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BEYOND NATO: STAYING OUT OF EUROPE'S WARS. By Ted Galen Carpenter, Washington, D.C.: The Cato Institute, 1994, 172 pp.

In what is surely one of this century's most soul-stirring moments, the elated citizens of West Berlin attacked the Berlin Wall with hammers, pipes, and their bare hands, and offered flowers to the armed Russian guards, who made no move to stop them. Seemingly overnight, the dread sense of menace that had clung to Europe for nearly fifty years vanished as the Communist power structure of the Soviet Union collapsed. The West had won the Cold War.

As the euphoria subsided, it at first seemed very possible that the North Atlantic Treaty Organization (NATO), suddenly deprived of its primary adversary, would wither away along with the Warsaw Pact. That has not happened; in fact, it seems that each new day brings forth yet another proposal for an expansion of NATO's membership and mission. In *Beyond NATO*, Ted Galen Carpenter argues that in its rush to expand NATO, the U.S. foreign policy community has bypassed any serious discussion of the continued viability of NATO. Carpenter maintains that NATO's clear-cut, limited military mission has been fulfilled, and that the drive to expand NATO and make it responsible for ill-defined "political enforcement" missions will drag the U.S. into dangerous conflicts in which it has no real security interest.

According to Carpenter, the main impetus for expanding NATO has come largely from the U.S. foreign policy community and from the leaders of the Eastern European nations. The Eastern European motives are clear: they fear that Russia may attempt to regain its lost territory and status, and desire the military security NATO could provide. Some also view NATO membership as a probable "in" to later inclusion in the West European economic system. Carpenter believes that the U.S. foreign policy community supports the expansion of NATO as a means to preserve its prestige and influence over the Europeans.

Compared to the motives of the Eastern Europeans, those of the U.S. foreign policy community are somewhat murky. In fact, as Car-

penter points out, the community cannot even agree on how far the expansion should go. Carpenter identifies three distinct factions in that debate. The first is the Anti-Russian Limited Expansionists, who fear the revival of an "imperial Moscow" and in response want to push the boundaries of NATO eastward to include Poland, Hungary, the Czech Republic, and possibly Slovakia. The second is the "Anti-Russian Broad Expansionists," who have the same fears as the first group but would expand NATO even further to include all of the former Soviet satellites, plus the Baltic nations and Ukraine. According to Carpenter, these two groups still see the "new" NATO as a military alliance targeted against Russia. The third group, however, the "All-Inclusive Expansionists," also has some fear of Russia, but they see a greater potential for danger in antagonizing Russia by pushing NATO to its very border. Their solution to this dilemma is to offer NATO membership to everyone: the former Warsaw Pact, the former Soviet republics, and to Russia itself. They envision NATO's new role as that of a political mechanism to help maintain stability in the region by preventing local tensions from erupting into warfare. Carpenter points out that this "political" approach to NATO is most emphatically what the Eastern Europeans, who are the group most eager to join NATO, do not want.

Carpenter notes that the reaction of the current NATO members to the varying U.S. proposals is ambivalent. Germany has been the most supportive of the idea of an expanded NATO, for the obvious reason that in an eastward-expanded NATO, Germany would no longer be at the forward edge of the potential battlefield. The others, most notably Britain, have been far cooler to the idea of expansion. And Russia, after an initially noncommittal reaction, now strenuously objects to an expanded NATO that does not also include Russia. This has disturbed some U.S. officials, who believe that America's interests are far better served by nurturing Russia's attempts at capitalist and democratic reformation than by bringing the Eastern Europeans into NATO.

Following his discussion of the various expansionist factions, Carpenter provides a concise history of NATO's origins. He notes that although the treaty never mentioned the Soviet Union by name, everyone, including the Soviets, understood that NATO was formed primarily to deter possible Soviet aggression in Western Europe. Carpenter points out that NATO in 1949 was envisioned to have a limited role. No U.S. troops were to be permanently based in Europe, and the U.S. presence was intended primarily to support and guarantee the efforts of the Europeans, who were to remain responsible for their own defense.

Even this limited involvement in Europe was historically unprecedented for America, but Carpenter points out that it was vital to America's security to keep war-weakened Western Europe from being dominated by the Soviet Union, which was the only credible great power remaining in Europe. Carpenter argues that U.S. policymakers now refuse to acknowledge that America's interests in Europe today are not what they once were. The U.S., Carpenter maintains, has no security interest in preventing every single possible conflict in Europe. Rather, it should only concern itself if one nation or group of nations threatens to dominate the industrial nations of Western Europe and destroy the present balance of European power. But today, Carpenter says, there is no such hegemonic threat to Western Europe. Russia is in a near-shambles, and is likely to remain so for the foreseeable future, and no other nation has both the desire and the resources to control Western Europe.

Having addressed why he believes American interests have nothing to gain from an expanded NATO, Carpenter also discusses what risks an expanded NATO would entail. Primary among these is the risk of conflict with Russia. As Carpenter points out, it is wholly irrational for America to expect Russia to simply ignore a hugely expanded, U.S.-dominated NATO that is now on the Russian doorstep. In any event, there is no real need for NATO to "fence in" Russia. The Russian threat to the Eastern Europeans is hollow, given Russia's current military and economic condition. Carpenter predicts that as Russia recovers, it will behave as great powers typically do and attempt to carve out a sphere of influence for itself. NATO should not view such a development with alarm; Russia has had such influence in Eastern Europe for centuries, without any resulting damage to American interests. Even the Soviet military occupation of Eastern Europe did not in itself negatively affect American security; rather, America feared that the Soviet Union would use its position in Eastern Europe as a springboard for an attack on Western Europe.

Some U.S. officials propose to solve the "Russia problem" by inviting Russia into NATO. Carpenter scoffs at this solution, pointing out that NATO would then become an unwieldy organization, spanning the entire globe, whose purpose would be largely diluted. Carpenter believes that Russian membership would obligate NATO to support Russia in its numerous internal conflicts, including those in Tajikstan, Azerbaijan, and Georgia, and even more ominously, in its longstanding border dispute with China.

Carpenter spends a chapter examining NATO's involvement in Bosnia, using that as a concrete model in microcosm of what NATO would face if it expanded into Eastern Europe. Once again, Carpenter

criticizes the U.S. for failing to articulate exactly what American interests are served by NATO's intervention in Bosnia against the Serbs. Many officials have simply fallen back on historical analogies of World War I and World War II, analogies that Carpenter argues do not fit the present-day situation. In response to those who compare Serbia with Nazi Germany, Carpenter points out that on the eve of World War II, Nazi Germany was an economically and militarily powerful nation, intent upon completely destabilizing the balance of power in Europe and fully capable of doing so. In contrast, Serbia, even in the unlikely event that it harbors such a desire, has nothing remotely near the power necessary to carry out a Nazi-style subjugation of Europe. As Carpenter tartly points out, "We are not likely to see Serb armored divisions advancing on Paris or Serb invaders conquering Ukraine as part of a quest for *Lebensraum*." (p. 97). Carpenter has even less patience with individuals who use World War I as their justification for NATO's presence. He notes that in 1914, with all of Europe's great powers closely and formally aligned with varying factions in the Balkan dispute, it was inevitable that when one great power stepped in, the others would respond, and a Europe-wide war would result. Today, on the other hand, no European nation is willing to step into that quagmire with formal support, and this condition greatly reduces the risk of widespread war.

In Carpenter's final chapter, he proposes his solution to the dilemma of European security in the post-Cold War world. He recommends placing the responsibility for that security back in the hands of the Europeans. He believes that NATO has outlived its usefulness and that, in general, U.S. and European interests are no longer in tandem. He urges the reluctant U.S. to abandon its "Lone Worldwide Superpower" role and return to simple "great power" behavior. Carpenter maintains that such behavior is more appropriate for the United States, given that the new world power structure is no longer solely dominated by the United States and the Soviet Union.

Carpenter considers the Western European Union (WEU), a military alliance of nine Western European nations, to be the most favorable successor to NATO. The WEU is the direct descendant of the 1948 Brussels Treaty, a mutual defense pact joined by Britain, France, Belgium, the Netherlands, and Luxembourg. The Brussels Pact, formed largely to counter the Soviet threat, was the precursor to NATO, and might well have become the dominant European security organization had not American and British officials pressed their views about the need for a transatlantic anti-Soviet alliance. The WEU, long overshadowed by NATO, has in recent years begun to revive itself as an expression of an independent European security identity. Its role

was furthered in 1991 by the adoption of the Maastricht Treaty, which strengthened the WEU and effectively made it the defense component of the new European Union. Carpenter points out that with a total armed force of about 2 million, and with Britain's and France's nuclear weapons, the WEU has the power to deter possible Russian expansionism, yet it is less likely to provoke high levels of Russian anxiety, as would an encroaching, expanded, U.S.-led NATO.

Carpenter's language is simple and clear, and he argues his positions thoroughly and passionately. The book seems oddly organized, with a fair amount of repetition and backtracking of major points. At times Carpenter seems simply to dismiss opposing viewpoints without much analysis. For instance, Carpenter derides the American desire for what he sees as "extreme" levels of European and global stability. Yet there seems to be little data in his arguments to convince the reader that the U.S. in fact can tolerate as much instability as Carpenter apparently believes it can. A further example is Carpenter's insistence that America simply ignore all but the biggest conflicts involving the major powers. The problem with this approach is that huge wars between major powers do not just suddenly erupt. Just because a conflict seems local at first does not mean that it will not escalate.

Overall, though, Carpenter's book is a concise, valuable primer on a viewpoint that has been sorely neglected in the debate on NATO's (and America's) position in the post-Cold War world.

Maxine Mead

THE LAW AND STRUCTURE OF THE INTERNATIONAL FINANCIAL SYSTEM: REGULATION IN THE UNITED STATES, EEC, AND JAPAN. By John H. Friedland. Westport, Connecticut: Quorum Books, 1994, 200 pp.

The Law and Structure of the International Financial System analyzes the laws and regulations affecting the three major financial centers of the world's economy. The book examines the major distinguishing elements of the financial sectors of the European Economic Community (EEC), the United States, and Japan. The author, John H. Friedland, discusses the EEC as an emerging financial power and considers the problems of unifying the financial regulations of the member states without hampering the efficiencies of the market or causing undue hardship to any single member. Friedland examines the United States, recognized as the current financial leader, in two separate phases. First, the book reviews the U.S.'s judicial and administrative constraints. Secondly, the author closely scrutinizes the inter-market regulations of U.S. securities and derivatives markets for their effectiveness and efficiency. The book finally analyzes the Japanese financial markets and their accompanying regulations, and compares them to United States market regulations. Friedland's underlying theme links the financial analyses of these separate systems and argues that these structures need to be aligned in such a manner as to facilitate the growing international trend in finance. The trend is marked by a movement toward a single international financial market where the current financial centers operate as components of a larger system. Friedland contemplates this goal while leaving the individual efficiency of each representative market relatively unharmed.

In the introduction, the author clarifies the distinction between the two types of financial markets. Japan and certain EEC members, such as Germany, have universal banking markets. In these systems, banks own equity shares and financing is dependent upon long-term relationships between borrowers and lenders. The United States and the United Kingdom, on the other hand, utilize arm's-length financial markets, also referred to as capital markets. Arm's-length financial markets are characterized by stock markets which are largely separated from banks and financing that rely more on market prices than lender-borrower relationships. These financial markets allow for greater access to consumer credit and more financial innovation. In contrast, universal banking markets feature bank ownership and control of industry as well as bank domination of securities markets which leads to stagnation of financial innovation. The difference between the two competing systems leads to the difficulty in international congruence of the respective

financial markets.

The remainder of the introduction outlines the chapters to follow, which are divided by regional analysis of the financial markets and their respective regulatory measures. Friedland analyzes the individual regions independently with only occasional comparison until the conclusion where all three markets are brought into an international focus. In the conclusion, the author suggests a world-wide system by which the markets may function independently as well as in the emerging globalization of the financial markets.

In chapter one, Friedland focuses on the financial regulation of the United Kingdom as it currently exists and as a potential model for the European Economic Community. The chapter provides a highly technical review of the financial atmosphere in Great Britain. The author delves into the complicated maze of the current financial regulation structure in the United Kingdom. He also discusses the difficulty in reconciling the country's established capital market system with other members of the EEC which have based their financial institutions on the universal banking market system. Friedland seems to favor the arm's-length market system implemented by the United Kingdom, but recognizes that the EEC cannot adopt this system in its entirety if all of its member states are expected to maintain internal efficiency.

In response to the difficulties inherent in the internationalization process, Friedland proposes a workable, but technical, solution. He suggests a harmonization of the legal structures inherent in the two opposed market systems, thereby allowing both systems to survive in their domestic functions while establishing a suitable framework facilitating efficient inter-community financial dealings. The harmonized structure will create a single market for financial services and a linkage among European exchanges and investment services allowing for the free flow of capital without regard to national origin. Friedland justifies this approach, stating that it is necessary in light of the impending globalization of financial markets and the EEC's need to be able to operate freely within its own financial community if it is to keep pace with that rapid globalization.

The author then examines the financial markets of the United States, specifically the judicial and administrative expansion of bank powers. Friedland cites the Glass-Steagall Act (GSA) as the tool by which American banking has been segregated from activity in the securities markets, thereby hampering the competitiveness of American banks on a global scale. Friedland recognizes, however, that actions by the judiciary and the Federal Reserve Board have served to lessen the severity of the GSA. He warns that despite the relaxed regulation of the banking industry significant barriers still exist, such as separation

of banks and insuring activities, which may prove to be formidable barriers to global competitiveness. Further, the lack of regulation of non-traditional banking institutions, such as American Express, presents competitive problems for American banks both domestically and internationally. A relaxing of bank regulation is required for the American banking system to remain a viable institution in the midst of rapid globalization. Friedland warns, however, that complete deregulation is not the answer and that certain safety requirements must be maintained in order to avoid the banking crises which the country faced in the late 1970's and again in the mid-1980's.

The third chapter focuses on the inter-market regulations and systemic risks of the U.S. securities and derivatives markets. Friedland is interested in encouraging long-term stakeholding by investors in securities. He recognizes that this cannot be accomplished through tax incentives to the individual shareholder, but may be aided through tax benefits to corporate stockholders. He feels that regulation has been effective in security clearance and settlement but that it vastly underpromotes long-term holding of securities. Friedland suggests that inter-market regulation should be aimed at curbing the systemic risk inherent in the markets; thus he proposes a consolidated regulatory approach to securities holding companies.

Chapter four provides a comparative analysis between the financial legal structures of Japan and the United States. The comparison reveals weaknesses in both structures, recognizing that neither is the ideal financial system. Japan faces the difficulty of capital inadequacy from its banks while the United States and its corporations have failed to reorganize their infrastructure so that they may compete on a global scale. Friedland discourages the use of tariffs and trade barriers in the economic struggle between the two countries, viewing the practice as both counterproductive and inefficient. Instead, he urges that Japan move toward an arm's-length financial market, as opposed to its current universal banking market. For Japan to accomplish this task, it needs the United States to further liberalize, rather than constrict, its financial policies. These changes will lead to increased world trading, a prerequisite for the effective globalization of the world's premiere financial markets.

Friedland concludes his book with a summary of his previous analyses and a warning to the individual financial markets that globalization is inevitable and coordination is the cornerstone to a smooth financial transition. He argues that financial regulation must be harmonized across borders, without regard to international concerns. Strict domestic policies will act as barriers to capital inflow. Such policies ultimately will hinder those markets they were designed to aid, such as

home financial institutions which will not be able to compete globally.

The Law and Structure of the International Financial System provides a complex, yet enlightening, view of the past, present and future of the world's financial markets. Its analysis is highly technical; however, its conclusions and theories can be appreciated by any reader with a basic understanding of the financial world. A complete appreciation of the work, however, requires a firm grasp of the financial workings of several of the global markets as well as a knowledge of their developmental histories and regulatory schemes. Despite these complexities, the underlying theme of John H. Friedland's work is clear: harmonization of the world's financial markets is a necessity for the continued prosperity of the financial systems of the European Economic Community, the United States, and Japan. Failure to adapt to the changing financial climate will mean slow stagnation and possible failure of these vastly important world markets.

David M. C. Lewis

NAFTA WHAT COMES NEXT? By Sidney Weintraub. Westport, Connecticut: Praeger, with Washington, D.C.: The Center for Strategic and International Studies, 1994, 132 pp.

On January 1, 1994, the United States, Canada and Mexico entered into an agreement known as the North American Free Trade Agreement, or NAFTA. NAFTA was designed to bring together effectively the North American continent in terms of trade and investment between the joining nations. Additionally, NAFTA had a higher purpose: to increase the standard of living in all three nations by positively affecting the income and employment in the member countries.

Now that NAFTA is in place, the question becomes how to regulate the agreement and integrate the guidelines and practices uniformly across the continent. Another question is whether the participating NAFTA countries should permit other countries to join their alliance for free trade within the region. Stanley Weintraub, the author of *NAFTA What Comes Next?*, attempts to resolve the questions presented above. He discusses the impact of "deepening" the current NAFTA regulations among the member countries through continued integration of the pact and the numerous guidelines essential for success. He also describes how "widening" the NAFTA membership to other countries of the Americas would affect the current agreement and its member countries, as well as the Americas region as a whole. Ultimately, Weintraub concludes that both "deepening" and "widening" must occur for NAFTA to serve as a successful agreement for all concerned parties.

The book is divided into five short chapters that examine the impact NAFTA presently has on the global marketplace, and the directions and choices that NAFTA members will be forced to make in the future. The book begins with an introduction which explains NAFTA and analogizes NAFTA to the United States Constitution because both are living documents to which definition and content must be added. The author makes clear that NAFTA is in its infancy. Although a framework has been structured, future decisions and groundwork need to be laid in order to determine whether NAFTA will become a dominant player in the global market, or merely a pretense. If NAFTA does not succeed in garnering the trust of its constituents, it will be cast off by member and non-member countries alike, who will disregard the premises of the agreement in search of more favorable agreements that suit their individual country's needs.

Weintraub concludes his introduction by describing his theory of how NAFTA should be implemented. He believes a "deepening" of the agreement should commence initially, before any discussion of "widen-

ing" is considered. Only after the agreement is integrated and implemented within the member countries, should the NAFTA members look to regional arrangements as a source of possible membership into its community of nations.

The next chapter discusses the global trends of economic interaction that are currently taking place among the world's nations. The author compares the economic regionalism that is currently underway in places such as the European Union (EU), Latin America and East Asia, and concludes that the trend is towards regional integration of trade, investment and production relations. This trend continues because of regional benefits, such as geographical convenience, which allow a multinational corporation to invest capital in foreign affiliates and thereby reap the benefits of "co-production."

Weintraub also discusses the political animosity in the United States that preceded the passage of NAFTA, which involved opponents who believed that the agreement would move jobs from the United States and would transfer them to Mexico. Although Weintraub recognizes that some jobs will be removed from the United States, he argues that the U.S. will benefit from the creation of higher paying jobs for U.S. citizens. These new jobs will lead to increased U.S. productivity and a higher standard of living for Americans because they will involve higher paying management and technology positions that will replace lower paying, labor intensive jobs.

In chapter three, entitled "Economic Interaction in North America," Weintraub stresses the tremendous economic interaction that currently exists between the member nations of the NAFTA agreement. The author's overriding theme is that NAFTA will lead to greater prosperity for all because productivity will increase due to intraregional investment within the neighboring countries. Economically, Canada and Mexico represent the bulk of United States trade in the Americas. NAFTA is designed to raise the productivity of all member nations. By expanding productivity and increasing the economic strength of the U.S.'s neighbors, especially Mexico, the member countries will develop into stronger potential markets. These strengthened markets will provide increased opportunities for United States exports. Weintraub also emphasizes in this chapter that NAFTA is more than a trade agreement, because it involves neighboring countries that have other concerns, such as environmental and immigration implications. These issues also need to be addressed in defining the agreement, Weintraub argues.

Chapter Four, "The Meaning of Deepening," initially examines the operating procedures that must be instituted through the cooperative efforts of governmental officials from the member nations. Having

a strong NAFTA, as discussed earlier, is of paramount importance to all the member nations. Deepening the agreement requires the governments of the member nations to work together in executing a comprehensive accord that incorporates the concerns of all parties. Industrial and environmental standards are examples of concerns that affect all member countries. While each country has standards which provide a framework from which economic trade can exist between the nations, each country's standards have their own nuances, which are guided somewhat by political concerns. Thus, the deepening of NAFTA requires the governments to work together and to compromise in order to find an agreement that is suitable for all parties. Weintraub compares NAFTA to the European Union, noting that the EU has succeeded in integrating their agreement through the process of defining terms in painstaking detail. Moreover, the author notes that the EU had a far more complicated agenda, which sought to unify the European community not only in trade, but also in issues such as monetary policy.

In the final chapter, "The Widening of NAFTA," Weintraub discusses a topic which was virtually unthinkable ten years ago; the issue of widening the integration effort in the Americas. Hemispheric free trade is now possible due to a change in philosophy throughout the Latin American region. After experiencing difficult economic times in the 1980's, the region no longer pursues extreme protectionistic practices. Instead, the countries have become more open to foreign investment and trade. The author reasons that the current economic and political culture, unlike any other time in history, offers an opportunity to expand the free trade agreement to neighbors in the Western Hemisphere. Weintraub presents several possibilities for widening NAFTA to various regional accords that are currently in place in the Western Hemisphere. After some discussion, the author concludes that NAFTA should consider regional annexation of member nations, rather than allow for individual application of countries to the NAFTA membership.

NAFTA What Comes Next? provides an insightful view into the issues and implications of the NAFTA agreement and suggests a direction that should be considered by the United States in furthering economic integration in a global economy. The book reviews the basic foundations underlying the agreement, and discusses the issues that will surely arise in the future. While Weintraub interjects his opinions throughout the text, he does so in a manner that still permits individual determination by the reader of his or her own impressions of how the furthering of NAFTA should commence. Overall, this is an informative

book for individuals interested in learning more about an agreement that is very important to the future of the global economy.

David M. Ash

SEEKING ASYLUM: COMPARATIVE LAW AND PRACTICE IN SELECTED EUROPEAN COUNTRIES. By Helene Lambert. The Netherlands: Martinus Nijhoff Publishers, 1994, 220 pp.

During the Second World War, Europe served as a refuge for millions of immigrants seeking asylum from oppressive conditions in their homelands. Initially, these immigrants were welcomed upon their arrival, and valued as sources of cheap labor. However, the economic recession of the 1970's greatly reduced the need for immigrant workers. As a result, strict immigration laws were implemented in order to curb the flood of immigrants seeking refuge in European countries. *Seeking Asylum: Comparative Law and Practice in Selected European Countries* is a study of the current immigration laws in France, Belgium, Germany, Sweden, Switzerland, and the United Kingdom through detailed analysis of each immigration system. *Seeking Asylum* additionally explores the protections provided to asylum seekers by examining the qualities and shortcomings of each country's judicial process. The author, Helene Lambert, provides an in-depth appraisal of the legal systems on which immigrants attempting to gain admission to European countries must rely.

In each country, the admission procedures are principally governed by the United States Convention of 1951, a treaty designed to provide consistency in the treatment of refugees and exiles. Signed by all six countries, the treaty is regarded as the most important instrument governing asylum law and practice; it not only defines refugee status, but also guarantees the fundamental right to asylum. Each country has adopted this treaty, or portions thereof, in order to provide a uniform level of protection to asylum seekers in the European community. *Seeking Asylum* investigates the extent to which each country has utilized the treaty through an account of the primary laws governing immigration.

Lambert analyzes the European response to the refugee problem by providing a brief summary of the current rules regarding admission procedures in each country. Chapter One focuses on the specific authorities which provide legal governance to individuals seeking asylum. In Belgium, provisions on asylum and refugees are found in statutes regarding aliens in general, and have been completed by numerous royal decrees. The controlling asylum provision in Germany, the Asylum Procedure Law, is now subject to important limitations which exclude refugees of war, civil war and citizens of safe third countries. The main text concerning immigration law in France is contained in Ordinance 1945, which has been subject to several amendments and is a result of various modifications. In Sweden, the Aliens Act of 1989 is

the primary basis for determining the legal status of refugees, while other provisions may be located in other laws and decrees. The most important law governing asylum procedure in Switzerland is the Asylum Law of 1979, which governs all matters concerning refugees. Finally, the Immigration Act of 1971 governs asylum procedure in the United Kingdom.

After a brief discussion of the history and current status of asylum laws, Lambert provides a close examination of the admission procedures for asylum. In Chapter Two, she discusses in detail the manner in which each state has incorporated the 1951 treaty into its own laws, and the most important characteristics of the asylum procedures in each state. She also provides a clear illustration of the stages of the admission process, and the approximate duration of each procedure. A principal problem plaguing admission processes in each country is the lack of procedural guarantees afforded to refugees. Guarantees such as the right to be heard, the right to counsel, and the right to an interpreter are all denied at the border, where the need is the greatest. Additionally, applicants are disadvantaged by the lengthy duration of admission procedures; the application process in each country lasts nearly one year. The failure to provide asylum seekers with timely decisions and procedural guarantees demonstrates the heightened level of resistance European countries have had toward illegal immigration, according to Lambert.

When access to a country is denied to the asylum seeker, he or she has the right to appeal the decision to another tribunal in that country before deportation. Chapter Three describes the appeal process available to each individual, and the manner in which each operates. The European Convention on Human Rights and Fundamental Freedom (ECHR), assures the right of asylum seekers to redress the denial of access to all six European countries. As the ECHR is legally binding on each country, the right to appeal must be honored. Lambert's description of the appeals process in each country provides evidence that there is an inherent inequality of protections afforded to refugees. For example, Germany's failure to provide an appeals process through special tribunals deprives immigrants of the benefit of having individuals with the most expertise involved in the adjudication of their case. Further, France and Belgium do not protect the secrecy of proceedings or confidentiality of documents, as all hearings are public. In these European countries, immigrants are less likely to reveal the reasons why they fear return to their country of origin. Inconsistencies such as these are evidence of the continuing erosion of those human rights protections purportedly guaranteed to all asylum seekers.

In addition to the lack of protections afforded to those seeking asy-

lum, these countries have also increased the burden of proof which must be demonstrated by the applicant to gain entry into the state. In Chapter Four, Lambert addresses the burden of proof each immigrant must meet in order to gain entrance and the applicable rules of evidence applied in these cases. According to the 1951 treaty, an applicant must show that he or she has a "well-founded fear of being persecuted" in order to be eligible for refugee status. However, German and Swiss laws deviate from that definition, requiring a significantly higher standard in order for asylum to be granted. Although Sweden and Belgium adhere to the Convention definition, those tribunals are not required to provide reasons for their immigration decisions, nor advise the immigrant of available methods of judicial review. Important to each tribunal's determination are the grounds for persecution, the time during which the applicant experienced persecution, and the particular country in which the applicant claims the persecution has occurred or will occur in the future. Differing standards and improper advisement of aliens in these countries significantly contribute to the lack of uniformity in protections provided to immigrants in Europe.

In Chapter Five, the author addresses the lack of protections afforded to the asylum seeker during the application process and the waiting period before a decision is made concerning their status. The treatment of the applicant during this time may range from a lengthy detention at the airport where the individual entered the country, to detention at heavily guarded camps or prisons with substandard living conditions. Illegal detention appears to be a common occurrence within each of these countries, with the exception of Sweden, which provides adequate housing, medical care, and free movement throughout the country. According to Lambert, in each of the countries, employment of applicants is either prohibited, greatly delayed, or highly improbable. Because of the common nature of these circumstances, applicants are often denied the benefit of social integration and financial assistance while they are waiting for a decision regarding their status.

While waiting for a decision, asylum seekers carry the additional burden of demonstrating to the appropriate authority that he or she qualifies for asylum. Chapter Six explores the problems inherent in determining whether an individual meets the definition of a refugee. Applicants who are unable to prove genuine persecution on political grounds are precluded from refugee status, although they may be able to demonstrate "strong humanitarian grounds" for admission to the country. Each country considers additional factors specific to its practices when determining refugee status. This creates the problem of varying treatment of refugees and the implementation of several different categories which define refugee status. Lambert suggests that the lack

of a clear definition of the term refugee will invariably lead to the use of different, and perhaps unequal, human rights practices in each country.

The two final chapters focus on the treatment of the applicant upon admission to the country, and the current measures taken to control entry of immigrants into Europe. Lambert analyzes each country and examines the social and economic atmosphere to which the immigrant must become acclimated. Current entry control efforts are described, as well as requirements for naturalization. Lambert concludes that there is an urgent need for a harmonization of European refugee policy, as varying national procedures cause additional impediments to the goal of uniform human rights practices regarding refugees.

Seeking Asylum is an intriguing overview of the current immigration laws and asylum procedures in European countries. Practitioners endeavoring to gain a brief overview of European asylum law may consult Lambert's review as a guide before engaging in more specific research. Lambert's study also serves as a useful source book for those dealing with the intricacies of laws governing asylum in these countries. One troubling aspect of this text, however, is that the author fails to comparatively examine the laws and practices of the selected countries. Such an analysis would provide readers with knowledge of which country's asylum laws are preferable, and also provide a basis for asylum seekers making difficult immigration decisions. Overall, *Seeking Asylum* provides an educational review of the fundamental laws and relevant social conditions facing asylum seekers in Europe.

Jineki C. Butler

TO STEAL A BOOK IS AN ELEGANT OFFENSE: INTELLECTUAL PROPERTY LAW IN CHINESE CIVILIZATION. By William P. Alford. Stanford, California: Stanford University Press, 1995, 222 pp.

The devolving state of relations between the United States and the People's Republic of China in recent years may be blamed largely on three points of contention: China's conspicuously poor human rights record, its lack of trepidation about selling weapons of mass destruction to "rogue" nations such as Iran, and its general failure to secure protection of foreign intellectual property rights within China. Despite the Clinton administration's pledge to shift emphasis to human rights, intellectual property issues continue to wield powerful influence on U.S.-Sino relations. China remains one of the world's most notorious centers of copyright, patent, and trademark piracy upon products of Western origin, despite its rhetorical promises to the West of serious property rights enforcement.

William Alford offers a concise, remarkably readable, and illuminative account of the cultural history behind China's vexing intractability in *To Steal a Book is an Elegant Offense: Intellectual Property Law in Chinese Civilization.* Alford advances four propositions in *Elegant Offense.* First, China never developed a sustained indigenous counterpart to Western intellectual property law during its history. Second, the West's introduction of intellectual property law to China in the Nineteenth and early Twentieth Centuries failed because Western powers did not consider the relevance of such a body of law to China and assumed that foreign pressure would suffice to secure its effective assimilation into Chinese law. Third, current Chinese attempts at reform in the face of mounting pressure from trade partners, particularly the United States, fail to address the problem of reconciling legal values and institutions generated in the West with the constraints imposed by China's past and present circumstances. Fourth, Alford pronounces American intellectual property policy toward China to be misconceived about the nature of legal development, and therefore in need of reformulation if recent problems are to be overcome.

Alford's first proposition, regarding Chinese legal history, is the subject of the introductory chapter, and of "Don't Stop Thinking About . . . Yesterday," the second chapter of *Elegant Offense.* The imperial Chinese worldview embodied an intense reverence for the past. The essence of human understanding, as comprehended by this culture, had long ago been discerned by those who had come before, particularly the group of sage rulers referred to as the Ancients. The wisdom of the Ancients was compiled in the Classics, a body of texts with

greater organizational power over Chinese cultural development than any comparable Western religious text ever had upon the West. Transmission of this wisdom through art, historiography, and other forms of cultural production and expression was the prevailing paradigm. Replication, including forgery, never acquired the odious connotations that it did in the West, because it evinced a reverence for that which had come before it.

Alford asserts that the full extent of Chinese law from 221 B.C. to A.D. 1911 regarding intellectual property was embodied by imperial codes which functioned primarily to control the dissemination of ideas rather than to protect and nurture their development. These edicts regulated the reproduction of texts believed essential to social and political order. As for counterparts to patent and trademark law, no formal legal protections for proprietary symbols or inventions were promulgated in China prior to the Twentieth Century, despite the extent of imperial regulation of commerce and industry. In fact, Alford claims this regulation was greater than has typically been recognized.

Alford's second proposition, regarding the decidedly unenlightened introduction of Western intellectual property principles to China by the United States and Europe, is developed in the third chapter of *Elegant Offense*, "Learning the Law at Gunpoint." Foreign trade, and a legal regime which favored foreigners who had disputes with Chinese, was forced upon China by Western powers during the Nineteenth and early Twentieth Centuries. Imperial China conceded to legal reform in the realm of intellectual property only to avoid greater foreign encroachment on its sovereignty. But Western diplomats and merchants involved in the attempt to implant "modern" intellectual property principles in China found their efforts frustrated not only by a lack of sincere Chinese interest in legal reform, but also by an apparent inability of the Chinese to understand such laws. Alford quotes the U.S. consul general in Shanghai in 1904, who remarks that in the negotiation of a treaty with the Chinese, "it seemed nearly impossible to explain to them the difference between a trademark and a patent."

The lack of relevancy of Western legal values and institutions to the Chinese cultural context onto which they were forcibly grafted prevented not only the implementation of intellectual property rights in China, but also, and most importantly for today, the development of a legal system in China to effectively enforce such rights. In imperial China, the regulatory and private rights-protecting function of Anglo-American civil law was furnished by local rulers, who drew from the same ancient moral repository which all other social and cultural institutions of imperial China did. Western-style bureaucratic civil structures during the early Twentieth Century proved to be ill-suited to such

a cultural firmament.

The accession to power of the Guomindang, the Chinese Nationalist party, in 1928 did not change matters regarding either intellectual property rights or remedies. The emphasis of laws governing copyright and trademark continued to be on the preservation of political order, as they had been during imperial times. Legal vindication for the property rights of foreigners were to be had in Chinese courts, which were few in number and staffed by judges and lawyers of very limited training and experience in Western-style intellectual property law.

Contemporary China's failure to rectify its legal reforms within the constraints of its political culture is the basis for Alford's third proposition. Post-Cultural Revolution Communism has sought to enact an intellectual property law regime which would encourage industrial innovation while controlling private property rights, which are viewed unfavorably by the dominant political philosophy. These reforms have been frustrated by the state organs charged with enforcing these laws, and by the prerogatives of the leaders of the People's Republic of China, who hope to mitigate destabilizing effects upon their power by the expansion of indigenous private enterprise. The contemporary Communist regime has sought to assure the West of its commitment to intellectual property law by citing such impressive figures as the substantial number of patents it grants in the course of a given year. However, it fails to mention the minuscule number of remedies granted for infringement in the face of rampant piracy of indigenous and Western intellectual property, particularly in the realm of copyright and trademark.

Alford's fourth proposition, that the United States is misconceived in its dealings with the People's Republic of China on these matters, is introduced through the experiences of Taiwan detailed in the fifth chapter of *Elegant Offense*, "As Pirates Become Proprietors: Changing Attitudes Toward Intellectual Property on Taiwan." After the defeat of the Nationalist government on the Chinese mainland by the Communists, the protection of intellectual property rights was of little concern to the Guomindang when it relocated to Taiwan in 1949. An elaborate censorship system was implemented and subsidized by copyright registration fees for books at twenty-five times the cover price, with the obvious result that few books were registered in the first decade of Nationalist rule. Fewer than thirty foreign books were registered during this period, despite the fact that by 1959 more than two thousand Western titles had been reprinted. Western publishers expressed little concern about Taiwanese piracy until the appearance of unauthorized reprintings of some of their latest and most expensive works, at which time publishers began to urge diplomatic action by their governments

against the Republic of China.

So began the cycle, continuing throughout the Twentieth Century, of increasing Taiwanese counterfeiting of copyrighted, patented, and trademarked Western (particularly American) products, followed by various threats of economic reprisal by the United States, which were in turn followed by much-touted Taiwanese pledges of legal reform and mass education regarding intellectual property rights. By 1982 the Republic of China was declaimed by the American media as the counterfeiting capital of the world, and by the International Trade Commission as the source of as much as fifty percent of the $6 to $8 billion worth of counterfeited goods believed to be produced worldwide annually in a sampling of only five major industries. Piracy of computer technology in the late 1980's inspired the U.S. to take a tougher stance. In May 1989 the U.S. Trade Representative placed Taiwan on its list of "priority foreign countries" which failed to adequately protect American intellectual property, making American trade sanctions imminent under the 1974 Trade Act.

Alford details the unprecedented revisions of intellectual property law made by the Republic of China by 1993. He agrees that the likelihood of diminished access to its largest export market and alienation of its most important ally—the United States, in both instances—was the immediate catalyst of Taiwanese reforms. But Alford sees the dynamic economic, political, technological, and diplomatic changes that have occurred in Taiwan over the past decade as the more compelling reason why the Republic of China is finally making its most significant concessions on the intellectual property front at a time when it has the world's largest per capita foreign currency reserves and has carved out its own position in the international community. Its people have become accustomed to a quality of life that the low-wage counterfeit export trade, which fueled enormous growth in prior decades, can no longer support. Taiwan understands that it now needs its own indigenous high-technologies to compete on a global scale, and has a strong interest in nurturing its budding industries. Taiwan is in a state of increasing democratization, and the number of people who are politically and economically interested in bolstering legal protection of proprietary rights is growing significantly. The diversification of society has lead to the transformation of the judicial system of the Republic of China, with an unprecedented upgrading of the status, training, and independence of the judiciary, making meaningful enforcement of legal reform for intellectual property a very realistic possibility.

Against the backdrop of the Taiwanese experience, Alford concludes his study in "No Mickey Mouse Matter: U.S. Policy on Intellectual Property in Chinese Society." He asserts that genuine legal respect

for foreign property rights will only come when China's citizenry finds itself in a better economic and political position to insist that such respect be accorded to their own proprietary rights by their leaders. Respect for private property rights and for legality as an independent force for protecting such rights simply cannot be externally implanted. Ironically, the United States may be hobbling its efforts to secure protection for the intellectual property of its industries in the People's Republic by short-changing China's democracy movement over trade-oriented concerns.

To Steal A Book Is An Elegant Offense offers no account of the parallel history of Western intellectual property, which may have more effectively advanced Alford's general thesis that culture, not economics, is the principal reason for China's general failure to implement an effective system for the protection of intellectual property rights. But this absence is hardly a serious problem. William Alford deftly weaves economic, political, cultural, and legal history together in a highly readable narrative. Although brief, *Elegant Offense* is provocative in its final analysis of U.S.-Sino relations, and it will be interesting to see if Alford's observations find their way into future U.S. policy.

David Briglia