

BOOK REVIEW

T. Bennett, *A Sourcebook of African Customary Law in Southern Africa*. Cape Town: Juta (1991).

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Common academic wisdom has it that there really is no substantial difference any more between the legal-political frameworks of African communities in southern Africa, particularly those subjected to British domination. Colonial rule, followed by apartheid, effectively hammered a uniform framework onto different societies, such that different 'customary laws' were also moulded into a common form. Testament to this view is the fact that, whether one is in Botswana, or the Transkei, or an urban township, there are noticeable similarities in the structure of local political authority, in the local judicial structure, and in civil norms that are expressed in litigation. This 'sourcebook' of 'customary law' by T. Bennett (assisted by N. Peart) challenges this view, effectively, by simple means, and with clear purpose.

The book defies the implication of its title that it is only a descriptive assessment of a rather marginalised topic. It certainly keeps rigorously to its titled aim, and the descriptive approach illustrates the historical process towards uniformity in southern Africa. Yet Bennett avoids reifying the subject matter, by describing changes and developments in academic understanding of the topic through an excellent selection of theories and debates amongst anthropologists, and the efforts of the state, at different times, to construct a legal framework which could take into account 'customary law'. By weaving together the thoughts and actions of many different agents, Bennett reveals the particularities of the history of 'customary law'. Consequently, however ill-suited the terminology may be today, no reader can avoid realising the vitality and presence (and re-creation) of 'customary law' in the lives of many people. In turn, no reader can avoid recognising Bennett's subversion of common wisdom on 'customary law'.

Accordingly, the style and format of this book makes it useful to a wide range of readers. Although the argument is understated, social scientists and lawyers would do well to peruse it in order to grasp the complexity of the topic, as well as for

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historical references. The interweaving of excerpts from theories and debates, and political and legal interventions, in relation to the description of specific aspects of 'customary law', is clearly presented so that the book will be useful in teaching, and for student readers.