

judges and other actors say, and not just what they do. Wandall concludes that, notwithstanding the system's adherence to legal discourse, "[s]ome sentencing programmes were applied in manners not intended by the law" (p. 147), and that the organizational perspective, absent from doctrinal analysis, contributes much to the decision to imprison. The book will be of great interest not only to students of systems theory and of criminal courtrooms, but also to anyone who seeks to infuse new life into established research traditions using fresh theoretical frameworks.

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*Rule by Law: The Politics of Courts in Authoritarian Regimes*. By Tom Ginsburg and Tamir Moustafa, eds. New York: Cambridge University Press, 2008. Pp. 378. \$34.99 paper.

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Edited volumes are a necessary scholarly evil. They facilitate broad coverage, but the chapters may be uneven and the themes lost in the wealth of detail. *Rule by Law* is the rare exception that has fine individual chapters and themes that transcend the sum of the parts. It lays to rest the misconception that courts in authoritarian regimes are marginalized political actors. More important, the theory that courts are best understood as part of a democratic regime (Dahl 1957) is enriched by examining the role that courts play in authoritarian regimes. Shapiro is right to conclude *Rule by Law* by stating, "This project represents something of a high water mark in the study of law and courts in general and judicial review in particular" (p. 326).

*Rule by Law* nicely complicates the overly simplistic dichotomy advocated by some scholars (Przeworski 1991) that democracy institutionalizes uncertainty as elected leaders do not know ex ante the outcome of a dispute whereas dictators do. Elected presidents may well turn to security courts to ensure the results they desire (Pereira, p. 23), and dictators who empower courts may be unpleasantly surprised to find that they have become a locus of regime contestation (Moustafa, p. 132). Authoritarian leaders with long time horizons turn to courts to deal with the dysfunctions that plague such regimes. Courts in authoritarian regimes do many of the same things that they do in democratic ones, such as bolstering regime legitimacy, facilitating economic growth, and providing oversight over the bureaucracy. The leash afforded courts in authoritarian regimes is obviously shorter than the leash they are afforded in democratic regimes, but dictators who desire a payoff from courts have to provide them some space. In short, "Judicial politics in authoritarian regimes is often far more complex than we commonly assume" (Moustafa & Ginsburg, p. 21).

It is no accident that a number of chapters deal with Latin America. The nations of the region have long mixed authoritarianism and legality. Mexico was, as the Peruvian novelist Mario Vargas Llosa famously said, the "perfect dictatorship." The price of that perfection included affording courts the power to adjudicate claims of violation of rights while limiting their power to deal with "political" disputes (Magaloni, p. 180). Significantly less perfect but undoubtedly more brutal than Mexico were the military regimes that populated the Southern Cone in the latter part of the twentieth century. The generals in Chile had little need to muzzle that country's supreme court as the ideology of the judiciary "furnished judges with understandings and incentives that discouraged assertive behavior in defense of rights" (Hilbink, pp. 102, 103). Pereira (p. 23) explores why Brazil, unlike its sister military dictatorships in Argentina and Chile, relied heavily on courts in processing those deemed dangerous to the state. He highlights the importance of linkages between the military caste and lawyers in Brazil, which led the former to trust the latter. It is not only democratic elites (Hirschl 2004) that must trust courts if regimes are to afford them power.

The supposed link between economic and political liberalization (Soto 1989) is put into question in *Rule by Law*. Root and May, for example, "conclude that there is little reason to believe that judicial reform will lead to political transition" (p. 304). Silverstein (p. 73) argues that Singapore establishes that the rule of law can be divorced from liberal democracy and may, therefore, be an appealing model for developing nations that seek economic growth without political liberalization. Shapiro (p. 326) warns that the endurance of dictatorship suggests that rule by law is a viable, long-term

strategy. The potential dangers of such a strategy are illustrated by Egypt. Moustafa (p. 132) notes that Egypt's leaders chose to empower courts to facilitate economic growth, which inadvertently provided space for regime opponents to bring some claims against the regime.

Perhaps the most surprising contribution that *Rule by Law* makes to our understanding of the relationship between courts and regime politics is the new life it breathes into the creaky countermajoritarian difficulty. A number of important studies have debunked the view that courts stand guard over majoritarian desires by showing how and why democracies empower courts (Graber 1993; Whittington 2007). The path from dictatorship to democracy may turn, in part, on the short-term political bargains that lead elites to empower courts as well as the long-term processes by which a (majoritarian) constituency for a legal system is constructed (Widner & Scher, p. 235). Ironically, the clearest cases of courts heroically dashing majoritarian desires may be provided by dictatorships. Shambayati (p. 283), for example, writes that the Turkish military empowered courts to defang religious parties and that the Iranian theocracy used courts to demobilize civil society. The reported demise of the countermajoritarian difficulty may have been greatly exaggerated; it is apparently alive and well in many dictatorships.

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