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# Book Review of The Riddle of All Constitutions: International Law, Democracy, and the Critique of Ideology

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### Democracy and Constitutionalism

*The Riddle of All Constitutions: International Law, Democracy, and the Critique of Ideology.* By Susan Marks. New York: Oxford University Press, 2000. Pp. 164. Price: \$49.99 (Hardcover). Reviewed by Evan Criddle.

In the wake of revolutionary changes in the political landscape of Southern Europe, Latin America, and Eastern Europe over the last three decades, some legal scholars have argued that international law has outgrown its traditional ideological neutrality. No longer should international law simply preserve peace through impartial Cold-War-style balancing. Instead, these scholars argue that international law must lay the foundation for a more secure and lasting peace by recognizing and fostering the emergence of a universal "right to democratic governance." In *The Riddle of Constitutions: International Law, Democracy, and the Critique of Ideology*, Susan Marks uses a critique of ideology to deconstruct popular formulations of this "'democratic norm' thesis" (p. 2). Marks's critique offers a penetrating analysis of the ways in which acceptance of a "democratic norm" actually stabilizes and perpetuates relations of domination, rather than promoting self-rule and political equality, as its proponents maintain.

According to Marks, acceptance of the "democratic norm" in international law would have tremendous consequences for national governments. For example, a democratic norm in international law would suggest that national governments derive legitimacy from internationally specified criteria. Only governments founded upon democratic principles would meet the standard set by these criteria. Marks admits, of course, that this position is vulnerable to attack on a number of fronts. First of all, the assessment that a democratic norm of governance is emerging is far from clear, especially outside of the Western world. Hence, forcing pro-democratic bias upon international law may represent a threat of neoimperialism. Second, even if a principle of "democracy" merits transnational application, narrow application of the "democratic norm thesis" might promote structural change in ways that would limit rather than expand democratic participation in decision-making processes.

Marks focuses her critique on the question of how this limitation on participation would come about. According to Marks, movements toward democracy often focus on "low-intensity democracy": reforming a limited set of structures and procedures while leaving deeper power centers fundamentally intact. Thus, restructuring of certain national political institutions will not deliver meaningful democratic reform as long as necessarily related objectives such as human rights, social justice, and civilian control of the military remain untouched. The institution of free and fair

elections will have little impact on common citizens while social and economic inequalities consolidate political power in the hands of only a few. Nominally democratic political structures will inevitably fail without the tempering influence of a vibrant public sphere where public policy may be molded, evaluated, and challenged.

Extending her analysis, Marks argues that the impact of “low-intensity democracy” upon a single nation can only be understood within a transnational context. As democracy spreads, it expands the boundaries of global markets and provides participants in these markets with greater access to resources as barriers to transnational capital flows dissolve. While newly liberalized economies may benefit from an influx of foreign investment and expanded markets for their own goods, they also fall under the economic and political hegemony of dominant Western states. In this way, fostering “low-intensity democracy” may entrench an uneven distribution of global power and resources. In addition, new access to transnational markets inevitably exacerbates uneven power-distributions within the new democracies themselves. With this socio-economic polarization comes increased social tension, which in turn provokes the political marginalization of subordinate classes. Thus, “low intensity democracy” inevitably self-destructs as the economic and social inequalities it fosters obliterate prospects for meaningful self-rule and political equality.

Marks further deconstructs “low-intensity” approaches to the “democratic norm thesis” by analyzing its uses as ideology. For the purposes of her critique, Marks defines ideology as “ways in which meaning serves to establish and sustain relations of domination” (p. 10). Like other ideologies, “low-intensity democracy” employs a number of legitimization and dissimulation strategies to establish its authority. For instance, supporters of “low-intensity democracy” resort to rationalization, suggesting that since “low-intensity” democratization is the only measurable, attainable goal, it must likewise be the best. At the same time, the “democratic norm” masks inequalities of decision-making power through devices such as unification, the “imaginary resolution of social and political antagonisms” (p. 65), and simplification, “presenting social life in reductive terms . . . [to hide] the unevenness and complexity of social processes” (p. 65). Similarly, reification of the term “democracy” and reliance on dichotomous reasoning (democratic vs. non-democratic) reduce the democratic ideal to a set of finite structural characteristics, while masking real political inequality among independent citizens. Such dissimulation strategies draw attention away from the fundamentally undemocratic realities at play in self-proclaimed democratic systems. Marks believes that this ideological conceptualization of democracy encourages policy-makers to approach democratization as a linear process in which the attainment of civil and political rights necessarily precedes and frustrates efforts to secure economic and social rights. Furthermore, this ideological screen masks the extent to which globalization reduces the power of national decision-makers over their citizenry by fostering dependence upon extra-national forces.

How might the “democratic norm” thesis be reformulated to overcome these ideological roadblocks and achieve more meaningful results? Marks believes that an important starting-place is the recognition that democracy is not merely an “institutional arrangement,” but rather “an ongoing process of enhancing the possibilities for self-rule and the prospects for political equality, against a background of changing historical circumstances” (p. 59). In this conception, human rights, civil liberties, the rule of law, and free elections are simply first steps towards democracy, not reliable indicators that democracy has been achieved. What is needed, Marks asserts, is not the recognition in international law of a democratic entitlement, but rather a “principle of democratic inclusion” (p. 109) that would “guide the elaboration, application, and invocation of international law” (p. 111).

Marks concludes her critique by sketching out the possible impact of this proposed principle of democratic inclusion. Democratic inclusion, she suggests, would strive to transcend the arbitrary self-limitations of the democratic norm thesis. In other words, it would encourage policymakers to address the complex interrelationship between social and economic forces and political decision-making power. It would take into account the political implications of contemporary globalization by addressing the effect of transnational political forces on national political agendas. Attention to the political and economic hegemony of dominant groups in the international arena would prompt broader forms of international regulation and accountability. The principle of democratic inclusion would ground efforts towards democratization of global politics.

Of course, Marks’s deconstruction of the “norm of democratic governance” begs the question of whether her own reconceptualization of democracy might not also serve as ideology. Marks concedes that her “principle of democratic inclusion” is no less susceptible to being used for ideological purposes. She affirms, however, that the system of ideological critique employed in her book provides a lens through which to discern and thereby eliminate any ideology to which her own “principle of democratic inclusion” might be subjected in the future. Even granting the obvious validity of this observation, troubling questions persist about Marks’s own work. If both the “democratic norm theory” and the “principle of democratic inclusion” may be made to serve ideology, why is one principle inherently superior to another? To what ideological end is Marks’s thesis likely to be applied? Why would her ideology be preferable to ideology associated with the “democratic norm” thesis?

Even more puzzling than Marks’s refusal to engage such questions about future ideological application of her own proposal, however, is her inability to confront in a meaningful way the ideology that controls her own basic assumptions about democracy itself. Why, for example, is democracy desirable at all? Why is it desirable on an international or transnational scale? How does the movement for acceptance of democracy on an international level transcend neoimperialist ideology, particularly Marks’s own book? Marks remains silent on these and many other troubling issues. Fortunately,

*The Riddle of all Constitutions* provides skeptics with an excellent critical paradigm for further interrogation of Marks's own unanswered questions.