

reelection of Daniel Ortega in Nicaragua (which promptly passed a law banning all abortions), the rise of Hugo Chavez, or the impact of electoral gender quotas, not yet widely used in the mid-1990s.

Typologies are often quite useful, but the distinction the authors make between policy proposals that have “No Gender Perspective” and those that propose “Different Treatment for Women” (p. 268) lumps together policies that support women’s traditional roles with policies supporting women’s equality, as though (to use a U.S. analogy) the policies favored by Phyllis Schlafly belong in the same column with those of, say, Bella Abzug, each of whom surely has a “gender perspective.” But these objections are far outweighed by the book’s strengths. It should be required reading for all scholars working on women’s representation and democracy and is an excellent text for advanced undergraduate and graduate courses.

Gender and the Constitution: Equity and Agency in Comparative Constitutional Design. By Helen Irving.
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Helen Irving’s previous work focused on the Australian constitution, largely from an historical perspective. In this book, Irving expands her inquiry to examine the relationship between a nation’s commitment to gender equality and the extent to which the nation’s constitution is “gendered.” Written from a comparative perspective, her study is based on the notion that the state’s constitutional design, whether gender is explicitly mentioned or not, plays an important role in promoting or hindering gender equity and agency within that nation. Her overarching concern is to assess the manner in which the choices made by constitutional framers affect women’s social, political, and economic status. The book makes an important contribution to a growing literature on a topic of concern to legal scholars, women’s rights advocates, and political scientists.

Irving's study is primarily guided by the following question: "If gender equity and agency were your goal, and if women's full membership of the constitutional community were assumed to be necessary for constitutional legitimacy, how would you frame a constitution?" (p. 2). To answer this question, the author assesses the current constitutional designs of nations around the world to determine the extent to which gender equity and agency are being promoted. Ultimately, she seeks to determine what structures and processes are most conducive to promoting gender equality in the nation.

The topic — constitutional design and gender equality — is a very timely one inasmuch as the majority of the world's constitutions have been promulgated since 1970 and a good number of the existing ones have undergone revision as well. Moreover, it might have been expected that the more recently designed constitutions would all have demonstrated awareness of issues of gender inequality and would have sought to remedy them. After careful analysis of numerous constitutions — conducting a gender appraisal of these documents and their applications — Irving determines that although a good number of the world's constitutions reflect gender awareness, gender does not play a prominent or even a central role in any of them. The irony is that, as she aptly demonstrates, despite some good intentions on the part of the framers to attempt to redress gender inequity by remaining gender neutral, the resulting constitutional framework often results in disparate impacts on women.

The book departs from a more conventional focus on rights and equality, instead adopting a "three dimensional, textual, structural, and applied perspective" (p. 31). Examining such variables as constitutional text, the process of judicial review, representation, citizenship, federalism, executive and legislative power, and the role of international law, Irving touches on all corners of the world in making her points, citing specific provisions in the constitutions of numerous countries. To name just a few in her analysis, she discusses the constitutional frameworks of the United States, Australia, South Africa, Canada, Rwanda, Kenya, Iraq (as of 2005), and Nigeria.

Although not a major goal of the book, Irving provides a primer on constitution making and, in doing so, underscores the difficult choices that must be made about how to integrate women into a nation's governing and political system and promote gender equity at the same time. For example, the framers must find a way to reconcile the principles of formal and substantive equality and do so in a way that

does not disadvantage women or single them out for special negative treatment.

Offering numerous examples, Irving covers wide-ranging topics, such as the effect of language, specifically the choice of using the generic “he” or the more inclusive “people.” She points out that even though virtually everyone concedes that the generic “he” is meant to include women today, the symbolism inherent in the phrase is still problematic for gender equity. In succeeding chapters, she sheds new light on the way that constitutional arrangements, such as federalism, affect gender equity and the perplexing issue of quotas for women in legislative positions or on party lists.

I believe that the most interesting chapters are the last four in which she delves most closely into a range of legal and political equality issues affecting women. Beginning with women’s representation on constitutional courts, Irving argues that to achieve legal equality, as well as to exercise agency, women must “own and enforce their country’s constitution” both as litigants and judges (p. 134). Gender neutrality in appointments or access to the courts is insufficient, she argues, and will not bring about the desired results; the nation must be explicitly committed to the goal of getting women on the bench and in front of the bench and must make concrete efforts to achieve these results. Moreover, nations must conduct constitutional “gender audits” to assess the impact of facially neutral rights on women’s equality. Specifically, focusing on abortion rights and protection for pregnancy, she argues that the state must protect and promote women’s health, autonomy, and access to contraception. The last chapter looks at the relationship between international law and domestic law, and she convincingly argues that if international law is to promote equality, it may have to be specifically incorporated into the nation’s constitution.

By providing a comparative overview of constitution making, interpretation, and application, Irving’s book is a valuable resource for constitutional scholars as a whole, and for those especially interested in the role of gender in constitutions and the consequent effects on gender equality in society. Often because of its somewhat legalistic approach, however, the book may be inaccessible for undergraduates and would be more appropriate for a graduate class or, even perhaps, a law school class. Finally, although Irving provides copious footnotes, there is no single list of references and only a rather sparse index. Thus, readers will find it more difficult to use the book as a reference work, being forced to scan the individual footnotes to look for other published work on the topic.