

## SYMPOSIUM

### Grand Narratives of Constitutional Journeys and the Crisis of Democracy: Introduction to the Symposium

By *Anmol Jain*<sup>\*</sup>

#### A. Introduction

In his thought-provoking article of high contemporary global relevance, published in 2024 in the pages of this very journal,<sup>1</sup> Theunis Roux makes an important intervention in the debates around the design, character, and effects of the Indian and South African constitutions, with the primary aim of nudging our politics towards securing, albeit incrementally, an inclusive and democratic vision of constitutionalism. In this exercise, Roux attempts to manage a herculean task within the confines of an academic article, which has its shortcomings and misses. Yet, he achieves something remarkable and thus acts as the locus of this symposium.

#### B. Revisiting Grand Narratives of Transition and the Quest for Democratic Constitutionalism in India and South Africa

Titled “*Grand Narratives of Transition and the Quest for Democratic Constitutionalism in India and South Africa*”, Roux’s article argues that one could broadly trace two discursive narratives about the Indian and South African constitutional journeys in scholarship and politics. The first narrative holds that while the two constitutions may seem to have borrowed their structure and institutional design choices from the Western liberal constitutionalism model, the framers consciously made a few notable and defining changes to suit the local needs and demands of the two nations. The constitutions, therefore, cannot be called a replica of Western ideas. Roux terms this the liberal progressive narrative (“LPN”). LPN does not deny that the two constitutions have been successful in their purposes. While acknowledging the shortfalls in the desired performance, LPN disagrees that such shortfalls are on account of designing the state with inspirations from the liberal constitutionalism model. Several extra-constitutional factors and governance decisions could be the reasons, something that Roux acknowledges requires further work to ascertain.

\* Assistant Professor, Jindal Global Law School, OP Jindal Global University, Sonipat, India. Email: [anmol.jain@jgu.edu.in](mailto:anmol.jain@jgu.edu.in).

<sup>1</sup> *Theunis Roux*, Grand Narratives of Transition and the Quest for Democratic Constitutionalism in India and South Africa, *World Comparative Law* 57 (2024), p. 5.

Contradicting this narrative and challenging the extent, if not existence, of such local adjustments, the believers of the culturalist grand narrative (“CGN”) argue that the two constitutions are symbols of colonial hangover. They perpetuate the colonial matrix of power in the economic, social, and political domains, largely on account of the framers’ rejection of designing the constitutions with indigenous inspirations. In developing this account, Roux limits the boundaries of CGN to only those critiques of LPN that still believe in the inclusionary and democratic vision of constitutionalism. Those interests that use the language of culture, indigeneity, and the decolonization movement to establish an exclusionary ethno-nationalist state are termed the “dark side of CGN,”<sup>2</sup> and kept beyond the arguments made in the paper.

Having outlined these two broad narratives, Roux presents an imaginary dialogue between these two camps to highlight that they have much in common. Both intend to establish a constitutional system that not merely establishes state institutions and distributes power among them but empowers such institutions in ways that enable them to bring about ground-level socio-economic and political transformations.<sup>3</sup> In other terms, the idea of transformational constitutionalism binds the politics of LPN and CGN, though Roux labels this as “southern democratic constitutionalism.”<sup>4</sup> In his words,

*“[...] it is fair to say that the LPN and the CGN, despite their many differences, are animated by the same ideal—call it southern democratic constitutionalism. According to this shared ideal, the role of constitutions in the Global South is different from the classic liberal idea of constitutions as limits on government. Rather, constitutions in the Global South should be designed to empower a democratic state to undo the colonial legacy of social, economic, and cultural inequality. Constitutions, in this view, are not purely procedural frameworks for managing competition between groups with different conceptions of the common group. They are instruments for transforming society in line with a clearly articulated vision of post-colonial justice.”<sup>5</sup>*

At this point, Roux pivots to the current political realities of India and South Africa and argues that, as anti-democratic populist forces are on the rise, it is imminent for the LPN and CGN camps to come together in their fight for the shared ideal. Now is not the time to champion the differences; the exigencies of current politics and the dangers they pose to the survival of democracy call for a strategic coalition between the proponents of LPN and CGN. They must synergize their energies and fight together for a future where they may find adequate political opportunities to bring about suitable changes to the Constitution.

2 Ibid., p. 27.

3 See also *Sandipto Dasgupta, Legalizing the Revolution: India and the Constitution of the Post-colony*, Cambridge 2024.

4 Roux, note 1, p. 51.

5 Ibid.

Any call for revisions or an overhaul at this stage would be dangerous and could give way to the dark side to seize the moment.

### C. Expanding on the Understanding of the Indian Constitution

There are many entry points for engaging in a conversation with Roux and his ideas. The already published four responses to Roux make tremendous efforts in this regard,<sup>6</sup> but much scope for engagement remains. Given the contemporary salience of Roux's arguments—not just in the academic corridors but even among those active in national and regional politics—this symposium is an attempt to deepen this engagement. But before I introduce the authors who have graciously agreed to be a part of this symposium, I will briefly offer my comments on Roux's article, drawn mainly from my understanding of the Indian Constitution, as that is the country I know the best.

First, the Indian constitution is much more complex in its framing and institutional suggestions than is portrayed by Roux and perceived by the two narratives. LPN does not fully capture the identity of the Indian constitution, and its certain sections portray how indigenous ideas were given due space by the framers. For instance, consider Part X of the Constitution, which provides for specialized governance regimes for the scheduled and tribal areas and allows for the creation of autonomous councils. This idea was carried further in the post-independence period by constitutionally supporting similar exceptional institutional structures in select states.<sup>7</sup> Calling the Indian Constitution inspired by Western ideas, though with local adjustments, overlooks such examples of indigenous inspiration and tapers over their significance while presenting the constitution-making process in an oversimplified manner and discounting the labour and agency of the framers.<sup>8</sup> As BR Ambedkar countered in his November 1948 speech in the Constituent Assembly, which deserves quotation in full:

6 Catherine O'Regan, Some Reflections on Theunis Roux's Grand Narratives of Transition and the Question for Democratic Constitutionalism in India and South Africa, *World Comparative Law* 57 (2024), p. 72; Joel Modiri, Narrating Constitutional Dis/Order in Post-1994 South Africa: A Critical Response to Theunis, *World Comparative Law* 57 (2024), p. 82; Anuj Bhuwania, Spectres of Decoloniality: Comparing Constitutional Histories of India and South Africa, *World Comparative Law* 57 (2024), p. 98; Aparna Chandra, Detangling Knots in the Narratives: A Response to Theunis Roux, *World Comparative Law* 57 (2024), p. 114.

7 Constitution of India 1950, Part XXI.

8 See Dasgupta, note 3, p. 9 ("The nascent postcolonial regime in India did not seek legitimacy by adopting certain 'impedimenta of statement.' It drew its legitimacy from the popular anticolonial struggle that preceded the Constituent Assembly. The Assembly, in turn, spent more than three years reflecting and deliberating on their particular historical conjecture, rethinking what a constitution can and should do. Their undertaking demanded not the wherewithal of adaptation, but the anxious labour of creation. A full account of that undertaking therefore must depart from the idea of a constitution as an established normative template.")

*“It is said that there is nothing new in the Draft Constitution, that about half of it has been copied from the Government of India Act 1935, and that the rest of it has been borrowed from the Constitutions of other countries. Very little of it can claim originality. One likes to ask whether there can be anything new in a constitution framed at this hour in the history of the world. More than a hundred years have rolled over when the first Constitution was drafted. It has been followed by many countries reducing their Constitutions in writing. What the scope of a constitution should be has long been settled. Similarly, what are the fundamentals of a constitution are recognized all over the world. Given these facts, all Constitutions in their main provisions must look similar. The only new things, if there can be any, in a constitution framed so late in the day are the variations made to remove the faults and to accommodate it to the needs of the country. The charge of producing a blind copy of the Constitutions of other countries is based, I am sure, on an inadequate study of the Constitution. I have shown what is new in the Draft Constitution, and I am sure that those who have studied other Constitutions and who are prepared to consider the matter dispassionately will agree that the Drafting Committee in performing its duty has not been guilty of such blind and slavish imitation as it is represented to be.”<sup>9</sup>*

Moreover, recent scholarship on the Indian constitution-making process has unveiled evidence of public participation and how such interventions influenced the thinking of the Constituent Assembly and design of the constitutional provisions,<sup>10</sup> though it is undeniable that the extent of such participation was limited. These works further challenge Roux's classification of existing constitutional narratives into two camps—LPN and CGN, and compel us to reconsider the Indian constitution-making exercise as a mere adoption of Western ideas with minor changes to suit local requirements. Unfortunately, this scholarship remains absent from Roux's analysis.

Second, clubbing the decolonial critique with the CGN essentializes the former. Particularly from the Indian experience, the aspect of the absence of culture and Hindu religious values from the Indian constitutional thinking is only one strand of the decolonial critique. There are so many other ways of thinking, which Roux himself acknowledges, that critique the Indian constitution without adopting the vocabulary of indigeneity (or the absence of it). Roux's choice to club all such critiques within the camp of CGN could perhaps be on account of studying India along with South Africa, where, in my understanding, the aspect of religion is absent in the language of cultural critique. In such a scenario, a forceful marriage of such diverse critiques within a single camp may not be appropriate.

9 Constituent Assembly of India Debates, vol 7, 4 November 1945, speech by BR Ambedkar.

10 Rohit De / Ornit Shani, Assembling India's Constitution: Towards a New History, Past & Present 263 (2024), p. 205; Ornit Shani, The People and the Making of India's Constitution, The Historical Journal 65 (2022), p. 1102.

*Third*, it is wrong to presume that the alternative institutional design ideas from the CGN camp would be democratic in their outlook. I agree with Roux that the present times call for coalition building between the believers of LPN and CGN; however, it cannot be denied that the coalition must be based on the shared ideal of Southern *democratic* constitutionalism. There is a possibility that institutional alternatives based on indigenous thinking further an anti-democratic outlook, which may not resemble what Roux calls the ‘dark side of CGN’ but remain miles away from the understanding and depth of democracy as believed by the LPN. Indigenous suggestions bring with them the possibility of supporting a different set of hierarchies, which we can term a pre-colonial matrix of power. Therefore, the strength of the coalition would hinge on the normative assessment of the reform proposals by the CGN camp. We are yet to see any elaborate exposition of that, as Arghya also notes in his contribution to this symposium.

*Fourth*, the approach to reforms must not only be inward-looking. Believers of LPN, as well as of CGN, must make active efforts to expand their vision beyond the West and their respective cultures and study other similarly situated societies and systems. The borrowing of ideas is a historical truth, and no modern society has remained uninfluenced in the design of its constitutional system. The dangers of the present and the failure of the 1950 and 1996 constitutions in materializing their transformational potential must not only make us conscious of the need to brainstorm reform but also nudge us toward the possibility of South-South borrowing. In developing such reform proposals, I agree with Roux that the aspect of Southern democratic constitutionalism must remain the focal point, with the ideas of substantive democracy (in its thick understanding) and transformation at its core.

#### **D. Taking the Conversation Further and Beyond**

There is so much more that could be said about this wonderful contribution by Roux. It is a genuine effort to inform our politics and is written in the service of democracy. Given the contemporary and global relevance of the arguments Roux develops, this symposium attempts to take the conversation further and beyond. It brings together a remarkable set of reflections, and each contribution situates Roux’s conceptual framework of the LPN and CGN in different national and regional contexts, testing its analytical force, exposing its limitations, and extending its reach. Together, these responses demonstrate the vitality of comparative constitutional thought across the Global South, as well as the continuing urgency of engaging with questions of decolonization, legitimacy, and democratic constitutionalism. What follows is a set of eight responses culminating in Roux’s own reply to his interlocutors, including the four responses that were published earlier in this journal.

*Arghya Sengupta* reads Roux’s intervention as a “balm” for fractious Indian debates over constitutional meaning.<sup>11</sup> He highlights Roux’s careful attempt to place the two narratives into conversation, while cautioning that their divergent means may render any shared

11 *Arghya Sengupta*, The Roux Balm, *World Comparative Law* 58 (2025), in this issue.

ends less significant. Sengupta stresses the enduring paradoxes of India's constitutional experience—Ambedkar's deified status, the BJP's strategic ambivalence, and the persistence of colonial institutions. Roux's framework is valuable, he argues, but perhaps he underestimates how deeply political legitimacy in India is shaped not only by textual design, but also by historical figures and institutional continuities that neither grand narrative fully confronts.

*Mathew John* engages Roux's presumptions that CGN offers the most authentic decolonial stance.<sup>12</sup> He argues instead that both LPN and CGN are shaped by the colonial experience, and that their real distinction lies in competing accounts of who constitutes “the people” in democratic constitutionalism. Reconstructing Indian nationalism through Partha Chatterjee and others, John shows that neither narrative can straightforwardly claim the mantle of decolonization. Instead, he turns to Gandhi as a thinker who uniquely sought to reject Anglo-European categories and imagine a different constitutional modernity. This Gandhian lens, John suggests, provides a richer way to think about democratic constitutionalism today.

*Tom Daly* situates Roux's grand narratives within a wider landscape of “phantom constitutions”—constitutional imaginaries that remain unrealized.<sup>13</sup> Drawing on comparative examples from Ireland to Venezuela, Daly asks whether culturalists' claims for constitutional overhauls suffer from insufficient attention to detail and political feasibility. He warns that the allure of constitutional revolutions often obscures risks of authoritarian appropriation, as seen in Venezuela and Brazil. Roux's LPN-CGN distinction is a helpful heuristic, Daly argues, but it must be supplemented by attentiveness to democratic commitments, institutional detail, and contextual constraints that determine whether constitutional alternatives are emancipatory or dangerously illusory.

*Heinz Klug* welcomes Roux's provocation but resists his framing of southern democratic constitutionalism as a dialogue between only two poles.<sup>14</sup> Instead, Klug calls for recognition of a spectrum of experiences across Africa and beyond, highlighting Ghana, Kenya, Zambia, and others as exemplars. He emphasizes issues Roux sidelines: the persistence of legal continuities, the rural-urban divide, and the entrenched power of bureaucratic structures. For Klug, southern democratic constitutionalism must embrace social-democratic alternatives already latent in existing texts and practice, while acknowledging the risks of both continuity and rupture. A broadened debate, he concludes, requires more syncretic, aspirational, and materially grounded paradigms.

12 *Mathew John*, Democratic Constitutionalism and the Blandishments of Grand Narratives, *World Comparative Law* 58 (2025), in this issue.

13 *Tom Daly*, Decolonisation and Democracy: Constitutional Dreaming, Revolution, or Threat?, *World Comparative Law* 58 (2025), in this issue.

14 *Heinz Klug*, Beyond a Bimodal Southern Democratic Constitutionalism, *World Comparative Law* 58 (2025), in this issue.

Turning to Ethiopia, *Alemayehu Weldemariam* asks what happens when constitutional legitimacy lacks any unifying narrative.<sup>15</sup> Unlike India or South Africa, Ethiopia's constitutions were products of revolutionary impositions rather than inclusive struggle. The 1995 federal constitution, hailed by its authors as emancipatory, is viewed by others as an act of dismemberment. Ethiopia's constitutional history, he argues, is one of proliferating texts without shared meaning, leaving the polity suspended between centrifugal secessionism and authoritarian majoritarianism. Roux's insights into the narrative function of constitutions resonate here, but Ethiopia illustrates the tragic consequences when no grand narrative—emphasizing judicial independence, international human rights, and institutional checks—with the “Fourth Transformation” narrative of López Obrador, which seeks to revive the popular, nationalist spirit of the 1917 Constitution.

These clashing accounts mirror Roux's LPN and CGN, yet *Roberto Niembro* stresses their instrumental role in legitimating political projects. Mexico, he argues, now oscillates between liberal constitutionalism tied to global norms and a populist nationalism claiming decolonial authenticities. Roux's typology helps decode this confrontation, but the Mexican experience also demonstrates the performative power of grand narratives themselves.<sup>16</sup>

*Anna Dziedzic* extends Roux's conversation to the Pacific, where constitutions are marked both by colonial inheritance and indigenous adaptation.<sup>17</sup> She highlights how Pacific constitutions enshrine customary land rights, recognise legal pluralism, and experiment with the imprint of foreign advisors and colonial order. Recent reforms in Samoa and Tuvalu reveal how constitutional change is framed as decolonial “weaving,” blending indigenous values with liberal constitutions. This interweaving challenges the stark opposition between LPN and CGN, suggesting instead that southern constitutionalism often operates through syncretism and hybridity, producing plural forms of legitimacy beyond Roux's binary schema.

*Abrak Saati* shifts attention from constitutional content to process, analyzing Fiji's participatory constitution-making efforts in 1997 and 2013.<sup>18</sup> While formally inclusive, both processes failed to translate participation into real influence, rendering participation largely symbolic. Saati argues that this tension reveals how participatory constitution-making, often promoted by international actors as part of a liberal-progressive agenda, may conflict with indigenous decision-making traditions that prize respect, silence, and deference. Roux's dichotomy, she suggests, obscures this procedural dimension: participatory ideals

15 *Alemayehu Weldemariam*, Between Myth and Meaning: Ethiopia's Fractured Constitutional Narratives and the Crisis of Legitimacy, *World Comparative Law* 58 (2025), in this issue.

16 *Roberto Niembro Ortega*, The Grand Narrative of the Current Transition of Mexican Constitutionalism, *World Comparative Law* 58 (2025), in this issue.

17 *Anna Dziedzic*, Grand Narratives Interwoven: Pacific Constitutions and Constitutionalism of the Global South, *World Comparative Law* 58 (2025), in this issue.

18 *Abrak Saati*, Public Participation and Grand Narratives of Constitutional Transitions: The Case of Fiji, *World Comparative Law* 58 (2025), in this issue.

may themselves be a form of imposition. Fiji demonstrates that legitimacy depends not only on narratives of content but also on culturally resonant processes.

Taken together, these contributions offer a wide-ranging meditation on the power and limits of grand narratives in shaping constitutional legitimacy across diverse contexts. From India to Mexico, Ethiopia to the Pacific, each response shows how Roux's heuristic illuminates national trajectories while also inviting revision, expansion, or reimagining. What emerges is a dialogue that both honors the ambition of Southern democratic constitutionalism and insists on its complexity. It is, therefore, fitting that the symposium closes with a response from Roux himself, where he takes up these challenges and reflects on the future of comparative constitutional thought. I sincerely hope this symposium will make positive contributions and further the cause of Southern democratic constitutionalism.

Before I close, I would like to extend my warm regards and sincere thanks to the entire editorial team of the IACL Blog, who extended the space and editorial assistance to a few of our authors to have these conversations by way of an online blog symposium, which undoubtedly played a formative role in the imagination and possibility of this longer interaction.<sup>19</sup> This WCL symposium would not have been a reality but for their gracious acceptance of my proposal and the positive response of the blog's audience. I will ever be grateful to them, and hope that the blog will host many such conversations in the future.



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<sup>19</sup> IACL-AIDC Blog, Workshop my Paper Series – Grand Narratives of Transition and the Quest for Democratic Constitutionalism, 2025, <https://blog-iacl-aidc.org/2025-posts/2025/6/3/workshop-my-paper-series-grand-narratives-of-transition-and-the-quest-for-democratic-constitutionalism-response-to-commentators> (last accessed on 28 August 2025).