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Interpreting Constitutions: A Comparative Study

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Interpreting Constitutions: A Comparative Study. Edited by Jeffrey Goldsworthy. London; New York: Oxford University Press, 2006. Pp. xv, 353. ISBN 0-19-927413-4. £54.95; US\$90.00.

Constitutions are, generally speaking, one of the easier forms of foreign law to obtain. Whether through print publications such as Oxford's *Constitutions of the Countries of the World*, or through websites such as the University of Richmond's Constitution Finder <http://confinder.richmond.edu/>,

legal researchers have had viable options for locating the constitutions, often translated into English, of many foreign nations.

Constitutional law, however, is about more than just the constitution itself. The researcher may also want to know how a country's courts have interpreted the constitution and where the balance of power lies between the executive, legislative, and judicial branches. This information is often harder to obtain. Finding caselaw from foreign nations is certainly easier than it used to be, but there is no guarantee a researcher can get all the relevant cases published by a country's courts, or that those cases will be in English. In addition, sifting the relevant cases from the irrelevant and synthesizing everything into a cohesive statement on a nation's constitutional jurisprudence can be difficult. The authors of *Interpreting Constitutions* have attempted to do just that.

This book is a collection of six chapters, each written by a law professor from the relevant jurisdiction, discussing constitutional interpretation in the United States, Canada, Australia, Germany, India, and South Africa, along with an introduction and conclusion by the editor, a professor of law at Australia's Monash University. When several different authors contribute chapters to a book, there is always a danger that the overall work will read like a loosely-connected collection of essays. This book, however, has avoided that trap. As Professor Goldsworthy notes in his introduction, the authors met in person to decide what issues their chapters should address, and it shows.

Each chapter usually begins with a brief history of the country's constitution and describes how the constitution is amended. The author then lists the court or courts that are responsible for interpreting the constitution, and how judges are named to those courts. The author describes the resources the courts use when interpreting the constitution, such as legislative history from the constitution's creation or academic works. Each chapter discusses the interpretive philosophies the court applies to the constitution, as well as problems with interpretation that have arisen over the years. The authors also pay substantial attention to human rights and to issues of balance of power between levels of government (national and state, provincial or regional governments) and between different branches (judicial, legislative, and executive). Each chapter nicely illustrates how the history behind a nation's constitution impacts the way that constitution is read today.

Overall, the book is thorough and well-organized. Footnotes to constitutions, caselaw, and commentary are extensive and allow for convenient reference. Prof. Goldsworthy organized the chapters from the oldest constitution (U.S.) to the newest (South Africa), and it is interesting to note how countries have built upon the experiences behind preceding constitutions when forging their own. The authors also usefully compare

practices with other nations when appropriate, but even when they do not directly contrast two countries' philosophies, this book's format makes it easy for the reader to note substantial differences between the countries' constitutional jurisprudences. Just learning about the different philosophies various nations have about what a "right" is and the government's role in enforcing those rights was worth the price of admission for me.

Though this book was concise well-written overall, I did have one quibble. While German and South African terms and concepts are translated or described in their chapters, it would have been nice to see footnotes for a couple of the terms used in the other chapters. For example, I was puzzled, as other U.S. readers may be, by the term "head of power" in the Canadian and Australian chapters.

A chart allowing quick comparison between countries' legal systems (which court interprets the constitution? What are the judges' terms of tenure?) would have been nice, but since this was not meant to be a ready reference work, it is not really necessary, and you can get that information from the chapters easily enough.

I would not call *Interpreting Constitutions* a must-have, but any library with an interest in foreign and comparative law will find it well worth the money, especially given that a paperback edition has just been released. The book provides a good introduction to the constitutional law of six nations, but more importantly, it serves as a good reminder to the reader that there is more than one way to make a constitution.

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