

John Hatchard, Muna Ndulo, Peter Slinn. *Comparative Constitutionalism and Good Governance in the Commonwealth: An Eastern and Southern African Perspective.* Cambridge: Cambridge University Press, 2004. xxv + 361 pp. \$120.00, cloth, ISBN 978-0-521-58464-7.



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In the legal academy and elsewhere, the scholarly literature and teaching in the field of comparative constitutionalism and governance have grown exponentially over the past few years. These developments have mirrored the interest in good governance on the part of the global human rights community represented by the large number of nongovernmental organizations and international bodies such as the United Nations. These twin concerns, comparative constitutionalism and good governance, to a large extent reflect the political preoccupation of the post cold-war world, where issues relating to the rule of law through constitutional government have dominated political and legal discourse. These matters have been seen as particularly relevant in the former communist countries of Eastern Europe attempting to establish democratic rule. Nowhere, however, is this concern more pronounced than on the continent of Africa.

Shorn of the romance of the postcolonial era and its promise of liberation and democracy, and amidst a recognition that most countries on the African continent have not come close to achiev-

ing systems of democracy or governance that benefit the overwhelming majority of the continent's citizens, the issues of constitutionalism and good governance are particularly pertinent. South Africa's political transition in 1994 and the adoption of that country's most remarkable constitution have generated a scholarly constitutional cottage industry and have allowed for a renewed introspection of the democratic project in Africa.

A very good contribution to the literature is *Comparative Constitutionalism and Good Governance in the Commonwealth*. Focusing on the regions of Eastern and Southern Africa (ESA), the authors set out to provide a comprehensive analysis of the constitutional project, highlighting the possibilities generated not just by South Africa's political and legal transition, but also those adopted in the regions of their study.

The reader will find much in the book that is familiar, particularly as it relates to the colonial and postcolonial political narrative. But this historical background sets the stage for a comprehensive theoretical analysis of the constitution-making project in ESA as well as a set of analytical

and practical prescriptions for pursuing good governance in ESA. In their analysis, the authors demonstrate their admirable knowledge of African political and legal systems.

The central issue in the book is the possibility that constitutional mandates provide in limiting the exercise of unrestrained and arbitrary governmental power, especially executive power. Although the authors focus on the legal questions relevant to this restraining possibility of constitutional power, they recognize that extra-constitutional factors and influences often limit the scope of constitutional protection.

Even though liberal international human rights theory provides the major theoretical influence of the book, the authors, all very experienced and accomplished scholars of Africa, appreciate the peculiar indigenous ideological influences in Africa, particularly as these influences generally produce a more communitarian worldview. The authors combine theoretical insights as well as practical imperatives and solid suggestions for good governance. Here again, their deep understanding of, and solid experience in, the ESA region, is apparent and their suggestions therefore persuasive.

The thirteen chapters in the book comprehensively outline and analyze the dictates of constitutionalism and good governance. These include the questions of separation of powers, concerns about access to the political system particularly as they pertain to free and fair elections, the right of freedom of association, a fair and independent media, and competent authorities to undertake the running and monitoring of elections. The authors also investigate the contingencies of emergency rule and the role of constitutions, the status and powers of the military in a constitutional framework, and the devolution of power to the local level.

The level of detail in this weighty book, particularly a most impressive list of sources and lengthy bibliography, indicates the agenda of the authors: first, to examine the process of constitu-

tion making, second, to raise questions about the efficacy of constitutions in shaping good governance and delivering democracy, and third, to provide detailed suggestions for reform. In this venture, they target an audience of not just academics, but also policy makers, advocates, those who advise governments, and the lay public. The book is written in an accessible and readable style.

The shortcomings of the book are those commonly associated with scholarly literature on Africa, namely, the inclination to sweep with a general brush. The nature of the project, that is the particular geopolitical framework the authors adopt, suggests that they too are forced by their methodology to sweep broadly. They are acutely aware of this limitation, however, and adequately cite differences in history, constitution-making strategy and process, legal systems, and the like when appropriate.

Overall, though, this book is an important contribution to the field of constitutionalism and will be useful to a wide audience, including those in politics, law, government, and African studies.

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