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Book Review by Michael S. Greve

TOO BIG TO SUCCEED

Why Government Fails So Often—And How It Can Do Better, by Peter H. Schuck.
Princeton University Press, 488 pages, \$27.95



PETER H. SCHUCK, PROFESSOR EMERITUS at Yale Law School and one of the nation's most perceptive and productive social scientists, paints a grim picture of our government. Most Americans take a similarly gloomy view: fewer than 10% trust the federal government to do the right thing all or most of the time, and only 4% are confident that the government, having decided to solve a problem, can actually do so. The readiest explanation for the alarming degree of disaffection is that Washington in fact fails regularly and often spectacularly. The failure rate has increased with government activism over the past five decades; so, predictably, has civic discontent.

The country retains considerable strengths, such as a stable constitutional culture and a comparatively resilient and productive economy. And in our lifetimes, the federal government has made great strides in reducing poverty and discrimination. (The United States also won World War II and defeated the Soviet empire, but Schuck's inquiry is limited to domestic policy.) Those achievements, however, are paralleled by massive, pervasive government failure. On the author's account, the

vast majority of government programs fail to satisfy minimal criteria of cost-effectiveness, equity, and manageability. His judicious analysis, buttressed by reams of policy studies, extends from large examples (the fraud-ridden, financially unsustainable Medicare program) to small ones (catfish inspection); from progressives' sacred cows (green energy, student loans) to corporate welfare (farm subsidies); from disaster relief to Dodd-Frank, and from Amtrak to the Affordable Care Act.

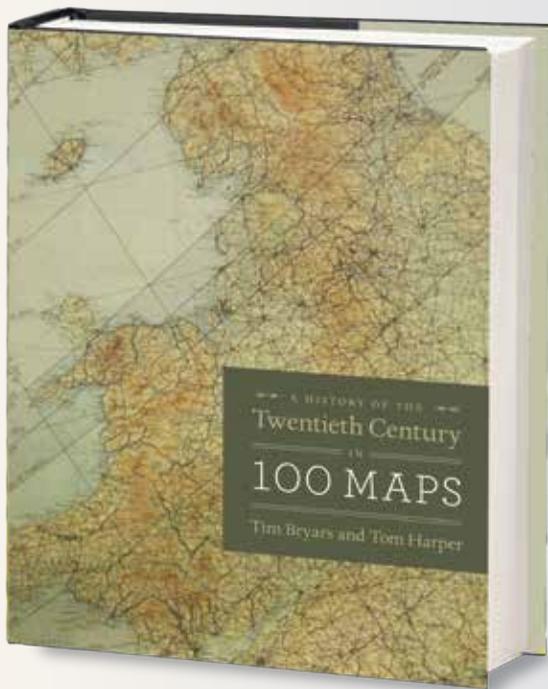
WHILE ALL THIS SOUNDS CONGENIAL to libertarian ears, Peter Schuck is a lifelong Democrat and self-described "militant moderate." He comes not to condemn but to conduct a systematic examination of government performance "in a pragmatic, moderate, meliorist spirit." *Why Government Fails So Often—And How It Can Do Better* is a model of learning and scholarship, an eminently teachable book that will surely enrich many undergraduate courses in American politics and policy. Its impact on our public, political debate, in contrast, is bound to be limited, and its suggested policy reforms are

too cautious to address the massive government failures Schuck so ably details.

In explaining the federal government's appalling record, Schuck quickly dismisses some of the usual suspects. Partisan polarization and congressional gridlock, he writes, are probably consequences rather than causes of political dysfunction, and the role of money in politics is overrated. The actual causes are deep-rooted and systemic.

Six powerfully argued chapters, constituting the heart of the book, analyze and richly illustrate the "structural sources of policy failure." Ignorance, collective irrationality, and warped incentives compromise the design and implementation of government programs. Inadequate information, inflexible and incompetent management, and a lack of government credibility are equally inescapable hindrances, as is a federal bureaucracy that is increasingly demoralized, poorly equipped, marginalized, and publicly scorned. Freely acknowledging his intellectual debts to Mancur Olson, F.A. Hayek, and James Q. Wilson, Professor Schuck synthesizes their scholarship with elegance and erudition.

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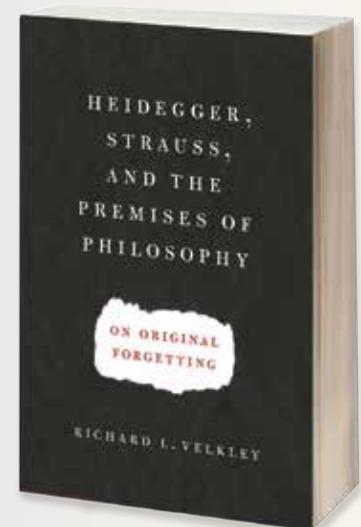
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IPHIGENIA AMONG THE TAURIANS

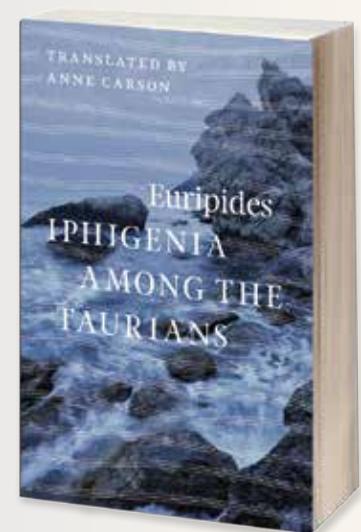
EURIPIDES

Translated by Anne Carson

Iphigenia among the Taurians is the latest in Carson's series of translations of the plays of Euripides. Originally published as part of the third edition of Chicago's *Complete Greek Tragedies*, it is published here as a stand-alone volume for the first time.

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THE BEST AND MOST ORIGINAL CHAPTERS explore the limits of law and the interplay between markets and politics. Law is essential. Once it becomes ubiquitous, however, its inherent paradoxes and defects dominate. Simple legal norms are mismatched to a complex world; try to match the real world, and law becomes impenetrable and uncertain. Legal ambiguity can be a handmaiden of sensible compromise—but also an invitation to abuse and excessive litigation. Law’s proceduralism and inertia serve the rule of law—and stifle and crowd out private initiative.

Oddly missing is any serious discussion of economist Ronald Coase’s insight that law (outside injunctions against force, fraud, and monopoly) works best when it serves not as an instrument of social control but as a means of facilitating private bargains through default rules (which cannot crowd out anything and, if unworkable, will simply be ignored). Still, Schuck provides masterly analysis of law’s inherent limits to steer social behavior. Much the same holds with respect to markets and politics. Regardless of whether government subsidizes, prohibits, or incentivizes market transactions, it cannot control exchanges everywhere, on all margins. It is simply repricing private transactions, with unknown and unknowable effects.

The knowledge problem and the limits of law afflict governments everywhere. Stateside, however, these problems are aggravated by uniquely American factors: government fragmentation, due to federalism and the separation of powers; a correspondingly weak bureaucratic system; and a political culture that remains profoundly individualistic, pluralistic, moralistic, tolerant of social and economic inequality, and distrustful of government. Once upon a time, these features—products of a democratic Constitution that preceded the construction of a European-style central state—inhibited the growth of government. Once a “new system”—that is, a federal government without a conceptual limit to its policy space or any limit to public expectations—took hold, the hard-wired constitutional and cultural factors cut the other way. They now exacerbate policy failure and render useful reforms unlikely.

Government does not fail unfailingly. A chapter on success stories includes Social Security, the G.I. Bill, the interstate highway system, the food stamp program, the 1965 Voting Rights Act, the earned income tax credit, airline deregulation, and welfare reform. None of those programs, Schuck cau-

tions, was a perfect success. Sound programs have suffered unwise expansions, and demographic and fiscal trends threaten to undermine once-successful programs. But on balance the programs succeeded. They benefitted large groups at a cost that was viewed as tolerable and, moreover, as a kind of investment. They rested on broad public support, and they “did not need to create new values or transform deeply rooted behaviors.” Alas, Schuck concludes, the political and institutional conditions that made those programs possible are much less likely to obtain in the future.

HE WARNS ELOQUENTLY OF THE DIRE consequences of persistent government dysfunction—the colossal waste of resources; the failure to help those most in need; the drag on economic growth; threats to government legitimacy. Even so, in exploring how government can do better, he proposes little beyond managerial, cross-cutting reforms—improved congressional procedures, better enforcement mechanisms, incentive-compatible grant systems, improved information, sunset provisions for federal statutes, and the like. Here and there—mostly in footnotes—the author supports program-specific reforms; but he resists any grand institutional reforms. Such steps, he warns, are bound to founder on the law of unintended consequences; and in any event, they are non-starters. Incremental good-government reforms cannot cure deep-rooted pathologies, but they would do *some* good, and they should command broad support:

Liberals should worry that their ability to generate public support for governmental programs is increasingly hostage to low quality performance and vulnerable legitimacy. Conservatives should accept the fact...that big government is here to stay while continuing to insist that its policies be effective and conform to our political and cultural values.

The hortatory tone is that of a “militant moderate” without a prospect of recruits.

Contemporary liberalism has ceased to care about public support for its programs or even sensible results. Its avatars crammed the last missing piece of an all-encompassing transfer state (the Affordable Care Act) through Congress on the cynical theory that a gusher of subsidies would render an unpopular law unrepealable. For everything else on the liberal to-do list, there’s debt financing (think entitlement programs) and bureaucrat-

ic maneuvering in lieu of legislation (think climate change). Because liberalism feeds on the systemic forces of government failure so admirably described by Schuck, it has no use for his meliorism. Pragmatic reforms will have to come from inside the conservative tent.

The occupants of that tent, for their part, are unlikely to heed a call for *mere* pragmatism—to stand athwart “big government” and yell, “Be effective, and consonant with our values!” Conservatives fear that many government policies have dangerously compromised our values. That disposition will only be reinforced by Schuck’s insistence that “government’s ends be tailored to its institutional means and capacities.” By his own lights, the last time that was even arguably true was five decades—and hundreds of progressively more ambitious, meddling, wasteful, counterproductive, inequitable, unmanageable, debt-financed programs—ago. Meliorism effectively condemns America to becoming Argentina—faster, probably, than the European Union, though perhaps with better cost-benefit analysis along the way. That is not a plausible political position, nor for that matter a responsible one.

THERE IS EVERY REASON TO BE SKEPTICAL and perhaps a bit nervous about the profusion of Tea Party-ish silver-bullet solutions, from balanced budget amendments to a repeal of the 17th Amendment. Say this, though: conservative activists at least try to proffer what Schuck proclaims beyond hope and reason—solutions that might be commensurate to systemic government failure. To that end, they seek to engage questions “about the nature, role, and scope of government.” For perfectly sensible reasons, Schuck puts those questions beyond the scope of his project; more problematically, he pronounces them separable from questions of effective government. Conservatives, for the most part, don’t believe it. They want to make a fuss over the Constitution.

As an accomplished political scientist, Peter H. Schuck knows that this insistence, while now a peculiarly conservative province, is a constant and distinctive feature of American politics. As a militant moderate, he ought to consider the possibility that it may be a comparative advantage, and perhaps our last best chance.

Michael S. Greve is a professor at the George Mason University School of Law, and the author of The Upside-Down Constitution (Harvard University Press).

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