Book Review

Wen-Chen Cheng, Li-ann Thio, Kevin YL Tan and Jiunn-rong Yeh (eds.)
Softcover: £40.

Those who live in Asia with observant eyes find it quite striking that systemic and practical differences in the legal, political and cultural basis of many countries in the region and their constitutional orders are more extensive than often assumed. This prompts a search for a scholarly treatise that would canvass the rich diversity in the Asian constitutional landscape from an insider’s point of view to advance understanding on what makes up the multifaceted reality that is Asia. For a more specifically pedagogic purpose, those who teach comparative constitutional law in Asian countries also search for a single-volume textbook on an Asia-wide scale that would meet the needs of students who want to learn about the constitutional laws of their neighbors. In the past, however, this search produced a disappointing result. Comparative Asian constitutional law books were rare, and the niche offerings were limited in scope as they covered only select topics, focused on a particular area within the Asian region, or dealt with the latest developments at the time of publication.1 It is a pleasure to say that the wait is now over with the arrival of the reviewed volume. The authors put their wide-learning and incisive reflection to good use in offering scholars and students a resource that is not only comprehensive in scope but also deep and nuanced in analysis.2


2 Two books to be published later this year are notable, yet limited in their topical or temporal scope. See Susan H. Williams (Ed.), Social Difference and Constitutionalism in Pan-Asia
The reader may raise some initial questions: what counts as Asia, what does constitutionalism entail, and would it be tenable to speak of a conceptually singular constitutionalism unique to Asia? The authors address these questions at the outset of their collaborative enterprise by stating what their book is not: “[This] is not a book about ‘Asian constitutionalism’ as there is no singular or monolithic conception or practice which may be described as such.” They recognize that although people often refer to Asia as if it were one country, trying to define Asia itself faces difficulties. Even when Asia as a region is reasonably delineated, another and arguably more complex conceptual challenge than defining Asia would be to determine what constitutionalism entails. Many would take constitutionalism to represent a range of understandings rather than a universal approach with focal concepts and common values. This observation is particularly pertinent to Asia in the authors’ view: “[I]t makes little sense in discussing ‘Asian constitutionalism’ as though this was something self-evident and recognisable[.]”. Instead, it would be better in terms of ideology and practice to speak of multiple constitutionalisms than a single Asian constitutionalism. In this connection, the authors find, for instance, Louis Henkin’s well-known idea of the principal demands of constitutionalism comprising seven concepts such as the rule of law and limited government to be overly narrow for their purposes. Various Asian states have faced problems of constitutional importance in their societies and have responded in different ways to deal with their questions and challenges. The authors think that immense value is to be gained by presenting constitutional realities of Asia as is without attempting to mold them into or to measure them up against certain pre-determined constitutional ideals. This does not mean, however, that the authors deny any distinct constitutional developments in Asia. To the contrary, they identify the following examples among recent developments as being particularly worthy of close analysis for valuable comparative constitutional studies: the robust exercise of constitutional review in South Korea and Taiwan, constitutional instrumentalism and economic development in Singapore and Hong Kong, various religion-state orderings beyond “theocratic” vs. “separationist” models, constitutional making and remaking in the Philippines and Thailand after “people power” revolutions, and institutionalization of legal pluralism in Indonesia and Malaysia to accommodate ethno-cultural diversity. Studies on these cases would in the authors’ view “facilitat[e] comparative engagement of constitutional laws and processes beyond dominant understanding

(Cambridge Univ. Press, 2016) (dealing with the issue of difference in race/ethnicity or religion); Albert H. Y. Chen (Ed.), Constitutionalism in Asia in the Early Twenty-First Century (Cambridge Univ. Press, 2016) (examining latest developments).