Møller and Skaaning’s paper addresses an important question – what is the added value of constructing diminished subtypes? While the analysis focuses on subtypes of the Rechtsstaat and sub-components of the rule of law it also touches on the general utility of diminished subtypes. The authors reassess Lauth and Sehring’s (2009) proposal of four diminished subtypes of the rule of law. The evaluation criteria that they propose are comprehensible and comprise the conceptual plausibility as well as the empirical occurrence of the diminished subtypes. Diminished subtypes should meet both criteria in order to yield a more refined typology.

First and foremost, Møller and Skaaning find that the proposed diminished subtypes of the Rechtsstaat are empirically irrelevant. Dichotomizing the measures of the four subtypes of the rule of law proposed by Lauth and Sehring, they state that most of the empirical cases cluster in the two polar types (‘full presence of the rule of law/Rechtsstaat’ as well as the opposite type, ‘full absence of the rule of law/Rechtsstaat’). The empirical space of most subtypes is virtually empty, however. Møller and Skaaning therefore argue in favor of a holistic approach regarding the two polar types. They conclude that the scores on the different components should be aggregated into a composite index rather than measuring the components of the rule of law separately as these are interrelated and refer to a similar level. This finding provokes several questions, not so much because not all of the proposed subtypes of the rule of law are covered by empirical cases. I am more
concerned about the consequences of the application of diminished subtypes. I am still convinced that they are a worthwhile concept for political science in general and for the study of democracy and the rule of law in particular.

Many of Møller and Skaaning’s thoughts are well worth considering. However, they also give rise to a critical reflection of their operationalization, the concept of diminished subtypes and the appropriate capture of the empirical findings.

The authors operationalize the four subtypes systematically by attributing them to the four core features of the Rechtsstaat, namely consistency, reliableness, implementation and generality. In line with the notion of radial concepts, they assume that the properties of a given type are either present or absent. However, in the text they refer to, this applies only to the ‘arbitrary rule of law’ type. Usually, there are no similar remarks with regard to the other subtypes. Concerning the ‘partly implemented Rechtsstaat’, Møller and Skaaning’s operationalization even contradicts the original elaborations as this subtype does not exhibit any consistency in the sense of ‘open government’. Instead, the opposite is the case. In addition, Møller and Skaaning assume that there is no reliableness (measured in terms of the absence of corruption) in three out of four subtypes. Neither do Lauth and Sehring (2009) suggest this to be the case nor would such a claim be sensible given the considerable level of corruption in almost all states characterized by a deficient Rechtsstaat. It is entirely obvious why the field in the empirical matrix representing these characteristics (deficient Rechtsstaat without corruption) remains largely empty in the typological assessment as the assumption that these conditions occur together is in itself nonsensical (maybe excepting the partly implemented Rechtsstaat where part of the population lives under rule of law conditions). Consequently, three out of four subtypes are not assessed adequately in the typological assessment.

Generally, the original text differentiates between the four subtypes in a different manner, namely based on their fulfillment of the 14 core principles of the Rechtsstaat. As Møller and Skaaning choose a different approach in systematizing the subtypes, they succeed in appropriately operationalizing the given typology of four deficient rule of law states only to a limited degree. Accordingly, this qualifies their empirical critique, although it does not invalidate it entirely. First, these facts point out that the original conceptualization of the four subtypes was not carried out unequivocally and systematically enough to prevent this misunderstanding. Second, the