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Negotiating Peace in Deeply Divided Societies

Recent years have witnessed an explosion of new research on constitution making. Comparative Constitution Making provides an up-to-date overview of this rapidly expanding field. p.p1 {margin: 0.0px 0.0px 0.0px 0.0px; font: 10.0px Arial}

Unstable Constitutionalism

What does it mean to say that it is 'We the People' who 'ordain and establish' a constitution? Who are those sovereign people, and how can they do so? Interweaving history and theory, constitutional scholar Chaihark Hahm and political theorist Sung Ho Kim attempt to answer these perennial questions by revisiting the constitutional politics of postwar Japan and Korea. Together, these experiences demonstrate the infeasibility of the conventional assumption that there is a clearly bounded sovereign 'people' prior to constitution-making that stands apart from both outside influence and troubled historical legacies. The authors argue that 'We the People' only emerges through a deeply transformative politics of constitutional founding and, as such, a democratic constitution and its putative author are mutually constitutive. Highly original and genuinely multidisciplinary, this book will be of interest to democratic theorists and scholars of comparative constitutionalism as well as observers of ongoing constitutional debates in Japan and Korea.

Power Sharing in Deeply Divided Places

"Harel-Shalev's study is outstanding. Finally, a cogent and intelligent analysis of the myriad ways deeply divided societies maintain and negotiate democratic

practices. This book will prove to be essential reading for anyone interested in the topics of identity politics, public policy, and democracy."---Rebecca Kook, Ben Gurion University --

Rescuing a Broken America

How can fragmented, divided societies that are not immediately compatible with centralised statehood best adjust to state structures? This book employs both comparative constitutional law and comparative politics, as it proposes the idea of a 'constituent process', whereby public participation in constitution making plays a positive role in state building. This can help to foster a sense of political community and produce a constitution that enhances the legitimacy and effectiveness of state institutions because a liberal-local hybrid can emerge to balance international liberal practices with local customary ones. This book represents a sustained attempt to examine the role that public participation has played during state building and the consequences it has had for the performance of the state. It is also the first attempt to conduct a detailed empirical study of the role played by the liberal-local-hybrid approach in state building.

The Failure of Popular Constitution Making in Turkey

This book focuses on the design and operation of power-sharing in deeply divided societies. Beyond this starting point, it seeks to examine the different ways in which consociational institutions emerge from negotiations and peace settlements across three counter-intuitive cases - post-Brexit referendum Northern Ireland, the Brussels Capital Region and Cyprus. Across each of the chapters, the analysis assesses how the design or mediation of these various forms of power-sharing demonstrate similarity, difference and complexity in how consociationalism has been conceived of and operated within each of these contexts. Finally, a key objective of the book is to explore and evaluate how ideas surrounding power-sharing have evolved and changed incrementally within each of the empirical contexts. The unifying argument within the book is that power-sharing has to have the capacity to adapt to changing political circumstances, and that this can be achieved through the interplay of formal and informal micro-level refinements to these institutions and the procedures that govern them, that allow such institutions to evolve over time in ways that increase their utility as conflict transformation governance structures for deeply divided societies. This book fills the gap in the published literature between theoretical and empirical studies of power-sharing, and will be of much interest to students of peace and conflict studies, consociationalism, European politics and IR in general.

Unruly Americans and the Origins of the Constitution

In 2005, Iraq drafted its first constitution and held the country's first democratic election in more than fifty years. Even under ideal conditions, drafting a constitution can be a prolonged process marked by contentious debate, and conditions in Iraq are far from ideal: Iraq has long been racked by ethnic and sectarian conflict, which intensified following the American invasion and continues today. This severe division, which often erupted into violence, would not seem to

bode well for the fate of democracy. So how is it that Iraq was able to surmount its sectarianism to draft a constitution that speaks to the conflicting and largely incompatible ideological view of the Sunnis, Shi'ah, and Kurds? Haider Ala Hamoudi served in 2009 as an adviser to Iraq's Constitutional Review Committee, and he argues here that the terms of the Iraqi Constitution are sufficiently capacious to be interpreted in a variety of ways, allowing it to appeal to the country's three main sects despite their deep disagreements. While some say that this ambiguity avoids the challenging compromises that ultimately must be made if the state is to survive, Hamoudi maintains that to force these compromises on issues of central importance to ethnic and sectarian identity would almost certainly result in the imposition of one group's views on the others. Drawing on the original negotiating documents, he shows that this feature of the Constitution was not an act of evasion, as is sometimes thought, but a mark of its drafters' awareness in recognizing the need to permit the groups the time necessary to develop their own methods of working with one another over time.

Making Constitutions in Deeply Divided Societies

In this audacious recasting of the American Revolution, distinguished historian Gary Nash offers a profound new way of thinking about the struggle to create this country, introducing readers to a coalition of patriots from all classes and races of American society. From millennialist preachers to enslaved Africans, disgruntled women to aggrieved Indians, the people so vividly portrayed in this book did not all agree or succeed, but during the exhilarating and messy years of this country's birth, they laid down ideas that have become part of our inheritance and ideals toward which we still strive today.

Mediating Power-Sharing

This volume explores the social and political forces behind constitution making from a global perspective. It combines leading theoretical perspectives on the social and political foundations of constitutions with a range of in-depth case studies on constitution making in nineteen countries. The result is an examination of constitutions as social phenomena and their interaction with other social phenomena, from various perspectives in the social sciences.

Reconciliation in Divided Societies

This book shows the rise and morphology of a self-identified 'illiberal democracy', the first 21st century illiberal political regime arising in the European Union. Since 2010, Viktor Orbán's governments in Hungary have convincingly offered an anti-modernist and anti-cosmopolitan/anti-European Unionist rhetoric, discourse and constitutional identity to challenge neo-liberal democracy. The Hungarian case provides unique observation points for students of transitology, especially those who are interested in states which are to abandon pathways of liberal democracy. The author demonstrates how illiberalism is present both in 'how' and 'what' is being done: the style, format and procedure of legislation; as well as the substance: the dismantling of institutional rule of law guarantees and the weakening of checks and balances. The book also discusses the ideological

commitments and constitutionally framed and cemented value preferences, and a reconstituted and re-conceptualized relationship between the state and its citizens, which is not evidently supported by Hungarians' value system and life-style choices.

Constitutional Change and Democracy in Indonesia

Nearly all the peace accords signed in the last two decades have included power-sharing in one form or another. The notion of both majority and minority segments co-operating for the purposes of political stability has informed both international policy prescriptions for post-conflict zones and home-grown power-sharing pacts across the globe. This book examines the effect of power-sharing forms of governance in bringing about political stability amid deep divisions. It is the first major comparison of two power-sharing designs - consociationalism and centripetalism - and it assesses a number of cases central to the debate, including Nigeria, Sri Lanka, Fiji, Bosnia and Herzegovina, Burundi and Northern Ireland. Drawing on information from a variety of sources, such as political party manifestoes and websites, media coverage, think tank reports, and election results, the author reaches significant conclusions about power-sharing as an invaluable conflict-management device. This text will be of key interest to students and scholars of ethnic conflict management, power-sharing, ethnic politics, democracy and democratization, comparative constitutional design, comparative politics, intervention and peace-building.

Fragile Democracies

Constitutions, Religion and Politics in Asia

"As nations struggling to heal wounds of civil war and atrocity turn toward the model of reconciliation, *Reconciliation in Divided Societies* takes a systematic look at the political dimensions of this international phenomenon. . . . The book shows us how this transformation happens so that we can all gain a better understanding of how, and why, reconciliation really works. It is an almost indispensable tool for those who want to engage in reconciliation"—from the foreword by Archbishop Emeritus Desmond Tutu As societies emerge from oppression, war, or genocide, their most important task is to create a civil society strong and stable enough to support democratic governance. More and more conflict-torn countries throughout the world are promoting reconciliation as central to their new social order as they move toward peace and stability. Scores of truth and reconciliation commissions are helping bring people together and heal the wounds of deeply divided societies. Since the South African transition, countries as diverse as Timor Leste, Sierra Leone, Fiji, Morocco, and Peru have placed reconciliation at the center of their reconstruction and development programs. Other efforts to promote reconciliation—including trials and governmental programs—are also becoming more prominent in transitional times. But until now there has been no real effort to understand exactly what reconciliation could mean in these different situations. What does true reconciliation entail? How can it be achieved? How can its achievement be assessed? This book digs beneath the surface to answer these

questions and explain what the concepts of truth, justice, forgiveness, and reconciliation really involve in societies that are recovering from internecine strife. Looking to the future as much as to the past, Erin Daly and Jeremy Sarkin maintain that reconciliation requires fundamental political and economic reform along with personal healing if it is to be effective in establishing lasting peace and stability. Reconciliation, they argue, is best thought of as a means for transformation. It is the engine that enables victims to become survivors and divided societies to transform themselves into communities where people work together to raise children and live productive, hopeful lives. Reconciliation in *Divided Societies* shows us how this transformation happens so that we can all gain a better understanding of how and why reconciliation is actually accomplished.

Constitution Making

Power sharing may be broadly defined as any set of arrangements that prevents one political agency or collective from monopolizing power, whether temporarily or permanently. Ideally, such measures promote inclusiveness or at least the coexistence of divergent cultures within a state. In places deeply divided by national, ethnic, linguistic, or religious conflict, power sharing is the standard prescription for reconciling antagonistic groups, particularly where genocide, expulsion, or coerced assimilation threaten the lives and rights of minority peoples. In recent history, the success record of this measure is mixed. *Power Sharing in Deeply Divided Places* features fifteen analytical studies of power-sharing systems, past and present, as well as critical evaluations of the role of electoral systems and courts in their implementation. Interdisciplinary and international in formation and execution, the chapters encompass divided cities such as Belfast, Jerusalem, Kirkuk, and Sarajevo and divided places such as Belgium, Israel/Palestine, Northern Ireland, and South Africa, as well as the Holy Roman Empire, the Saffavid Empire, Aceh in Indonesia, and the European Union. Equally suitable for specialists, teachers, and students, *Power Sharing in Deeply Divided Places* considers the merits and defects of an array of variant systems and provides explanations of their emergence, maintenance, and failings; some essays offer lucid proposals targeted at particular places. While this volume does not presume that power sharing is a panacea for social reconciliation, it does suggest how it can help foster peace and democracy in conflict-torn countries. Contributors: Liam Anderson, Florian Bieber, Scott A. Bollens, Benjamin Braude, Ed Cairns, Randall Collins, Kris Deschouwer, Bernard Grofman, Colin Irwin, Samuel Issacharoff, Allison McCulloch, Joanne McEvoy, Brendan O'Leary, Philippe van Parijs, Alfred Stepan, Ronald Wintrobe.

Constitution Making during State Building

Average Americans Were the True Framers of the Constitution Woody Holton upends what we think we know of the Constitution's origins by telling the history of the average Americans who challenged the framers of the Constitution and forced on them the revisions that produced the document we now venerate. The framers who gathered in Philadelphia in 1787 were determined to reverse America's post-Revolutionary War slide into democracy. They believed too many middling Americans exercised too much influence over state and national policies. That the framers were only partially successful in curtailing citizen rights is due to the

reaction, sometimes violent, of unruly average Americans. If not to protect civil liberties and the freedom of the people, what motivated the framers? In *Unruly Americans and the Origins of the Constitution*, Holton provides the startling discovery that the primary purpose of the Constitution was, simply put, to make America more attractive to investment. And the linchpin to that endeavor was taking power away from the states and ultimately away from the people. In an eye-opening interpretation of the Constitution, Holton captures how the same class of Americans that produced Shays's Rebellion in Massachusetts (and rebellions in damn near every other state) produced the Constitution we now revere. *Unruly Americans and the Origins of the Constitution* is a 2007 National Book Award Finalist for Nonfiction.

The Challenge of Sustaining Democracy in Deeply Divided Societies

Since 1787, constituent assemblies have shaped politics. This book provides a comparative, theoretical framework for understanding them.

A Democratic South Africa?

The U.S. Constitution contains a series of rights and liberties operating as restrictions on the powers of government, and courts have the final authority to determine what these often nebulous restrictions require. But judges are deeply divided over the correct methodology to follow in making these determinations: different judges employ different judicial philosophies--and may consequently reach different constitutional results. Understanding these methodological disagreements is therefore crucial for anyone wishing to attain a full understanding of our constitutional law, or to appraise the legitimacy of our institutional arrangements--especially that of judicial review. In *The Silent Prologue*, Ofer Raban provides an engaging examination of the interpretive theories judges use to reach their verdicts. Using key case histories as illustration, Raban illuminates the rationales and assumptions behind competing judicial philosophies that have far-reaching implications for the rights of American citizens. Distributed for George Mason University Press

Democratic Decline in Hungary

In his widely acclaimed volume *Our Undemocratic Constitution*, Sanford Levinson boldly argued that our Constitution should not be treated with "sanctimonious reverence," but as a badly flawed document deserving revision. Now Levinson takes us deeper, asking what were the original assumptions underlying our institutions, and whether we accept those assumptions 225 years later. In *Framed*, Levinson challenges our belief that the most important features of our constitutions concern what rights they protect. Instead, he focuses on the fundamental procedures of governance such as congressional bicameralism; the selection of the President by the electoral college, or the dimensions of the President's veto power--not to mention the near impossibility of amending the United States Constitution. These seemingly "settled" and "hardwired" structures contribute to the now almost universally recognized "dysfunctionality" of American

politics. Levinson argues that we should stop treating the United States Constitution as uniquely exemplifying the American constitutional tradition. We should be aware of the 50 state constitutions, often interestingly different--and perhaps better--than the national model. Many states have updated their constitutions by frequent amendment or by complete replacement via state constitutional conventions. California's ungovernable condition has prompted serious calls for a constitutional convention. This constant churn indicates that basic law often reaches the point where it fails and becomes obsolete. Given the experience of so many states, he writes, surely it is reasonable to believe that the U.S. Constitution merits its own updating. Whether we are concerned about making America more genuinely democratic or only about creating a system of government that can more effectively respond to contemporary challenges, we must confront the ways our constitutions, especially the United States Constitution, must be changed in fundamental ways.

American Gospel

This first-of-its-kind book approaches peacemaking in a unique way. It makes an innovative application of simulation—as training exercises for peacemaking—and puts readers in the role of key actors during conflict and conflict resolution processes, giving them a nuanced understanding of the risk, opportunity and cost of making peace. These simulations are also aimed at helping would-be negotiators and/or mediators prepare better. The six exercises included in the book are mostly based on actual or potential negotiations in ongoing peace processes. They cover the following aspects of negotiating peace in deeply divided societies: preventing escalation of the conflict (also called conflict management), initiating Confidence Building Measures (CBMs) that pave the way for political resolution, addressing the root causes of conflict, arriving at a comprehensive agreement to end the conflict and post-conflict peace-building. As a set of exercises, the six simulations in this book will be useful for administrators, negotiators and peacekeeping forces. This book will also be an important source of information for students and academics studying Politics, International Relations and Peace Studies.

Comparative Constitution Making

Concurrency of powers is a key to governance in most federal systems. This volume, *Concurrent Powers in Federal Systems: Meaning, Making and Managing*, is the first to examine from a comparative perspective its various manifestations, reasons for emergence, and management strategies.

Negotiating in Civil Conflict

Shah uncovers the complex interaction between constitutional law, religion and politics in three key plural societies in Asia.

Constitution-making and Reform

A plan for restoring and protecting freedom, based on the United States Constitution. There has been a deliberate effort over the past one hundred years to

change the worldview of Americans from a liberty and constitutionally focused world view, based on the writings of Englishman John Locke, to that of government control of the individual based on the writings of Frenchman Jean Jacques Rousseau. Rousseau's model of state control now dominates government policy and America's world view, and the free market, civil liberties and protections guaranteed by the United States Constitution are being destroyed. The Rousseau world view dominates our education, judicial, media, and legislative institutions with what is called progressivism. This leads to socialism, fascism, and even communism. It is what has inflamed the backlash known as the tea party movement. There is hope, however. Although seriously weakened, the Constitution still stands, and its protections are still in most laws at the federal and state level that offers protections for local communities that are generally unknown to most people—even attorneys. The book explains why Americans are so divided, how the destruction of liberty occurred, who is behind it, and how Americans can stop this destruction of our way of life by electing constitutionally based candidates to office and protect their communities from egregious federal and state laws and regulations.

Politics in Deeply Divided Societies

Constitution making is a topic of increasing scholarly and practical interest. Focusing on a set of important case studies, yet also featuring classic articles on the subject, this volume is a critical assembly of theoretical literature. Ensuring wide geographic and historical coverage, and including an original introduction by the editors, this collection provides an essential overview of the myriad of circumstances in which constitutions can be made.

Divided Politics, Divided Nation

Why are Americans so angry with each other? The United States is caught in a partisan hyperconflict that divides politicians, communities—and even families. Politicians from the president to state and local office-holders play to strongly-held beliefs and sometimes even pour fuel on the resulting inferno. This polarization has become so intense that many people no longer trust anyone from a differing perspective. Drawing on his personal story of growing up as a fundamentalist Christian on a dairy farm in rural Ohio, then as an academic in the heart of the liberal East Coast establishment, Darrell West analyzes the economic, cultural, and political aspects of polarization. He takes advantage of his experiences inside both conservative and liberal camps to explain the views of each side and offer insights into why each is angry with the other. West argues that societal tensions have metastasized into a dangerous tribalism that seriously threatens U.S. democracy. Unless people can bridge these divisions and forge a new path forward, it will be impossible to work together, maintain a functioning democracy, and solve the country's pressing policy problems.

Rule of Law, Islam, and Constitutional Politics in Egypt and Iran, The

The attempt in 2004 to draft an interim constitution in Iraq and the effort to enact

a permanent one in 2005 were unintended outcomes of the American occupation, which first sought to impose a constitution by its agents. This two-stage constitution-making paradigm, implemented in a wholly unplanned move by the Iraqis and their American sponsors, formed a kind of compromise between the populist-democratic project of Shi'ite clerics and America's external interference. As long as it was used in a coherent and legitimate way, the method held promise. Unfortunately, the logic of external imposition and political exclusion compromised the negotiations. Andrew Arato is the first person to record this historic process and analyze its special problems. He compares the drafting of the Iraqi constitution to similar, externally imposed constitutional revolutions by the United States, especially in Japan and Germany, and identifies the political missteps that contributed to problems of learning and legitimacy. Instead of claiming that the right model of constitution making would have maintained stability in Iraq, Arato focuses on the fragile opportunity for democratization that was strengthened only slightly by the methods used to draft a constitution. Arato contends that this event would have benefited greatly from an overall framework of internationalization, and he argues that a better set of guidelines (rather than the obsolete Hague and Geneva regulations) should be followed in the future. With access to an extensive body of literature, Arato highlights the difficulty of exporting democracy to a country that opposes all such foreign designs and fundamentally disagrees on matters of political identity.

Constitution Writing, Religion and Democracy

This volume considers an array of power-sharing systems in divided cities and states, with critical evaluations of their merits and defects as well as explanations of their emergence, maintenance, and failings.

Iraqi Federalism and the Kurds

The establishment of durable, democratic institutions constitutes one of the major challenges of our age. As countless contemporary examples have shown, it requires far more than simply the holding of free elections. The consolidation of a legitimate constitutional order is difficult to achieve in any society, but it is especially problematic in societies with deep social cleavages. This book provides an authoritative and systematic analysis of the politics of so-called 'deeply divided societies' in the post Cold War era. From Bosnia to South Africa, Northern Ireland to Iraq, it explains why such places are so prone to political violence, and demonstrates why - even in times of peace - the fear of violence continues to shape attitudes, entrenching divisions in societies that already lack consensus on their political institutions. Combining intellectual rigour and accessibility, it examines the challenge of establishing order and justice in such unstable environments, and critically assesses a range of political options available, from partition to power-sharing and various initiatives to promote integration. The Politics of Deeply Divided Societies is an ideal resource for students of comparative politics and related disciplines, as well as anyone with an interest in the dynamics of ethnic conflict and nationalism.

Electoral Systems and Conflict in Divided Societies

This paper is one of a series being prepared for the National Research Council's Committee on International Conflict Resolution. The committee was organized in late 1995 to respond to a growing need for prevention, management, and resolution of violent conflict in the international arena, a concern about the changing nature and context of such conflict in the post-Cold War era, and a recent expansion of knowledge in the field. The committee's main goal is to advance the practice of conflict resolution by using the methods and critical attitude of science to examine the effectiveness of various techniques and concepts that have been advanced for preventing, managing, and resolving international conflicts. The committee's research agenda has been designed to supplement the work of other groups, particularly the Carnegie Corporation of New York's Commission on Preventing Deadly Conflict, which issued its final report in December 1997. The committee has identified a number of specific techniques and concepts of current interest to policy practitioners and has asked leading specialists on each one to carefully review and analyze available knowledge and to summarize what is known about the conditions under which each is or is not effective. These papers present the results of their work.

Constitution Making Under Occupation

This is the story of how democracy became entrenched in the world's largest Muslim-majority country. Indonesia was threatened by a possibility of deadlock over a new constitution and by violence between Islamic and secular groups. It managed to overcome these divisions by adopting an unconventional, gradual course of constitutional amendment that made consensus possible. The Indonesians also adopted political institutions that preserved their political pluralism and provided incentives for politicians to behave moderately. As a result, Indonesia has managed to hold multiple elections and to transfer power peacefully.

Courts and Consociations

This book examines how constitutional courts can support weak democratic states in the wake of societal division and authoritarian regimes.

The Unknown American Revolution

NEW YORK TIMES BESTSELLER • Pulitzer Prize-winning author Jon Meacham reveals how the Founding Fathers viewed faith—and how they ultimately created a nation in which belief in God is a matter of choice. At a time when our country seems divided by extremism, *American Gospel* draws on the past to offer a new perspective. Meacham re-creates the fascinating history of a nation grappling with religion and politics—from John Winthrop's "city on a hill" sermon to Thomas Jefferson's Declaration of Independence; from the Revolution to the Civil War; from a proposed nineteenth-century Christian Amendment to the Constitution to Martin Luther King, Jr.'s call for civil rights; from George Washington to Ronald Reagan. Debates about religion and politics are often more divisive than illuminating. Secularists point to a "wall of separation between church and state," while many conservatives act as though the Founding Fathers were apostles in knee britches. As Meacham shows in this brisk narrative, neither extreme has it right. At the heart

of the American experiment lies the God of what Benjamin Franklin called “public religion,” a God who invests all human beings with inalienable rights while protecting private religion from government interference. It is a great American balancing act, and it has served us well. Meacham has written and spoken extensively about religion and politics, and he brings historical authority and a sense of hope to the issue. American Gospel makes it compellingly clear that the nation’s best chance of summoning what Lincoln called “the better angels of our nature” lies in recovering the spirit and sense of the Founding. In looking back, we may find the light to lead us forward. Praise for American Gospel “In his American Gospel, Jon Meacham provides a refreshingly clear, balanced, and wise historical portrait of religion and American politics at exactly the moment when such fairness and understanding are much needed. Anyone who doubts the relevance of history to our own time has only to read this exceptional book.”—David McCullough, author of 1776 “Jon Meacham has given us an insightful and eloquent account of the spiritual foundation of the early days of the American republic. It is especially instructive reading at a time when the nation is at once engaged in and deeply divided on the question of religion and its place in public life.”—Tom Brokaw, author of The Greatest Generation

The Silent Prologue

What role do and should constitutions play in mitigating intense disagreements over the religious character of a state? And what kind of constitutional solutions might reconcile democracy with the type of religious demands raised in contemporary democratising or democratic states? Tensions over religion-state relations are gaining increasing salience in constitution writing and rewriting around the world. This book explores the challenge of crafting a democratic constitution under conditions of deep disagreement over a state's religious or secular identity. It draws on a broad range of relevant case studies of past and current constitutional debates in Europe, Asia, Africa and the Middle East, and offers valuable lessons for societies soon to embark on constitution drafting or amendment processes where religion is an issue of contention.

Constitutions and Conflict Management in Africa

Iraq today faces a whole gamut of problems associated with post-war recovery and state-rebuilding compounded by age old mistrust and suspicion. The situation in Iraq resembles a huge experiment in which social scientists can observe the consequences of actions taken across an entire country. Can Western ideas take root and flourish in non-western societies? Can constitutionalism take hold and work in a traditional religious and deeply divided society? Is Iraqi federalism a solution to the country’s severe disunity or a temporary fix? Iraqi Federalism and the Kurds: Learning to Live Together addresses these important questions and focuses on the role of federalism as a viable solution to Iraq's many problems and the efforts the Kurdish government has deployed to adjust to new federal relations that entail not only gains, but also concessions and compromises. The author's direct experience of living and working within this embattled country allows a unique reflection on the successes and failures of federalism and the positive developments the introduction of federal relationships have brought.

Concurrent Powers in Federal Systems

Each of Africa's countries has a different constitutional design, is characterized by a unique culture and history, and faces different stresses that threaten to undermine political stability. Presenting the first database of constitutional design in all African countries, along with seven original case studies, *Constitutions and Conflict Management in Africa* explores the types of domestic political institutions that can buffer societies from destabilizing changes that otherwise increase the risk of violence. With detailed comparative studies of Burundi, Ghana, Kenya, Nigeria, Senegal, Sudan, and Zimbabwe, contributing scholars identify key turning points at which a state's political institutions either mitigated or escalated the effects of economic, environmental, demographic, and political shocks. They find that stability can be promoted by various constitutional designs—not only by accommodative institutions that encourage decentralization and multiculturalism, but also by the integrative, centralized designs that characterize the constitutions of most African countries. The greatest danger may arise from partial or inequitable accommodation that can exacerbate societal tensions, culminating in violence up to and including civil war and genocide. Accordingly, *Constitutions and Conflict Management in Africa* cautions against the typical international prescription for radical reform to replace Africa's existing constitutions with accommodative designs, instead prescribing more gradual constitutional reform to strengthen liberal institutions, such as strong judiciaries and independent electoral commissions. This detailed and methodical volume provides vital lessons for fostering democracy and reducing civil conflict via constitutional reform in Africa and beyond. Contributors: Justin Orlando Frosini, Gilbert M. Khadiagala, Alan J. Kuperman, Karly Kupferberg, Eli Poupko, Eghosa E. Osaghae, Andrew Reynolds, Filip Reyntjens, Arame Tall, Hillary Thomas-Lake, Stefan Wolff, I. William Zartman.

Power-Sharing and Political Stability in Deeply Divided Societies

How can societies still grappling over the common values and shared vision of their state draft a democratic constitution? This is the central puzzle of *Making Constitutions in Deeply Divided Societies*. While most theories discuss constitution-making in the context of a moment of revolutionary change, Hanna Lerner argues that an incrementalist approach to constitution-making can enable societies riven by deep internal disagreements to either enact a written constitution or function with an unwritten one. She illustrates the process of constitution-writing in three deeply divided societies - Israel, India and Ireland - and explores the various incrementalist strategies deployed by their drafters. These include the avoidance of clear decisions, the use of ambivalent legal language and the inclusion of contrasting provisions in the constitution. Such techniques allow the deferral of controversial choices regarding the foundational aspects of the polity to future political institutions, thus enabling the constitution to reflect a divided identity.

Constituent Assemblies

This book examines constitutional law and practice in five South Asian countries: India, Pakistan, Sri Lanka, Nepal, and Bangladesh.

Framed

Consociations are power-sharing arrangements, increasingly used to manage ethno-nationalist, ethno-linguistic, and ethno-religious conflicts. Current examples include Belgium, Bosnia, Northern Ireland, Burundi, and Iraq. Despite their growing popularity, they have begun to be challenged before human rights courts as being incompatible with human rights norms, particularly equality and non-discrimination. Courts and Consociations examines the use of power-sharing agreements, their legitimacy, and their compatibility with human rights law. Key questions include to what extent, if any, consociations conflict with the liberal individualist preferences of international human rights institutions, and to what extent consociational power-sharing may be justified to preserve peace and the integrity of political settlements. In three critical cases, the European Court of Human Rights has considered equality challenges to important consociational practices, twice in Belgium and then in *Sejdic and Finci v Bosnia* regarding the constitution established for Bosnia Herzegovina under the Dayton Agreement. The Court's decision in *Sejdic and Finci* has significantly altered the approach it previously took to judicial review of consociational arrangements in Belgium. This book accounts for this change and assess its implications. The problematic aspects of the current state of law are demonstrated. Future negotiators in places riven by potential or actual bloody ethnic conflicts may now have less flexibility in reaching a workable settlement, which may unintentionally contribute to sustaining such conflicts and make it more likely that negotiators will consider excluding regional and international courts from reviewing these political settlements. Providing a clear, accessible introduction to both the political use of power-sharing settlements and the human rights law on the issue, this book is an invaluable guide to all academics, students, and professionals engaged with transitional justice, peace agreements, and contemporary human rights law.

Making We the People

Offers an in-depth case study of the failure of popular constitution making in Turkey from 2011 to 2013.

Social and Political Foundations of Constitutions

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Power Sharing in Deeply Divided Places

How should constitutional design respond to the opportunities and challenges raised by ethnic, linguistic, religious, and cultural differences, and do so in ways that promote democracy, social justice, peace and stability? This is one of the most difficult questions facing societies in the world today. There are two schools of thought on how to answer this question. Under the heading of accommodation, some have argued for the need to recognize, institutionalize and empower differences. There are a range of constitutional instruments available to achieve

this goal, such as multinational federalism and administrative decentralization, legal pluralism (e.g. religious personal law), other forms of non-territorial minority rights (e.g. minority language and religious education rights), consociationalism, affirmative action, legislative quotas, etc. But others have countered that such practices may entrench, perpetuate and exacerbate the very divisions they are designed to manage. They propose a range of alternative strategies that fall under the rubric of integration that will blur, transcend and cross-cut differences. Such strategies include bills of rights enshrining universal human rights enforced by judicial review, policies of disestablishment (religious and ethnocultural), federalism and electoral systems designed specifically to include members of different groups within the same political unit and to disperse members of the same group across different units, are some examples. In this volume, leading scholars of constitutional law, comparative politics and political theory address the debate at a conceptual level, as well as through numerous country case-studies, through an interdisciplinary lens, but with a legal and institutional focus.

Constitutional Design for Divided Societies

A comparative analysis of the ways in which Islam has become entangled with the process of democratization in both Egypt & Iran, authoritarian regimes that have faced increasing demands for reform.

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