

book” (156). But those readers as passionately committed as the authors to fight what the authors view as a terrible future that is emerging are not really given much of a sense of how to do it, instead more of a sense of just how hard it will be.

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The Constitution of Myanmar: A Contextual Analysis. By Melissa Crouch. Oxford. Hart Publishing, 2019. 240 pp. \$24.26 hardcover

Reviewed by Maryam S. Khan, Institute of Development and Economic Alternatives (IDEAS)

The Constitution of Myanmar is a formidable addition to the Hart series on the “Constitutional Systems of the World.” Based on several years of rigorous empirical and archival research, the book offers the first comprehensive chronicling and analysis of the contestations underpinning the creation and implementation of Myanmar’s present Constitution of 2008. The insights from the case study, however, reverberate much beyond Myanmar’s borders. They make a significant contribution to the burgeoning scholarship on the role and logic of constitutions in postcolonial and nondemocratic settings. In an even broader sense, they carry important lessons for the way in which constitutions ought to be studied generally: as phenomena deeply embedded within their complex historical, social, and political context. As a legal scholar working on constitution-making in Pakistan, another postcolonial context that shares a colonial ancestry with Myanmar, I would argue that the backbone of the book’s sociolegal contribution is this “constitution in society” treatment of Myanmar’s Constitution.

Where the book falls short of this expectation is in its lack of engagement—despite suggestions to the contrary—with how Myanmar's case fits into the wider scheme of constitutions in authoritarian contexts.

At the core of *The Constitution of Myanmar* is the idea that the Constitution is “a key part of the establishment and maintenance of the military state in Myanmar” (p. 3). In other words, the Constitution is the instrument through which the *Tatmadaw* (Myanmar's armed forces) organizes the military's role in governance, embeds the ideology of the military state in the national discourse, and consolidates the centralized political structure of the state. The *Tatmadaw*'s “coercive centralism” seeks to brutally efface the huge socio-cultural, religious and geographical diversity of the country, of which the Rohingya conflict is only one manifestation, albeit a very grave one.

The book chapters are organized around the central idea of the “militarization” of the Constitution and attempt to systematically build the argument that the Constitution suffers a “credibility deficit” (p. 2) among the political classes because of its instrumentalization by the *Tatmadaw*. Chapter 1 gives the lay of the land, sets out the broad historical and political context of the Constitution, and outlines the main arguments and structure of the book. Chapter 2 foregrounds history and the theme of continuity and change in constitution making, arguing that just as the Constitution diverges substantially from earlier constitutional frameworks, it formalizes normative power relations that date back to at least the early 1990s. Chapter 3 explains the ubiquitous role of the military in governance, referring to the *Tatmadaw* as the “fourth branch of government” (p. 14) that exercises both direct and indirect influences on executive, legislative, and judicial power through, among other things, the “Three Main National Causes” (pp. 36–40) that constitute the centralizing ideological principles of the military state. Chapters 4–6 collectively demonstrate the institutional and structural features of the Constitution that simultaneously privilege and edify the *Tatmadaw*'s political power and impose serious constraints on broader political participation and opposition. Chapter 7 underscores the Constitution's façade of ethnic recognition and the persistence of demands for and contestations over the question of ethnocultural self-determination through federalism. Chapters 8 and 9 spotlight the role of the judiciary in the constitutional structure, arguing that the “courts can be conceptualised as a subordinate administrative agency” (p. 14) and emphasizing the “contingent and limited nature of rights protection” (p. 15). Chapter 10 picks up the thread on the federalism debate initiated in Chapter 7 within the context of the national ceasefire process that commenced in 2012.

From the perspective of constitutional change, it makes the trenchant observation that this peace process has had the (largely unintended) consequence of “normalization” of claims for constitutional reform centered on federalism. Finally, Chapter 11 recapitulates the book’s theory of the military state in Myanmar and considers its implications for comparative constitutional scholarship.

Comparativists and theorists of constitutions in authoritarian contexts will find valuable insights in this book. There are, however, some loose ends in the concluding chapter on comparative inquiry. Admittedly, the Hart series envisions country studies on constitutions, not comparative theory. Nonetheless, a more searching, even if brief, analysis of the comparative landscape by the author would have served to better understand Myanmar’s case, as the comparative angle works both ways—to inform and be informed by single country studies.

For instance, the book’s central argument of the Constitution’s “credibility deficit” and its link to the “theory of the military state” would be strengthened by a more nuanced consideration of the comparative implications of Myanmar’s case. The author asserts that the credibility deficit results from “constitutional design,” when the issue is not about “design” at all but, singularly, about the provenance of the Constitution. The fact that the Constitution is made by the military for the military is the main impediment in the wider political–democratic ownership of the Constitution. I draw here on the case of Pakistan, whose Constitution of 1973 carries a higher degree of legitimacy—despite the entrenched political role of the military—precisely because of its historical origins in a democratic moment (Khan 2019).

Another important issue that would gain from the field of comparative constitution-making is the author’s framing of the broader inquiry emerging from Myanmar’s study: “how do constitutions become militarized?” This strikes me as a somewhat ironic question, especially given that Myanmar’s military state is itself the progenitor of the Constitution. That constitutions in authoritarian contexts oftentimes become the very sites of power struggles between militaries and pro-democracy groups, the comparative sociolegal question worth pondering is *what motivates military states, or more broadly militaries, to constitutionalize their political role?* Flipping the question this way directly ties the theory of the military state in Myanmar to a rich and growing scholarship on *why*—and not only *how*—constitutions matter across some very diverse authoritarian contexts.

These minor shortcomings aside, *The Constitution of Myanmar* provides a meticulous positive analysis of constitutional praxis in

contemporary Myanmar and is an essential new source on authoritarian constitutionalism.

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Politics of Empowerment: Disability Rights and the Cycle of American Policy Reform. By David Pettinicchio. Stanford, CA: Stanford University Press, 2019. 280 pp. \$30.00 hardcover

Reviewed by Doron Dorfman, Syracuse University College of Law

Politics of Empowerment is an ambitious etiology of US disability policy making that spans eight decades. The book provides a holistic view of the disability law field, focusing not only on civil rights and antidiscrimination mandates but also on legislation related to rehabilitation, social welfare, and special education—arenas that many consider quintessentially disability-related despite decades-long attempts to frame the issue through a civil rights framework. The chronologically organized manuscript first guides its readers through Congress's hallways, introducing us to central figures working on new bills and amendments. Later, as the disability rights movement develops and civil society organizations proliferate, the author ushers the readers onto the streets, where social movement actors use disruptive techniques to promote the policy agenda from the outside. It is this symbiotic linkage between the political process of constructing policy and social movement mobilization that makes the book stand out within the literature on the development of disability law and policy.

Although previous authors have described the evolution of American disability policy as a clear shift from welfare to rights, Pettinicchio offers a nuanced way of looking at this trajectory. From the beginning, the book claims that "disability entrepreneurs of the legislative branch" (an original and timely term likely to be adopted by others in the field) did not push against