English and Chinese sources, that critically examines how child prostitution came to be discovered as a problem in Taiwan and the ways lawmakers have responded. Shee's main theme is that any law attempting to treat the problem of child prostitution can only do so much if larger "structural" problems in Taiwanese society—"police corruption, male sexual perversion, socio-economic inequality, and the [social vulnerability] of aboriginal [and poor] people" (p. x)—are addressed.

A short introduction provides an overview of the history of child prostitution in China and of the recent campaigns to stamp out the practice. In Chapter 2, the author searches for an analytical framework that takes the

unique conditions of Taiwanese society into account. Conventional socio-legal perspectives, generally based on the experiences of advanced Western industrial countries, present child prostitution within what Shee terms a “three-compound matrix”—that is, as an issue of family dysfunction, illegal prostitution, or juvenile delinquency. Within this matrix, the goal of child protection is, in the author’s opinion, subjected to priorities that do not privilege the best interests of the child. Shee, thus, develops her own framework, defining child prostitution as “a socio-legal problem of child abuse and sexual exploitation in which child maltreatment will be the core concern” (p. 24).

With this priority in mind, the author devotes Chapter 3 to a discussion of the “structural context” of child prostitution, describing the evolution of the industry in Taiwan. The existence of prostitution in China, Shee tells us, can be traced for more than 2600 years, the industry having arrived in Taiwan in the late eighteenth century. Traditional Chinese patriarchal families served not only as the main supplier of prostitutes but also created great demand for them, as husbands and older sons often frequented the industry to which they sent their daughters and sisters in the name of “filial piety” and “self-sacrifice” (p. 42).

Although child prostitution has existed throughout Chinese history, it was not recognized as a social problem until the late 1980s. In Chapter 4, Shee outlines this recent process of discovery, delineating two “waves” of campaigning. The first began in 1987, when activists initiated large-scale campaigns against the prostitution of young, particularly aboriginal, girls from lower socio-economic strata. In response, the government launched the “Decent Society Campaign,” which involved a police crackdown on underage prostitution. The second wave followed in the early 1990s. By that time, it became known that girls from all socio-economic strata were entering prostitution and, consequently, the recognition of child prostitution as a phenomenon involving not only the poor but also the well-to-do became a central focus of anti-child-prostitution campaigners. It was within this wave that Shee began her own activism. Her efforts, and those of others, culminated in the landmark 1995 Law to Suppress Sexual Transactions Involving Children and Juveniles.

As prologue to a detailed discussion of this law, Shee devotes Chapters 5 and 6 to a survey of policy and legislative developments on prostitution in Taiwan. Prior to 1995, child prostitution was dealt with by general laws including the Criminal Code, the Social Order Maintenance Law, the Civil Code, the Child Welfare Law, the Juvenile Welfare Law, the Law Governing the Disposition of Juvenile Cases, and administrative regulations on prostitution. Filled with loopholes, these general laws were nonetheless applied only selectively. Concerned NGO professionals began agitating for a single law that would govern the issue of child prostitution exclusively.

In Chapter 7, Shee outlines the contents of this new law, which defines child prostitution as “sexual transactions involving children and juveniles” (p. 193) and which provides a scheme for treatment, prevention, and

enforcement. While the passage of this law was considered a “triumph of NGO lobbying” (p. 195), Shee recognizes its limitations in Chapter 8. First, she criticizes the wording of the law. According to Shee, “sexual transactions involving children and juveniles” renders the problems of child abuse and sexual exploitation “invisible” (p. 201). Second, the author objects to the penalties imposed upon customers, which she views as unduly mild. Lastly, while conceding that too little time has passed to render definitive judgment, Shee raises concerns about the capacity and willingness of Taiwanese authorities to enforce the law. Overall, the author praises the practical merits of the law, which “unifies all civil, criminal, and administrative effects attributed to a child prostitution case in one single piece of legislation” (p. 104).

Shee concludes by emphasizing that child prostitution must be attacked within the context of social, economic, and cultural conditions. Piecemeal legal reforms, without accompanying efforts to attack structural problems, are “like painting the grass green while leaving its roots rotten” (p. 118). In the meantime, Shee urges that more attention be paid to improving the implementation of existing laws and that more preventive programs be established. The author leaves us with these resolute words: “We must be realistic in tackling the social problem, while conveying our ideal to society that there is no excuse for the existence of child prostitution in a civilised and modernised country like Taiwan” (p. 216). Shee’s book is an important first look at the issue of child prostitution in Taiwan that will undoubtedly do much to promote her cause.

### Legal Issues in International Politics

*Cuba: Confronting the U.S. Embargo.* By Peter Schwab. New York: St. Martin’s Press, 1999. Pp. xiii, 226. Price: \$29.95 (Hardcover). Reviewed by André C. Namphy.

At the heart of Peter Schwab’s new book on the U.S. embargo of Cuba are two contrasting perspectives on human rights: a “Western” conception emphasizing individual civil and political rights, and a “Third World” version focusing on social guarantees of basic economic needs. *Cuba: Confronting the U.S. Embargo* attempts to frame the forty-year conflict between the United States and Cuba using these competing interpretations of human rights as a lens. In so doing, Schwab explains how the momentum of the conflict has led the United States to tighten what Cubans refer to as the “blockade,” even after the collapse of the Soviet Union and the U.S. expansion of diplomatic and commercial relations with other Communist countries such as China and Vietnam. He also argues that the reasons offered for the embargo’s continued existence are insufficient, and even irrational, justifications for an openly punitive policy.

Schwab, a political scientist teaching at Purchase College in the New York State University system, divides his book into seven chapters, which can be grouped as four sections: his human rights thesis followed by an analysis of recent U.S. economic and military policy toward Cuba and the Eastern Caribbean; the embargo's effects on the Cuban health care system, poverty, and hunger; Castro's gradual relaxation of restrictions on religious freedom and political dissent; and a conclusion speculating on a post-Castro future.

The author begins by introducing his human rights model. In 1948, when many of today's developing nations were still European colonies, the United Nations General Assembly passed the nonbinding Universal Declaration of Human Rights. Developing countries have tended to argue that the Declaration imposes a Western, individualized notion of human rights that often ignores the most basic human needs (e.g., food, shelter, and health care) in favor of more abstract concerns like political freedoms and civil liberties. Along this line, Article 52 of the Cuban Constitution privileges community stability over individual rights by allowing for "freedom of speech and of the press in keeping with the objectives of socialist society" (p. 8). Schwab argues that during the 1980s the United States successfully isolated Cuba by defeating Communist insurgencies in Nicaragua, El Salvador, and Guatemala, and in the process imposed Western conceptions of human rights on most of the Caribbean and Latin America. For joining the American economic and ideological order, these nations expected to receive material benefits. After the Cold War, however, they have found themselves abandoned by their northern benefactor and reduced to Americanized tourist attractions "designed to give visitors an exotic but nonthreatening experience" (p. 36).

Just after the Soviet Union collapsed, throwing Cuba into a five-year economic depression now known as the *periodo especial*, President Bush expanded the U.S. embargo (originally imposed by President Eisenhower in 1960) by signing the 1992 Cuban Democracy Act (CDA). The 1996 Helms-Burton Act tightened the CDA even further. Schwab emphasizes that although the CDA closed U.S. ports for 180 days to all foreign vessels traveling to or from Cuba, Helms-Burton went further by granting U.S. citizens and Cuban exiles the right to sue non-U.S. companies doing business in Cuba and deriving benefit from property confiscated from Americans after 1959. In a provision that President Clinton has since delayed enforcing, foreign businessmen can be denied visas for travel to the United States if they engage in commercial ventures with Cuba. In perhaps its most draconian measure, Helms-Burton effected an "unqualified blockage of medicine and medical equipment" by imposing sanctions on third-party countries trading with Cuba (p. 54).

Latin America's most progressive health care system has suffered heavily under the embargo. Schwab shows how hospitals have undergone severe supply shortages and how, despite having some of the world's best-trained doctors on staff, they are currently unable to meet patient needs. During the most difficult economic times of the early 1990s, moreover, Cuban women began prostituting themselves in large numbers to foreign tourists as a

means of obtaining much-needed U.S. currency, possession of which Castro finally legalized for Cuban nationals in 1993. Although the worst of the crisis has since passed, Schwab calls the embargo's effects on health care and poverty "disgraceful" (p. 76), and compares the policy to America's war on Vietnam, which America lost while inflicting untold damage on Vietnam in the process (p. 98).

The embargo, Schwab argues, reinforces Cubans' sense that they are under constant attack from the United States, a perception that provides political cover for the government's repression of religious and political dissent. The Cuban government is extremely wary of the recent expansion of Catholicism, which has never before had an extensive popular base in the country. In the early 1960s, the Church set itself against the Cuban Revolution and has only recently softened its stance. Castro can argue that any criticism of the Revolution, whether from U.S. officials, Miami-based organizations (such as Brothers to the Rescue and the late Jorge Mas Canosa's Cuban American National Foundation), or from internal social-democratic opposition groups, are equally designed to undermine the integrity of the Cuban state. All criticism, it is contended, merely buttresses support for the embargo and a return to the era of American dominance over Cuba that existed before the Revolution. International perceptions of U.S. hypocrisy in the connection between human rights criticism and the extension of U.S. power interests at least partially explain why a U.S. motion to censure Cuba in 1996 failed at the Geneva-based Human Rights Commission. Carl Johan Froth of Sweden, the United Nations Special Rapporteur on Human Rights in Cuba, pointed out that the "tragic shortage of material goods [and] untold hardships" are partly accounted for by the embargo, making the United States at least indirectly responsible for the human rights crackdown (p. 13). Schwab believes that the Pope's 1998 visit to Cuba, which was followed by the release of several hundred political prisoners, is a signal that Cuba is ready to open itself to at least some political reform. The United States has a unique opportunity to facilitate that process by lifting the embargo.

Schwab gives some very good reasons, however, why the United States is unlikely to lift the embargo in the near future. Cuba is a small country, in close proximity to the United States, without the massive commercial potential of China or Vietnam. The United States has a large anti-Castro Cuban constituency in the key electoral state of Florida. Finally, the presence of Castro himself, who has outlasted eight U.S. Presidents, should not be underestimated. Any kind of rapprochement with America's permanent bogeyman seems a remote prospect. Yet, even after Castro is no longer in power, Cuba will undoubtedly retain its independent stance. Regardless of whether the government is controlled by hard-line figures such as Castro's brother Raúl or more moderate reformers like the Speaker of the Assembly, Ricardo Alarcón, the heritage of the Revolution is too ingrained in Cuban life for it to turn rapidly into a U.S. client state. The United States will be unable to impose its blueprint upon Cuba, so the embargo will probably remain in effect.

Human rights lawyers will finish this short book wanting a more extended treatment of the contending perspectives on human rights, and they may also wish the author had examined the CDA and Helms-Burton legislation more closely. They may feel shortchanged that such a promising framework for analyzing the conflict dissolves primarily into a good journalistic introduction to recent Cuban history and Cuban-American relations. Nevertheless, this well-written, albeit general, account effectively criticizes current American policy and will be useful to students eager to familiarize themselves with this aspect of Latin American politics.

*Saudi Arabia: The Shape of a Client Feudalism.* By Geoff Simons. New York: St. Martin's Press, 1998. Pp. xvi, 415. Price: \$35.00 (Hardcover). Reviewed by Daniel L. Low.

Although Saudi Arabia has received a fair amount of attention over the past decade because of its role in OPEC, the Gulf War, and various problems in the Middle East, little attention has been paid by the media or the American government to the political repression and human rights abuses that occur there. In *Saudi Arabia*, Geoff Simons, a freelance writer who has written numerous books, including several on the Middle East, draws attention to the horrific human rights situation in Saudi Arabia and the hypocrisy of the West in its support of the Saudi government. Simons explicitly states two principal purposes of his book: "to highlight the human rights situation in Saudi Arabia in the context of sharia [holy] law" and "to highlight the extent to which the modern Saudi regime is threatened by domestic and other instabilities" (p. xv). To provide a fuller understanding of the modern situation, Simons also presents a detailed discussion of Islamic and Arabian history.

The central motivating thrust of the Simons book is why a "society that institutionalizes the grossest religious bigotry, financial corruption, a profligate elite, torture and sadism, terror, slavery, and the abuse of women . . . [is] fawned upon by Western pundits?" (p. xvi). He does not, however, reach an answer until the last of the three parts of his book. Part I (Chapter 1) provides a detailed analysis of the current human rights situation in Saudi Arabia. Simons starts by examining the legal system in Saudi Arabia, which draws on the Koran as its definitive source. Trials are usually held in secret without legal counsel, there are no juries, and criticism is stifled by mass press censorship. As *sharia* law requires that either eyewitness testimony or a confession be obtained before conviction for certain crimes, the government often resorts to torture to elicit forced confessions from detainees. As Simons points out, "[i]n this context there are no adequate provisions for the protection of human rights" (p. 19).

Drawing heavily on reports from Amnesty International and Human Rights Watch, Simons then explores in shocking, gripping, and often graphic detail the extent of human rights abuses in modern Saudi Arabian society. He describes routine torture, amputations, and executions, as well as the

repression of political dissidents, the subordination of women, and the enslavement (or near-enslavement) of foreign workers. Of the hundreds of tragic examples presented, one is that of “a man [who] was held in a two-foot-by-two-foot room containing a toilet with overflowing sewage. He was starved for three days, beaten, stripped, suffered icy water thrown at him, was given electric shocks, was whipped, and was subjected to *falaqa* beatings [on the soles of the feet]. He then signed the necessary confession papers.” (p. 44). Chapter 1, with its vivid detail, seizes the reader’s attention and leaves her shocked that the West is not pushing for an end to such abuses in Saudi Arabia, as it does for China and many other countries around the world.

Part II (Chapters 2–5) abruptly shifts in tone and focus to a dense and detailed history of Arabia from ancient through modern times. Chapter 2 examines the history of religion in the region, starting with pre-Islam pagan beliefs before moving on to the life of Muhammad and the expansion of Islam. Simons digresses briefly to mention his skepticism of religion in general—a topic on which he has written previously—and of Islam.

The following three chapters offer a political history. Chapter 3 details the Arab expansion under Islam in the seventh century, the rise and fall of two dynasties that lasted from 661 until the 1258 Mongol invasion, and a brief description of the Ottoman Empire. Chapter 4 then examines the concurrent rise of the Wahhabists and the House of Saud. The Wahhabists are a puritanical sect that practices what the author describes as “one of many arbitrary versions of Islam” (p. 146). The pact between the Wahhabists and the House of Saud led to a combination of military force and fervent spirituality that enabled the Saud family to found the First Saudi State in 1745. The Kingdom of Saudi Arabia that has lasted to the present was founded in 1932 by Ibn Saud, who consolidated control by slaughtering rival tribes. Chapter 5, focused on the twentieth century, begins to provide an answer as to why the West is not more critical of Saudi Arabian human rights abuses: it describes the discovery of oil in Saudi Arabia, the vast revenues it produced, and the country’s major political importance as demonstrated by the oil embargo.

Part III centers on events in the modern era. Chapter 6 focuses on the symbiotic relationship between the United States and Saudi Arabia, demonstrated in the context of the Iran-Iraq War, the Persian Gulf War, and the Yemen Wars. Saudi Arabia has acted like a client state of the United States—it supplies inexpensive oil, spends much of its oil revenue on American arms, and shapes its foreign policy to America’s will despite pressure from other Arab nations. Indeed, the Saudis have spent billions purchasing expensive weapons from the United States and other nations; have helped funnel funds to U.S.-backed terrorist and insurgent groups, such as those in Afghanistan, Angola, and Nicaragua; have financed most of the Gulf War; and have allowed American troops to be based on Saudi soil. In return, the United States offers protection and arms.

Although Saudi Arabia possesses one fourth of the world’s oil reserves, it is not economically secure. Multi-billion dollar arms deals and profligate

spending by the royal family—such as King Fahd's twelve royal palaces, several yachts and jets, and fleets of Cadillacs and Rolls-Royces, as well as the \$4 billion annually provided as stipends to members of the royal families—have put Saudi Arabia in an economic predicament. Indeed, the government debt is expected to rise to 110 percent of the gross domestic product by the year 2000. This is one of the several problems addressed in Chapter 7. Other problems include over reliance on foreign labor, inadequate employment opportunities for locals, an inflexible legal system, an inadequate banking system, an inefficient bureaucracy, schisms within Islam, instability in the Middle East, an aging and ailing king, reliance on American protection, and a growing number of critics of the royal family. Simons concludes that “[c]hange is inevitable but largely unpredictable” (p. 335).

There are five appendices included in the book: a list of international human rights instruments signed by Arab countries (but not Saudi Arabia); the Cairo Declaration of Human Rights in Islam; the Saudi Articles of Government; the Articles of the Consultative Council; and the rules of the Council of Ministers. One reason for inclusion of the last three appendices is that they demonstrate both the heavy centralization of power in the king—who has plenary power over changes in the law and international treaties—and the effective impotence of the advisory bodies.

The book's greatest strength is the depth of the author's research and the extensive human evidence he provides. Indeed, Simons makes his discussion come alive with concrete details, particularly in Part I where he lists the names, and describes the stories, of hundreds of individuals who were subjected to torture and human rights abuses at the hand of Saudi officials.

Part II, however, may be detailed to a fault. The manifold names, places, and events of the past several millennia of Arabian history make this part difficult to follow unless the reader has significant prior knowledge of the region. More importantly, although Simons introduces the historical section as merely background information that is necessary for an understanding of the modern regime, he devotes more than one third of the text to it. Further, he never adequately explains its influence on modern Saudi Arabia. The transitions between sections are also insufficient to pull the parts together into a unified whole.

Overall, however, the book is an important work that exposes the numerous problems that the Saudi Arabian government aims to repress and the American government aims to ignore. It also illustrates the level of hypocrisy that governments are capable of. This book is worthwhile for anyone interested in human rights, the Middle East, or American foreign policy.

## Law of the Sea

*The Contested Maritime and Territorial Boundaries of Malaysia: An International Law Perspective.* By R. Haller-Trost. Cambridge, MA: Kluwer Law International, 1998. Pp. xv, 595. Price: \$176.00 (Hardcover). Reviewed by Natalie S. Klein.

In 1979, Malaysia sparked controversy throughout South East Asia by publishing the *Peta Baru*, a map setting out its claims to ocean space. The map provoked a series of protests from neighboring countries that had overlapping claims to maritime zones and certain territorial features. In *The Contested Maritime and Territorial Boundaries of Malaysia*, R. Haller-Trost details the origins of these disputes and scrutinizes the boundary claims under prevailing international law. By examining the boundary disputes of this one South East Asian country in exacting detail—politically, historically, and juridically—Haller-Trost hopes to spark a series of parallel legal writings to which neighboring governments may have recourse when attempting to solve similar outstanding disputes.

The book is divided into two substantive parts, with a concluding chapter. Part I examines Malaysia's maritime claims as presented in the *Peta Baru*, and is subdivided into three chapters. In Chapter 1, Haller-Trost discusses the political context that led to the promulgation of the map, focusing on the impact of bilateral and multilateral obligations on domestic law and describing the various delimitations found on the map. Chapter 2 then addresses the international treaties on which the delimitations in the *Peta Baru* are based. The analysis surveys treaties between Malaysia and Indonesia, the Philippines, Brunei, Singapore, and Thailand. In the course of this study, the author takes into account colonial treaties, which commonly concerned the question of sovereignty over islands, and considers their relevance to modern delimitation. Haller-Trost also details the geographic position of the relevant turning points for each maritime boundary and describes how they correspond to domestic implementing legislation and to international treaty obligations. A particularly interesting aspect of this examination is the consideration of how geographic features, such as shifting coastlines, *thalweg*-type channels, river mouths, and islands, impact delimitations. For example, in discussing the South China Sea, the author dedicates one section to the effect of rocks and islands, examining the polemic question of whether maritime entitlements can be measured from rocks and coral reefs. A final noteworthy feature of this chapter is the author's tendency to highlight the practical implications of the allocation of maritime jurisdiction—particularly with regard to oil exploration contracts and fishing.

Having discussed the mutually agreed limits of Malaysia's maritime zones, Chapter 3 then shifts to a discussion of Malaysia's unilaterally declared seaward maritime boundaries along the remaining coast. The main difficulty confronted by the author in this chapter is the position of Malaysia's baselines. Malaysia has not published the baselines from which its maritime

zones are measured and Haller-Trost is, thus, left to infer what lines may be drawn and thereby assess their legitimacy. As with Chapter 2, there is detailed reference to an assortment of turning points and their coordinates on maps. An understanding of the author's analysis would have been facilitated if maps had been included in the body of the text rather than in the Appendix, or if appended maps were more readily identifiable from the text or footnotes.

The five chapters in Part II of the book address in detail the territorial claims of Malaysia. In these chapters, Haller-Trost thoroughly analyzes the Philippines's claim to the eastern Malaysian state of Sabah (North Borneo); Brunei's claims to parts of Sarawak; the dispute between Malaysia and Indonesia over the islands of Pulau Sipadan and Pulau Litgan (recently referred to the International Court of Justice); Singapore and Malaysia's competing claims to a small rock, Paulau Batu Puteh, at the entrance to the Singapore Straits; and finally, the Spratley islands to which six states currently have claims. In analyzing these disputes, the author has relied on an impressive array of historical accounts as well as primary documents located in government archives. Against this background, Haller-Trost carefully examines the relevant treaty texts to elucidate and assess the arguments of the claimants. Especially noteworthy are the author's description of the indigenous legal systems relevant to land acquisition (although one wonders about the possible relevance of intertemporal law) and the analysis of the Dutch and British trading companies' involvement in the region and their impact on questions of territorial sovereignty. The author illustrates how the dynamics of such territorial claims must be understood in their political and economic context. This point is particularly evident in relation to the Spratley islands dispute. Haller-Trost demonstrates that the claims are all intimately related to the modern history of the region and that the extent of states' interests in the islands reflects the economic and political concerns of the time.

The concluding chapter similarly highlights the importance of the economic, political, and historical context of these legal disputes. In this chapter, the author summarizes all of the claims examined in the book. Haller-Trost then argues that states are moving to an "ocean condominium" and that territorial disputes are losing significance because of the priority given to economic growth and trade over the precise position of a state's boundaries. Certainly this "soft borders" option seems plausible in economic affairs but is unlikely to facilitate the resolution of maritime and territorial disputes when issues of security and national pride are perceived to be at stake.

An interesting tension inherent throughout the book is the interrelationship between maritime and territorial claims. In the Introduction, Haller-Trost stresses that, because "[l]egal entitlement to maritime areas is dependent, first and foremost, on the ownership of the landmass from where the various zones are to be measured . . . it is, therefore, *a priori* necessary to establish valid title to the territory in question before a maritime claim can be made" (p. 4). Notwithstanding, the author proceeds to analyze the maritime claims in Part I before the territorial claims in Part II. Consequently, caveats

are inserted throughout Part I to note where questions of territorial title might impinge on maritime zones. When discussing the territorial disputes, the author then refers back to states' maritime laws as factors to strengthen their claims to islands. Malaysia's claims to the southern Spratley islands is representative of this tension because in the *Peta Baru*, Malaysia's claim to certain reefs and islands is based on its continental shelf rights.

Overall, Haller-Trost's examination of Malaysia's maritime and territorial boundaries presents an informative study of some of the most controversial ongoing disputes in the South East Asia region. As the author hopes, similar studies would undoubtedly be useful in regional dispute resolution. Although such writings will always be hampered by lack of access to primary government documents (a problem confronted by Haller-Trost), the detailed background information and the analysis and application of international legal principles to state boundary claims would prove to be an invaluable resource.

## Environment

*The Greening of Sovereignty in World Politics*. Edited by Karen T. Lifin. Cambridge: MIT Press, 1998. Pp. xi, 325. Price: \$25.00 (Paperback). Reviewed by Eric W. Sievers.

As transboundary environmental problems (e.g., ozone layer depletion, global warming, pollution of seas, biodiversity loss) come increasingly to dominate ecological concerns about future security, sovereignty—in particular its premise of territorial exclusivity—appears ever more to frustrate the collective efforts of humanity to manage the global commons. From the environmentalist standpoint, the current borders of states contradict nature's holistic logic. From the international relations standpoint, environmentalist agendas are viewed cautiously as potential tools in efforts to strengthen or weaken the comparative strength and influence of certain states. Despite this tension, the authors of this volume contend that almost no scholarly work addresses the ways in which understandings of the environment and sovereignty are actually reshaping each other at the close of this century. Editor Karen Lifin asserts this collection to be "the first book to connect two important subfields in international relations: global environmental politics and the study of sovereignty."

The volume constitutes an ambitious effort to trace a variety of manifestations of the current interplay between environment and sovereignty. The four chapters in Part I address some of the theoretical tensions involved. These include the environmental characteristics necessary for the establishment of effective states and governments, a survey of indigenous critiques, the impact of conservation biology, and the insights of psychoanalysis on Western practices of interaction with the natural environment.

Part II incorporates four case studies focused, respectively, on scientific discourse in whaling accords, property regimes and third world states, reactions to remote sensing data by sovereign states, and subsidiarity principles in the European Union. These case studies constitute the book's most interesting and important contributions to current scholarship. Of particular interest is Liftin's own provocative and innovative essay on remote sensing. Liftin suggests that remote sensing data is eagerly adopted by developing states as a means of shoring up the territorial aspect of sovereignty, even though remote sensing satellites themselves may violate the conceptions of these same states to sovereign rights to exclusion. Liftin's research highlights the paradox of states' active use of foreign satellite data to improve maps that themselves come to symbolize and reify sovereignty, at the same time that they remain uncomfortable with the knowledge that such foreign satellites continue to collect information about their territory.

The final three chapters, comprising Part III, represent an attempt to reconceive sovereignty through such lenses as indigenous perspectives, legal obligations, intergenerational paradigms, and federal-republican Earth constitutions. Collectively, these chapters offer an impressive range of ideas and possibilities for constructing a more sustainable system of global governance.

This volume produces important findings on current "reconfigurings" of sovereignty. It does, however, suffer from some intrinsic shortcomings. Chief among these are the limitations inherent in Franke Wilmer's "Taking Indigenous Critiques Seriously: The Enemy 'R' Us" and Ronald Mitchell's "Forms of Discourse, Norms of Sovereignty." These authors have a point in complaining, as they do, that international relations scholars possess a limited view of sovereignty and even an incapacity for appreciating the "Other (both in nature as well as in diverse cultural communities) as both object and subject" (p. 75). Yet, considering that *The Greening of Sovereignty in World Politics* is ultimately about humanity in all its diversity, their own lack of unmediated interaction with foreign voices and sources throws a shadow over their activism in defending "the Other." To wit, in this volume only one of the thousand or so sources on other cultures, indigenous perspectives, and the limitations of Western thought is in another language.

Despite this shortcoming, *The Greening of Sovereignty in World Politics* is an important book. The manner in which the authors connect the subfields of environmental politics and international relations results in a unique orientation and valuable insights. While they accept that environmental issues and sovereignty are in tension, they refuse to uncritically accept this tension as a zero sum situation. Rather, they ask whether the reconceptions of sovereignty currently encouraged by environmentalists actually weaken sovereignty. The authors' provocative conclusion is that environmental forces are unsettling traditional conceptions of sovereignty, but that the resulting new conceptions do not necessarily weaken the importance of sovereignty. For example, Joseph Henri Jupille's "Sovereignty, Environment, and Subsidiarity in the European Union," points to an emerging trend in which, at least in

Europe, sovereign states remain primary actors, but delegate responsibility for environmental action and decision-making to the institutional actors most capable of effectively addressing environmental concerns.

Put differently, the effects of environmental forces on sovereignty are not eroding the latter in any wholesale or homogenous fashion. Collectively, the chapters of this volume proffer substantial evidence for the proposition that the currently dominant "erosion of sovereignty" perspective ignores much of what is actually currently happening in global environmental politics. In response, the volume advances a "bulwark" perspective, according to which the increased problem-solving capacity of states, effected through environmental regimes, offsets compromises in traditional attributes of sovereignty. This process may challenge state legitimacy (and thus make it appear as if sovereignty is being eroded), but at the same time it deepens state capacity. In other words, as form and aesthetic, sovereignty may be waning, but sovereign states, both collectively and individually, (and, therefore, sovereignty itself) are making increasingly important substantive contributions to the global community.