democracies. They set a high bar for the next generation of studies of immigrant political incorporation that analyze indicators other than naturalization and nationality.

The Immigration Battle in American Courts. By Anna O. Law. New York: Cambridge University Press, 2010. 280p. $90.00.
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— Luis Fuentes-Rohwer, *Indiana University*

The leading narrative of US immigration law in the federal courts is told very easily. Under the doctrine of plenary powers, the federal courts defer as a matter of course to the choices of other political actors. This means that noncitizens will not find any relief in the courts and must focus their efforts instead in the political process, a tall order for a disenfranchised population. Told this way, however, the story loses much of its richness and nuance. It is also woefully incomplete. In this important book, Anna Law challenges this conventional wisdom. Under the burden of a growing caseload, she argues, the federal courts have been forced to adapt accordingly. But different courts have adapted differently. The US Supreme Court has removed itself from the day-to-day handling of immigration questions and focused instead on its policymaking responsibility. In contrast, Law argues that the Courts of Appeals continue to play an error-correcting role while also finding room for its judges to express their policy preferences. This is a story where exogenous factors play a direct role in the development of institutions. It is not a linear and path-dependent story, by any means. Rather, Law offers a story in which immigration laws and the federal courts interact in dialectical fashion, and where each influences and shapes the other. The consequences for the immigrant litigant are significant.

The choice of immigration law as a topic of study is important. As the author explains in the introductory chapter, noncitizens are devoid of many rights in the American polity. For this reason, they offer an inimitable example of a "discrete and insular minority" deserving of judicial protection. But this very insight makes the immigration example a hard test case for the proposition that courts perform distinct functions because due to this lack of rights, it follows that the federal courts would be "marching in lock step" in this area of the law (p. 7). Here is where the empirical evidence gets in the way of this traditional story.

The book makes three general arguments. The first is that institutional context matters. The Supreme Court and the Courts of Appeals operate in unique institutional contexts, which in turn filter and shape the judges' perceptions of what their roles should be and how they should be filling them. For example, the Supreme Court is the court of last resort in the constitutional system, the one institution where final appeal lies. The Courts of Appeals are instead middle courts, designed to carry out the interpretations of the Supreme Court and nothing more. They have no independent will or interpretive space of their own. These two contexts have obvious consequences for the ways that judges view their roles. For a Supreme Court justice, the Court's caseload offers opportunities to affect national policy vis-à-vis Congress and the president. For Court of Appeals judges, however, their role consists of ensuring that district court judges conform to the Supreme Court's readings of the law. Their main role is one of error correction. Put another way, while a justice professes fidelity to law as he or she understands it, a circuit judge professes fidelity to the Supreme Court. Independence in this second context is at a minimum.

Second, the book argues that these judicial roles have changed over time. The advent of a growing caseload, coupled with jurisdictional changes as well as structural changes in the composition of the federal courts, means that the Supreme Court has evolved into an institution reserved for decisions concerning leading questions of law and policy. Law points to the Evarts Act of 1891 as the moment when the Court began to evolve into the policymaking institution it is today. Unsurprisingly, she further argues that the Courts of Appeals continued with their error-correcting function. But she further argues that the Courts of Appeals are also performing policymaking functions. That is, these courts are able to decide for themselves on the meaning of vague and/or unclear statutory language and whether to defer to other institutional actors or not. This is because of the pressures of a mushrooming caseload, coupled with the decreasing likelihood that the Supreme Court will grant certiorari on any given case. The Supreme Court can no longer monitor the Courts of Appeals adequately, nor does it care to.

Third, Law argues that as these institutional settings have changed and evolved over time, they have had direct and lasting consequences for every actor who must take part in the process and for the institutions themselves. For the noncitizen litigant, for example, pressures stemming from the huge caseload have led to a streamlined process that not only leads to long delays but often disposes of cases with no more than a cursory review. Circuit judges and their staff feel this pressure from a growing caseload as well, in the sense that they must spend more time deciding immigration appeals than other issues, and must also spend much energy trying to figure out how to handle these many cases properly. The different circuits have chosen to handle these problems differently; for example, whereas the Second Circuit has given special consideration to immigration appeals, such as the creation of a nonargument calendar where asylum cases could be decided without the benefit of oral argument, the Ninth Circuit has not.

From the vantage point of the noncitizen wishing to engage the immigration system, the overall picture presented by this book is not a good one. At the lower levels, and due to the burdens of a crushing caseload,

institutional actors are unlikely to pay these kinds of cases the time and effort they demand. Chances of a positive outcome for noncitizens are also in steep decline. As these lower levels streamline their processes and attempt to systematically relieve their dockets of cases, the burdens do not go away. Rather, they shift to the Courts of Appeals. This has meant that they have essentially become courts of last resort. But these courts are not equipped to give immigration cases the kind of review that they demand. This is a cost borne by all litigants within these courts and not only noncitizen litigants.

This is an important and much-needed account, and Law tells a persuasive story in her thorough and comprehensive book. And yet, before concluding, I want to highlight two particular areas that I would like to have seen examined with more care. The first is the question of plenary powers and national sovereignty and their use on the part of the US Supreme Court as avoidance devices. To be sure, Law underscores the use of these doctrines by the Court as tools of deference. But I think there is much more to that particular story. Think, in particular, of the decline of "political questions" as an area outside of judicial review. As the Court continues to expand its sphere of authority in most other areas of the law, why is immigration law an area where the Court continues to defer to the political branches? To invoke the plenary powers doctrine, in other words, is to choose to defer to the choices made elsewhere. But why is immigration law an area where the Court continues to defer? As Law points out in her last chapter, this is selective deference, since courts at all levels still find much-needed room to intervene when they so choose, under the aegis of procedural due process. How then to explain the Court's approach as an institutional question? Is this deference explained by the rising docket, a lack of will to take on the political branches, or a strategic calculation on the part of the justices about the likelihood of success?

The second is the question of judicial attitudes and preferences. The analytical approach of the book "posits that legal decisions are informed by the interplay of legal, strategic, and attitudinal elements" (p. 106). In making this claim Law sides, quite explicitly, with the historic-institutional school. And yet, the book sets aside the question of ideology, for it argues that the institutional setting mediates the influence of ideology on legal decisions. The author also spends little time discussing the strategic elements of judicial decision making in this area. She assumes, for example, the argument that racist ideology may explain some of the decisions in this area. Fair enough. But could one really understand the immigration debate as anything other than a political debate? And if so, how does that understanding affect the way that federal judges decide these cases? A similar argument can be made about the strategic model. The book explains quite persuasively why the federal courts have a great deal of policymaking space vis-à-vis the U.S. Supreme Court. But it does not fully explain why this policy space is not affected by the pressures exerted from the political process, be it Congress, the president, or state and local officials. Are the Courts of Appeals as independent in this sphere of authority as the book portrays them?

In asking these questions, I do not for one moment wish to take anything away from the value of the book. It takes a close and serious look at one of the leading debates of this generation. Anyone interested in the immigration debate, the role of the federal courts in the federal system, judicial behavior, or the interaction among these complex variables would be well served by it.

Seeking Asylum: Human Smuggling and Bureaucracy at the Border. By Alison Mountz. Minneapolis: University of Minnesota Press, 2010. 209p. $75.00 cloth, $25.00 paper.

Rethinking Asylum: History, Purpose and Limits. By Matthew E. Price. New York: Cambridge University Press, 2009. 279p. $83.99 cloth, $32.99 paper.

The Securitization of Humanitarian Migration: Digging Moats and Sinking Boats. By Scott D. Watson. New York: Routledge, 2009. 183p. $120.00.
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My coauthor Stephen Castles and I have argued that a distinctive period in global migration history began around 1970 when a confluence of factors precipitated what we term the Age of Migration. This era is demarcated by six general tendencies including the growing saliency of international migration-related issues in national politics as well as in bilateral and regional relations around the world. Each of the three volumes concerned with asylum and refugee issues considered here attests to that general tendency. Matthew E. Price reflects broadly about asylum and advocates a return to a strictly delimited asylum policy. Alison Mountz and Scott D. Watson focus on securitization of asylum and refugee policies with a comparative focus on Canada and Australia, countries long viewed as exemplary in the area of humanitarian policies. Mountz provides a very detailed ethnographic account, whereas Watson offers a constructivist account.

As specified by Watson, signatories to the 1951 Geneva Convention and the 1967 protocol, which lifted the geographic and temporal limitations of the 1951 convention, bound themselves to four norms—non-refoulement, legal processing of claims on an individual basis, nonarbitrary detention, and nonpunishment based on mode of entry. Since roughly 1980, many of the OECD states have strayed from strict adherence to these norms, leading some scholars to argue that the refugee regime created after World War II has been supplanted by a de facto new regime in