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**Book Review: Steven Radelet, Emerging Africa. How 17 Countries are Leading the Way (Washington, DC: Center for Global Development/Brookings, 2011), p. 169**

Afsah, Ebrahim

*Published in:*

International Journal of Constitutional Law

*DOI:*

[10.1093/icon/mos054](https://doi.org/10.1093/icon/mos054)

*Publication date:*

2013

*Document Version*

Publisher's PDF, also known as Version of record

*Citation for published version (APA):*

Afsah, E. (2013). Book Review: Steven Radelet, Emerging Africa. How 17 Countries are Leading the Way (Washington, DC: Center for Global Development/Brookings, 2011), p. 169. *International Journal of Constitutional Law*, 11(1), 277-280. <https://doi.org/10.1093/icon/mos054>

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*Mia Swart*  
*Research Fellow, British Institute for*  
*International and Comparative Law*  
*Email: [m.swart@biicl.org](mailto:m.swart@biicl.org)*  
*doi:10.1093/icon/mos060*

Steven Radelet. ***Emerging Africa. How 17 Countries are Leading the Way.***

Washington, DC: Center for Global Development/Brookings, 2011. 169 pages. £24.99. ISBN: 9781933286518.

The importance of the rule of law is something that lawyers typically “hold to be self-evident,” not something that needs utilitarian justification. If any rationalization is offered at all, it is normally couched in normative or

methodological terms, espousing the quasi-aesthetic benefits of a coherent constitutional edifice.<sup>1</sup> The question *why* adherence to law as such might be desirable is usually not addressed—an understandable epistemological oversight given the nature of highly regulated, advanced industrialized economies where much of the intellectual discourse on public and administrative law takes place.

In the context of poorer countries with less sophisticated regulatory and organizational frameworks, however, the rule of law is sometimes treated as an unaffordable and technically unattainable “luxury.” Looking at the issue from different disciplinary angles, many call into question the somewhat circuitous logic often deployed by lawyers and other proponents of “good governance.”<sup>2</sup> Legal discourse often shirks away from squarely addressing one of the key questions underlying development studies, namely how to identify which institutional interventions are sound investments yielding competitive economic returns. To succeed in these debates,

<sup>1</sup> See, e.g.:

Im Ideal des Rechtsstaates bestimmt das Recht den Staat. Der Rechtsstaat bezeichnet die Staatsgattung des durch einen rechtlichen Sicherheitsauftrag und durch Freiheitsgarantien geprägten Staates . . . Diese Prinzipien geben dem Staat Maß und Charakter. Der Rechtsstaat handelt stets durch das Recht und legitimiert sich im Recht.

[In the conceptional ideal of the rule of law it is the law that defines the state. Rule of law describes that form of government that characterizes a state molded by a legal security mandate and guarantees of freedom . . . These principles impose on the state limitations and its character. A state under the rule of law invariably acts through legal tools and legitimizes itself through the law.]

Paul Kirchhoff, *I. Grundlagen §99 Mittel staatlichen Handelns*, in *HANDBUCH DES STAATSRECHTS DER BUNDESREPUBLIK 3*, 4–5 (Josef Isensee & Paul Kirchhoff eds. 2007).

<sup>2</sup> In this vein, see, e.g., Sam Wilkin, *Can Bad Governance be Good for Development?*, 53(1) *SURVIVAL* 61 (2011).

lawyers need to rely less on their standard currencies of equity and liberty, and instead learn the data-driven language of efficiency and returns on investment.

This short book by Radelet offers much ammunition to prevail in this debate. Written by an economic consultant with a heavy emphasis on his practical experience in Africa, the book shows, from a purely academic point of view, a number of obvious flaws. The Center for Global Development, under whose auspices the book has been published and where the author is a senior researcher, appears to follow an activist rather than a scholarly agenda, palpable in the book's style and presentation. Nevertheless, it provides a wealth of easily digestible statistical data from some of the poorest nations with the flimsiest governmental institutions that conclusively shows why the rule of law is a sound investment, not a dispensable luxury. Lawyers interested in international affairs would do well to acquaint themselves with its main thesis and the underlying economic indicators.

Radelet's thesis is deceptively simple: he rejects the conventional wisdom that treats the entire African continent as a basket case characterized by AIDS, corruption, social, and economic disintegration. He concedes that this picture has been true for *most* of the continent since decolonization but insists that *some* African nations have always been or have recently become different: "There's good news out of Africa. Not all of Africa. But from a large part of Africa that quietly, with little fanfare, is on the move" (p. 9).

To prove his point, he divides the continent into three groups: first, the poor, stagnant, often conflict-ridden economies that define the popular image of the continent, such as the DRC, Somalia, or Cote d'Ivoire; second, the oil exporters characterized by often irresponsible handling of their rent-like revenues, such as Nigeria, Angola, or Sudan; and, finally, the 17 so-called "emerging countries," including Ghana, Botswana, and Ethiopia. He defines this group as comprising those nations which, since the mid-1990s, have consistently achieved at least 2 percent growth per annum (pp. 28–31), a measure

that is a useful indicator of change despite its limitations:

The turnaround in these countries is more than just growth: trade, investment, and private business activity have expanded rapidly; poverty rates have fallen; education and health indicators have improved; and there has been a clear shift toward democracy and stronger governance. But growth provides an informative starting point (p. 31).

Radelet identifies two discrete misperceptions about African economic growth. First, the perception of stagnation from 1960 till today ignores "three very distinct phases, each with significant change": modest growth running roughly from 1960 to 1977, followed by a devastating decline from the mid-1970s until the mid-1990s that still defines the popular image and "encapsulates the continent's well-documented 20-year economic, social, and political collapse" (p. 28). But what most commentators seem to ignore is that this period ended 15 years ago, followed by a third period of steady growth ever since.

Secondly and most importantly for the thesis of his book, Radelet points out that "the popular story [is] misleading because the aggregate trend does not capture the variation within the continent, especially during the third phase" (p. 29). It is this variation in socio-economic performance that makes the book interesting for lawyers interested in international, constitutional, and administrative law. Radelet suggests five key factors that account for the turnaround and set the group of "emerging countries" apart from their peers.

He gives pride of place to the rise of democratic and accountable government, stressing the importance of the rule of law and sound administrative practices (pp. 47–69). The other factors are more sensible economic policies; the end of the debt crisis and attendant major changes in the relationship with the international community; the spread of new technologies offering new opportunities for economic and political empowerment; and, finally, the emergence of a new generation

of political, legal, and business leaders more attuned to global standards of efficiency and accountability.

One of the strongest aspects of the book is its skillful and approachable use of complex statistical data to prove its hypotheses. The charts are solidly referenced, graphically pleasing, and well integrated into the main body of text whose argument they directly support. Much can be learned, both in terms of substance and style, from the book's clarity of purpose, data-driven, jargon-free, and impactful exposition of its central thesis—the need to differentiate between African nations and study why some have done much better than others.

But while this reviewer lauds the author for his explicit aim of being “relevant” in the sense of affecting the policy discourse surrounding African aid and development, there remain a number of (avoidable) shortfalls often encountered in this kind of overly “popular” scholarship. There is an inordinate degree of name-dropping (Bono likes the book); lavish praise for collaborators (Jeff Sachs, Paul Collier, Liberian president Ellen Sirleaf); and, perhaps more troubling, for the organizations that have funded Radelet's work (the Gates Foundation, among others, p. 104). To be sure, these things are conceivably excusable given the scope and readership of this book. Still, Radelet's lack of interest in alternative positions and his contentment with shallow explanations for complex institutional dynamics, especially legal matters, leaves the reader frustrated.

Throughout the book, the reader is presented with the issue of financial and technical development aid as if there existed a global consensus about its moral, political, and economic inevitability. To be sure, this is precisely how the issue is perceived within the development community, and it is therefore understandable that someone with as long a professional career within that industry as the author tends to downplay the critique of perennial transfer payments. Still, to this reviewer at least, it would have seemed intellectually more honest and satisfying if the author would have engaged, if only in pass-

ing, with the copious literature critical of the “aid industry.”<sup>3</sup> Granted that the author explicitly did *not* set out to draft a theoretical piece, it would still have been helpful if he had taken the time to bind his otherwise convincing account into the broader theoretical narrative of development studies. His exposition of the theoretical models of “poverty traps” by Sachs and others is a good starting point, but one would have liked to see better where Radelet locates his arguments within the broader canvas of the field.<sup>4</sup>

Likewise, to this reviewer, the essential connection between a government's ability to collect revenue and its attendant administrative sophistication would have merited greater attention in the author's explanation of the differential developmental paths taken by African nations. Given that it does not fall strictly within the author's immediate field of interest, he cannot be faulted for presenting a somewhat superficial account of the role of law in development. This appears to this reviewer to be a fertile field for enterprising legal scholars seeking to operationalize the considerable empirical data supporting the decisive role of legal institutions in supporting socio-economic development.<sup>5</sup>

A stylistic irritant is the author's peculiarly American journalistic fixation with the “voice of the common man” (see, e.g.,

<sup>3</sup> See, e.g., WILLIAM EASTERLY, *THE ELUSIVE QUEST FOR GROWTH: ECONOMISTS' ADVENTURES AND MISADVENTURES IN THE TROPICS* (2001); William Easterly, *The Cartel of Good Intentions: Bureaucracy versus Markets in Foreign Aid*, Center for Global Development Working Paper No. 4/2002, New York University, New York (2002), available at <http://www.nyu.edu/fas/institute/dri/Easterly/File/carteljan2003.pdf>.

<sup>4</sup> For an exposition of this position, see PAUL COLLIER, *THE BOTTOM BILLION: WHY THE POOREST COUNTRIES ARE FAILING AND WHAT CAN BE DONE ABOUT IT* (2007).

<sup>5</sup> A good economic account of the crucial role of intangible goods, including effective legal systems can be found in KIRK HAMILTON, KATHARINE BOLT, & GIOVANNI RUTA, *WHERE IS THE WEALTH OF NATIONS? MEASURING CAPITAL FOR THE 21ST CENTURY* (2006).

p. 110) to illustrate complex political, constitutional, or economic phenomena. To this reviewer, it is not always apparent why an individual farmer or taxi driver's opinion of a complex legal or social phenomenon would be relevant to an abstract discourse. Arguably, such sentiments become effective only in the aggregate, the collation of which is the intellectual labor one expects from good scholarship.

While these could be dismissed as essentially stylistic quibbles, the author's desire to present a unified thematic argument at the expense of contrarian voices carries certain risks. Radelet ignores alternative visions and shows a remarkably optimistic, if not outright naïve tendency to take currently fashionable ideas at face value. His chapter on the perceived benefits of information and mobile communication technology is particularly unpersuasive, not least with respect to the claimed benefits for democracy, governance, and accountability (pp. 120–122) which appear to this reviewer to be vastly overstated, notwithstanding the ongoing Arab revolts and the role played by electronic media in them.

Most irksome, however, is the failure to carry many of the arguments to their logical conclusion. Radelet, for instance, correctly identifies the disappearance of Cold War aid rents as a major driver of political and economic change. Because authoritarian governments in Africa no longer had large amounts of externally provided disposable income, the traditional pattern of buying

off internal opposition gave way to more constructive conflict resolution through reform, while “in the past, they had always been able to respond to the [protests] by raising civil service wages, cutting university tuition, or increasing subsidies for food or electricity” (p. 52).

True indeed. Yet, Radelet refuses to entertain the argument that ongoing and seemingly permanent aid transfers continue to enable precisely this pattern of irresponsible governance, arguing instead for still greater foreign alimantation (pp. 98–107). While this is a defensible position, at the very least one would have expected to see a passing reference to the link between revenue collection, fiscal sustainability, and administrative capability—a symbiotic relationship that is all too often aborted by external transfer payments. It is the relative abundance of funds that are not tied to political accountability, to a taxpaying *demos* that can explain the excesses in legislative zeal, administrative bloat, and executive waste so often encountered in the South, including among the present ‘emerging countries.’

These shortcomings notwithstanding, the book is a good introductory text for students of law and development and administrative reform who can benefit not only from its unorthodox but accurate main thesis but also from its skillful presentation of economic data.

*Ebrahim Afsah*  
*University of Copenhagen*  
 Email: [eafsah@gmail.com](mailto:eafsah@gmail.com)  
 doi:10.1093/icon/mos054