selectively when it comes to protecting the liberty interests of persons before them, we do not generally suggest that the rule of law requires legislators or legislatures to act consistently with respect to all issues. We expect that those who legislate will make political choices and be selective (if only because of the limits on the public purse). Selective legislative choices may not be problematic under the rule of law so long as the rights of *individuals* are not violated. While there are many ways that the Council acts selectively, only some of these options may implicate concerns under the "global" rule of law. Putting aside whether the Council ought to be acting as a legislature, why exactly does the global rule of law (as opposed to our political preferences or other legitimacy concerns) require the Council to treat all terrorist threats the same way or, for that matter, to send all genocidaires to the International Criminal Court (ICC)?[22] The Council was, after all, envisioned as a collective enforcer of the peace but only when sufficient political will exists. While a legal legitimacy question is raised when the Council refers a situation to the ICC but blocks ICC jurisdiction over nationals from non-Rome party states without those states' consent,[23] that action raises distinct concerns as compared to its decisions to refer the situations in Libya and the Sudan to the ICC but not the case of Syria. And the legitimacy under the global rule of law of those choices by the Council might not be comparable to those raised by that body's choice to (re)interpret its Chapter VII powers to permit a finding that terrorism constitutes a "threat to peace" (p. 279) to justify taking action on states qua states (as it did in Resolutions 1373 and 1540), while not (yet) exercising the same options in response to the "threat" posed by global climate change. We should not presume that all these instances of Council selectivity are illegitimate under the global rule of law; that specific contention requires the same kind of careful analysis of the global rule of law that Cohen applies to concepts like "sovereignty."

These are, sadly, questions for another day (and possibly for other authors). For now, Cohen's manifold insights are, as she suggests of her proposals for UN reforms, good enough. They deserve the attention of scholars and policy makers.

JOSÉ E. ALVAREZ
Of the Board of Editors

The Rules, Practice, and Jurisprudence of International Courts and Tribunals. Edited by Chiara Giorgetti. Leiden, Boston: Martinus Nijhoff Publishers, 2012. Pp. xxxii, 611. Index. $245, cloth; $69, paper.

What is an "international court" or "international tribunal"? In her introduction to *The Rules, Practice, and Jurisprudence of International Courts and Tribunals*, the editor, Chiara Giorgetti, currently an assistant professor at the University of Richmond School of Law, argues that international courts and tribunals share at least five features: (1) they make legally binding decisions; (2) their constituent documents are governed by international law; (3) they principally apply international law; (4) their judges are independent; and (5) their secretariats are independent. In the nineteen chapters, each contributed by a different author or authors, many different institutions are covered, with some chapters covering multiple institutions. More than one-third of the chapters cover institutions that are not international courts or tribunals themselves but rather umbrella administrative institutions, regimes for individual ad hoc tribunals, institutions that do not have all the features Giorgetti specified, or, in one case, an institution that exists only as "aspirational." The chapters in the book provide a wealth of detailed information about the background, structure, organization, jurisdiction, and jurisprudence of the courts, tribunals, and other institutions they cover; each chapter provides a fairly detailed factual summary of the key instruments and rules of procedure of the institution or institutions considered and a précis of the case law. Some chapters'

[22] Indeed, Rosand argues that the Council should not undertake to "legislate" (as it did in Resolution 1373), except in "exceptional" circumstances; for him the Council's "selectivity" may enhance its legitimacy. Rosand, *supra* note 11, at 579–81.

[23] *See* SC Res. 1593, para. 6 (Mar. 31, 2005); SC Res. 1970, para. 6 (Feb. 26, 2011).

case law sections summarize selected cases individually while others, more interestingly, provide thematic snapshots of the legal situations.

The book's chapters are organized based on the nature of the jurisdiction of the institutions dealt with, for example, first general worldwide jurisdiction, then specialized areas of jurisdiction (such as law of the sea), and then institutions with regional jurisdiction over areas such as human rights and economic integration. In general, the chapters follow the same outline, providing first an introduction and overview of the institution covered that includes background information and information on the institution's jurisdiction and procedures, then a summary of the jurisprudence of the institution, and finally a brief conclusion.

Many of the chapters cover institutions that deal with cases on a continuing basis and share the Giorgetti features for what constitutes an international court or tribunal. Institutions that fall in this category are the International Court of Justice (ICJ), the International Law of the Sea Tribunal (ITLOS), the Dispute Settlement Understanding (DSU) of the World Trade Organization, administrative tribunals of international organizations, the International Criminal Court (ICC), the International Criminal Tribunals for the Former Yugoslavia (ICTY) and Rwanda (ICTR), and the Iran–United States Claims Tribunal—although the application of international law by each of these (except the ICJ) is of course cabined by its constituent document. It is not as clear that the European and Inter-American Courts of Human Rights meet the Giorgetti criteria, since they apply rules that are not derived from general international law but rather from multilateral treaties adhered to by regional states. Hybrid and internationalized tribunals may apply a mix of international and domestic law, and some are established entirely under domestic law systems. The European Union Courts apply primarily specialized European Union law. The Permanent Court of Arbitration (PCA), the World Bank's International Centre for the Settlement of Investment Disputes (ICSID), the North American Free Trade Agreement (NAFTA) Chapter 11 arbitral panels, and courts and tribunals established by other regional economic integration organization (REIO) agreements are each umbrellas for separate, individual tribunals that apply particular treaty provisions; it is hard to consider any one of these a unified international court or tribunal rather than an administrative framework or mechanism. Neither the UN Compensation Commission (UNCC) nor the Zurich Claims Resolution Tribunal (CRT), both of which ceased issuing claims decisions some time ago, had judges that made legally binding awards based primarily on international law. And, as Bart Szewczyk, a senior associate at Wilmer Cutler Pickering Hale & Dorr in Washington, D.C., points out in the chapter on the African human rights system, the system still is largely aspirational and the African Union lacks an international court or tribunal.

Sean Murphy, professor at the George Washington University Law School, covers the ICJ, the paradigm public international law court, with admirable concision. His brief summary of jurisprudence is thematically organized and hits key high points. Murphy gives a sense of the importance and scope of work of the ICJ, which he correctly credits with being "the most authoritative Court for the interpretation of general rules of international law, with its decisions regularly cited by other global, regional, and national courts" (p. 35). In her chapter on ITLOS, Laurence Boisson de Chazournes, professor of law at the University of Geneva, covers not only ITLOS, which as of writing had resolved 14 cases, but also arbitration under Annex VII of the Law of the Sea Treaty, where there had been another 8 cases, and the Seabeds Disputes Chamber. She states that the contribution of ITLOS "to the international law of the sea as well as to general international law is already significant" (p. 131), but does not explain the basis for this conclusion. And while the chapter contains a brief case-by-case summary, it does not explore the reasoning or importance of each particular case or indicate whether it helped establish customary international law beyond the purview of the Law of the Sea Treaty. Gregory Spak, a partner at White & Case in Washington, D.C., and Gisele Kapterian, an associate in the Geneva office of the same firm, review the operation of the DSU in their chapter on the World Trade Organization. Their discussion of the jurisprudence focuses on

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procedural aspects, the relationship of the applicable law to general international law, and potential remedies for noncompliance. The chapter does not contain a review of the key substantive holdings of the DSU in the field of international trade law, which would also have been warranted.

The chapter on administrative tribunals of international organizations focuses primarily on the World Bank Administrative Tribunal (WBAT) but also deals with three other such tribunals: the International Labour Organization Administrative Tribunal, the UN Dispute Tribunal, and the UN Appeals Tribunal. Olufemi Elias, executive secretary of WBAT, and Melissa Thomas, counsel in the secretariat of WBAT, provide an overview of the rights of staff of international organizations and weave their discussion around the structures and procedures of these particular administrative tribunals and, occasionally, others. They note the convergence of administrative tribunals on a number of principles based on non-discrimination, procedural fairness, and human rights, resulting in a system of international administrative law, with different administrative tribunals citing each other. However, the authors' apparent endorsement of the view that this is a creative influence on the development of global administrative law may be over optimistic.

David Stewart, visiting professor at Georgetown University Law Center, ably covers the ICC, which was established by the 1998 multilateral Rome Statute and began operations in 2003. After explaining the background and structure of the ICC, he analyzes each of the major bases for ICC jurisdiction—genocide, crimes against humanity, war crimes, and the crime of aggression—providing information on the origin and scope of these crimes, as well as on other jurisdictional requirements and on the procedures for dealing with cases. Stewart then addresses the six situations that were under review for potential prosecutions at the time of writing; these had been referred to the ICC by states, the UN Security Council, or the ICC prosecutor. However, since no case had been concluded, no ICC jurisprudence was yet available to review. While noting growing international confidence in the ICC, Stewart indicates that concerns have been expressed about the ICC's slow pace and cost, which had mounted to almost one billion dollars.

The ICTY was created by the UN Security Council in 1993 and has a significant body of jurisprudence. At the time the chapter was written, 161 persons had been indicted and 126 cases concluded. Santiago Villalpando, registrar at the UN Dispute Tribunal, reviews the establishment, structure, and jurisdiction of the ICTY. Villalpando first delves into the *Tadić* case, in which the ICTY Appeals Chamber found that the ICTY had been legally created and, in a subsequent phase, adopted a different and broader test for attribution of an armed group's conduct to a state than had been used by the ICJ in *Nicaragua v. United States*. He then analyzes the ICTY's conclusions on the key crimes within its jurisdiction. Villalpando's treatment is more analytic than most chapters. He is a supporter of the ICTY, only noting the very high cost (that the ICTY and the ICTR consumed fifteen percent of the United Nations' regular budget) and the length of ICTY proceedings briefly in his concluding remarks. The ICTY's sister tribunal, the ICTR, was established by the UN Security Council in 1994. Robert Sloane, an associate professor at Boston University School of Law, after reviewing the background and structure of the Tribunal, provides an interesting discussion of some of the key issues the ICTR faced in deciding 51 cases (as of March 2011), for example, whether Tutsis and Hutus were distinct "ethnic groups" for the purposes of the crime of genocide and whether rape should be defined broadly to be part of both the crime of genocide and a crime against humanity. Sloane notes that the ICTR has been heavily criticized, including because of its large budget, but states that it has established "a number of critical precedents . . . both substantive and procedural, and however imperfectly, has to some extent vindicated the idea that there should be no amnesty for the perpetrators of genocide" (p. 281).

The Iran-U.S. Claims Tribunal has handed down a large number of decisions in commercial cases, and much has been written about the Tribunal.[1] The chapter provided by Jeremy

[1] *See, e.g.*, GEORGE H. ALDRICH, THE JURISPRUDENCE OF THE IRAN-UNITED STATES TRIBUNAL

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Sharpe, an attorney in the Office of the Legal Adviser at the Department of State, only covers certain key aspects of this Tribunal. While reviewing the important areas of expropriation, attribution, and transnational commercial law in his summary of the Tribunal's jurisprudence, presumably because of the limitations of space, Sharpe does not review any of the Tribunal's awards in government-to-government cases or in disputes about the interpretation of the Algiers Accords. And, in stating that only cases brought by Iran now remain at the Tribunal, he neglects the important pending U.S. counterclaim in Iran's massive foreign military sales claim, Case No. B1. While Sharpe's praise of the Tribunal is high, one would have hoped to see some discussion of the difficulties of this Tribunal beyond the few bullet points in his conclusion recounting criticisms of the Tribunal that "may be traced to the enduring acrimony between Iran and the United States" (pp. 572–73); for example, during most of its existence the United States has alleged that it has not functioned as a normal arbitral tribunal because the Iranian arbitrators lacked independence.[2]

The European and Inter-American human rights courts are addressed respectively in chapters by Christiane Bourloyannis-Vrailas of the European Commission's Directorate-General for External Relations and by Christina Cerna, principal human rights specialist at the Inter-American Commission on Human Rights. These courts have jurisdiction over the interpretation and application of the rules binding on parties to the respective regional human rights conventions, although some of those rules are also binding under customary international law (such as the prohibition on torture). Bourloyannis-Vrailas provides a clear and concise description of the structure of the European Court of Human Rights (ECHR), reviews its jurisdiction, and then provides a brief review of the ECHR's jurisprudence broken down by topic (e.g., right to life, death penalty, use of force, torture, religious symbols in schools). Presumably, limitations on space prevented her from providing further details on the provision of the European Convention on Human Rights at issue and explaining more fully the significance of the decisions of the ECHR. Some aspects of this chapter leave the reader looking for additional clarification. Bourloyannis-Vrailas indicates that by 2008 the ECHR handed down its ten thousandth judgment, but in her conclusion she says only hundreds of victims of human rights violations have been vindicated—what happened to the rest? Further she notes that some states do not "take kindly" to the ECHR's decisions, but does not mention any state other than the United Kingdom (what about Russia?) and does not explain whether this means they do not comply. Bourloyannis-Vrailas points out that the biggest challenge of the ECHR is its caseload.

In her chapter, Cerna discusses not only the Inter-American Court on Human Rights but also the Inter-American Commission on Human Rights. While she describes the structured and formalized procedures of the latter, it has no power to make legally binding decisions, which is the first Giorgetti criterion for being categorized as an international court or tribunal. Why does this human rights commission warrant coverage in the book rather than others, such as the UN Human Rights Council? With respect to the Inter-American Court, Cerna provides a brief summary of its rulings in various areas (e.g., forced disappearances, vulnerable groups, children's rights, freedom of expression, judicial independence, armed conflict, the death penalty, and amnesty laws). In her conclusion, she considers it unfortunate that the Inter-American Court has identified a mushrooming number of human rights violations, blurring its central focus. Unsurprisingly, she notes that there is a better record of compliance with the binding decision of the Inter-American Court than with the recommendations of the Inter-American Commission.

Caitlin Reiger, director of international policy relations at the International Center for Transitional Justice, reviews six separate hybrid and

(1996); CHARLES N. BROWER & JASON D. BRUESCHKE, THE IRAN-UNITED STATES CLAIMS TRIBUNAL (1998). The Tribunal's website, http://www.iusct.net, used to post an extensive bibliography, but that practice has been discontinued.

[2] *See, e.g., Appointing Authority Rejects U.S. Challenge to Iranian Arbitrators*, MEALEY'S INT'L ARB. REP., July 2006, at 14.

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internationalized institutions. Some of these institutions are better described as courts situated in a domestic legal system than as international courts and tribunals. Reiger points out that these hybrid institutions were born out of a concern about the cost of purely international tribunals and their lack of connection with local communities. The Special Court for Sierra Leone, created by an agreement between Sierra Leone and the United Nations, is located in Freetown and has concurrent jurisdiction with Sierra Leone over persons who bear the greatest responsibility for serious violations of international humanitarian law since 1996, but the trial of Charles Taylor was conducted in The Hague; thirteen persons had been indicted and ten tried at the time the chapter was written. The Extraordinary Chambers in the Courts of Cambodia was created by Cambodian law and an agreement between Cambodia and the United Nations and has jurisdiction over certain crimes by senior Khmer Rouge leaders both under international and domestic law; it has, however, been slow and costly with only one verdict at the time of writing. The War Crimes Chamber of the Court of Bosnia and Herzegovina was created in Sarajevo entirely under national law, but with the involvement of the Office of the High Representative, a creation of the Dayton Peace Agreement. The Special Panels for Serious Crimes in East Timor was created in the district court of Dili by the internationalized UN administration established by the UN Security Council and has jurisdiction to try both international and national crimes that occurred in 1999. The UN Mission in Kosovo created the Kosovo War and Ethnic Crimes Court under its own regulations and placed it in the domestic court system, with the crimes covered not specified; Reiger notes that, in part because of the confusion over applicable law, many cases were sent back to this Court for retrial by the Supreme Court. A UN Security Council resolution created the Special Tribunal for Lebanon in 2007, situated in The Hague, with primacy over but jurisdiction concurrent with Lebanese courts to try persons responsible for the attack that killed former Prime Minister Rafik Hariri and others. Reiger's brief but interesting assessments of these institutions—some in more depth than others—leads her to question the quality of the results and the assumption that these institutions foster judicial reform. She also believes that the reliance on voluntary funding has led to uncertainties and unrealistic pressures to complete the work.

Sonja Boelaert, a member of the European Commission Legal Service, describes both the evolution and current structure of the complex judicial system of the European Union, noting that the combined output of the three courts in the system—the Court of Justice (ECJ), the General Court (GC), and the Civil Service Tribunal—has been about fifteen thousand judgments, with each court delivering about one thousand judgments per year. Her treatment covers the structure, jurisdiction, procedures, and jurisprudence of each of these courts, but requires the reader's careful attention since it weaves back and forth between the courts. She points out that the ECJ, considered the constitutional court of the European Union, classified the European Community (now Union) as a new and separate legal order that prevails over incompatible law of the member states. And while the ECJ applies customary international law and treaties, Boelaert notes that the standing of individuals to raise these is not clear and reviews the difficulties in determining which treaty provisions have direct effect. What seems clear is that the system focuses more on the application of European law than international law, as can be seen in the *Kadi* decision nullifying regulations implementing a mandatory UN Security Council decision.[3] Boelaert's interesting treatment of the European justice system concludes with a reference to this decision and one other, in both of which the ECJ "has drawn a clear line as regards the 'permeability' of the EU legal order by the international legal order" (p. 454), reinforcing this reader's doubts as to whether the system could be described as "principally applying international law".

A series of chapters deal with either institutions that administer arbitration proceedings or treaties that establish a basis for such proceedings. Brooks

[3] *See* Joined Cases C-584/10 P, C-593/10 P and C-595/10 P, Comm'n v. Kadi (Eur. Ct. Justice July 18, 2013). Decisions of the Court and opinions of the advocates general are available online at http://curia.europa.eu.

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Daly, deputy secretary general of the PCA, writes about the PCA; Carolyn Lamm, a partner at White & Case in Washington, D.C., Giorgetti, and Mairée Uran-Bidegain, legal counsel with ICSID, write about ICSID; Andrea Menaker, a partner at White & Case in Washington, D.C., and Brody Greenwald, an associate at the same firm, write about NAFTA tribunals; and Jennifer Thornton, special counsel at Baker Botts, writes about REIO tribunals. Each of these institutions or agreements facilitates many arbitration proceedings, but each proceeding (apart from the Eritrea-Ethiopian Claims Commission which, under the peace agreement between the two countries, had jurisdiction over a series of cases) has been conducted by a separately appointed tribunal that has decided its case on the law applicable to the proceeding, which is not necessarily international law. While tribunals that deal with the same subject matter (such as tribunals reviewed in these chapters that considered investor-state disputes under bilateral investment agreements or free trade agreements) usually consider the reasoning in each other's awards, the awards are only binding between the particular parties to the case in question and there is no requirement that previous awards be followed. Moreover, there are decisive splits among tribunals on the meaning of similar provisions (for example, requiring fair and equitable treatment of investors or providing most favored nation treatment to investors). The chapters provide able summaries of the structure, jurisdiction, and jurisprudence of the institutions these chapters cover. But none of these institutions constitutes, and none of these treaties establishes, an international court or tribunal with a unified approach and jurisprudence. It would seem more instructive to consider either the series of rules that group these tribunals (e.g., UNCITRAL, ICSID, PCA rules), the substantive areas of law that they deal with (e.g., investor-state awards, state-to-state boundary awards), or the roles of institutions or treaties in administering or facilitating arbitration proceedings.

In her introduction, Giorgetti begins by saying the first and foremost characteristic of an international court or tribunal is its ability to issue decisions that are legally binding between the parties, distinguishing bodies that can issue only recommendations (pp. 1–2). By this criterion, one could ask why chapters on the UNCC and CRT are included in this volume. The chapter on the UNCC by Timothy Feighery, at the time of writing chairman of the Foreign Claims Settlement Commission in Washington, D.C., puts emphasis on the reports of panels of commissioners on various categories of claims against Iraq. But while the commissioners acted independently, they made no binding decisions. The criteria by which they made recommendations in their reports were established by a political body—the UNCC's Governing Council, which had the same composition as the UN Security Council—and whether to approve recommendations in those reports was decided in each case by the Governing Council. Moreover, even decisions by the Governing Council were not binding on claimants, since proceedings under the UNCC were not exclusive and dissatisfied claimants could still sue for a different result in domestic courts, which is exactly what dissatisfied human shield hostages did in U.S. courts. To be sure, the UNCC made an enormous contribution in demonstrating that a vast number of victims (over 2.6 million[4]) of an unlawful invasion and occupation could be afforded a measure of justice in record time, and many of its lessons will be instructive for the future (e.g., the application of sampling and mass claims techniques), but the UNCC was created by the UN Security Council during a period of consensus and one may need to await another such period for anything like it to be repeated.

Similarly, the CRT was not itself a binding claims process and did not make decisions based on international law. The chapter on the CRT by Roger Alford, professor at the University of Notre Dame Law School, points out that there were two distinct phases to the Claim Resolution Tribunal: CRT I, established by the Independent Committee of Eminent Persons (ICEP), created by a 1996 memorandum of understanding among the Swiss Bankers Association, the World Jewish Congress, and the World Jewish Restitution Organization to

[4] United Nations Compensation Commission, *Status of Processing and Payment of Claims* (Apr. 25, 2013), *at* http://www.uncc.ch/status.htm.

provide compensation for dormant Swiss bank accounts confiscated during the Holocaust, and CRT II beginning in 2001 when this process in effect began operating under the umbrella of the settlement of the Holocaust victims assets litigation in the U.S. District Court for the Eastern District of New York.[5] While prominent international persons were appointed and designated "arbitrators" during CRT I, there was no arbitration agreement between claimants, either individually or as a class, and the Swiss banks; rather, some claimants were awarded payments solely based on whether their claims were "plausible" while others received payments if their claims could be established to the satisfaction of a sole arbitrator or panel (possibly on the advice of ICEP), applying the applicable law chosen by the arbitrators, usually national law, Swiss law, or Talmudic law, but not international law. CRT II, as Alford discusses, operated as part of a U.S. class action lawsuit settlement and did not make binding legal decisions.[6]

While much has been written about each institutions covered, *The Rules, Practice, and Jurisprudence of International Courts and Tribunals* provides informative summaries and will be useful as an introduction to those institutions. Space is at a premium in such a wide-ranging treatise, but one can think of additional material that would have been helpful to beginners, the presumed target audience. The book does not include: (1) a chapter or chapters providing comparative analysis; (2) annexes giving at least relevant portions of the constitutional documents of the institutions covered; (3) a basic bibliography at the end of each chapter to assist those desiring additional depth; or (4) in many chapters, a specific treatment of how the institutions under consideration have contributed to international law, for example, by indicating how extensively their decisions have been relied on by other institutions and whether any of their holdings have been accepted by others as contributing to the development of customary international law.

Is there a concept that better describes an international court or tribunal? The criteria listed by Giorgetti seem too narrow and rigid. A broader and more flexible definition would seem more in keeping with the normal understanding of what constitutes an international court or tribunal and would cover more of institutions described in the nineteen chapters, as well as a good number of other institutions. It is this reviewer's view that an international court or tribunal should be understood to be a body composed of judges, arbitrators, commissioners, or umpires who are usually independent and impartial but need not always be, for under some systems it is possible for a party to appoint a person partial to it. The body deals with disputes or other matters where one party (whether a state, individual, or legal entity) seeks to enforce or vindicate rights under a treaty, rights under customary international law, or rights of victims considered to have been subjected to an international wrong. The body often has the power to make binding legal decisions, but this is not an essential characteristic; for example, the commissions under Bryan treaties[7] and the U.S. boundary water treaties with Canada[8] and

[5] *See* In re Holocaust Victim Assets Litigation, 105 F.Supp.2d 139 (E.D.N.Y. 2000).

[6] If it was appropriate to include the CRT in the book, it is unclear why it was thought not appropriate to include other Holocaust compensation programs such as the German Foundation (see http://www.state.gov/www/regions/eur/holocaust/germanfound.html for relevant materials), which included various claims processes, including several administered by the International Organization for Migration (see http://www.iom.int/cms/en/sites/iom/home/news-and-views/news-releases/news-listing/iom-to-make-final-awards-to-nazi-victims.html) and the Austria claims committee (see http://www.en.nationalfonds.org/sites/dynamic8543.html?id=news20060526141015005).

[7] *See, e.g.*, Treaty for the Settlement of Disputes that May Occur Between the United States of America and Chile, U.S.-Chile, July 24, 1914, 39 Stat. 1645. The United States triggered the commission under this treaty in 1989 in connection with the Letelier dispute; it was also considered in connection with the embargo that the United States imposed on Chilean grapes in 1989.

[8] *See* Treaty Between the United States and Great Britain Relating to Boundary Waters Between the United States and Canada, U.S.-UK, Art. IX, Jan. 11, 1909, 36 Stat. 2448 (under which the commissions submit reports on disputes to the governments). More information on the International Joint Commission is available online at http://www.ijc.org/en_.

Mexico[9] should be considered international tribunals, but do not necessarily make binding decisions.

Under this view, a mass claims panel that makes recommendations to a deciding body (such as the panels of commissioners at the UNCC) or a human rights commission that makes recommendations to states (such as the Inter-American or European human rights commission) is considered an international tribunal. Finally, many arbitral tribunals are not covered by the nineteen chapters, such as tribunals that conduct arbitration under the auspices of the American Arbitration Association's International Centre for Dispute Resolution, the International Chamber of Commerce, and the London Court of International Arbitration. These institutions too should be considered international tribunals.[10] It is commonplace but true to note the mushrooming growth of international courts and tribunals and of cases brought before them.

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[9] *See* Convention to Avoid the Difficulties Occasioned by Reason of the Changes Which Take Place in the Beds of the Rio Grande and Colorado River, Art. VIII, Mar. 1, 1889, 26 Stat. 1512 (under which a decision is considered binding unless one of the two parties disapproves it). More information on the International Boundary and Water Commission is available online at http://www.ibwc.state.gov/home.html.

[10] There is also a lively discussion in U.S. case law about what constitutes an "international tribunal" in the context of 28 U.S.C. §1782, providing for U.S. court assistance to such tribunals. *See* Elliot E. Polebaum, Eugene N. Hansen & Helene Gogadze, *Eleventh Circuit Court of Appeals Resolves a Disputed Issue of Law – U.S. Discovery is Available in Private International Commercial Arbitration Proceedings*, MEALEY'S INT'L ARB. REP., Jan. 2013, at 29; Gunjan Sharma, *The Availability of Section 1782 Discovery for Use in Foreign Arbitrations: A Survey of U.S. Court Decisions*, MEALEY'S INT'L ARB. REP., Sept. 2012, at 18.

* The reader may wish to take into account that the author of this review has had personal involvement with the ICJ, the PCA, the Iran-U.S. Claims Tribunal, ICSID tribunals, NAFTA tribunals, the UNCC, and the CRT, and has had personal associations with Murphy, Stewart, Menaker, Thornton, Feighery, and Sharpe, authors of chapters in the book under review.

The Tunkin Diary and Lectures: The Diary and Collected Lectures of G. I. Tunkin at the Hague Academy of International Law. Edited by William E. Butler and Vladimir G. Tunkin. The Hague: Eleven International Publishing, 2012. Pp. xi, 528. Index. $120, €95.

Within the Soviet international law academia, Grigoriĭ I. Tunkin was a unique and towering figure. Outside of the Union of Soviet Socialist Republics (USSR), he was the only one who was accepted as an equal by the best in the West. The founder of the Soviet Association of International Law in 1957 and its president until his death in 1993, he was also a member of the International Law Commission and belonged to the Institut de droit international, ending up as an honorary member, thereby combining a preeminence in Soviet academia with acceptance and respect in the West. How did he manage to combine these almost incompatible qualities? Although Tunkin's prominence abroad as well as his books and articles, which had considerably more references (and not always critical) to Western colleagues than to the founding fathers of Marxism,[1] brought him problems at home and although his support and justification of Soviet foreign policy created frictions with his Western colleagues, he more or less successfully managed to combine these seemingly mismatched segments due to a blend of his talent, hard work, self-discipline, and luck.

While luck often plays an important part in the lives of most people, particularly in such a closed society like the USSR, the role of this particular factor may have been even more significant. Had he not supervised me at Moscow University, I would not have been able to read the books and journals by Western authors that I used to borrow from his personal library, including the *American Journal of International Law*, since most of these sources were unavailable elsewhere in Moscow. Equally, I would not have been able to work on my PhD in the library of the Hague Academy of International Law had he—a member of the Curatorium of the Academy—not pulled a carte blanche

[1] Tunkin's focus on Western, rather than Marxist, sources is apparent in the four lectures that are included in the book under review.

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