

BOOK REVIEWS

The Struggle Over State Power in Zimbabwe Law And Politics Since 1950 by G.H. Karekwaivanane (Cambridge University Press 2017)

BY GEOFF FELTOE

This excellent and important book opens by relating what happened at the trial in 1968 of four liberation fighters charged by the Rhodesian regime of possession of arms of war, an offence that carried the death penalty. The fighters refused legal representation, called no witnesses and openly admitted they had brought arms into the country. They proclaimed that they had committed no crime as they had legitimately taken up arms to depose an illegitimate and highly repressive colonial regime. They maintained that the court itself was illegitimate and had no right to try them. Their court "performance" allowed them to assert their political convictions and put on trial the colonial regime.

This book deals the interrelationship between politics and law in the colonial period between 1950 and 1979, and the post-Independence period from 1980 to 2008. It examines how law was used in many different ways at various stages.

The author points out that law was used by the colonial state to try to constitute state power and legitimise its rule and to implement its policies of protecting the interests of the settlers and marginalizing and exploiting the black majority; by colonized people to try to assert their rights as citizens; by lawyers to try to shield people who had fallen foul of increasingly repressive laws; and by persons tried under draconian laws to declare the complete illegitimacy of the colonial state and its courts. The regime adopted varying approaches to the application of customary law and the role of the chiefs. The author points out that previous studies have tended to concentrate on the coercive role of law and have not given sufficient attention to the diverse ways in which law was deployed by the regime at different stages and the differing responses to the law by the people affected by it.

The author then points out the different roles played by law in post-Independent Zimbabwe. He examines, for instance, how the government sought to transform the legal system, including its racial composition, effect radical reforms to gender rights and modernize

the administration of customary law, although later traditional leaders were politically co-opted by the ruling party. He looks at how an increasingly authoritarian government made use of colonial laws for repressive purposes, and how black lawyers and the people affected responded to repression and played a key role in the development of a human rights culture and legal activism. The book ends with the observation that this evaluation of the history of legal struggles over the period covered “alerts scholars and activists alike to the rich repertoire of strategies and discourses that were employed and deployed in struggles against state repression in colonial and post-colonial Zimbabwe.”

This fascinating and meticulously researched book should be essential reading for anyone interested in the legal history of pre-and post-Independence Zimbabwe.

Provincial and Local Government Reform in Zimbabwe An Analysis of the Law, Policy and Practice By T.C. Chigwata (Juta 2018)

This is an impressive piece of sustained scholarship. It is exhaustively researched, carefully structured and lucidly, meticulously and convincingly reasoned.

The main question posed in this book is whether the multilevel governance system in Zimbabwe is designed in a manner that promotes the role of subnational governments in achieving development, building democracy and ensuring sustainable peace.

The author defines development, democracy and sustainable peace and sets out the design features of subnational governance which are likely to stimulate development, build democracy and help to sustain peace.

He critically examines the present structures of provincial and local governance in Zimbabwe to determine whether they incorporate these essential design features. After careful analysis in great detail of the current structures, he concludes that the present Zimbabwean multilevel system of governance fails to comply with many of these design features. He argues these failings make it less likely that Zimbabwe's devolved governance system will contribute optimally to development, democracy and sustainable peace. However, he points out that the 2013 Constitution does provide a foundation for building a more effective system of multilevel governance, although it does not

itself allocate significant powers to provincial governance structures. Throughout the work, he identifies features of the current provincial and local government structures which are inconsistent with the new Constitution and need to be changed. He contends, rightly, that more than mere alignment with the Constitution is required; what is needed is “the development of a new statutory framework that reflects the constitutional ‘spirit’ of multilevel governance and devolution of power.”

The author points to a variety of serious problems that have beset devolved governance in Zimbabwe. For example, he examines the negative impact of the ongoing national economic crisis upon local government’s revenue raising capacity and funding support from central government. He also points to the serious problem of the misuse of the almost unlimited powers of the Minister of Local Government, which powers have been used to undermine local government institutions run by opposition party supporters. He also makes observations on how the widespread problem of corruption at national level has infected many of the local government institutions.

This work therefore provides a series of very useful proposals for reforming multilevel governance system in Zimbabwe, drawing on a whole range of comparative material. He not only analyses what is demanded by the new Constitution, but also critically examines draft legislation for provincial and local governance that has been produced at the behest of the Ministry of Local Government and points to the deficiencies therein.