

B.O. Nwabueze, Constitutionalism in the Emergent States (1973), chapter 1

What is constitutionalism?

- Limit arbitrariness inherent in government
 - o Government cannot arrest someone without a reason → or else "government of will instead of law"
 - o Even if the rules are quite harsh, people will act in accordance with the rules (not arbitrary)

Relationship of constitutionalism and rule of law?

- Not only rule of law, but also different elements (see ppt 1)

Constitutionalism and democracy:

- Colonial administration not necessarily non-constitutionalism
- Constitutionalism: emphasizes that the power of government is subject to restraints
- Democracy: people elect the government such that it will not arbitrarily use its power

Nature and content of restraints on government:

Professor de Smith:

- Fundamental civil liberties
- Independent judiciary
- Democratic elections (popular representation)
- Accountability (tested by periodic election)

Professor MacIlwain:

- Accountability
- Civil liberties

Role of judiciary:

- Provide a check and balance on the executive and legislative branches

Unconstitutional for the law only to allow marriage of the opposite sex (Supreme Court)

- P.18: Superiority of courts over legislature
- Argument for: P.16: legislation is only for the generality of the population, so minority rights are not as well protected by the legislature, requiring the courts to take action themselves
- Obergefell v Hodges

HK Constitutional Journey

Letters Patent: not by English Parliament, by the Crown

Settled colonies: people can develop themselves a Parliament, elect their representatives

Colonies acquired by conquest or cession: more authoritarian style of ruling (governor appointed by the UK Queen, not democratically chosen)

Direction and guidance for development: By Colonial Office in Britain, cannot decide on its own

Constitutionalism In The Emergent States

Michel Rosenfeld, András Sajó



Constitutionalism In The Emergent States:

Constitutionalism in the Emergent States Benjamin Obi Nwabueze, 1973 Offers a legal analysis of revolutions coups d'état acts of secession and other manifestations of constitutional breakdown and reviews the formidable body of case law on those subjects that has already emerged from Pakistan Cyprus Rhodesia Uganda Nigeria and Ghana *Constitutionalism in the Emergent States* Benjamin Obi Nwabueze, 1977 Constitutionalism in the Emergent States B. O. Nwabueze, 1973

Constitutionalism and Democracy Douglas Greenberg, Stanley N. Katz, Steven C. Wheatley, Melanie Beth Oliviero, 1993-07-08 The political changes which have occurred in the last three years have been phenomenal the dissolving of the former Soviet Union the impending union of Western Europe and the evolution of democracy in Eastern Europe What changes have occurred in the legal structure of these countries How have their constitutions been affected by these developments Stanley Katz Douglas Greenberg and other scholars and politicians from numerous countries discuss in this work the experiences of constitutionalism Previously little work has been done in this field but now Constitutionalism and Democracy represents the range and depth for serious constitutional analysis Discussing concrete issues such as human rights nationalism and pluralism this volume will be essential in understanding the phenomenon of constitutionalism in various parts of the world *A Theory of African Constitutionalism* Berihun Adugna Gebeye, 2021 Utilizing detailed case studies from Nigeria Ethiopia and South Africa this title traces African constitutionalism from precolonial times to the present The volume offers a new framework for understanding African constitutionalism and a range of practical proposals for its future development Constitutionalism and Political Reconstruction Saïd Amir Arjomand, 2007-01-01 This book offers a unique interdisciplinary comparison of the dominant trends in constitutional developments and legal change across different regions of the world in the last half century bringing together the constitution making of the post colonial era with the post communist political reconstruction and globalization of constitutionalism **Comparative Constitutionalism and Good Governance in the Commonwealth** John Hatchard, Muna Ndulo, Peter Slinn, 2004-07-08 The central role that good effective and capable governance plays in the economic and social development of a country is now widely recognised Using the Commonwealth countries of eastern and southern Africa this book analyses some of the key constitutional issues in the process of developing strengthening and consolidating the capacity of states to ensure the good governance of their peoples Utilising comparative material the book seeks to draw lessons both positive and negative about the problems of constitutionalism in the region and in doing so critically addresses the legal issues involved in seeking to make constitutions work in practice Identity, Diversity, and Constitutionalism in Africa Francis Mading Deng, Daniel J. Deng, David K. Deng, Vanessa Jiménez, 2008 In this innovative and stimulating volume Francis Deng outlines a new relationship between governments and societies a relationship informed by Western concepts but based on traditional African values such as respect for human dignity equality and self rule **The Oxford Handbook of Comparative Constitutional Law** Michel

Rosenfeld, András Sajó, 2012-05-17 A comprehensive reference resource on comparative constitutional law this title examines the history and development of the discipline its core concepts institutions rights and emerging trends *A Constitutional History of Nigeria* Benjamin Obi Nwabueze, 1982

Toward an Islamic Reformation Abdullahi Ahmed An Na'im, 2019-01-31 Toward an Islamic Reformation is an ambitious attempt to modernize Islamic law calling for reform of the historical formulations of Islamic law commonly known as Shari'a that is perceived by many Muslims to be part of the Islamic faith As a Muslim Abdullahi Ahmed An Na'im is sensitive to and appreciative of the delicate relationship between Islam as a religion and Islamic law Nevertheless he considers that the questions raised here must be resolved if the public law of Islam is to be implemented today An Na'im draws upon the teachings and writings of Sudanese reformer Mahmoud Mohamed Taha to provide what some have called the intellectual foundations for a total reinterpretation of the nature and meaning of Islamic public law

Legitimate Governance in Africa Edward Kofi Quashigah, Obiora Chinedu Okafor, 2024-01-22 Any attempt to address the ever present problem of instability in Africa gives rise to questions regarding legitimate governance Without future thinking and action on the legitimacy of governance in Africa and how to secure it past mistakes will go unheeded rather than informing forward movement Surprisingly no existing work has comprehensively addressed this critical issue Legitimate Governance in Africa provides this needed coverage for the first time examining such key components in the struggle for legitimate governance as the role of the international community in addressing the problem the particular role women can play and ways in which women can improve their involvement in the whole enterprise of governance and the roles of non governmental organizations and civil society In this diverse collection of essays a wide range of expert legal contributors all familiar with the status of the struggle for legitimate governance in a specific institution or particular African state brings unique perspectives to the scholarly investigation of legitimate governance in Africa The individual authors have thought deeply about the complexities and subtleties of conducting and evaluating the business of African state governance considering both the practical sustainability of potential approaches and theoretical problems and issues The probing high quality essays facilitate a real understanding of the obstacles to progress in the struggle for legitimate governance Through their depth and diversity of views every one of the papers included in this collection enriches the pool of knowledge on this important subject

A Constitutional History of the Kingdom of Eswatini (Swaziland), 1960-1982 Hlengiwe Portia Dlamini, 2019-09-25 Swaziland recently renamed Eswatini is the only nation state in Africa with a functioning indigenous political system Elsewhere on the continent most departing colonial administrators were succeeded by Western educated elites In Swaziland traditional Swazi leaders managed to establish an absolute monarchy instead qualified by the author as benevolent and people centred a system which they have successfully defended from competing political forces since the 1970s This book is the first to study the constitutional history of this monarchy It examines its origins in the colonial era the financial support it received from white settlers and apartheid South Africa and the challenges

it faced from political parties and the judiciary before King Sobhuza II finally consolidated power in 1978 with an auto coup d'état As Hlengiwe Dlamini shows the history of constitution making in Swaziland is rich complex and full of overlooked insight for historians of Africa *Legal Aspects of Combating Corruption: The Case of Zambia* Kenneth Kaoma Mwenda,2007

Interpreting Constitutions Charles J. G. Sampford, Kim Preston, 1996 Constitutions can be viewed as the road map of liberal democracies And like any road map they need to be constantly reconsidered and redrawn as the territory develops and changes The contributors undertake this re interpretation on a number of levels They examine first the theoretical approaches to constitutional interpretation and then move on to implied rights There then follows a consideration of the role of the judiciary and parliament in constitutional interpretation drawing upon a number of examples from around the world

Written Constitutions G. van der Tang, H. van Maarseveen, 2024-10-28 **The Foundations of Nigeria** Toyin Falola, 2003 This text captures within a single volume a wide range of themes that underline the foundations of modern Nigeria notably nationalism constitutional development politics and government economy culture ethnicity and religion A comprehensive compendium of the colonial history of Nigeria this book combines an interdisciplinary framework of analysis with critical discourse to produce a unique and fresh interpretation of colonial history as a whole **Political Science** Ann Hosein, 2015-12-15 This book traces the development of political science from ancient influences such as Plato and Aristotle to modern political shapers such as Robert A Dahl It covers changes to the field in both thought and practice due to the rise and fall of political regimes world wars colonialism and social media The book also includes thorough examinations of international relations systems of government constitutions domestic policy public opinion and administration The book ends with brief biographies of important people in the field of political science that specifies their various contributions The Singapore Legal System Kevin Tan, 1999 This is the second edition of the highly successful book first published in 1989 However it has been extensively revised in content and updated Eight out of 14 chapters are new including chapters such as The Constitutional Framework of Powers Alternative Dispute Resolution and The Singapore Legal System and International Law and the law on all subjects has been updated **Social and Economic Rights in Africa** Nsongurua

Udombana, 2023-04-17 Social and economic rights have hitherto been marginalised in mainstream legal and political discourses and treated as second class citizens in the human rights family These rights are now receiving increasing attention in law and politics arguably because they raise existential questions on human security and dignity This one stop volume examines the international and public law perspectives on socio economic rights in Africa Working on the premise that these rights are normative and justiciable the author methodically and expertly examines the legal frameworks for their protection in global regional and national instruments infusing the analysis with African and comparative jurisprudence The author also examines the nature of obligations on these rights as well as the interpretive methodologies that should be deployed towards their realisation In blending theory with practice the book also reflects on some governance challenges

that continue to hobble the effective realisation of these rights in Africa The book is a seminal contribution on an important field an ideal companion for human rights practitioners international and constitutional lawyers judges government advisors students social workers and everyone who desires freedom from fear and want

Whispering the Strategies of Language: An Mental Journey through **Constitutionalism In The Emergent States**

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