

War America to its death in the 2008 presidential election. At 118 pages, it's a thin history, but the general argument of Tanenhaus is a simple and passionately argued one. He begins by describing the current paradox of the modern Right—'its drive for power has steered it onto a path that has become profoundly *un-conservative*.' Conservatism to Tanenhaus is epitomised by Edmund Burke who rejected ideological purity in favour of maintaining the equilibrium between 'the two principles of conservation and correction.' Burke is referred to often in *The Death of Conservatism*, but such references do not add much and appear more as rhetorical flourishes that add a bit of British gravitas to a fairly simple argument against radicalism.

This history is made up of the usual criticisms any Democrat would level against the stereotypical conservative—the hyperbolic opposition to the New Deal, McCarthyism, Goldwater's free market zealotry, and the so-called 'Southern strategy' of implicitly appealing to racists. These events are described by an excessive amount of quotations—at times the book has the feel of being entirely constructed of quotes by people that Tanenhaus either implicitly endorses or by conservatives who are usually saying something stupid. He may not necessarily be wrong on these historical arguments, and there is indeed a dark undercurrent in some sections of American conservatism, but the method of exposition is sloppy.

Where *The Death of Conservatism* ultimately fails is that we never really know who or what movement conservatism is, at least not in any

meaningful way. Tanenhaus selects several well-known conservative commentators, William Buckley, Jr, Irving Kristol, Whittaker Chambers, James Burnham, and a few others, to provide the bulk of the movement's arguments. While this selection is interesting, it is difficult for the reader to play connect-the-dots history without further information regarding 'movement conservatism' as a *popular* movement. For all we know, the movement could consist of 20 people or 20 million. No serious effort is made to tie the intellectual meanderings of the *National Review* with the specific problems confronting America. Tanenhaus often talks of 'they' and 'them,' and these generalisations are confusing.

At times, the arguments and criticisms made by Tanenhaus are the same as those articulated by Paul Krugman in his *Conscience of a Liberal*, only without the economic history or any mention of the Chicago School and its influence on American public policy. Like most intellectual histories, *The Death of Conservatism* exists in a space not occupied by a 300 million population but by a couple of dozen thinkers.

The book is frustrating to read because the recommendations made by Tanenhaus of the need to compromise are written so uncompromisingly. Instances when the GOP genuinely did act on contemporary problems and less on ideology are often dismissed and ignored by the author. So-called supply side economics, mentioned once and dismissed in a sentence,

is described as 'lightening the tax burden on the rich in the faith, or hope, that the poor would be taken care of.' No mention is made of the stagflation of the 1970s, which pushed low and medium income earners into higher and higher tax brackets. No mention is made of the failure of Keynesian economics to respond satisfactorily to conditions that were entirely different from the period in which Keynes wrote. Some arguments are very misleading. Tanenhaus describes the famous critique of *Atlas Shrugged* by Whitaker Chambers in the *National Review* as 'a critique not just of Rand but of all movement orthodoxy,' having spent the previous several pages describing the *National Review* as part of that orthodoxy. The feud between Buckley and Rand is well documented, but the two figures are synonymous according to Tanenhaus.

Clearly Tanenhaus did not intend this short polemic to be an authoritative critique, but unfortunately his ambitions far outstrip the length his thesis deserves. As a result, the reader is left with a highly compromised history.

Reviewed by Andrew Kemp

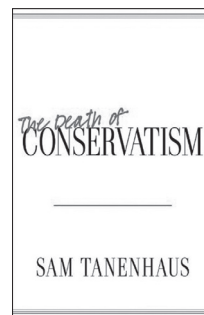
Prosecuting Heads of State
by Ellen L. Lutz and Caitlin Reiger (eds)

Cambridge University Press,
2009

US\$30, 348 pages

ISBN139780521756709

Forced disappearances, political corruption, ethnic cleansing:



Prosecuting Heads of State surveys the egregious governance practices that led to the eventual prosecution of kleptocrats and despots from across the globe. Edited by two human rights lawyers, with most chapters written by legal academics, the book provides an informative read for those interested in the prosecution of political leaders while illustrating the depths to which those leaders can sink.

Each chapter focuses on a separate political figure and the circumstances surrounding their prosecution. The crimes with which these leaders were charged are roughly characterised as constituting human rights abuses, corruption, or a combination of the two.

The case studies span the globe. We learn about the mechanics of public policymaking during Joseph Estrada's tenure as President of the Philippines—a process that combined late-night drinking, mahjong playing, presidential indifference to attending cabinet meetings, and blatant cronyism. We read about repression and violence in Charles Taylor's Liberia. We understand the context in which men such as Slobodan Milosevic and Augusto Pinochet acquired the reins of power, only to find themselves in the defendant's dock decades later.

Though written by international lawyers, the book does not concentrate on the technicalities of legal systems. Instead, the focus is on the political, legal and social forces that lead to attempts to incarcerate former heads of state. Each chapter also offers its author's insights into the hurdles faced by prosecutorial efforts and, where relevant, why such efforts failed to

bring perpetrators to 'justice.'

The strength of the book—which is its ability to concisely summarise the context in which the prosecution of a former head of state arose—is also one of its principal weaknesses: at times, the relaying of facts leaves too little space for analytical depth. Most chapters are simply too short to fully tackle all the pertinent issues flagged by their authors. More thoughtful analysis could have made the book a seminal analytical text. As it stands, it is a good read for those not acquainted with issues of international criminal law.

For example, the most promising chapter details an accusation of genocide against former Rwandan President Pasteur Bizimungu, which was used as a pretext to muzzle his opposition to the incumbent President Paul Kagame. This inherently *political* trial teases out issues pertinent to the prosecution of leaders throughout the world, not just Rwanda.

A theme running throughout the book, though not adequately addressed, is the question, 'In the context of prosecuting political leaders, what does it mean to achieve justice?' If, as in Bizimungu's case, a political leader is falsely accused of genocide, does this undermine the legitimacy of those advocating the increased accountability of political leaders? An inherent problem in any prosecution of a political leader is the risk of the perceived or real politicisation of the legal process: law, rather than being an impartial instrument, becomes a tool to vanquish one's political enemies.

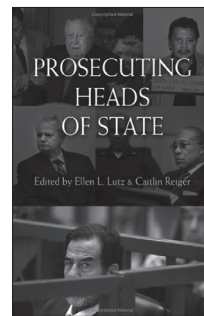
This difficulty is also manifest in selecting the most appropriate court—domestic or international—to try a political leader. Domestic legal systems, which constitute the default forum in international law for trials of crimes against humanity and genocide, as the book outlines, may be unable to resist political interference. The

International Criminal Court (ICC), while having procedures to prevent the bringing of vexatious claims, is also vulnerable to political interference: the ICC's Statute provides that the UN Security Council may defer any trial for up to 12 months. These

issues, the cause of much anxiety when prosecuting a head of state, are skirted over in the book.

A further issue is the prejudgment of guilt by human rights activists and lay persons prior to a judicial finding of such guilt. This problematic aspect of prosecuting controversial heads of state is evident in one concern addressed by the book: the failure to secure a conviction against Slobodan Milosevic. The former Yugoslav President contemptuously used his right to self-representation before the International Criminal Tribunal for the former Yugoslavia to stall and delay his trial, and died prior to the trial's end. Notwithstanding this lack of finding of guilt, it is taken for granted that Milosevic was guilty of the accusations levelled at him.

A similar phenomenon appears in the context of Saddam Hussein's conviction and death sentence for but a small proportion of the total crimes allegedly committed under



his leadership. It is simply accepted that he committed every other crime he was accused of.

What does this impulse, of condemning an accused before a theatre of public opinion prior to a judicial finding of guilt, mean for those advocating increased accountability for former heads of state? The phenomenon may be criticised for a number of reasons. It undermines the appearance of the impartiality of the legal order, and remains susceptible to accusations of 'victor's justice.' It also denies to the defendant fundamental rights of any accused, namely, the presumption of innocence and the need to establish facts before a court. Further, it risks tainting public opinion to such an extent that the defendant cannot obtain a fair trial.

Although the editors attempt to amalgamate and analyse the book's 10 case studies with one concluding chapter, more could have been done to address the myriad complexities that each chapter brings to the fore. Nevertheless, *Prosecuting Heads of State* is undoubtedly a good starting point for those desiring to learn more of the political and legal mechanisms, both international and domestic, available to hold heads of state accountable to the rule of law. It explains legal technicalities in a concise and intelligible manner and should appeal to those with an interest in law and international politics.

Reviewed by Chula na Ranong

Lessons from the Global Financial Crisis: The Relevance of Adam Smith on Morality and Free Markets

by Richard Morgan

Connor Court Publishing, 2009

\$19.95, 104 pages

ISBN 9781921427303

The recent global financial crisis—or, as it is regularly labelled, the GFC—and the accompanying recession in developed economies has generated a great deal of commentary, much of which looks somewhat over-stated as economies move out of recession. Melbourne businessman Richard Morgan's *Lessons from the Global Financial Crisis: The Relevance of Adam Smith on Morality and Free Markets* is a response to the financial crisis and the reactions that viewed it as a manifestation of greed encouraged and exacerbated by free markets.

Capitalist economies are famously prone to boom-and-bust cycles. The belief that somehow the business cycle had been tamed encouraged a certain amount of a rhetorical and analytical overshooting, but global events proved that it was not so.

Economists continue to argue about the cause of turmoil in the financial markets and the accompanying recession. Macroeconomics remains a discipline marred by a lack of agreement on basic concepts. When I studied first year economics, the first half of the year was microeconomics. I marvelled as this powerful engine of analysis was laid out before me. The second half of the year was macroeconomics. I marvelled as a collection of *ad hoc* notions, concepts and

interactions were presented as if rough equivalents of what had been offered in the first half of the year. In all my reading since—including stints in economics analysis areas in the public service—the contrast has not markedly lessened.

Viewed through the lens of long-term historical comparison, the recent recession was widespread and deep but hardly remarkable as downturns go. It certainly looms larger than the downturns since 1945, but the post-War period has seen more benign downturns than in the century before.

The analytical diversity (a nicer word than 'confusion') of macroeconomics does, perhaps, help explain why the United States seems determined to replicate the policy responses that gave Japan its 'lost decade' after the collapse of its bubble economy. A discipline without a strong, agreed, analytical framework may well be less able to assist resistance to strong political and other pressures. Of course, the highly general and abstract nature of macroeconomics might well mean that political pressures from within and without discourage it from achieving a robust analytical framework.

Certainly, it seems that the discouraging empirical data on the value of fiscal stimuli was remarkably easily ignored by prominent economists in favour of the much more encouraging—and easily presented—policy narrative that governments could borrow and spend us all out of recession. Australia alone among the major developed economies seems to have 'achieved' this, though there are grounds to doubt that we were likely to have much of a recession in the first place.