



shortest and most incidental of its five translated essays. What this second and retitled edition omits is Tribe's introduction. What it adds is Hennis' intellectual autobiography, in which he traces his early career as an academic and a social democrat, and his changing attitude toward Weber, but not his later becoming a major political commentator of the German right. This apparent transformation is, however, readily explicable in terms of the inherent conservatism of German practical philosophy.

The second volume by Hennis translates *Max Webers Wissenschaft vom Menschen*, published in 1995, and also includes a 'translator's appendix'. The five constituent essays by Hennis concern various aspects of Weber's thought, sources and pedagogy. The longest and most synoptic is the first: 'Max Weber's Science of Man'. Although all of these are of great interest for scholars of Weber, it must be added that this second volume will be of less interest to specifically political theorists than the first. This not only sets out Hennis' elemental conception of Weber's 'central question', 'theme' and science (or, as Hennis then happily called it, philosophy) of man — that of the relation between 'personality and life orders' — but also examines Weber's relation to the German Historical School of Economics and the relation of his 'liberalism' to his practical 'logic of judgement'. What the two volumes present is neither any new account of Weber as a systematic thinker, because Hennis denies that he was such, nor any systematic account of practical philosophy, because practical philosophy is set against systematization, but a coherent if diffuse account of Weber, which illuminates much about him and, also, about the conservative rationale of practical philosophy's account of the shaping of personality by social order.

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Kelvin Knight  
London Metropolitan University, UK.

## Democracy and the Rule of Law

Jose Maria Maravall and Adam Przeworski (eds.)  
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This informative, provocative and often witty collection of essays is the latest in the 'Studies in the Theory of Democracy' series from Cambridge, and emerges from a workshop on the rule of law organized by the Juan March Institute in Madrid in 2000. It ranges from Stephen Holmes' tribute to Machiavelli on the 'Lineages of the Rule of Law' through to Biancamaria Fontana on Montaigne, and includes studies of Pinochet's Chile and Italy, France, Spain, and Portugal as illustrations of 'the Latin tradition' in Europe. But the heart of the book — and, I suppose, it's *raison d'être* — lies in the attempt to develop what I would call a 'deflationary' approach to the law, in opposition to the more moralized, even moralistic, pictures that emerge from philosophers of law like Joseph Raz and Ronald Dworkin.

From the opening page of the volume, battle lines are drawn. On the picture that these authors wish to reject, people obey the law because it is the law, and the fact that a principle or command is law gives it a normative force that it would otherwise lack. But this picture of law, the volume argues, mystifies the way that laws actually come into being, and the reasons why they are obeyed: for these, centrally, involve calculations of self-interest by the politically powerful. As the Introduction succinctly puts it, summarizing Holmes' reconstruction of Machiavelli: 'Rule of law can prevail only when the relation of political forces is such that those who are most powerful find that the law is on their side or, to put it conversely, when law is the preferred tool of the powerful' (p. 3). This is a deliberately deflationary view of law, in that it treats law simply as one tool among others in struggles for political power, rather than seeing it as above, or apart from, the fray, as Dworkin does when he contrasts courts, as the location of principled argument, with the interest-based struggles of legislatures. The rule of law, in this picture, may be preferable to the alternatives, but it is, emphatically, the rule of men not of principles, a form of political struggle, not a substitute for it.

In many ways this is an appealing picture of the law, and, as the authors show, a fruitful one. It draws attention to the different ways in which people might coordinate their actions, make them predictable and attach sanctions to them, and so forces us to think harder about the specific attributes of law, and the reasons why law-bound behaviour arises and is maintained over time. It challenges us to explain why rulers agree to be bound by law; when and why political parties are willing to accept defeat in elections rather than attempt a coup; and, as Roberto Gargarella shows in his fine defence of majority rule against supporters of counter-majoritarian checks and balances, it can help us to address enduring controversies about the merits of judicial review, parliamentary sovereignty, and constitutional government itself. Moreover, one of the appealing features of this is the way that disputes among the different authors are highlighted and discussed, rather than buried or ignored. Thus, Holmes argues that 'The threat to withdraw cooperation.... provides a



more enduring motivation for the regularization of governmental power than the threat to inflict physical harm noted by Machiavelli and stressed by Przeworski' (p. 29) and Przeworski takes issue with Barry Weingast over the role of values, rather than per capita income, in explaining the instability of democracy in Latin America (p. 122).

There is much here to enjoy and to learn from and, like other books in this series, it will prove invaluable to empirical political scientists as well as to formal theorists and political theorists. Nonetheless, I was troubled by the aggressive, often strident, tone of some of the essays (notably those in the first part of the collection), and by the failure of the volume as a whole to address the appeal of the normative view of law. Why do people feel guilty when they break the law — is this really just an irrational or conditioned reaction? What evidence do we have that people really calculate the advantages and disadvantages of obeying the law, or are we to assume that when obedience simply becomes unthinking or habitual it is, nonetheless, reflective of people's interests? How should we explain — or explain away — the moral language surrounding the law and the institutions that make and enforce it? Some attention to questions like these, I believe, would improve this volume immensely and remove the sensation, at times, of being blared at by a preacher to the converted, rather than being helped to think about problems of mutual interest.

For example, Przeworski argues that each country has some threshold of income above which democracy survives independently of election results, because at that point everyone stands to lose more from subverting elections than accepting defeat. But there is no discussion of how these thresholds are set, of why they are country-specific, and of the evidence for these country-specific thresholds — although these would seem pertinent questions in an article that aims to rebut the idea that there are significant cultural determinants of democracy. Nor are we forced to accept the deflationary view of law in order to avoid the more high-flying approaches of Raz and Dworkin. Some middle ground between them seems theoretically possible and to exist in practice — for example, in the work of Jeremy Waldron — whose critique of Dworkin on normative and empirical grounds, unfortunately, barely registers in this volume. Finally, some attention to the variety of forms that law can take — or to the differences between public and private law, for example — might have helped to clarify the advantages of the deflationary approach to the law compared to the alternatives, and would have helped to remind us that the rule of law can take many forms, not merely that it can be institutionalized in different ways.

Annabelle Lever  
University College, London, UK.



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**The Critique of the State**

Jens Bartelson

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Bartelson's book begins with a paradox that has become familiar in recent years: on the one hand, many of us see the state as somehow in a period of transformation, if not crisis, and even query whether we are on the verge of its passing; on the other, we also remain frustrated by our apparent inability to think beyond the state, by the extent to which the idea of the state frames our core conceptual possibilities. Some of us respond to this apparent paradox by redoubling our critical efforts, seeking to loosen the hold of the state through the practice of critique. It is this practice that Bartelson explores in *The Critique of the State*. The emphasis of the book, in other words, is as much or more on *critique* as on the state, and it is most centrally focused on the role of critique in inscribing, as well as circumscribing, the authority of the state. It is intended as a 'diagnosis' (p. 3) of how we have arrived in the paradoxical predicament described above, and as an exploration of 'the possibilities of conceptualizing political order beyond or without the state' (p. 2). This is a tall task, and it is not undertaken lightly. The result is a serious and challenging book, one that provides a necessary focus for debates about critique, the state, and the possibilities for political order in contemporary times.

After an initial introduction setting out the approach of the book, and negotiating the complex conceptual terrain it requires, the second chapter explores how the concept of the state became constitutive of political science through the 19th century, providing the discipline with its identity, autonomy and authority. This was enabled in part by the array of analytical tensions the concept was able to contain and mediate. Equally important, however, is how the concept itself was modified in this process, becoming more transhistorical and indeed transcendent, and thus less open to some forms of critique, and becoming more subject to the authority of the emerging discipline of political science. Both changes, Bartelson argues, curtailed the rhetorical potential contained in the concept of the state.

The third chapter continues this analytical trajectory by exploring the paradoxical fate of the concept of the state in the discipline of political science in the 20th century, when it was simultaneously marginalized as an object of critical inquiry and assumed as the foundation of political order. This taking for granted of the state as the source of political order, through various strategies and assumptions, effectively 'ontologized' the state as the foundation