

Book Reviews

Nolte, Detlef and Schilling-Vacaflor, Almut (eds) (2012) *New Constitutionalism in Latin America: Promises and Practices*, Ashgate (Farnham and Burlington, VT), xxiv + 409 pp. £65.00 hbk.

Beginning with Colombia in 1991, a series of Latin American countries have rewritten their constitutions in an attempt to extend rights to previously excluded populations. The most notable and forward-looking of these new constitutions were those promulgated in Venezuela in 1999, Ecuador in 2008 and Bolivia in 2009. These constitutions moved from an exclusionary liberal focus on individual rights toward a more comprehensive understanding of the importance of collective rights. In addition to the traditional three branches of government (executive, legislative, judicial), new constitutions added electoral and popular participation branches. Although some critiqued these new constitutions for not being grounded in reality, supporters contended that their poetic aspirations were important in advancing struggles for social justice.

The papers in this lengthy tome on the promises and practices of the new constitutionalism in Latin America originate in a 2010 conference organised by the German Institute

of Global and Area Studies. Editors Detlef Nolte and Almut Schilling-Vacaflor interpret constitutional change as part of a crisis of institutional legitimacy. In contrast, Astrid Lorenz succinctly defines 'new constitutionalism' as a process that enhances 'civil, political, economic, social and cultural rights', as well as altering 'the relationship between central states and regions, and between the state and its citizens' (p. 32). This tension between institutional stability and attempts to end historically exclusionary and unequal structures is one that runs throughout the volume.

In a chapter that quantifies the rates of constitutional changes, Gabriel Negretto takes patterns from the United States and Europe as normative, to critique the tendencies of politicians in Latin America to remake state structures to meet the needs of current political considerations. But why should the actions of colonial and neocolonial powers with advanced industrial economies be presented as models for Latin America to emulate? A more useful point of comparison, perhaps, would be African and Asian countries, with histories and economies more similar to those of Latin America. Even Thomas Jefferson, as contributors Rogerio Arantes and Claudio Couto point out, advocated that state structures needed to be renewed on an ongoing basis to meet the specific needs of each new generation.

Several of the essays in this collection excel in advancing our understandings of the new and innovative aspects of Latin America's new constitutionalism. In an essay on 'critical constitutionalism', Albert Noguera argues that this new tendency for Latin America to embrace new models rather than continuing to emulate old established patterns in the United States and Europe is a positive development. Roberto Gargarella also points to a long tradition of constitutionalism in Latin America, and notes that we have much to learn from this history.

The heart of this book is composed of a series of case studies. Many scholars see Colombia's 1991 constitution as launching a new movement toward an expansion of rights for indigenous peoples, African descendants, gay people, and others. Juan Fernando Jaramillo examines the promises of these developments, and how the country's 'para-political' scandal highlighted their limitations. Rickard Lalander analyses the growth of participatory democracy under Venezuela's new constitution, and uses this theme to challenge interpretations that moves toward decentralisation had been extinguished under Hugo Chávez's government.

Curiously, however, no single chapter is dedicated exclusively to the important case studies of either Ecuador or Bolivia. At the same time, entire chapters are devoted to the examples of Brazil, the Dominican Republic and Chile, which seem to be somewhat removed from the central theme of new constitutionalism. Instead, a series of chapters compares aspects of constitutional processes in Ecuador and Bolivia. Jonas Wolff provides a rather basic comparison of the two constitutions, Almut Schilling-Vacaflor and René Kuppe examine the promises and shortcomings of plurinationalism in the two countries, and finally Anna Barrera analyses indigenous justice systems.

It would seem that these final two chapters on indigenous rights should provide a point of departure for a compelling analysis and understanding of new constitutionalism in Latin America, rather than a terminus. In a sense, the organisation of the volume is upside down and backwards, with the book ending where it should rightfully begin. Furthermore, the book minimises or ignores key themes raised by these new constitutions, including marriage equality and reproductive rights.

The result is a lengthy yet incomplete volume that suffers from a lack of geographical and thematic balance. Although presented as an interdisciplinary analysis, the central conceptual framing of the volume is rooted in traditional political science approaches

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that do not always raise the most interesting or useful questions. These shortcomings are unfortunate in a volume that otherwise has important contributions to make to a deeper understanding of new constitutionalisms in Latin America.

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