rather than provoking conflict with the host state. One recurring phenomenon he reports is that even when the U.S. government has been prepared to issue licenses or waive prohibitions in these situations, U.S.-based multinationals usually have not pursued the business with target states—out of patriotism, concern about consumer reaction in their home markets, or doubt about the creditworthiness of the target states.

Rodman devotes one chapter to a different pattern—the efforts by the United States to influence U.S. firms in their relations with the state in which the subsidiary is established, that is, in Angola in the 1970s, in Nicaragua in the 1980s, and in South Africa until the end of apartheid. Of course, the U.S.-owned subsidiaries in this situation were caught in the middle, and by and large, as Rodman demonstrates, the U.S. government has been understanding and even tolerant. The target state is by definition an adversary, and so its protests and its calls upon international law and tradition do not resonate very loudly. But that makes one wonder whether the concerns about sovereignty, or about the corporate form and the separate-entity doctrine, really stand up.

No one really doubts that McDonald’s and Exxon and General Electric are American, Siemens and Volkswagen are German, Mitsubishi and Toyota are Japanese. Surely most observers in developed countries, and, indeed, most developing countries in the last quarter century, have abandoned the Calvo doctrine, which holds that a foreign-owned corporation is to be treated for all purposes as a domestic corporation of the host state.12 The World Bank Convention on the Settlement of Investment Disputes (the ICSID Convention), more than a thousand bilateral investment treaties, and the North American Free Trade Agreement all abandon that view and recognize the link of the foreign subsidiary with the parent corporation and the host state. Many countries require multinational corporations to file consolidated financial statements and tax returns. NGOs constantly call upon multinationals to cease trading with Rhodesia, investing in South Africa, using child labor in Central America, selling baby formula in countries with bad water, paying taxes and royalties to governments that brutalize their citizens. Arguments that all of these activities are carried out by foreign subsidiaries separately incorporated make no impression, and indeed are hardly heard anymore.

Why, then, is it unacceptable for the home state to apply its political controls, or some of them, to subsidiaries, as it applies them to the parent corporation? I have wondered about this question for a long time, and I am not satisfied with simple answers about sovereignty. More sophisticated efforts about reasonable expectations, such as those made by the Restatement, help a little but not enough. Is it the secondary effect—the use of sanctions to impose the views of the United States on trade from country A to country B—that becomes unacceptable and perhaps illegal? Is it the political character of the controls, in contrast to health or environmental or revenue measures? Something else still?

I cannot say that Rodman’s book answers these questions. But if reading this book, and pondering the twenty or thirty episodes that he describes made me think through the problem of subsidiaries and sanctions once again, it may inspire other readers as well, whether they be policymakers, lawyers, or students of contemporary events.

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We all know there is a crisis in global governance. Critics, ranging from street protestors in Seattle to Nobel Prize–winning academics, question the efficacy of global economic policy and the legitimacy of global institutions. They tell us that rigid and undemocratic institutions with power over the world economy are promoting skewed policies that favor the few and hurt the many.

For some, the problem can be summed up in one word: “globalization.” Globalization is portrayed as a demonic force that weakens authentic cultures, erodes the power of national governments, and subordinates social and environmental goals to economic imperatives. For those who accept this stark portrait, there are few, if any, benefits to be gained from closer economic integration, while the costs are immense. In such a vision, the only viable course would be to slay the dragon by opposing globalization. It is therefore no surprise that the antiglobalization movement has stirred strong emotions and unleashed substantial energy.

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Although *Governance in a Globalizing World* does not directly refer to the antiglobalization movement, the challenge it has raised to continued global economic integration is a subtext in this collection of seventeen essays by twenty members of the faculty at Harvard University’s Kennedy School of Government. The book, one of a series produced by the School’s Visions of Governance in the 21st Century Project, seeks to illuminate relations between many aspects of the globalization process and issues of governance at the local, national, and global level. Subjects include recent trends in globalization, the relationship between globalization and domestic governance, and the governance of globalization. The authors recognize that “globalization” is a multidimensional process through which the world is increasingly tied together by “networks of interdependence at multi-continental distances” (p. 2).

It is not easy to find a common thread in a volume that covers so many topics, involves so many authors, and claims to cover all aspects of globalization. However, the book devotes a great deal of attention to the economic dimensions of globalization, and there is one theme that appears in many essays: how can a world economy be managed to ensure that the benefits of integration are widely shared while the costs are minimized? Some readers would think this is a nonissue. The antiglobalization movement asserts that the costs will always exceed the benefits and no degree of “management” can change that fact. On the other hand, market fundamentalists in the proglobalization clique believe management to be unnecessary since the market itself will lead to an optimal solution. The consensus in this volume, however, is that an optimal solution, while possible, can be achieved only if the right disciplines are imposed, the right institutions created, and the right regulations framed. These scholars understand that globalization can create losers as well as winners. But they believe there are ways to achieve substantial net gains, as long as we put the right institutions and policies in place.

Anchoring this faith is a piece of stylized history mentioned first by Robert O. Keohane and Joseph S. Nye in the introduction, and then by Dani Rodrik in the final chapter—that the post–World War II system enshrined in the original Bretton Woods agreements and dubbed “embodied liberalism” successfully preserved a balance between a relatively open international economy and national efforts to control markets, ensure a measure of equality, and protect citizens against risks. According to Keohane and Nye, “The compromise of embedded liberalism that created a social safety net in return for openness was successful in the second half of the 20th century . . . . [T]his compromise worked to combine economic globalization with some domestic autonomy for democratic politics” (p. 16).

It is important to understand what this regime did and how it managed to maintain a balance between openness, democracy, and economic fairness. Embedded liberalism was an *international regime* that operated to facilitate *domestic* politics and shield *domestic* systems of economic regulation and social protection in advanced capitalist countries from global shocks. It allowed individual nations leeway to regulate the economy, promote employment, insure against economic risks, and redistribute income. It supported democratic politics at the national level, ensuring that when governments exercised the powers safeguarded to them by the international regime, they would act in the best interests of their citizens. This system combined efficiency with legitimacy: its great virtue was that once the international machinery was set in motion, the nation-states had effective authority over their economies, major political choices could be made at the national level, and national governments could be held accountable through democratic processes.

This system has come unstuck. As trade barriers fall and cross-border economic activity grows easier, national markets are much more vulnerable to global economic forces. Capital is more footloose. Global institutions like the World Trade Organization have become more powerful, and their reach into domestic policy, more extensive. It is no longer possible to rely exclusively on national governments, protected by a Bretton Woods umbrella, to preserve the mixed economy. If we are to reinvent embedded liberalism for this new age, and develop an efficient and legitimate regime for a very different set of economic conditions, we need a new vision for how to manage the world economy, new institutions, and a new politics.

Two questions confront anyone who seeks to reinvent embedded liberalism for the twenty-first century. First, how can we ensure effective control

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of markets and adequate protection against economic risks if nation-states no longer have the leverage they once enjoyed? Second, to the extent that any new regime must provide a much larger and more substantive role for institutions at a supranational level, how can we ensure that such institutions are accountable?

The editors of Governance in a Globalizing World recognize the importance of these questions of effectiveness and legitimacy, and the book takes a stab at answering them. In the introductory essay and some of the chapters, one can discern elements of a new vision based on five ideas: subsidiarity, multilevel governance, multiactor politics, networks, and prudential limits to globalization. "Subsidiarity" recognizes that even though national capacities can be limited by globalization, and though supranational bodies must play an increasing role, the nation-state is both the primary source of democratic legitimacy and the most powerful actor in global governance; consequently, anything that can be handled at the national level should be kept there. "Multilevel governance" recognizes that governance increasingly involves coordination of multiple levels of government, as tasks once focused at the national level are either taken over by supranational institutions or devolved to local units. "Multiactor politics" recognizes that new actors, particularly corporations and NGOs, have joined national governments and international organizations as key players in global governance and must be integrated into policy processes. The stress on "networks" takes into account that much of the work of governing the world economy is conducted through networks of one kind or another, and that any realistic system of governance must build on these processes and relationships. In addition, the idea of "prudential limitations" on the scope of globalization reflects the view that real tensions exist between the imperatives of economic integration and important national values, so that integration policies must be flexible and nations must be able to opt out of global processes and requirements from time to time.

The authors of the introductory essay tell us that this vision rests on an oddly named principle called "networked minimalism," which they offer as the way to reinvent "embedded liberalism" for the twenty-first century (p. 14). The governance system they conceive is networked in the sense that policies will be made and implemented through nonhierarchical, transnational, multiactor, multilevel networks. It is minimal because it allows for flexibility and places prudential limitations on economic integration.

While networked minimalism might sound like a simple idea, it harbors great complexities and presents issues that the current volume fails to address. For example, there is nothing "minimal" about the book's concept of networks. Rather, as several authors make clear, the vision calls for larger and more complex networks than we have known in the past. Important transnational networks have been operating for a long time in specific issue areas, linking elites in the public and private sectors, and exercising significant power. "Networked minimalism" accepts the existence of such networks, but does not take them as they are. While traditional networks were often effective, they were rarely, if ever, open and democratic. Perhaps in the regime of embedded liberalism, they did not need to be either. One could argue those networks were quite technocratic in the best sense: they were limited to making technical adjustments within a political vision shaped by democratic leaders and designed to empower national democracies as much as possible. But no one thinks that such a political consensus still exists. The networks of today are clearly engaged in making policy, and those policies may have a significant impact on important national values.

This means that the architects of today's networks must devise ways to expand both participation and the role the networks play. They must design networks that can engage both the public and private sectors; include local, national, and international levels; foster openness; integrate new actors like NGOs; facilitate transnational deliberation; and operate with great transparency. This is an ambitious program, one the book only partially fulfills. In the useful chapter on "Globalization, NGOs, and Multi-sectoral Relations," Brown, Khagram, Moore, and Frumkin trace the growth of the NGO sector and sketch ideas of how NGOs might interact with intergovernmental organizations and other actors. But there is little discussion anywhere in the volume of how all the various actors, levels, and issues envisioned in the expanded network system can be brought together effectively. Nor is much said about ways in which networks, whether of the old or new style, can be

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3 The name for this new system is hardly likely to stir passions: it is difficult to imagine anyone marching through the streets of Washington, Brussels, or Geneva demanding, "Networked minimalism!"

4 But see Hoxse, supra note 2.

5 For a useful analysis of the issues involved in making an "expanded network" idea work, see id.
made accountable, although this issue has sparked much recent scholarship.  

If there is nothing "minimal" about the volume's concept of networks, there is little of networking in the discussion of minimalism. The idea that we should temper the scope of economic integration in the interests of democracy and stability is most fully developed in the final chapter by Dani Rodrik on "The Governance of Economic Globalization." This chapter continues the theme of reinventing embedded liberalism for the twenty-first century and presents as its central idea what Rodrik calls the "political trilemma of the world economy"—that it is impossible fully to integrate national economies while at the same time maintaining open, democratic mass politics at the nation-state level. Thus, in theory there are three choices: (1) curb integration while retaining the nation-state and mass politics; (2) expand integration and the nation-state, but insulate the state from mass politics; or (3) reduce the role of nations and create a democratically accountable world government that could manage a fully integrated global economy. However, because for now, at least, the third option is a chimera, the only real choice we have is between robust democracy and full integration. Rodrik proposes a number of policies he thinks would provide for the maximum degree of integration consistent with the maintenance of democratic politics at the national level.

Rodrik's excellent chapter makes a strong case for placing some limits on economic integration and fleshes out what Keohane and Nye call "minimalism" by outlining several economic policies that would allow flexibility in the imposition of integrating disciplines. However, he does not go on to relate these policies to issues of institutional reform or political action. Nor does this chapter address the question of whether such policies would be advanced if we fostered expanded multilateral, multilevel, multissue networks of the type favored by Keohane and Nye, or made international economic institutions more open and accountable and thus more likely to respond to all the actors within such networks. This seems ironic because one would think that the very goal of the expanded network concept is to soften the trilemma by democratizing international organizations and governance processes and reducing the tension between international economic policies and core domestic values.

To fulfill the vision sketched in the book, it would be necessary to show how multilateral networks operating in transnational space could help make regional and global economic institutions more democratic; support and carry out international policies less likely to clash with important domestic values; and reduce domestic opposition to expanded international cooperation. Lest one dismiss this as pie-in-the-sky, one should observe current examples in the European Union of "networked minimalism" at work. The EU has recently created a governance system that combines a minimalist approach to integration with the use of expanded networks to ensure more effective deliberation and democratic legitimacy. Termined the "open method of coordination," the system combines agreement on common objectives, nonbinding guidelines, and statistical indicators with efforts to involve public and private actors at local, national, and European levels in the development and assessment of policies. Yet it leaves final policy decisions in areas like employment and social inclusion policy to the national governments.  

To fully integrate this book's ideas of networks and minimalism, and take the questions of effectiveness and legitimacy seriously, we need a radical rethinking of the relationship among nations, international institutions, and nonstate actors of all types, as well as development of new ideas about the nature of democratic legitimacy. While some of the essays in the book start this process, not all the authors take up the challenge of the expanded network idea. Cary Conglianese's excellent chapter on "The Design of International Institutions," for example, analyzes options for cooperation both among nations and between them and international organizations, but says little about the possible role of expanded networks in policymaking. Those chapters that do address the network idea, for example, the chapter on "Environmen
tal Globalization" by William C. Clark, only begin to explore the problems involved in creating

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transnational networks with expanded participation and enhanced roles.

These omissions reveal the weakness of the volume. While the editors have assembled an impressive array of authors from different fields, and the book is full of useful information on a wide range of issues from culture to legal transplantation, the individual contributions frequently stay within traditional boundaries, and there is relatively little dialogue among the chapters. The chapters tracing trends in globalization, albeit mixed in quality, do help flesh out the picture of a multidimensional process that includes increasing economic integration. But the section discussing the impact of globalization on domestic governance neither picks up the theme of embedded liberalism nor points toward the issues that a new system of global economic governance would have to cope with. This section fails fully to deal with the impact of globalization on the ability of nations to manage their economies or preserve their welfare states. Yet these are the core of the challenge that "minimalism" is designed to meet.

For those who seek ways to harmonize globalization with social justice, and supranational governance with democracy, Governance in a Globalizing World provides useful information, makes a promising start towards a new vision, raises many good questions, and offers a few helpful answers. But we will have to wait a little longer for a comprehensive study of methods to reinvent embedded liberalism for the twenty-first century, let alone a complete analysis of the relationship between all aspects of globalization and matters of governance.

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It has been more than twenty years since an annual digest of United States practice in international law was published, and more than a decade since a multiyear version appeared. This has been due principally to a lack of resources, but also resulted from the increased volume of international law practice. Practitioners, professors, government officials, and associations like the American Society of International Law objected strongly when production of the digests ceased; now, after years of lobbying for their resurrection, two digests have been published.

Reviews of digests are difficult because they are reference works that tend to be used in very individualistic, idiosyncratic ways. It is problematic to assume that utility for me is generalizable much beyond my situation. Further, the appearance of two digests provokes comparison—potentially unfair, given differences in mission and scope. Finally, the role that digests should play in the Information Age, when so much international legal material is available on the Internet, is an open question.

I would like to start by drawing an important distinction between these two volumes. Sally Cummins and David Stewart work in the Office of the Legal Adviser at the U.S. Department of State, and the digest they edited represents the State Department's point of view. While the International Law Institute published this work (hereinafter Official Digest), it should be noted that "[t]he contents of the Digest, including selection of documents and preparation of editorial commentary, are entirely under the auspices of the Office of the Legal Adviser" (p. iv). This is an observation, not a criticism; after all, Cummins and Stewart endeavor to fill the shoes of Francis Wharton, John Bassett Moore, Green Hackworth, and Marjorie Whiteman. In the introduction, Legal Adviser William H. Taft IV explains that Official Digest "represents the renewal of an important effort by the Office of the Legal Adviser" (p. xv). The editors in their introductory note state that Official Digest "continues a time-honored practice dating back to 1886 of providing the public with a ready source of current information on the views and practice of the Government of the United States in the arena of public and private international law" (p. xix). Furthermore, this digest is intended to be an annual publication.

Sean Murphy's United States Practice in International Law, Volume 1: 1999–2001 (hereinafter U.S. Practice) is derived substantially from his ongoing

1 See FRANCIS WHARTON, INTERNATIONAL LAW DIGEST (3 vols. 1886); JOHN BASSETT MOORE, DIGEST OF INTERNATIONAL LAW (8 vols. 1906); GREEN HACKWORTH, DIGEST OF INTERNATIONAL LAW (8 vols. 1940–44); MARJorie WHITEMAN, DIGEST OF INTERNATIONAL LAW (16 vols. 1963–73).