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Decision Making in the European Community: The Council Presidency and European Integration, by E.J. Kirchner

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Court) to choose between two parts of its own soul—between liberal multiculturalism on the one hand and liberal religious neutralism on the other.

With Jacobsohn's help we see how vastly different such questions appear when considered from the perspective of Israeli constitutionalism, which he calls an "alternative pluralism." In the U.S., pluralism is said to require the state (and its schools) to be scrupulously neutral among rival sub-communities and their values. In Israel, pluralism requires the state to accommodate—and empower—the cultural institutions of various religious sub-communities, even while it publicly affirms the centrally Jewish identity of the polity as a whole. The American rule of religious neutralism, if transplanted unmodified, would shatter the identity of the Jewish state, and would be regarded by most Israelis (Jew and Arab alike) as a homogenizing doctrine corrosive of the actually existing plurality of communities. Americans may find such thinking incongruous. But in a brilliant move of internal comparison, Jacobsohn points them to the one "glaring exception" to America's liberal constitutionalist norms: the native American tribes (p. 18). Based on early treaties and their claim to primeval nationhood, the tribes, as communities, enjoy constitutional recognition in a manner more consistent with the Israeli than the American brand of constitutionalism. Most revealing was the 1968 "Indian Civil Rights Act," opposed by native Americans as an assimilationist instrument whose exaltation of individual rights would erode tribal cohesion. Jacobsohn notes that the final version of the Act pointedly omitted any no-establishment-of-religion clause, since the integration of spirituality and public order often constitutes tribal identity. As Jacobsohn says of Israel, such communal autonomy "supports political stability by providing non-dominant (and inassimilable) groups with mechanisms that enable them to minimize the effects of their inferior position in the larger society" (p. 35).

Liberal doubters might dismiss the native American case as a constitutional regime's pragmatic compromise with a marginal anti-constitutionalist sub-community. The bigger question, then, is whether such arrangements qualify as a version of constitutionalism when, as in Israel, they mark the scheme as a whole. Does the Israeli experience represent its own principled form of constitutionalism, as Jacobsohn seems to hold, or does it qualify only to the extent that it conforms to the norms of American-style individualist liberalism, with deviations regarded as anti-constitutionalist malfeasance?

The State of Israel does not, of course, have a formalized constitutional text; it has an incomplete set of "Basic Laws" on different subjects passed by the Knesset, and no list of constitutionally protected individual rights. In the absence of a definitive document, the 1948 Declaration of Independence has loomed large. Along with the 1950 Law of Return, the Declaration continues to define the Israeli policy, and under its terms the Israeli Supreme Court has developed a practice of judicial review that includes substantial protection for individual civil liberties. Score one for Israel, at least by American criteria.

Yet Jacobsohn does not gloss over the lack of a text. Creating a unified text is a daunting task, he explains, in the face of the tensions which comprise the Israeli polity. For Israel is constituted by its dual commitments—announced in the Declaration—to being a Jewish state and to ensuring equal rights and freedoms for "all its

inhabitants." Jacobsohn calls this "a mix of universal and particularistic principles" (p. 237). In several rich chapters, he examines the political and jurisprudential consequences of this mixture. He examines the recent controversy over amendments to the Law of Return (Who is a Jew?). He shows how the Israeli Court's dominance has been curtailed by the mix of constitutional principles just as much as by the tradition of parliamentary supremacy. He reviews education policy, national security censorship, and free-speech jurisprudence, most intriguingly the Kahane case and the ban on the showing of the film *The Last Temptation of Christ* (banned briefly out of respect for the sensibilities of Israel's minority Christian community).

Jacobsohn shows how ambiguity characterizes Israeli jurisprudence in all of these areas. He is far from portraying Israeli law as consistently communitarian or illiberal; by his own account the outcomes often match those of American courts. But with careful attention to nuance, he demonstrates how, even in those cases which seem to track most closely with American jurisprudence, there remains among Israeli judges a principled reticence to embrace the liberal view wholesale, and a consistent recognition that Israel's Jewish identity, and its fragile cultural context, make it unwise—even unconstitutional—to replicate the jurisprudence of individual autonomy rights.

In his final chapter, Jacobsohn broods on the theoretical implications of his comparison. He struggles to articulate the meaning of constitutionalism independent of liberal criteria. As illuminated by the Israeli experience, constitutionalism "is definitely not *illiberal* politics," he says, "but its conceptualization should not be confined only to polities that embody an unambiguous, robust commitment to the ends of liberal democracy" (p. 237). I think his own remarkable argument suggests that we go further still. He makes me wonder whether a mixed constitution of the Israeli variety isn't in fact more authentically constitutionalist than *any* of the unmixed varieties which (like "liberal constitutionalism") do not obstruct the despotism of their own principles.

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GRAHAM WALKER

Decision Making in the European Community: The Council Presidency and European Integration. By Emil J. Kirchner. New York: St. Martin's, 1992. 165p. \$24.95 paper.

The entry into force of the Maastricht Treaty on European Union on 1 November, 1993 came after much delay, including a razor-thin referendum vote in France and two such votes (the second was to deal with an initial rejection) in Denmark. The treaty has introduced a new level of complexity (some would prefer to characterize it as a new level of confusion) into the nomenclature, decision-making process, institutional framework, and relations between Brussels and the national governments of the 12 European Community member states.

The European *Union* is now the umbrella term referring to the already-existing "three-pillar" structure of the European Community (the European Coal and Steel Community, European Economic Community, and European Atomic Energy Community) and the two new "pillars" constructed by the Maastricht Treaty: the Com-

mon Foreign and Security Policy enhancing the new European Political Cooperation process and certain areas within the domains of the justice and interior ministries (especially greater collaboration/cooperation between police and other authorities on crime, terrorism, and asylum-immigration issues). The European Community still continues to exist as a separate legal entity within the broader framework of the Union; but, in view of the difficulties of delineating what is strictly EC or Union business, the term of choice is now the European Union, rather than the more limited Community, as contained in the title of this book.

Compounding this complexity, there exist two Councils: (1) the Council of Ministers of the European Union (formerly "of the European Communities") comprising (usually but not exclusively) the foreign affairs ministers of the 12 member states and (2) the European Council, comprising the heads of state or government of the member states. The "ministerial" Council meets quite regularly (about 80-90 times a year), whereas the "prime-ministerial" Council meets at a biannual summit. Each Council has its "Presidency"—a rotating (six-month term) chief presidency officer or "President-in-Office."

At the level of the European Council, the head of state or government of the member state holding this rotating six-month office acts as host, chairs the meeting, sets the agenda, acts as official spokesperson, and (depending upon a series of conditions) may be able to set the tone and nature of Union activities for the six months and initiate various public policy proposals. At the level of the Council of Ministers, the foreign minister (or another portfolio, depending upon the specific agenda) of the member state holding the rotating presidency plays a leading role.

Emil J. Kirchner, Director of the Center for European Studies at the University of Essex and a long-time observer of European Community/Union politics, has written a timely and important evaluation of the decision-making process at the level of these Council Presidencies and the offices' role in, and impact on, the European integration process, the management of international cooperation, and institutional community building.

The author, through a judicious use of archival material and personal interviewing, along with an analysis of decision-making theory and the various theoretical approaches to political integration, examines how the Council Presidencies impinge on the integration process, especially since the Single European Act and the two 1991 Intergovernmental Conferences (on the European Monetary Union and European Political Union). Assessing the balance and distribution of power between the actors at the Union and national levels, the author consistently refers back to the basic question, Is the Council Presidency primarily a device to maintain and strengthen "national control" over decision making within the European Union, or do the offices go beyond national prerogatives and enhance integration?

The negotiations that led to the Single European Act and the two Intergovernmental Conferences are interpreted by the author as requiring a new approach to, or understanding of, the relationship between the Union-level institutions and the member states. The author concludes that European Union decision making is not solely a transfer of powers from the national capitals to Brussels but also a sharing of competencies between

national and Union institutions and a "pooling of sovereignties" among the member states that evokes, at least for me, the American phenomenon of "cooperative federalism."

Kirchner has succeeded in presenting a most readable assessment of the dynamics of European integration, but this success has, in a sense, limited the book's overall attractiveness. *Decision Making in the European Community* is highly useful and informative to the professional well versed in the intricacies of the European Union and to the advanced graduate student, but it is not recommended for the general student, the public, or as a text.

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Party Policy and Government Coalitions. Edited by M. J. Laver and Ian Budge. New York: St. Martin's Press, 1992. 448p. \$59.95.

Legislatures in the Policy Process: The Dilemmas of Economic Policy. Edited by David Olson and Michael Mezey. New York: Cambridge University Press, 1991. 221p. \$39.50.

The two volumes reviewed here report findings and conclusions from ambitious research projects investigating aspects of policy making in a cross-national setting. In both, the research emanates from on-going collaboration by international teams of scholars, the participants individually expert in the politics of particular countries and guided, collectively, by cross-national research strategies. The editors lay out first the theoretical and methodological approach of the research, followed by applications in various national settings. They conclude with a chapter summarizing results across cases. The projects are differentiated both by institutional focus and the role assigned to policy in the design of the research. The Laver and Budge collection seeks to determine whether "policy matters" in the decisions made by parties to participate in the formation of governing coalitions. In contrast, the Olson and Mezey anthology explores ways in which legislatures may independently influence the making of economic policy in institutional contexts where political executives have become preeminent. The commitment to cross-national comparison suggests that the goal of both projects is to establish theoretical propositions by empirical generalization.

The projects depart from quite different theoretical and methodological traditions. The Laver and Budge work is rooted in three decades of formal and empirical work investigating coalition processes and behavior. While a certain mathematical elegance attaches to the coalition theories that have been developed, attempts to verify propositions empirically have generally produced disappointing results. Laver and Budge argue that this weakness stems from a general failure to take sufficient account of contextual constraints in adapting theoretical concepts for empirical testing. Thus they develop two expectations regarding coalition behavior in cabinet-forming contexts: that the motivation of actors (parties, generally) is "policy seeking" rather than "office seeking," and the governments that form will be "policy viable" (not constrained by numerical criteria). Drawing upon cross-national longitudinal data coded from party manifestoes and coalition policy declarations, a number of hypotheses regarding these expectations are tested.