à la criminalité qui régnaient dans l'État *de facto,* pour ainsi éviter que le support local ne s'érode. C'est donc à ce moment que la Russie a changé de méthode pour passer de la déstabilisation à une occupation et à un « renforcement des institutions » (50). Ainsi, en plus de créer un mouvement vers le haut pour certains individus, la Russie et la Transnistrie (autre État *de facto*) n'ont pas hésité à envoyer leurs propres administrateurs pour stabiliser la situation. Le chapitre 6 se consacre quant à lui à identifier de scénarios possibles qui pourraient survenir au Donbass. Considérant que les accords précédents ont échoué ou sont fréquemment enfreints, les auteurs amènent trois scénarios possibles pour le futur du Donbass : le « scénario croate », le « scénario transnistrien » et les « scénarios alternatifs » (67-72).

Là où il est possible de soulever des questions est en ce qui a trait à l'interprétation par les auteurs de futurs scénarios sur la situation du Donbass. Transposer un conflit d'une si grande complexité à trois scénarios semble réducteur et limite grandement l'interprétation d'un déroulement propre au Donbass qui irait en dehors de ces cadres relativement prescriptifs. De plus, et de l'aveu même des auteurs, pour rendre ces scénarios plus plausibles et applicables au Donbass, il était nécessaire de retirer une partie de la complexité et du cadre conceptuel établis (66), qui pourtant faisait la force centrale de l'ouvrage.

En définitive, la contribution scientifique apportée par cet ouvrage tant au sujet des conflits civils, de la gestion de crise ou encore sur le fonctionnement interne des nouveaux États *de facto* servira certainement à approfondir les réflexions et les connaissances des étudiants et des chercheurs.

Seeking the Court's Advice: The Politics of the Canadian Reference Power

Kate Puddister, Vancouver: UBC Press, 2019, pp. 290.

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How can it be that we have never had a full-fledged treatment of the reference power enjoyed by Canadian governments? There have been some journal articles, to be sure, often focussing on specific examples or on very precise questions, such as the Court's right to refuse to answer, but few have stepped back to provide a broader framing and a full chronology, with perhaps the closest being a now-dated article in an American law journal.

It is not as if reference cases have been obscure "inside baseball" things; quite the contrary. Examples spring immediately to mind: the *Reference re Resolution to Amend the Constitution* (*Patriation Reference*), the *Reference re Secession of Quebec* and the *Reference re Securities Act*, to name only a few—blockbusters all, gripping public attention and forcing major rethinks of government undertakings. But if this is the tip of an important iceberg, what does the rest of the iceberg look like and how did it come to be floating in Canadian waters?

Have no fear, Kate Puddister is here—with the first book-length academic treatment of the phenomenon, and it's well worth the wait: all your lingering questions answered, as well as some you might not have thought of. Where did the reference power come from? What other countries have a similar practice, and what similar countries do not? How was it intended to be used, and how has it been used? How often has it been used, and by whom, and when, and with what sorts of results? How does it work? How political is it? When and why do governments find a reference case preferable to normal litigation? What are its advantages? And if there are such advantages, why isn't it used more often? What are the problems, and what

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adjustments would resolve them? It's all here. The sequence of chapters is logical, the treatment of issues is balanced and thorough without ever becoming bogged down in detail, and a solid conclusion includes proposals for change. And all this is accomplished in 200 pages of very readable prose.

I have only two reservations. First, I kept hoping for a "when it goes wrong" chapter, which never materialized. (Chapter 5, "Why Not Refer Everything?," addresses a somewhat similar point but very obliquely and with dated examples.) The general argument, completely persuasive, is that the reference power is used in jurisdictional skirmishes of various kinds, usually to good effect. But "usually" denies "always"; sometimes it backfires. The obvious example is the *Reference re Securities Act*, where the federal government expected to strengthen its hand for a negotiation process and instead badly weakened it. And in the *Reference re Secession of Quebec*, the federal government's easy question about whether Quebec had a right to secede unilaterally got not only the obvious answer ("No") but also a working framework for non-unilateral Quebec independence.

My second and stronger reservation concerns the "by the Court" question. The author rightly dismisses any idea of a tight connection between references and decision anonymity but concludes too casually that there is no useful connection at all. One has to look past the from-the-bench one-paragraph brush-off examples to find the real innovation of "by the Court" in its much rarer use for reserved judgments. Similarly, one must not be distracted by American per curiam decisions, which are neither a model for nor a parallel use of multi-authored anonymity. For a start: those decisions are almost never unanimous, typically including several much longer sets of author-attributed minority reasons—in this respect *Bush v. Gore* is not an outlier; it is typical. The undergrowth cleared, we can make two observations: first, considering their small share of the caseload, a disproportionate number of federal (but not provincial) references since the 1960s have been delivered "by the Court"; and second, considering their small share of the caseload, a disproportionate number of substantive "by the Court" decisions have been used for federal (but not provincial) references. But if the Canadian "by the Court" practice is atypical (even unique) for a common law court—more like the routine anonymous unanimity of civil law courts—this simply reinforces the author's telling point that the reference power itself gives Canadian appeal courts an atypical role, more like the courts of civil law systems than its common law counterparts; this is less error than missed opportunity.

That said: this is an excellent book that completely fills a major and unfortunate lacuna in the academic literature. It is well organized, well written, thorough and balanced, and it winds up with recommendations for better squaring the practice with judicial independence concerns. A first book, you say, and by a very junior author? It certainly doesn't read that way—this is a polished work of mature scholarship. I recommend it highly.

Les défis du pluralisme. Au-delà des frontières de l'altérité

Daniela Heimpel et Saaz Taher, Montréal : Les Presses de l'Université de Montréal, 2018, pp.304

Gustavo Gabriel Santafé, Université du Québec à Montréal

La multiplication des revendications politiques en faveur du pluralisme, la montée des populismes et la « droitisation » des discours publics font partie du panorama politique

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