

represent a more fruitful arena for studying the effect of symbolic representation.) And while this does not substantially undermine the book's conclusions, the comparisons of the Rehnquist Court with its predecessors is limited by the fact that much less public opinion data exist the farther one goes back in history. Marshall, for example, finds 111 pairwise matches for the Rehnquist Court but only 21 for the Warren Court (p. 36), which (particularly given the book's finding that the Court is more likely to match public opinion on the high-visibility issues more likely to have been polled) may represent a skewing of the data that makes previous Courts look relatively more majoritarian than they actually were.

These minor quibbles aside, however, this is a fine piece of work that will be of interest to scholars interested in questions about the Court and democracy, and it will make assumptions about the counter-majoritarian nature of courts even more difficult to sustain.

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*Rejecting Refugees: Political Asylum in the 21<sup>st</sup> Century.* By Carol Bohmer and Amy Shuman. London and New York: Routledge, 2008. Pp. xi+288. \$39.95 paper.

Reviewed by Diana Yoon, University of Massachusetts, Amherst

*Rejecting Refugees* is about stories: stories of individuals who have survived violence and threats to their safety and freedom before seeking asylum in the United States or the United Kingdom, and how the asylum process requires those stories to be presented. Written by a sociologist with experience working with asylum applicants as a volunteer lawyer and a scholar of folklore and personal experience narrative, the book offers a valuable account of contemporary asylum policy in the United Kingdom and the United States that centers "the narratives of those who have direct experience of asylum" (pp. 3–4).

The book is organized around Bohmer and Shuman's concern with the failures of the asylum process: "Our central thesis is that the questions we ask, as well as the way we ask them, about the identity of the applicants, the credibility of their stories, and the possibility that they will face persecution should they return to their countries, may not be the most necessary or useful means for determining who is a genuine asylum seeker" (p. 3). They illustrate this argument with material from interviews with asylum applicants and individuals providing legal and other assistance to them, and from observations of asylum hearings.

The first two chapters provide a brief history of asylum policy and a description of the application and adjudication process in the

United States and the United Kingdom. The authors highlight developments in the law and politics of asylum in recent years, which, they argue, “guarantee that only those few applicants defined within certain cultural and political frameworks are classified as ‘genuine’ asylum seekers deserving of protection” (p. 33). Detention, expedited removal, and other discretionary practices are features of “the arbitrary system” of asylum (p. 78).

The most compelling contribution of *Rejecting Refugees* is in its detailed discussion of cases. In line with the tradition of sociolegal scholarship that insists on examining law in practice, the book shows the asylum process at work through chapters focusing on identity, credibility, the definition of persecution, and gender in asylum. Bohmer and Shuman show how constructing an asylum claim requires sufficient documentation to corroborate the applicants’ identity and claims of persecution, but not so much as to arouse suspicion for being excessively well-prepared (p. 121). Applicants must give a comprehensive and chronological account of their journey to the United States or the United Kingdom, repeat their stories in minute detail with consistency (pp. 137–8), and field “questions that require the memory of an elephant” (p. 42). Methods of evaluating cases reflect an intense interest in uncovering fraudulent claims, and as documented in the chapters, they create standards of proof that even “genuine” cases cannot meet. Considering how measures of credibility in the asylum process render applicants’ testimonies untrustworthy, it is not surprising that scars can be more effective than words in making a successful claim (pp. 127, 260). Asylum officers and adjudicators make assumptions of what is “reasonable” or plausible in evaluating the motivations and behaviors of asylum applicants, their persecutors, and other individuals involved in testimonies, which is problematic considering that asylum officers have “limited knowledge of other cultural life experiences” (p. 159). Gendered notions of what constitutes political activism and persecution become obstacles for female applicants whose activities and the forms of violence they have experienced are not seen as political. On the other hand, “practices that asylum officials in the West regard as ‘barbaric’ elements of culture,” such as female genital cutting, are more readily recognized as legitimate grounds for asylum (p. 219).

One only has to look at recent newspaper headlines about the plight of Iraqi asylum seekers or the U.S. Haitian interdiction policy to see the urgent importance of Bohmer and Shuman’s call for a fair and effective asylum process that does not criminalize asylum seekers. The authors offer several informed and nuanced policy recommendations but acknowledge that the fundamental difficulty is in managing the tension between security concerns and humanitarian values: “In our enthusiasm to protect ourselves from

terrorists and hordes of economic migrants, we run the risk that we will turn away those who need our protection most” (p. 268). Others might suggest that the bigger challenge lies in the fact that noncitizens, including asylum seekers, are excluded from the sphere of citizenship rights; the long-standing discourse of foreigners as either potential threats to the nation or subjects of the nations’ compassion and humanitarian care leaves little room to argue for their legal entitlements.

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*Decisions to Imprison: Court Decision-Making Inside and Outside the Law.* By Rasmus H. Wandall. Aldershot, United Kingdom: Ashgate, 2007. Pp. xi+203. \$99.95 cloth.

Reviewed by Hadar Aviram, University of California, Hastings College of the Law

Recently, a growing body of literature has examined the implications of Luhmann’s systems theory (Luhmann 2004; Teubner 1989) for understanding the legal system, both theoretically (Pribean & Nelken 2001) and empirically (King & Piper 1990). Wandall’s book is a welcome contribution to the latter category for two reasons: first, it revives the classic criminal courtroom research tradition, redirecting its focus from organizational case processing to the substantive sentencing process. Second, it is set in Denmark, which offers foreign readers a peek into a realm of less punitive criminal justice discourse, more prevalent alternatives to imprisonment, and a more flexible sentencing scheme. Wandall’s book focuses on a crucially important court decision, namely, whether to imprison a convicted offender. The book uncovers the legal considerations behind this decision and their permeability to external ideas.

The book opens with a concise explanation of the relevant aspects of Luhmann’s theory (particularly, legal closure and contextual openness), providing a workable and not oversimplified introduction to their interpretation in the legal context. Following a brief overview of the sentencing system in Denmark, Wandall presents his methodology, which follows the solid tradition of ethnographic courtroom research, combining statistical analysis with observations and in-depth interviews. He uses it, however, to examine substantive ideas and concepts, rather than systemic and bureaucratic constraints.

Wandall’s multivariate logistic regression model explains the decision to imprison as a function of three groups of variables: offense-related (severity of the offense and prior offenses), system-related (specifically, whether the defendant sought a “full layman trial,” before a judge and two laymen, or a shorter “summary