Book Notices


Zakaria’s central claim in *The Future of Freedom* is simple: “that there can be such a thing as too much democracy.” Excessively populist politics can undermine the “bundle of freedoms” important to any liberal constitutional order—pluralism, open political discourse, property rights, religion, and the rule of law. Though it does not offer an abundance of fresh insights, the book is still an important contribution—as much for its timing as for its message.

Zakaria, the editor of *Newsweek International*, contends that liberty in the United States has been endangered by an excess of democracy. The political process has been so subverted by polls, campaign money, and special interests that politics is now under the thumb of a “hidden elite, unaccountable, unresponsive, and often unconcerned with any larger public interest.” This intuition has merit, but the conclusion tends to the hyperbolic. The remainder of the book, however, is much more nuanced, as Zakaria systematically demonstrates how foolish it is to believe that the mere accoutrements of democracy can be guarantors of fundamental civil and political rights. Holding elections in the 1990s did not, for example, prevent Russia from slowly “slipping toward . . . autocracy.” And, in the most important chapter, he argues that something similar would happen if elections were held today in much of the Middle East.

Zakaria ultimately contends that to transition successfully to liberal constitutional rule, fledgling democracies must be constrained by elite institutions akin to the U.S. Supreme Court. This seems fair enough. It is curious, however, that Zakaria barely acknowledges the role that elite global institutions—the U.N. Security Council, NATO, NGOs—might play in the process of democratization. Surely, Zakaria would agree, in the end it is impossible to reflect meaningfully on “the future of freedom” without speaking of globalization’s future, as well. It would have been helpful had he done so.

—M.S.B.

With the Supreme Court's recent rulings strongly disfavoring large punitive damage awards and a tort-lawyer-turned-senator currently running for President of the United States, John Grisham's foray into the ethically murky world of mass tort litigation is particularly well-timed. His thirteenth legal thriller recounts the spectacular rise and fall of Clay Carter, a young Washington lawyer. Overwhelmed and underappreciated at his job in the public defender's office, Carter accepts an opportunity to help Philo, a mammoth pharmaceutical company, obscure its role in a string of D.C. murders. Paid millions for his services, Carter uses his windfall to start a law firm specializing in mass tort claims against Philo's rivals. Using insider information, he quickly becomes the hottest mass tort lawyer in the nation. Ironically, it is the mass tort system that proves to be his undoing, when numerous disgruntled clients sue Carter for malpractice.

Grisham's implied thesis is oppressing in its clarity: The justice system has gone horribly awry, with mass tort litigation as Exhibit A. That system comprises as much of a "tort" as the litigated actions of the behemoth corporations. In service of his thesis, Grisham juxtaposes the starkest extremes of race, class, and morality. Attempting to highlight the insidious allure of the instant riches mass tort litigation promises, he portrays each of Carter's hesitating transgressions as forgivably small, taken in isolation. When the sum of these venial sins leads to terrible harm, we are foremost meant to blame the system, not the man. Grisham's approach is badly hobbled, however, by a cliché-driven plot that leaves little room for nuanced critique. Despite Grisham's failure to support his argument with substantive, realistic criticisms, the sheer power of his storytelling and forcefully simple thesis may yet move millions of casual readers to support serious reform of American tort law.

—B.E.N.