C. Neal Tate and Torbjörn Vallinder (eds), *The Global Expansion of Judicial Power*, New York, London: New York University Press (1995) xii + 534 pages + Index. $45.

Democratic decision-making gains its legitimacy from being rooted in the people; therefore accountability is a necessary condition for popular sovereignty and, ultimately, democracy. Judges are in general not democratically accountable (because they are supposed to defend minority rights against possible infringements by the majority), and therefore it is worrisome to many that judicial power appears to be expanding. The Research Committee on Comparative Judicial Studies of the International Political Science Association seemingly shares these worries and therefore organized a meeting on the subject of 'The Judicialization of Politics' in Bologna, Italy, in 1992. The papers presented have now appeared in book form, and they are without exception worth close study. The authors are all distinguished experts in the field of judicial processes – suffice it to mention Martin Shapiro, Alec Stone, Martin Edelman, or Christine Landfried. Their contributions have been carefully edited and meaningfully categorized by Tate and Vallinder according to the geographical-legal environment: Western common-law democracies, European Romano-Germanic democracies, and rapidly changing nations (the latter comprising the former USSR including Russia, The Phillippines and Southeast Asia, as well as Namibia). Tate and Vallinder have added an introduction, a theoretical analysis of the concepts and conditions, and a useful concluding remark summarizing and evaluating the findings.

The book has two main virtues. First, it provides the reader with valuable empirical data and profound theoretical background, both of which will make it an indispensable tool for students of the judicial process. Second, it introduces a new substantial aspect into the debate by distinguishing between 'Judicialization I' (meaning the expansion of judicial policy-making into realms that were previously dominated by majoritarian institutions – this is the classical notion of 'expansion of judicial power') and 'Judicialization II' (meaning the extension of court-like procedures into negotiating and decision-making arenas not previously characterized by such procedures). The latter represents a fresh look at this old subject, and it is the Conference's (and now the editors') merit of bringing this aspect to the attention of a wide readership.

However, the book also has a weakness. In its concern for the distortion of majoritarian processes it focusses almost exclusively on the conflict between the courts and the legislature. At first glimpse, this is more than plausible because parliaments constitute the epitome of a directly legitimized representation of the people. Yet, current sociological analysis recognizes a move to societal self-organization and introduces the concept of civil society. Hence, an alternative emerges to the question of how to allocate power between governmental organs of the State. In fact, here is an opportunity of overcoming the static distinction between State and society (which sometimes, if conceptualized in the Hegelian sense, can lead to detrimental results for a country's political process). This may sound theoretical – it is, however, of major practical importance which becomes very obvious, e.g., in H.G.P. Wallach's piece on the 'Reunification and Prospects for Judicialization in Germany'. Wallach suggests that the unification could have triggered a major increase in judicial policy influence. He finds that this has not happened and attributes it to the careful work of the architects of unification. These architects, as is well known, have been bureaucrats and party leaders, and the whole process, as professionally managed mainly by the executive branch, has first deliberately disregarded and then frustrated an energized populace. On the whole, it may not be unfair to establish that while the Constitutional Court was largely kept outside the process, the people was too,

which has ultimately contributed to the malaise many Germans feel *vis-à-vis* their political system. This side of the story is completely under illuminated in Wallach's account; and, theoretically speaking, it *has* to be because in 'The Global Expansion of Judicial Power', there is no room for the civil society. Therefore, some accounts remain somewhat incomplete.

Despite this caveat, however, it should be underscored that Tate and Vallinder's collection is both a deliberate, thought-provoking and empirically interesting contribution to a very important issue.

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Book Notes*

Winkelmann, Ingo (ed.), *Das Maastricht-Urteil des Bundesverfassungsgerichts vom 12. Oktober 1993*, Berlin: Duncker & Humblot (1994) 802 pages. DM 98; öS 765; sFr 98.

On 12 October 1993, the German Federal Constitutional Court (*Bundesverfassungsgericht*) cleared the way for the ratification of the (Maastricht) Treaty on the European Union by dismissing constitutional complaints contesting the Treaty's constitutionality.

The practical importance of the decision as well as its not so subtle invitation to self-reflection justify Winkelmann's project: a documentation of the whole legal and political process related to the Maastricht decision. Winkelmann carries out this task in an excellent manner. His collection of documents is thoughtfully compiled and edited with great care. Winkelmann brings together the legal documents exchanged by the parties to the case, the Court's catalogues of questions in preparation for the oral hearing, protocols from the hearing itself, the decision itself and further related legal documents. The annex features official reactions to the Maastricht decision, amongst others by the German Chancellor, the Federal Government, and the *Bundestag*. In all these documents, the enormous tension transpires, resulting both from the practical issues at stake and from the emotionally, even morally charged in reaching questions of self-definition. The legal disguise and the dry semantics of this collection of credos cannot hide the fact that under the surface a battle over individual and collective identity is fought. Insofar the documents reproduced speak for themselves, and it might have been more impressive to leave them alone and indeed allow them to speak for themselves. However, Winkelmann adds an introduction to his documentation. While this may reduce the immediate effect of the documentation, the introduction is altogether very useful. Winkelmann summarizes the most important legal issues, the main points of the decision, and gives a little outlook (the contents of which are surely debatable). He adds a comprehensive bibliography listing all publications on the decision and beyond until mid-1994.

A special virtue of Winkelmann's documentation is the fact that it includes English and French translations of the Maastricht decision (as well as a Spanish translation of its head notes), thereby acknowledging its truly transnational repercussions. This book clearly enriches the discussion of the Maastricht ratification process and should be present on the shelves of every constitutional or European law scholar.

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* Publication of a book note does not preclude subsequent fuller review.