six different European state constitutions protect their democratic nature, arguing that legal culture is a product of both history and legal structures such as constitutions.

The book's strength is in its broad overview of the study of legal culture. Curiously missing, however, is a more interpretive analysis of legal culture; the voices of cultural insiders are relied on heavily in this volume (particularly in the chapter on law in Russia and civil law notaries in France). Typographical errors also detract somewhat from the book's quality. Overall, this book is a solid introduction to the study of legal culture, and its first chapter could be a frequent reference resource on any sociolegal scholar's shelf.

Reference

Cotterrell, Roger (2007) "The Concept of Legal Culture," in D. Nelken, ed., *Comparing Legal Cultures*. Aldershot, United Kingdom: Dartmouth.

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Public Opinion and the Rehnquist Court. By Thomas R. Marshall. Albany, New York: SUNY Press, 2008. Pp. 269. $85.00 cloth.

Reviewed by Scott Lemieux, Hunter College

A substantial amount of both normative and empirical study of the courts has assumed that the judiciary is a countermajoritarian institution. This can be seen as a negative ("nine unaccountable lawyers in robes thwarting the will of the people") or a positive ("courts are the only institution that can protect the rights of unpopular minorities") quality, but either way assumptions that the courts are countermajoritarian frequently structure assessments of their role in a democratic system. A growing branch of legal and political science scholarship, however, has identified a number of glaring defects in the these traditional assumptions. Perhaps the biggest empirical flaw with the traditional assumption is that courts tend to be aligned with the governing coalitions at any given time.

Marshall's very useful study finds further evidence that assumptions about countermajoritarian courts are highly problematic. Marshall carefully assesses public opinion data, and finds that "at least since the 1930s, most Supreme Court decisions agreed with majority public opinion" (p. 162). Marshall's methodology involves making pairwise comparisons between the policy outcomes of Supreme Court holdings and public opinion surveys on similar questions taken before and/or after the decision. (Marshall also looks at denials of certiorari, although given the extremely high likelihood of rejection by the contemporary Court the value of these data is more

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questionable.) Marshall assembles data to test a number of hypothetical models of Supreme Court decisionmaking, most of which logically derive from the central assumption that the Supreme Court will issue rulings consistent with public opinion more often than not. Marshall's methodology is solid, and both his hypotheses and findings are laid out in a lucid, well-organized manner. Even scholars not experienced with public opinion analysis will have no problem following his arguments.

The value of the book lies more in its careful assemblage of data than in original theoretical insights. Certainly, few Court observers familiar with the relevant political science literature will be surprised by the book's finding that the Court's rulings are generally consistent with public opinion, or by more specific findings that the Court is more likely to mirror public opinion as opinion majorities become more lopsided and issues become more salient. The same can be said for the finding that more centrist judges are more likely to represent public opinion (a claim that verges on tautology). Still, given the extent to which normative assessments of judicial review in particular tend to fall back on assumptions of judicial countermajoritarianism, and the possibility that newer conventional wisdoms may also have limitations, even the book's less surprising findings represent a contribution. Perhaps more interesting, the book also finds that the Supreme Court's endorsement of a particular policy does not increase support for the policy in question. "Previous courts since the mid-1930s demonstrated little ability to move public opinion," Marshall concludes, and "[t]he Rehnquist Court demonstrated even less ability to move public opinion behind its decisions" (p. 136). This finding will be of particular interest to scholars engaged in the ongoing debate about the political impact of Supreme Court opinions.

Where the book's findings are less convincing, this is generally not a function of weaknesses in Marshall's methodology so much as inherent limitations in the data available. This is most evident in Chapter 6, which deals with "Symbolic Representation"—that is, the extent to which Supreme Court justices might better represent the views of social groups they were chosen in some measure to represent. Given the small size and increasingly small turnover of the institution, though, these questions are very difficult to address adequately. Marshall finds, for example, no evidence that the Rehnquist Court's African American justices represented the views of other African Americans more than their white colleagues, but given that there have only been two African American Supreme Court justices, these data cannot be seriously taken to disprove the hypothesis that over time a Court with more African Americans would be more likely to reach outcomes preferred by a majority of the group. (Granting that their lesser policy discretion makes such studies more difficult, lower federal appeals courts almost certainly

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represent a more fruitful arena for studying the effect of symbolic representation.) And while this does not substantially undermine the book's conclusions, the comparisons of the Rehnquist Court with its predecessors is limited by the fact that much less public opinion data exist the farther one goes back in history. Marshall, for example, finds 111 pairwise matches for the Rehnquist Court but only 21 for the Warren Court (p. 36), which (particularly given the book's finding that the Court is more likely to match public opinion on the high-visibility issues more likely to have been polled) may represent a skewing of the data that makes previous Courts look relatively more majoritarian than they actually were.

These minor quibbles aside, however, this is a fine piece of work that will be of interest to scholars interested in questions about the Court and democracy, and it will make assumptions about the countermajoritarian nature of courts even more difficult to sustain.

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Rejecting Refugees: Political Asylum in the 21st Century. By Carol Bohmer and Amy Shuman. London and New York: Routledge, 2008. Pp. xi+288. $39.95 paper.

Reviewed by Diana Yoon, University of Massachusetts, Amherst

Rejecting Refugees is about stories: stories of individuals who have survived violence and threats to their safety and freedom before seeking asylum in the United States or the United Kingdom, and how the asylum process requires those stories to be presented. Written by a sociologist with experience working with asylum applicants as a volunteer lawyer and a scholar of folklore and personal experience narrative, the book offers a valuable account of contemporary asylum policy in the United Kingdom and the United States that centers "the narratives of those who have direct experience of asylum" (pp. 3–4).

The book is organized around Bohmer and Shuman's concern with the failures of the asylum process: "Our central thesis is that the questions we ask, as well as the way we ask them, about the identity of the applicants, the credibility of their stories, and the possibility that they will face persecution should they return to their countries, may not be the most necessary or useful means for determining who is a genuine asylum seeker" (p. 3). They illustrate this argument with material from interviews with asylum applicants and individuals providing legal and other assistance to them, and from observations of asylum hearings.

The first two chapters provide a brief history of asylum policy and a description of the application and adjudication process in the

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