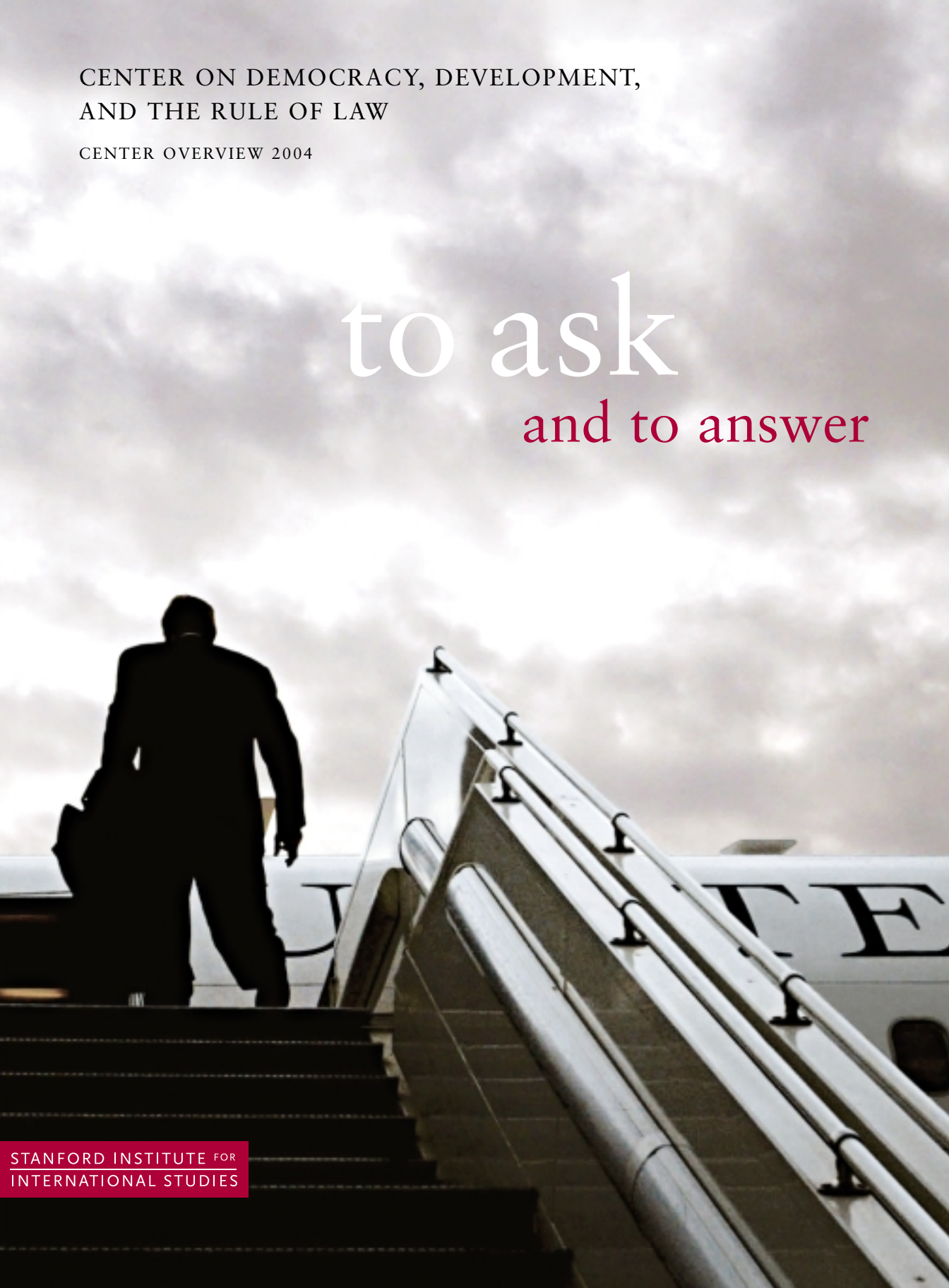
CENTER ON DEMOCRACY, DEVELOPMENT, AND THE RULE OF LAW

CENTER OVERVIEW 2004

to ask
and to answer



STANFORD INSTITUTE FOR INTERNATIONAL STUDIES

Cover Photo: A U.S. policymaker steps aboard an aircraft in Tashkent, Uzbekistan February 25, 2004.

Hard Questions, Limited Knowledge

The promotion of democracy, development, and the rule of law in badly governed states is the great challenge of our time. Researchers and faculty at the Center on Democracy, Development, and the Rule of Law are addressing the hard questions posed by governance failures, economic stagnation, corruption, and instability. Our goal is to identify the most effective ways to foster democracy, promote balanced and sustainable economic growth, and advance the rule of law.

It gives me great pleasure to introduce you to the Center on Democracy, Development, and the Rule of Law (CDDRL), the newest addition to the Stanford Institute for International Studies (SIIS).

Few political observers would have predicted just how much the world has changed following the tragic events of September 11, 2001. The subsequent United States led invasions of Afghanistan in November 2001, and Iraq in March 2003, have provided us with a new set of international issues to tackle. In response to these events, and as part of ongoing research interests on the part of Stanford faculty, SIIS established CDDRL in cooperation with the Graduate School of Business and Stanford Law School, and with the generous support of the William and Flora Hewlett Foundation in the fall of 2002.

The timing of the Center's founding could not have been more appropriate. In its short history, CDDRL has pursued actively its core goals of creating and sustaining a multidisciplinary intellectual community to identify promising pathways to the construction of prosperous, peaceful, and democratic societies in parts of the world where such features have been in short supply. The picture of the policymaker on the front of this brochure captures the difficulty of the challenges that CDDRL has been created to address: there is no option other than engagement even though our knowledge is limited and the policy tools available inadequate.

CDDRL exists both to ask hard questions about these new issues in the international community and to engage international policymakers and leading academics in devising new approaches and answers. We recognize that these are formidable issues, but they

are particularly urgent and solutions to them are desperately needed in the current international context.

Our workshops, conferences, and seminars throughout the past year have explored ways in which new states can lift their populations out of poverty, resolve civil wars, and improve their judicial and legal systems. We have worked with representatives of international institutions like the World Bank and International Monetary Fund in exploring innovative approaches to these issues. Our researchers have also collaborated with scholars from other leading universities within the United States, Europe, and the Middle East in pursuing answers to these hard questions.

In the following pages you will be introduced to the fascinating work of a number of our researchers. It is a privilege to work in this environment with such talented people. I am proud of what the Center has accomplished so far and look forward to its continued success.

I thank all the CDDRL researchers and staff who contribute to bringing the best that Stanford has to offer to the promotion of a safer and more stable future for the people of the developing world

Stephen D. Krasner

Graham H. Stuart Professor of International Relations, Professor & Senior Fellow at SIIS, Director, Center on Democracy, Development, and the Rule of Law

Center on Democracy, Development, and the Rule of Law, Stanford Institute for International Studies

"...engaging in high quality research, and developing a growing presence in the policy world..."

Throughout 2004, our second full year of operation, the Center on Democracy, Development, and the Rule of Law (CDDRL) was a hub of activity. The weekly research seminar for the CDDRL and Stanford communities frequently drew standing room only crowds. Speakers included CDDRL fellows, Stanford faculty, and members of the policy community. In addition, the Center hosted policy practitioners from the United States and abroad actively working on the concrete problems of democracy building, economic development, and constitution drafting.

In these ways, the Center is fulfilling its objective of not only engaging in high quality research, but also developing a growing presence in the policy world to widen the impact and applicability of our research findings.

Our researchers work in four related areas: democracy, development, the rule of law, and sovereignty. The coordinators of these four areas come from sociology, economics, law, and political science, and from three different schools at Stanford: Law, Business, and Humanities and Sciences, as well as the Hoover Institution.

Through these programmatic areas, CDDRL sponsored a variety of workshops and conferences. The Program on Democracy (led by Larry Diamond, Terry Karl, Gail Lapidus, and Michael McFaul) continued to explore issues of democratization and state building in 2004 with a workshop entitled "Afghanistan and Iraq: An Interim Assessment."

This workshop compared these two U.S. led efforts at state building since the tragedy of September 11, 2001. Drawing on Larry Diamond's own on the ground experiences in Iraq (featured later in this overview) in the spring of 2004 as an advisor to the Coalition Provisional Authority, as well as the insights of Francis Fukuyama, Dean of the Faculty at the Paul H. Nitze School of Advanced International Studies, Johns Hopkins University, the workshop provided detailed assessments of post war Iraq and Afghanistan.

Alex Thier, CDDRL Post-doctoral Fellow (and featured under the fellows section of this overview), spoke about his work on the development of the Afghan constitution and the (then) impending elections for president. In addition, Colonel H.R. McMaster, Chair of the Commanders Advisory Group at U.S. Central Command addressed the security problem in Afghanistan.

This and other workshops sponsored by the democracy program over the last several years demonstrated the effectiveness of the Center's multi-disciplinary approach to democracy research. In addition, these events drew participants from Europe, Latin America, and leading universities from around the United States.

The Program on Economic Performance maintained a similarly high level of activity. As a follow up to her successful workshops held in 2003 CDDRL Senior Research Scholar, Eva Meyersson Milgrom is completing an edited volume on the complicated economic and social motivations for suicide bombing. The book on this disturbing yet increasingly pervasive problem is forthcoming from Princeton University Press and provides useful insights in dealing with, and possibly eventually deterring, this practice.

Meyersson Milgrom, CDDRL Faculty Fellow Romain Wacziarg, and Visiting Fellow Steve LeVine (of the Wall Street Journal) coordinated another workshop in March 2004 entitled "The Media and Economic Performance." With the increasing ease of accessibility to information, the role of the media in representing economic policy and the benefits of democracy to a population is of growing importance in the establishment of effective governance.

The Program on Sovereignty, led by CDDRL Director Stephen Krasner, sponsored a conference entitled Governance and Democracy in Failed and Failing States in April, 2004. The themes of the conference were especially well timed with respect to the impending transfer of sovereignty from the Coalition Provisional Authority in Iraq to a temporary government in advance of popular elections scheduled for January 2005.

This event was the first part of an ongoing project led by Krasner and Paul Collier of Oxford University and the World Bank, and is another good example of CDDRL fulfilling its interdisciplinary mission as a policy relevant research institution.

The collaboration between Krasner and Collier is but one of the emerging research initiatives that have begun as a result of events at the Center in the last year. The CDDRL Rule of Law Program, led by Thomas Heller of Stanford University Law School, is also spearheading a series of research projects related to the establishment and efficacy of rule of law in developing countries, as well as international human rights.

"As the Center moves into its third full year of existence, the pace of our programming and the impact of our research are only increasing."

As the Center moves into its third full year of existence, the pace of our programming and the impact of our research are only increasing. Through conferences, workshops, books, and the newly initiated CDDRL Working Papers series, we will continue to ask hard questions and struggle to find new answers about how weak democracies are consolidated, how failing states can be strengthened, how rule of law can be established, and how struggling economies in the developing world can be assisted.

In future, we plan to expand our training programs in the form of a summer executive program for decision makers and activists from countries in economic and political transition. In a concentrated two-week session, a group of approximately 20 "students" (from countries such as Afghanistan, Iraq, and states of the former Soviet Union, East Asia, and Sub-Saharan Africa) will come to Stanford to study with Stanford faculty from the School of Law, Graduate School of Business, and Humanities and Sciences, and to share experiences in their efforts to transform their countries.

Never has a research center of this type been more relevant and more necessary.

Photo opposite page: (left to right) Michael McFaul, Stephen Krasner, Gerhard Casper, Gail Lapidus, and David Brady at a CDDRL programming meeting. Center: Larry Diamond speaking at a CDDRL conference. Above: Stephen Krasner speaking on U.S. policy in Iraq with (seated left to right) Michael McFaul, Donald Emmerson, Chip Blacker, and John McMillan.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To Iraq...and Back to CDDRL

"There is only one word for a situation in which you cannot win and you cannot withdraw: quagmire. We are not there yet, but we are close." Larry Diamond

During the first three months of 2004, Larry Diamond, CDDRL Faculty Associate, served as a senior adviser on governance to the Coalition Provisional Authority (CPA) in Iraq. When Diamond first landed in Baghdad, he was optimistic about the possibility of building a viable democracy in Iraq. In time, however, as he traveled around the country and encountered widespread popular resentment of the CPA and a rapidly deteriorating security situation, he became increasingly critical of what he saw as isolation, and lack of knowledge and planning on the part of the American-led occupation administration.

In blending serious research with on-the-ground policy engagement, Diamond is emblematic of the kind of work researchers do at CDDRL. He first came to the Hoover Institution in 1985 and now serves as a Senior Fellow at Hoover as well as Professor of Political Science and Sociology, by courtesy. He is one of the founders of CDDRL and leads CDDRL's Program on Democracy with Gail Lapidus, Michael McFaul, and Terry Karl. His time in Iraq was not his first foray into implementing democratic change. In 2001–2002, he served as a consultant to the U.S. Agency for International Development (USAID) and was a contributing author to its report, "Foreign Aid in the National Interest." In this capacity, Diamond helped to shape the overall USAID foreign aid strategy, emphasizing improvements in governance as the key to development progress. Diamond has also worked closely for two decades with the National Endowment for Democracy.

Diamond's twenty-five years of research and teaching on the factors that facilitate and obstruct democracy in developing countries led former Stanford Provost, and Bush Administration National Security Advisor (as well as Secretary of State designate as this overview goes to press), Condoleeza Rice to ask him to go to Iraq to support the unfolding political transition there. His main tasks were to advise on the drafting of the interim constitution and to help develop other programs (including a civic education campaign and interactions with Iraqi civil society groups) to build the norms and institutions of democracy. However, the emergence of a serious insurgency in the spring of 2004 obstructed his lectures and meetings with Iraqis, and in late April he chose not to return there.

Instead, he began to write and speak about his experiences in Iraq. Diamond believes that the perilous situation in Iraq today is a result of a "catalogue of strategic and tactical blunders." In a lecture to SIIS in Spring 2004 he said, "There is only one word for a situation in which you cannot win and you cannot withdraw: quagmire. We are not there yet, but we are close." The scope for a good outcome has been greatly reduced as a result of the apparently unanticipated insurgencies in the Sunni and Shiite heartlands and too few troops and resources on the ground to achieve adequate levels of security and reconstruction.

Diamond worries that the U.S. has been running both a deficit of legitimacy in Iraq as well as a deficit of control. In a series of op-eds in the *Los Angeles Times,* the *Wall Street Journal,* and articles in *Foreign Affairs* (September 2004), and the *Hoover Digest,* he argues that "…the CPA was obsessed with centralized control, at the cost of flexibility and devolution that might have gotten things done more quickly and built up more legitimacy." Further, Diamond notes that a greater proportion of reconstruction funding should have been decentralized to local Coalition officials and commanders and to Iraqi local and provincial councils. In sum, the CPA had "serious problems of security, reconstruction delivery, and legitimacy. We failed to ameliorate these by putting enough resources in (particularly enough troops) and by giving Iraqis early on more control over their own affairs."

Diamond's strong support of increased Iraqi control led him to oppose calls last spring to postpone the scheduled June 30, 2004 transfer of sovereignty. He was concerned, however, over the failure of the Coalition to rein in the various Iraqi militias before the handover, and by the inability of the occupation administration to reach out to a wider circle of Iraqis in the formation of the interim government that assumed power on June 28.

In testimony to the Senate Foreign Relations Committee in May, 2004, Diamond urged that the United States disavow any long-term military aspirations in Iraq, set a target date for an end to the military occupation of Iraq, respond more forthrightly to concerns about Iraqi detainees, reorganize and accelerate the recruitment and training of the Iraqi army and police, move more expeditiously to demobilize the militias, and operate with a greater concern for democracy and transparency.

"...the Coalition Provisional Authority had serious problems of security, reconstruction delivery, and legitimacy. We failed to ameliorate these by putting enough resources in (particularly enough troops) and by giving Iraqis early on more control over their own affairs." Larry Diamond

His article in the January 2005 *Journal of Democracy* draws a number of lessons from Iraq for other experiences in post-conflict democracy building. These lessons draw not only from his direct experience, but also from an extensive literature on post-conflict reconstruction, which he feels was largely ignored in Iraq. He stresses the need to: commit sufficient troops from the beginning, and with the right rules of engagement; mobilize international legitimacy and cooperation; cultivate domestic partnership and legitimacy by devolving as much authority as quickly as possible; holding local elections first, at the earliest opportunity; decentralizing the delivery of reconstruction assistance; and proceeding "with some humility, and a decent respect for the opinions of the people in whose interest the intervention is supposedly staged."

Diamond is now back at CDDRL and Stanford writing about his experience with the CPA and American policy in Iraq. His book, *Squandered Victory: The American Occupation and the Bungled Effort to Bring Democracy to Iraq* will be published by Times Books later in 2005.

Photo, page 8: A boy sits atop bags of wheat flour in Mosul. Opposite page: A bulldozer crushes bodies of 500 kg bombs designed for use as chemical weapons. Center: An internally displaced family, living in a camp in Suleimaniyah. Above: Professor Larry Diamond

The United States, the United Nations and International Security

"Many policymakers and scholars argue that the international security architecture is outmoded…but (it) is actually reasonably well suited to responding to these modern threats. Instead of working to develop a new security architecture, we need a renewed commitment to the existing regime." Allen S. Weiner

Allen Weiner is an associate professor of law (teaching) at the Stanford Law School, as well as the inaugural Warren Christopher Professor of the Practice of International Law and Diplomacy, a chair held jointly by SIIS and the Stanford Law School. He joined CDDRL in the fall of 2003.

Weiner is another good example of the mix of the policy and academic worlds at CDDRL. Before coming to Stanford, he served for 12 years as a career attorney in the U.S. Department of State. Weiner also worked in the Office of the Legal Adviser in Washington, D.C. (1990–1996) and at the U.S. Embassy in The Hague (1996–2001), most recently as legal counselor, in which capacity he served as the U.S. Government's principal day-to-day interlocutor with the international legal institutions in The Hague, including the International Court of Justice, the International Criminal Tribunal for the former Yugoslavia, and the Iran-United States Claims Tribunal.

Weiner's most recent publication is "Indirect Expropriations: The Need for a Taxonomy of 'Legitimate' Regulatory Purposes," in the *International Law Forum* (August 2003).

His current work at CDDRL concerns the international legal regime governing the use of force and its efficacy in the face of contemporary security threats. He notes that in the last 10 years, and in particular since September 11, 2001, the world has witnessed the emergence of major new threats to international security. These include terrorism by non-state actors, the spread of weapons of mass destruction (WMD) to rogue states, and widespread humanitarian abuses within countries, which traditionally were not a matter of concern to the international community. In response to these threats, many policymakers and scholars argue that the international security architecture is outmoded. They contend that the international community needs to develop new doctrinal rules or new institutional arrangements to confront today's new threats.

In contrast, Weiner argues that "the existing international security architecture is actually reasonably well suited to responding to these modern threats." "Instead of working to develop a new security architecture, therefore," he argues, "for a renewed commitment to the existing regime."

At the root of the existing system is Article 2(4) of the United Nations Charter, which forbids the use of force between states. However,

there are exceptions to this rule; the drafters of the Charter, working amidst the ashes of World War II, knew that simply declaring the use of force illegal was not going to work.

The first exception to the prohibition on the use of force is the right of self-defense under Article 51. But the threshold is that self-defense is permissible only where an "armed attack" has occurred. Weiner notes that this was a serious limitation on the doctrine of self-defense as it existed before adoption of the Charter.

The second exception is "collective security," under which the U.N. Security Council can respond to threats to the peace, breaches of the peace, or aggression. Use of force under this authority is a collective matter, not an individual right. It requires unanimity among the five permanent members of the Security Council because each of them can veto proposed Council resolutions. Unlike self-defense, collective security can be invoked merely in response to threats to peace, even where no armed attack has occurred. The Council has virtually unfettered discretion to determine what qualifies as a threat to international peace and security.

"All of this becomes particularly relevant in the wake of recent United States uses of force, all of which were essentially unilateral," Weiner argues. In Afghanistan, for example, the U.S. acted in response to the September 11 attacks. 9/11 qualified as "armed attacks" and accordingly justified the exercise of the right of self-defense under Article 51. However, Weiner argues, the U.S. response was directed not only at Al Qaeda, but also against the Taliban regime, which was effectively the government of Afghanistan, and against the territorial integrity of Afghanistan. Although the Taliban regime breached obligations under international law not to harbor terrorists on its territory, it did not attack the United States.

So, Weiner notes, there is a difficult asymmetry in the law: on one hand, the United States had the right to use force in self-defense; on the other, the government of Afghanistan—insofar as it did not carry out the September 11 attacks—should not have been subject to having force used against it. This is why many commentators claim we need to modify international law to permit the unilateral use of force against countries that shelter terrorists.

Iraq, on the other hand, represents the threat posed by the acquisition of WMD by dangerous states. In this regard, the administration of George W. Bush proposed another change to international law by advocating a right of "preemptive self-defense," not only in response to an actual armed attack but also to the threat of attack. According to Weiner, in this view, the graver the threat posed by an adversary, such as its acquisition of WMD, the more flexibility a state has to use force prior to an actual armed attack. The danger with this doctrine, of course, is that it allows for both mistaken and bad-faith uses of force.

Despite new challenges, however, Weiner asserts that the United Nations Security Council is actually better suited to addressing today's security threats than it was to the security threats of the post-World War II era. He contends that Security Council action provides a much better

legal basis for the use of force than the novel unilateral use of force doctrines that some policymakers and commentators are advancing.

The key, Weiner believes, is that the interests of the Permanent Five members of the Security Council are aligned on the contemporary security threats. All five are threatened by terrorism and have an interest in preventing countries from harboring terrorists. Similarly, none of the Permanent Five favors the proliferation of weapons of mass destruction. Countries that acquire such weapons can be difficult to control: proliferating states cannot control further proliferation—as the A.Q. Khan network in Pakistan shows—and there is a danger of counterproliferation. A prime example is China's response to the Korean nuclear crisis. Because of North Korea's unpredictability and the danger of Japanese counterproliferation, China opposes North Korea's nuclear ambitions. There is, therefore, an increasingly common interest among the great powers in suppressing WMD proliferation.

"All of this becomes particularly relevant in the wake of recent United States uses of force, all of which were essentially unilateral." Allen S. Weiner

This is particularly relevant to current U.S. foreign policy options, according to Weiner. The U.S. must be willing to recognize that its partners, even if they agree in principle about the contemporary security threats, may disagree about the nature of a particular threat and the tactics to employ in response. In the case of Iraq, there was agreement in principle that Saddam with WMD was a threat, but not on the evidence as to whether Iraq had such weapons. And now, Weiner notes, in retrospect, it looks like the U.N., and not the U.S., was right about the degree of threat Iraq represented.

Weiner sees two key lessons here: First, the U.S. cannot carry out a global security agenda unilaterally. But second, it does not really need to. Because the P-5 share common interests in responding to modern security threats, there is no reason to assume Security Council gridlock. Accordingly, says Weiner, the U.S. should return to the collective security regime as the best legal method of ensuring international peace and security.

Photo, page 12: United Nations headquarters in Baghdad, destroyed by a truck bomb on August 19, 2003. Opposite page: An UNSCOM inspector measures the volume of nerve agent in a container. Above: Professor Allen S. Weiner

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Research Project on Corruption in Transitional Economies

"Peru was run in the name of Fujimori by Montesinos who methodically bribed judges, politicians, and the news media. Montesinos and Fujimori maintained the façade of democracy…, but they drained its substance." John McMillan and Pablo Zoido

State level corruption is endemic in transitional states. As an example of the extent of the problem, a Russian think tank, INDEM, recently estimated that corruption within the state civil service costs Russian business $33 billion in bribes annually. Corruption then, is a huge drain on the economies of countries struggling to establish democracy and markets. Since it concerns legal, economic, and political issues, corruption is an ideal topic for CDDRL researchers.

The Research Project on Corruption in developing countries is part of the CDDRL Program on Development and is headed by Faculty Associate, and Graduate School of Business Professor, John McMillan. The project uses both economic theory and concrete empirical examples to explore how corruption develops and how it can be stopped. The corruption project at CDDRL comes in response to the real world pandemic of state corruption as well as an emerging body of research within academia and the policy world that looks in great detail at the structure of corrupt transactions and how they are supported or maintained within networks of state and private actors.

An important part of this project included a workshop run by McMillan in cooperation with Pablo Zoido. Zoido has previously worked at the World Bank and also on corruption reports produced by Transparency International, a non-profit organization that works to expose corrupt business and government practices around the world. This workshop brought academics together with those who are actively working against corruption in the field. The meeting took stock of micro-level, empirical as well as structural political-economy studies, and explored avenues for future research.

The ultimate purpose of the workshop was to address the policy question of how corruption can be cured in countries lacking strong legal systems and/or administrative capabilities. As with CDDRL's other research projects, the corruption workshop brought together noted academics like Andrei Shleifer of Harvard University, CDDRL Faculty Associates Gerhard Casper (former Stanford President), and Thomas Heller of Stanford Law School, as well as front line policy practitioners like Luis Moreno Ocampo, now the chief prosecutor of the International Criminal Court, and Daniel Kaufman of the World Bank.

The case of Peruvian state corruption under Alberto Fujimori and his secret police chief Vladimiro Montesinos Torres, is one of the lead cases of interest in the CDDRL corruption project. In the 1990's, McMillan and Zoido write, "Peru was run in the name of Fujimori by Montesinos who methodically bribed judges, politicians, and the news media. Montesinos and Fujimori maintained the façade of democracy—the citizens voted, judges decided, the media reported—but they drained its substance."

McMillan and Zoido carefully explore how the checks and balances of democracy were systematically undermined by Montesinos. They find that he was particularly generous to television channels. Says Mcmillan, "One single television channel's bribe was five times larger than the total of the opposition politicians' bribes. The strongest of the checks and balances, therefore, by Montesinos's revealed preferences, was television." In this way, Fujimori's regime accumulated legislative, executive, and judicial power as well as power over the news media.

Numerous countries suffer from what has been called "the Montesinos virus." In countries like Zimbabwe under Robert Mugabe, Haiti under Jean-Bertrand Aristide, and Russia under Vladimir Putin, elections are held but a ruling party or group continues to hold onto power. McMillan and Zoido's findings, therefore, appear to have applications far beyond Peru to other nascent democracies.

Photo: A woman holds a "wanted" poster in Lima calling for the extradition of former Peruvian President Alberto Fujimori during a demonstration in front of Japan's Embassy.

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Research Project on Failed and Failing States

"On the one side we have failed states, but on the other, we have a failed international system, failed policies, and failed instruments." Ernesto Zedillo, former President of Mexico

In the 1990's, many analysts of international politics thought that they were witnessing the ultimate triumph of democracy. From the former Soviet Union to South Africa, parts of the world that had never experienced democracy and market reform were suddenly seemingly embracing these concepts. At the end of the decade, however, some of these fledgling democracies and new states proved themselves to be even less able to provide for their populations than the regimes that preceded them.

The Research Project on Failed and Failing States is a response to this general phenomenon. The project is a main aspect of the CDDRL Program on Sovereignty, led by Stephen Krasner. Work on this project at CDDRL was formally launched through a conference entitled Governance and Democracy in Failed and Failing States in April, 2004. Topics ranged from mapping the problem of why states fail (drawing in particular on African examples) to United Nations responses to state failure and how state failure impacts the international system and global security.

The conference was another good example of CDDRL fulfilling its mandate to mold a community of academics and policy practitioners engaged in resolving problems of governance in failed states and emerging democracies. Participants included academics like Robert Keohane of Duke University, Peter Gourevitch of the University of California, San Diego, and James Fearon of Stanford, as well as Patrick Cronin of the Center of Strategic and International Studies, Chester Crocker of Georgetown University, and Marina Ottaway of the Carnegie Endowment. Stephen Stedman, a Senior Fellow at the Stanford Institute of International Studies who in 2004 was on leave serving as the Staff Director for the U.N. Secretary General's High-Level Panel on Threats, Challenges and Change also participated in the conference.

Encouraged by the success of this first gathering, Krasner teamed up with Paul Collier of Oxford University and former Chief Economist at the World Bank to host a follow up meeting at Oxford in June, 2004. This second meeting turned from questions of why states fail and international responses to the concrete effect weak states have on their populations. The conference, entitled "The Bottom Billion" focused on states with conditions of extreme poverty and possible paths out of impoverishment. As with

the first phase of the failed and failing states project, this meeting was attended by high level policy actors. These included former Mexican President, Ernesto Zedillo, Luis Moreno Ocampo, Chief Prosecutor of the International Criminal Court, Anne Krueger, First Deputy Managing Director of the International Monetary Fund, and Raghu Rajan, Director of Research at the IMF. Individuals from the World Bank, the U.K. Prime Minister's Strategy Office, and the U.K. Department for International Development also attended the meeting.

Among the interesting findings at this conference was the relationship between democracy and poverty and democratic transitions and conflict. Michael Ross of the University of California, Los Angeles argued in his paper that impoverished peoples will actually have decreased infant mortality rates under democracies than under authoritarian government.

Another paper, by Jack Snyder of Columbia University, however, found that democracy's effects on the lives of the world's poorest are not always so positive. Countries in the midst of transition appear to be more likely to go to war with one another than countries with stable, but non-democratic systems. The democratizing state tends to be the attacker. This raises the interesting policy question of how democratic transitions can be managed so that they do not produce conflict.

President Zedillo summed up the project well in asking the group assembled at Oxford, to consider "What causes failed states and what can be done about it?" He also questioned whether the international community has policy options available that actually do anything substantive to prevent state failure and the crushing poverty and conflict that so often accompany state collapse: "On the one side we have failed states, but on the other, we have a failed international system, failed policies, and failed instruments."

Given the current international context, and the enduring importance of what makes states work to the benefit of their populations, CDDRL researchers will continue to work toward a better understanding of the causes of state collapse and how weak states can be strengthened.

Photo: Young children sift through cash-worthy garbage in a dump.

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Research Project on Rule of Law Reform in Thailand, Romania, and Mexico

"The rule of law is a concept much in use to identify what is missing in many countries, but most people do not have a very precise idea of what they mean when they invoke the term." Gerhard Casper

The role that legal institutions play in the success or failure of political and economic reform is still not well understood. As Gerhard Casper, President Emeritus of Stanford University, and one of the founders of CDDRL has noted in a recent Working Paper, "the rule of law is a concept much in use to identify what is missing in many countries, but most people do not have a very precise idea of what they mean when they invoke the term." We know that establishing transparency in commercial transactions and legal certainty is supposed to be desirable, but it is, as Casper notes, "a rather tall order."

Just how legal systems can be established that accomplish these tasks remains an open question. As a result, CDDRL researchers are exploring how legal institutions contribute to reform in different country contexts. They hope to better understand the conditions under which rule of law can promote growth and stability in the developing world.

Casper, CDDRL Senior Research Scholar Helen Stacy, along with Warren Christopher Chair, Allen Weiner, and Eric Jensen who, with Thomas Heller, co-directs CDDRL's Program on the Rule of Law, are collaborating to examine the effects of rule of law reform in Thailand, Romania, and Mexico. Although these countries have many differences, the main similarity for the rule of law researchers at CDDRL is that they all embarked on ambitious legal reforms in the last ten years in the hope that these reforms will contribute to economic growth in particular.

Casper, Stacy, Weiner, and Jensen are examining the internal and external influences driving legal reforms, the impediments to their success, and the prognosis for the next decade. Bridging the gap between issues of rule of law and economics, they are particularly interested in how political configurations and markets are influencing the rate and content of legal reforms.

Stacy has taken the lead on the Romanian research. She visited Romania in April 2004 to speak with judges, including the President of the Supreme Court; the Chief Judge for the Bucharest District Court, the current and past Ministers for Justice, the Anti-Corruption Prosecutor, and the Director of APADOR, a non-governmental organization representing victims of police brutality.

Jensen is the lead on research in Thailand where he has interviewed some of the leading architects of the Thai reforms as well as leading members of the Thai government.

Beatriz Magaloni and Alberto Diaz, both assistant professors in the political science department and new CDDRL Faculty Associates, with Allen Weiner, have taken primary responsibility for the study of Mexico. As part of this, Magaloni and Diaz organized a workshop at CDDRL in the fall of 2004 that brought together a group of young Mexican scholars and prominent practitioners to discuss the evolution and prospects of democratic accountability and the rule of law in Mexico.

The discussion included the realms of human rights, criminal justice and police performance, institutions overseeing and settling electoral disputes, the Supreme Court, Congressional oversight of bureaucracies, federalism, and corporate governance. Participants included Mexico's Finance Minister, Francisco Gil-Diaz, and one of his General Directors, Jose Antonio Gonzalez, two Supreme Court Justices, Genaro Góngora-Pimentel and Olga Sanchez-Cordero, an advisor to the President of the Council of the Electoral Institute, Eduardo Guerrero, and one of the most prominent human rights activists in Mexico, Marie-Claire Acosta.

The Project on Rule of Law Reform in Thailand, Romania, and Mexico is another fine example of CDDRL researchers working cooperatively at the intersection of law, economics, and political science with clear policy implications emerging as a result.

Photo: Security police show their presence as Thai activists march in Bangkok protesting outside the Asia Pacific Cooperation forum's annual summit in 2003.

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The Transatlantic Research Project on Democracy and the Rule of Law

"Coordination between the United States and Europe on democracy promotion strategy would avoid expensive and unnecessary duplication and enhance the impact of international aid funding." Amichai Magen

Although Germany, France, Britain, and other European countries contribute a great deal of time, money, and energy to democracy promotion, and economic development in transitional states, there is surprisingly little coordination on these programs between them and the United States. CDDRL's Transatlantic Research Project on Democracy and the Rule of Law was established in the spring of 2004 to try to remedy this situation and in an effort to heighten the impact of every dollar and "euro" put into development programs in transitional countries. The project is part of CDDRL's Program on Sovereignty and the Rule of Law and is led by Amichai Magen, and Stephen Krasner, with Larry Diamond and Michael McFaul.

Magen, a CDDRL Pre-doctoral Fellow at Stanford Law School, is an Israeli and British national. He completed an LLM, specializing in law of the European Union at Trinity Hall, Cambridge University. Magen served as a legal advisor to the Israeli Attorney General and the Israeli Ministry of Justice on a plethora of international policy and legal affairs concerning pan-European and Mediterranean issues. He has also worked on similar issues with the Organization for Security and Cooperation in Europe (OSCE). At CDDRL, he is working on his dissertation project exploring the ways in which the prospect of entry into the European Union influences how or whether candidate states alter their formal legal institutions. He uses Ukraine, Turkey, Serbia-Montenegro, Morocco, and Romania as his cases.

The Transatlantic Research Project, therefore, draws on Magen's overall research interests, Krasner's interest in institutional change, and Diamond's and McFaul's long term interests in U.S. democracy promotion programs. The project seeks to compare ways in which countries of the European Union and the United States might cooperate to better implement political and economic development in the developing world. Most recently, the project sponsored a workshop involving analysts, policymakers, and representatives of NGO's from the European Union and the United States to discuss democracy promotion policies. The workshop included Laurence Whitehead from the University of Oxford, Peter Eigen, founding director of Transparency International, a non-governmental organization that tracks state corruption around the world, as well as representatives from the National Endowment

for Democracy, and the German Marshall Fund. Case studies included developmental assistance in Russia, the Balkans, North Africa, and the Middle East.

Some of the preliminary conclusions from this first meeting were that little coordination in democracy promotion often dampens the effect of aid funding. Recipient countries can sometimes be required to do different things by different donor countries. Greater cooperation would not only cut down on these sorts of problems in implementation of aid programs, but would also avoid expensive and unnecessary duplication.

CDDRL looks forward to the continuation of this project and the anticipated impact it will have on how developmental assistance is provided by EU countries and the U.S. in the future. A follow up conference on the issue of aid coordination will take place in Europe in the summer of 2005 co-hosted by CDDRL. This meeting will also incorporate the perspectives of countries that are recipients of aid donations. In this way, the Transatlantic Research Project on Democracy and the Rule of Law helps to further CDDRL's policy outreach to developing countries and builds institutional linkages across the Atlantic.

Photo: A road under repair in the city of Cambodia.

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Research Project on Comparative Political and Economic Change in the Former Soviet Union

"Putin wrongly equated democracy with weakness and centralized authority with powerful rule." Michael McFaul

With the rise of Vladimir Putin as President of Russia, the topic of political and economic change in the former Soviet Union has gained even more resonance with scholars of comparative democracy and economic development. Although Putin talks a great deal about the need for democracy's survival in Russia, following his crackdowns on the media, the war he has pursued in the rebellious republic of Chechnya, and his increased reliance on his former colleagues in the state security service (FSB), he has done much to threaten its quality and integrity.

In response to the rocky transitions of Russia and other states of the former Soviet Union over the last decade, CDDRL launched the Project on Comparative Political and Economic Change in the Former Soviet Union. The 15 successor states of the former Soviet Union are particularly fertile ground to pursue some of the key themes at the heart of CDDRL.

Some former Soviet republics, like the three Baltic states of Latvia, Lithuania, and Estonia, appear well launched toward democratic consolidation, market growth, and have become members of the European Union. Others, however, like Belarus and Turkmenistan are run by megalomaniacal dictators more similar to corrupt leaders in sub Saharan Africa than to their counterparts in the Baltics. A third group of post-Soviet states, including Russia, appears to have taken a detour from the path of democracy and economic reform.

Given this broad range of country cases, the CDDRL research project on the former Soviet states was among the first launched by the Center. The project is led by Michael McFaul, Gail Lapidus, and Larry Diamond. CDDRL's new Associate Director for Research and SIIS Senior Research Scholar, Kathryn Stoner-Weiss has also recently joined this project.

The project was launched with a workshop entitled "Regime Transitions from Communist Rule in Comparative Perspective," examining the contributions the post-Soviet transitions have made to traditional understandings of how countries become democracies and how they establish markets. McFaul, Lapidus, and Diamond brought together a group of more than 40 outstanding young scholars and seasoned students of other transitional regions like Latin America to examine this question from various angles. As with CDDRL's other seminars and workshops, the group assembled

also included policy practitioners and representatives from other non-governmental organizations.

In particular, CDDRL researchers wanted to know to what extent the experience with political and economic transitions in the varied parts of the former Soviet Union were similar to transitions that had taken place in different country and temporal contexts.

They were also seeking explanations for why former Soviet states have pursued such different political and economic paths since the collapse of the Soviet Union.

According to McFaul, important factors that determine which path a state pursues include the balance of power between democrats and non-democrats at the time of political transition, as well as the balance among those in power at the time of transition (usually non-democrats in the former Soviet cases). Unlike many countries in Latin America and parts of Eastern Europe, in the former Soviet states pacts among leading elites on how power was to be divided simply did not occur. In this and other ways, McFaul and several other participants in this project have argued that post-Soviet transitions were distinctive.

McFaul and Stoner-Weiss are building on their previous successful collaborations on contemporary Russian politics to bring these papers together into an edited volume. They have also been active, with Lapidus, in analyzing the changes in Russia under Putin. In an attempt to influence U.S. policy toward Russia, McFaul has written op-eds for the *New York Times* and *Washington Post* urging that American policymakers should take a harder line with Putin's authoritarian tendencies.

McFaul writes, "Putin wrongly equated democracy with weakness and centralized control with powerful rule...The recent restructuring (of government) has not produced a more effective state, but a weak, corrupt, and unaccountable regime: authoritarianism without authority."

Photo: In Moscow, signs and hands are raised outside the Kremlin during a protest in support of two corruption fighting prosecutors.

CONSTITUTION WRITING IN AFGHANISTAN

Building states from the ruins of war—"nation-building"—has become a fundamental aspect of U.S. foreign policy. The most enduring lesson of September 11 may be the danger that failed states present to U.S. and international security. CDDRL Post-doctoral Fellow J. Alexander Thier has intimate experience with nation building and the consequences of failed states. He was legal adviser to Afghanistan's Constitutional and Judicial Reform Commissions from 2002–2004, where he helped to draft a new constitution and re-establish the judicial system.

Thier first went to Afghanistan in 1993, during the civil war that erupted after the Soviet-backed government collapsed. The country was in chaos, divided into warlord controlled warring fiefdoms. "During that time," Their explains, "I witnessed the complete breakdown of state-authority and the resulting lawlessness in which the most predatory survived." Thier worked as a U.N. and NGO official in Afghanistan from 1993 to 1996 as one of few international staff in the country. He crossed front lines frequently, negotiating with warlords and their commanders to provide access for humanitarian assistance efforts. Thier went on to work at the United Nations in New York, and at the U.N. war crimes tribunal for Rwanda. He also served a stint as a graduate fellow at the U.S. National Security Council.

"The opportunity to return to Afghanistan, to help the Afghans work on long-term political issues rather than short-term survival was irresistible," according to Thier. He left his law practice to become Senior Analyst for the International Crisis Group in Kabul, and then advisor to the British Department for International Development. When USAID

Post-doctoral Fellow J. Alexander Thier

decided to send several legal advisors to the Afghan government, Thier was offered the job and he eagerly accepted the challenge.

The process of political and physical reconstruction has been fraught with difficulties in Afghanistan. Establishing institutions has proven extremely difficult in a war-ravaged country not yet fully at peace. The international community, led by the U.S., has failed to establish security, with warlords still controlling much of the country outside the capital. Their contends that, "Politics in Kabul are a microcosm of the factionalism throughout the country. And the international community is often not much better organized than the Afghans."

The interim Afghan government has very little capacity after decades of conflict and state deconstruction. Western-style elections may provide a patina of legitimacy, but the real fruits of democracy—accountable government, protection of individual rights, security—these things will take many years to take root. Says Their, "Nation-building is done over decades, not within a U.S. election-cycle. We need long-term vision and focus to make the hard cases like Afghanistan a success."

While at CDDRL, Alex Their has produced several influential opinion pieces on Afghanistan for the *New York Times*. He is also working on a book that will examine the process and challenges of state-building in post-Taliban Afghanistan and beyond.

Photo, opposite page: An Afghan man casts his vote for the Loya Jirga in Kabul, Afghanistan in the summer of 2002.

THE DURABILITY OF AUTHORITARIAN REGIMES

Post-doctoral Fellow Jason Brownlee

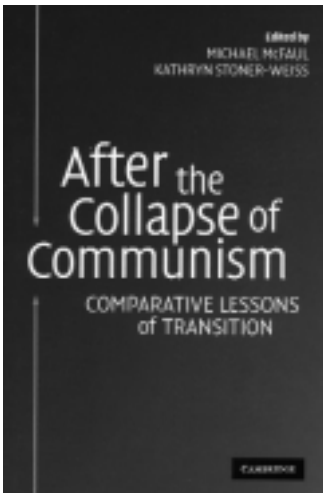
While the last quarter of the twentieth century witnessed an international spread of democracy, this trend has slowed dramatically in recent years. Consequently, democracy advocates face an array of durable authoritarian states that have been unwilling to share power with opposition forces. These cases are the subject of Jason Brownlee's book manuscript, which he plans to complete during his year as a CDDRL Post-doctoral Fellow.

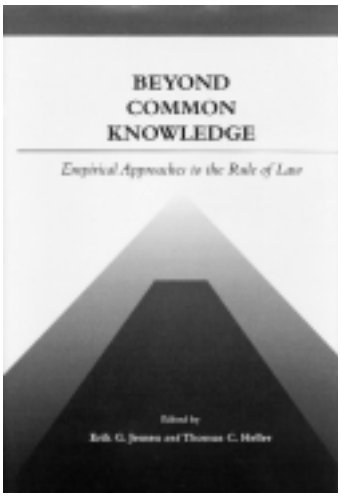
In addition to a statistical analysis of over 100 regimes, Brownlee's project looks closely at four cases of authoritarianism during the "third wave" era that experienced different levels of political stability: Egypt, Iran, Malaysia, and the Philippines. He shows that democracy activists in the Philippines were successful at changing their regime and reformists in Iran experienced an opportunity for such change, although the eventual product was authoritarian retrenchment. Meanwhile, regime critics in Egypt and Malaysia were consistently denied any leverage over government and ruling parties took 70% or greater majorities in all elections since the early 1970s. This dominance, Brownlee argues, is the product of institutions that hold elites together within the regime and sustain electoral controls over the opposition.

"For a long time students of politics have seen institutions as the precondition for developing democracy," says Brownlee. Rulers needed to organize society and create power before they could distribute it. Now it seems that in many places around the world these institutions, particularly ruling parties with control over state resources, are a barrier to democratization. They deny opposition movements the insider allies needed for alternative coalitions that can reorganize government. In these situations, institutions may actually need to be weakened or restructured in order for excluded groups to gain a voice in national decision-making. Otherwise the result is the kind of autocratic rule that has persisted in Egypt and Malaysia for over a half century.

Brownlee contends that the challenge of undermining durable authoritarianism presents a substantial problem for democracy campaigns, which have traditionally relied on gradualist assumptions that dictators would slowly cede power. He argues, "the empirical record from Azerbaijan to Zimbabwe is that limited liberalization rarely brings democracy the way we used to expect. Elections don't destabilize dictatorships. Dictatorships that have neglected the institutions of coalition maintenance destabilize elections." As a result the outward appearance of democracy should not be confused with the substance.

Brownlee received his Ph.D. from the Department of Politics at Princeton University. He recently began an appointment as an assistant professor in the Department of Government at the University of Texas at Austin. Brownlee's research on authoritarian rule has appeared in *Comparative Politics, Studies in Comparative International Development,* and the *Journal of Democracy.* After finishing his book manuscript at CDDRL, he will begin a new project examining the potential for democratization in Egypt through power-sharing between the Western-oriented ruling elite and the opposition Muslim Brotherhood.





RECENT PUBLICATIONS BY CDDRL AUTHORS

After the Collapse of Communism: Comparative Lessons of Transition
(Cambridge University Press, Fall, 2004).

By Michael McFaul, Associate Professor of Political Science, Stanford University, Faculty Associate, Center on Democracy, Development, and the Rule of Law, and Kathryn Stoner-Weiss, Associate Director of Research, Center on Democracy, Development, and the Rule of Law, Senior Research Associate, Stanford Institute for International Studies.

This collection of essays is the result of a conference marking the ten year anniversary of the collapse of the Soviet Union. Some of the best minds in post-Soviet studies focused on the task of identifying in what ways the post-communist experience with transition has confirmed or confounded conventional theories of political and economic development. The result is a rich array of essays examining vital aspects of the transitional decade following the Soviet collapse and the comparative lessons learned. This collection of essays explicitly tallies the gains and losses to post-Soviet countries of the last ten years as well as comparing the post-Soviet experience implicitly and explicitly with that of other developing countries. Each essay blends political science theory with fresh empirical analysis.

Beyond Common Knowledge: Empirical Approaches to the Rule of Law
(Stanford University Press, 2003)

Edited by Erik G. Jensen and Thomas C. Heller. Erik Jensen and Thomas Heller are Co-directors of the Rule of Law Program at the Center on Democracy, Development, and the Rule of Law. Thomas C. Heller is also Lewis Talbot and Nadine Hearn Shelton Professor of International Legal Studies at Stanford Law School.

An intensive global search is on for the "rule of law," the holy grail of good governance, which has led to a dramatic increase in judicial reform activities in developing countries. Very little attention, however, has been paid to the widening gap between theory and practice, or to the ongoing disconnect between stated project goals and actual funded activities.

Beyond Common Knowledge examines the standard methods of legal and judicial reform. Taking stock of international experience in legal

and judicial reform in Latin America, Europe, India, and China, this volume answers key questions in the judicial reform debate: What are the common assumptions about the role of the courts in improving economic growth and democratic politics? Do we expect too much from the formal legal system? Is investing in judicial reform projects a good strategy for getting at the problems of governance that beset many developing countries? If not, what are we missing?

CDDRL WORKING PAPERS

In the summer of 2004, the Center initiated a new series of Working Papers. Designed to be a mechanism by which new and cutting edge research can be quickly and broadly disseminated, CDDRL provides electronic notification of new research by our affiliates approximately every six weeks. Our recipient list includes international policymakers, journalists, U.S. Senators, and Members of Congress, leading non-governmental organizations, members of the international business community, as well as academics in the U.S., Canada, and abroad. CDDRL Working Papers are available free of charge in full PDF text online at http://cddrl.stanford.edu/publications/workingpapers/

Titles of Recent CDDRL Working Papers include:

Avoid Hubris and Other Lessons for Reformers (2004), John McMillan

Borders and Growth (2004), Enrico Spolaore, Romain Wacziarg

Building Democratic Peace in the Eastern Mediterranean: An Inevitably Ambitious Agenda (2004), Amichai Magen

Do Sanctions Help Democracy? The E.U. and U.S. Records, 1997–2004 (2004) Nikolay Marinov

The Enlargement Strategy and it's Progeny (2004), Amichai Magen

Equality and Difference: Regional Courts and Women's Human Rights (2004), Helen Stacy

The European Neighborhood Policy: Legal and Institutional Issues (2004), Marise Cremona

Global Standards; Global Growth? (2004), Thomas C. Heller

Governance Failures and Alternatives to Sovereignty, Stephen D. Krasner

How to Subvert Democracy: Montesinos in Peru (2004), John McMillan, Pablo Zoido

Human Rights and Citizenship: The Emergence of Human Rights Education (2004), David Suarez, Francisco Ramirez

Identity, Social Distance, and Palestinian Support for the Roadmap (2004), Eva Meyersson Milgrom, Guillermina Jasso

Institutions and Impersonal Exchange: The European Experience (2004), Avner Greif

A Monte Carlo Study of Growth Regressions, (2004), William R. Hauk, Jr., Romain Wacziarg

Moving Up Out of Poverty: What Does Democracy Have to Do With It? (2004), Larry Diamond

Post-Communist Paradox: How the Rise of Parliamentarism Coincided with the Demise of Pluralism in Moldova (2004), Eugene Mazo

Quantifying Creative Destruction: Entrepreneurship and Productivity in New Zealand (2004), John McMillan

Reestablishing the Judicial System in Afghanistan (2004), J. Alexander Thier

Rule of Law? Whose Law? (2004), Gerhard Casper

Ruling Parties and Durable Authoritarianism (2004), Jason Brownlee

Sources of Rationalized Governance: Cross-National Longitudinal Analyses, 1985–2002 (2004), Gili S. Drori, Yong Suk Jang, John Meyer

Sovereignty Relinquished: Explaining Commitment to the International Human Rights Covenants, 1966–1999 (2004), Wade M. Cole

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The Quality of Democracy (2004), Larry Diamond, Leonardo Morlino

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The Center on Democracy, Development, and The Rule of Law runs a growing fellowship program. The Center offers pre-doctoral and post-doctoral fellowships to scholars who have demonstrated outstanding potential in the areas of developmental politics, sociology, economics, and law. CDDRL fellows have gone to teaching positions at other fine universities as well as into public service. CDDRL also accepts pre-doctoral fellows who are beyond their general examinations. For more information on fellowship opportunities, please see the CDDRL website.

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Photo, opposite page: A U.N. peacekeeper is accompanied by a group of local children as he conducts a security patrol in Dili, East Timor.

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