

of constitutional territoriality: In arguing that American legal norms should not extend overseas, the justices were arguing implicitly against the encroachment of other sovereign powers into the territory of the fledgling United States. However, as the United States became more powerful—and ultimately the world's hegemon—the Court began to defend extraterritoriality to the nation's advantage. And most recently is yet another example of strategic territoriality: placing the 9/11 detainees at Guantánamo in an attempt to disavow the connection between the law and the land, and to further the goals of the “War on Terror.”

This volume is carefully written, thoroughly researched, and compellingly argued. It will appeal to readers curious about some of the thorniest constitutional questions of the day. So, does the Constitution follow the flag? Raustiala does not provide a definitive answer to this question, but he provides the reader with the assurance that the answer to this question is still evolving, frequently in lockstep with American strategic interests.

#### Cases Cited

- American Banana Co. v. United Fruit Co.*, 213 U.S. 347 (1909).  
*Boumediene v. Bush*, 553 U.S. 723 (2008).  
*Dred Scott v. Sandford*, 60 U.S. 393 (1857).  
*Downes v. Bidwell*, 182 U.S. 244 (1901).  
*United States v. Aluminum Corp. of America*, 148 F.2d 416 (1945).  
*United States v. Verdugo-Urquidez*, 494 U.S. 259 (1990).

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*The Next Frontier: National Development, Political Change, and the Death Penalty in Asia*. By David T. Johnson and Franklin E. Zimring. Oxford: Oxford University Press, 2009. 522 pp. \$35.00 paper.

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By the time the Universal Declaration of Human Rights was promulgated in 1948, there were only eight independent states that had completely abolished the death penalty. When the International Covenant on Civil and Political Rights was approved in 1966, there were still only 26 abolitionist countries, several of them very small states. After 1988, however, the rate of countries abolishing the death penalty increased dramatically.

Today, 71 percent of states are either abolitionist in law or abolitionist in practice; that is, they no longer inflict or intend to inflict the ultimate penalty (Hood & Hoyle 2008: n.p.). A human rights dynamic, producing a new pattern of abolition, has been

responsible for this extraordinary change, a dynamic that started in Europe but has recently spread to other parts of the world. In *The Next Frontier*, David Johnson and Franklin Zimring direct their considerable expertise toward the question of whether this dynamic is likely to assist the abolitionist cause across Asia. In doing so they consider the extent to which “Asian values” might impede progress across the region.

The authors explore the changing penal landscape in Asia through comparative analysis and detailed case studies of certain countries. While only four Asian states (Nepal, Bhutan, Cambodia, and the Philippines) have so far completely abolished the death penalty, six others are now abolitionist *de facto*, including most recently South Korea. Johnson and Zimring focus primarily on retentionist jurisdictions in East Asia because of the high rate of executions there and because—as they acknowledge—they had to be selective, given the challenges of providing a comprehensive analysis of such a vast area.

Whilst they demonstrate that China, North Korea, Singapore, and Vietnam are prolific in their use of the ultimate sanction, their comparative analyses suggest a movement away from reliance on state execution elsewhere, with the death penalty seeming to serve little more than a symbolic function in some jurisdictions. More important, they show that when authoritarian states, such as South Korea, become more democratic, recourse to capital punishment declines. So what of the explanatory power of “Asian values”? Do some Asian states explicitly reject Western individualism and Western concepts of human rights, in preference of local cultures and traditions that place a greater value on social harmony and the good of the community? Not according to this commanding book. Johnson and Zimring show that neither culture and tradition nor crime control can adequately explain the retention of capital punishment across Asia. Instead, they turn the reader’s attention to politics; they show that authoritarian state power over the people provides much of the rationale for retention. In this thesis, China, Vietnam, Singapore, and North Korea are the more aggressive users because they are authoritarian regimes.

*The Next Frontier* is presented in three main parts. Part 1 provides detailed evidence of the variability of the administration of capital punishment across the region. This crucial “scene-setting” chapter shows that the authors do not fall into the trap of assuming the same dynamic and the same trends for all Asian jurisdictions. As with all good comparative research, it draws out trends across and lessons for the region as a whole, whilst being alive to the disparities between countries. Part 2 provides detailed and fascinating case studies of Japan, the Philippines, South Korea, Taiwan, and China. And in Part 3, the authors draw on these studies to

demonstrate the “Lessons and Prospects” for the region as a whole, in particular the prospects for abolition. The exhaustive appendices provide six “mini-chapters” with factual information on seven other jurisdictions (North Korea, Hong Kong and Macao, Vietnam, Thailand, Singapore, and India) and one on extrajudicial killings. I, for one, would have liked this final “appendix chapter” to have been developed within the body of the book.

Readers are provided with a considerable amount of rich empirical data, but this is so much more than a reference book. It tells a particular story of a continent and its relationship to capital punishment, and it does so persuasively, elegantly, and occasionally with wit. Furthermore, it is authoritative, as authoritative as it can be.

One of the main problems in producing any account of capital punishment in Asia is the lack of reliable data on the administration of the death penalty, especially in China, where the number of executions is a state secret. Even with their impressive knowledge of the area, the authors could not hope to provide a full and accurate account of all aspects of the death penalty across all Asian jurisdictions. However, this meticulously researched book goes further in that aim than any other, and those interested in the use of capital punishment around the world are much better informed about Asia for reading this book.

*The Next Frontier*, as the title suggests, is ultimately an optimistic book that provides reasons for expecting the current trend toward worldwide abolition to finally catch up with Asia and suggests how the current high rates of capital punishment might be reversed through political reform. Whilst considering what lessons can be learnt from Europe (the authors point out that Asia can and does heed the lessons from international law and norms), it considers the special, country-specific incentives and resources that might bring about abolition across Asia. Hence this book should be of interest not only to scholars, but also to activists, advocates, and legislators in Asia, and beyond.

## Reference

- Hood, Roger, & Carolyn Hoyle (2008) *The Death Penalty: A Worldwide Perspective*. Oxford: Oxford Univ. Press.