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Constitutionalization of Happiness: A Global and Comparative Inquiry

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Abstract

Happiness and well-being are now explicitly enshrined in a myriad of national constitutions. As of 2022, the terms “happiness” and “well-being” form part of the constitutional lexicon of more than 20 and 110 states respectively. These “happiness provisions” epitomize the phenomenon of the “constitutionalization of happiness,” which denotes the process of elevating happiness to the constitutional echelon, thereby bearing discernible legal and political implications. An audit of all happiness provisions reveals that they boil down to three categories—happiness as a national objective, happiness as a policy paradigm, and the pursuit of happiness as a human right. The meaning and jurisprudential landscape of happiness provisions within a specific constitutional framework is molded by, on top of the semantic and structural configuration, a dynamic interplay among three factors, which include the indigenous and socio-cultural conception of happiness of that state, interpretations put forward by judges and other constitutional actors, and transnational influences such as the migration of constitutional ideas and jurisprudence. This article draws upon an extensive array of case studies, covering among others Bhutan, Bolivia, Ecuador, Japan, Korea, and Nigeria, to illustrate the breadth and diversity that enliven the universe of happiness provisions.

Keywords: Constitutionalization of Happiness; Happiness; Happiness Provisions; Right to Pursuit of Happiness; Well-Being

A. Introduction

Happiness, affirmed by the United Nations General Assembly as the “universal goal and aspiration in the lives of human beings around the world,”¹ has wielded profound influence over the trajectory of law and politics throughout human history.² The proposition that happiness is the end goal of political life stretches at least back to Aristotle, who notably declared that happiness, or *eudaimonia*, stood as the ultimate goal of all human endeavors.³ Seeds of this idea had since been sown across the globe, reaching a “high watermark in the eighteenth century”⁴ during which a number of seminal documents encapsulating this very idea came into being. The United States Declaration of Independence of 1776 famously proclaimed that all equal men “are endowed by their Creator with certain unalienable rights, that among these are Life, Liberty and the pursuit of Happiness.” The Bhutanese Legal Code of

¹G.A. Res. 66/281 (July 12, 2012).

²See generally Valérie De Prycker, *Happiness on the Political Agenda? PROS and CONS*, 11 J. HAPPINESS STUD. 585 (2010).

³Jerome Moran, *Aristotle on Eudaimonia*, 17 THINK 91 (2018).

⁴DEREK BOK, *THE POLITICS OF HAPPINESS: WHAT GOVERNMENT CAN LEARN FROM THE NEW RESEARCH ON WELL-BEING* 5 (2016).

1729 likewise announced that “if the government cannot create happiness (*dekidk*) for its people, there is no purpose for the government to exist.”⁵

The recent decades have overseen a mounting enthusiasm for the notion that happiness can function as a cornerstone for formulating public policies, rekindling interest in the intricate interplay between happiness, law, and politics.⁶ One manifestation of such interplay is the fact that happiness has secured the pride of place in a number of codified constitutions, “an essential symbol of the modern state.”⁷ The increasing prominence of happiness, and its conceptual relatives such as well-being, in constitutional texts worldwide underscores the phenomenon of the “constitutionalization of happiness,” which denotes the process of elevating happiness to the constitutional echelon, thereby bearing discernible legal and political implications. As of 2022, the terms “happiness” and “well-being” form part of the constitutional lexicon of more than 20 and 110 states respectively. Article 5 of the Turkish Constitution of 1982 ordains that “[t]he fundamental aims and duties of the State are to safeguard the independence and integrity of the Turkish Nation, the indivisibility of the country, the Republic and democracy, to ensure the welfare, peace, and *happiness* of the individual and society.”⁸ Article 10 of the Constitution of South Korea of 1987, on the other hand, declares that “[a]ll citizens shall be assured of human worth and dignity and have the right to pursue *happiness*.”⁹

The trend of constitutionalization notwithstanding, the inherent vagueness that undergirds the concept of happiness, contingent upon the cognitive, cultural and social milieu of diverse peoples and societies, raises unresolved questions as to what the *constitutional* meaning of happiness is or ought to be in different settings. This article takes on this challenge by mapping and topologizing the multifarious semantic, cultural and jurisprudential meanings that became attached to constitutionalized happiness and well-being. It does so through analyzing all constitutional provisions that contain the terms happiness and well-being in force as of 2022, collectively referred to as the “happiness provisions.” An audit of all happiness provisions reveals that they boil down to three categories—happiness as a national objective, happiness as a policy paradigm, and the pursuit of happiness as a human right. The meaning and jurisprudential landscape of happiness provisions within a specific constitutional framework is molded by, on top of the provisions’ semantic and structural configuration, a dynamic interplay among three factors which include the indigenous and socio-cultural conception of happiness of that state, interpretations put forward by judges and other constitutional actors, and transnational influences such as the migration of constitutional ideas and jurisprudence. These factors do not operate in a vacuum or a mutually exclusive manner. Indeed, they often collide with or complement one another, thereby furnishing a distinct *constitutional* meaning of happiness within particular settings. There is no monolithic constitutionalized happiness across time and space.

This study situates itself within the burgeoning scholarship in comparative constitutional law which subjects certain types of provisions or concepts to both small-*n* and large-*n* comparative scrutiny. For example, Shulztiner and Carmi unpacked the meanings and functions of dignity in diverse constitutional contexts;¹⁰ Ginsburg documented the adoption of balanced budget provisions in constitutions and their influences;¹¹ Bisarya undertook an evaluation of how

⁵KARMA URA, SABINA ALKIRE & TSHOKI ZANGMO, *A SHORT GUIDE TO GNH INDEX 6* (2012).

⁶See BOK, *supra* note 4, at 4.

⁷ZACHARY ELKINS, TOM GINSBURG & JAMES MELTON, *THE ENDURANCE OF NATIONAL CONSTITUTIONS* 41–42 (2009).

⁸TÜRKIYE CUMHURİYETİ ANAYASASI [CONSTITUTION] 1982, Madde 5 (Turk.) (emphasis added).

⁹DAEHANMINKUK HUNBEOB [HUNBEOB] [CONSTITUTION] 1987, art. 10 (S. Kor.) (emphasis added).

¹⁰Doron Shulztiner & Guy E. Carmi, *Human Dignity in National Constitutions: Functions, Promises, Dangers*, 62 *AM. J. COMP. L.* 461 (2014).

¹¹Tom Ginsburg, *Balanced Budget Provisions in Constitutions*, in *CONSTITUTIONS IN TIMES OF FINANCIAL CRISIS* 58–70 (Tom Ginsburg, Mark D. Rosen & Georg Vanberg eds., 2019).

“transitional provisions” have fared;¹² and Roznai anatomized the so-called eternity or unamendable clauses that have spread globally.¹³ This study adds its voice to this chorus of scholarship by utilizing happiness provisions as the focal point of analysis.

This article is organized as follows. Section B maps the theoretical contours of “constitutionalization of happiness.” It elaborates on the three categories of happiness provisions and analyzes how the three factors identified above shape the meaning and jurisprudential landscape of happiness provisions in diverse contexts. Section C draws on an extensive array of examples and considers how happiness is fashioned as a national objective in constitutions. Section D investigates how happiness serves as an underpinning policy cornerstone in the larger constitutional scheme, focusing on the examples of Bhutan, Bolivia, and Ecuador. Section E examines the right to pursuit of happiness and tracks its judicialization and interpretation by courts and other actors over time, zooming into the cases of Japan and Korea. Section F concludes.

B. Constitutions, Happiness, and the Constitutionalization of Happiness

1. *The Marriage between Constitutions and Happiness*

Happiness has been extolled by some, including Aristotle, as the end goal of political life. According to James Wilson, one of the founding fathers of the United States of America, the ends of political authority was “to ensure and to increase the happiness of the governed above what they could enjoy in an independent and unconnected state of nature” for “the happiness of the society is the first law of every government.”¹⁴ Thomas Paine, whose work held immense sway among American revolutionaries, captured the same idea in the following words: “[w]hatever the form or Constitution of Government may be, it ought to have no other object than the general happiness.”¹⁵ In continental Europe, Christian Wolff wrote that a state must, “through active intervention . . . secure for its subjects the conditions for such thriving and thus to promote happiness.”¹⁶ The state which Wolff envisioned was “an interventionist tutelary regime, an enlightened absolutism whose objective is to guarantee material and moral advance.”¹⁷ Likewise, Jeremy Bentham famously posited that the aim of law and government is to secure the greatest amount of happiness for the greatest number of people.¹⁸

These time-honored statements find ample modern resonance, especially after World War II. The preamble of the American Declaration of the Rights and Duties of Man adopted in 1948, otherwise known as the Bogota Declaration, settled that “[the American people’s] national constitutions recognize that juridical and political institutions, which regulate life in human society, have as their principal aim the protection of the essential rights of man and the creation of circumstances that will permit him to achieve spiritual and material progress and attain happiness.”¹⁹ More recently, as rehearsed in the introduction, the United Nations General Assembly declared happiness to be the universal goal of human lives in 2012.

¹²Sumit Bisarya, *Performance of Constitutions: Transitional Provisions*, in *ASSESSING CONSTITUTIONAL PERFORMANCE* 203–32 (Tom Ginsburg & Aziz Huq eds., 2016).

¹³YANIV ROZNAI, *UNCONSTITUTIONAL CONSTITUTIONAL AMENDMENTS* (2014).

¹⁴JAMES WILSON, *WORKS OF JAMES WILSON* 721 (1804), quoted in CARL L. BECKER, *THE DECLARATION OF INDEPENDENCE: A STUDY IN THE HISTORY OF POLITICAL IDEAS* 108 (1958).

¹⁵THOMAS PAINE & MARK PHILIP, *RIGHTS OF MAN, COMMON SENSE, AND OTHER POLITICAL WRITINGS* 263 (2009).

¹⁶Douglas Moggach, *Freedom and Perfection: German Debates on the State in the Eighteenth Century*, 42 *CAN. J. POL. SCI.* 1003, 1007 (2009).

¹⁷*Id.*

¹⁸BOK, *supra* note 4, at 4.

¹⁹Organization of American States, *American Declaration of the Rights and Duties of Man*, para. 1, May 2, 1948, O.A.S. Res. XXX, adopted May 2, 1948, *reprinted in* *Basic Documents Pertaining to Human Rights in the Inter-American System*, O.A.S. Doc. OEA/Ser.L.V/II.82, doc.6 rev.1, at 17 (1992).

Modern written constitutions are the “foundational instruments [that] publicly articulate a polity’s political identity and normative architecture, its values and structural distribution of power.”²⁰ They are the “ubiquitous” hallmarks of modern nation-states.²¹ In particular for fundamental values, principles and ideals, many of which are often not directly justiciable in courts of law, their inclusion usually reflects a conscious choice to entrench and preserve them so as to withstand the passage of time. Elevating happiness to a position of prominence in codified constitutions reinforces its capacity to exert an enduring influence.

Happiness made its debut on the constitutional plane in 1791. Article VII of the Constitution of 3 May 1791 of the Polish-Lithuanian Commonwealth announced that “no government, be it the most perfect, can stand without strong executive authority. The *happiness* of peoples depends upon just laws, the effect of the laws—upon their execution.”²² Two years later, the French Constitution of 24 June 1793 declared in Article 1 that “the aim of the society is general *happiness* (*Le but de la société est le bonheur commun*).”²³ These documents were adopted after the founding fathers of modern America opted against incorporating the right to pursuit of happiness, present in the Declaration of Independence, into the United States Constitution of 1789. One of the first post-war constitutions that features a happiness provision is the Constitution of Japan of 1947. Article 13 states that “[a]ll of the people shall be respected as individuals. Their right to life, liberty, and the *pursuit of happiness* shall, to the extent that it does not interfere with the public welfare, be the supreme consideration in legislation and in other governmental affairs.”²⁴

The explicit enshrinement of happiness in modern constitutions, nonetheless, gives rise to a number of lingering questions. What functions does happiness play in modern constitutions? What does happiness mean in a particular constitutional context? Does incorporating happiness into a constitution increase the level of happiness of the citizens as an empirical matter? Why do drafters incorporate happiness into constitutions in the first place? This article is primarily concerned with the first two questions, and also touches slightly on the fourth question, analyzed using the conceptual frame of “constitutionalization of happiness,” to which I now turn.

II. The Constitutionalization of Happiness

As of 2022, the terms “happiness” and “well-being” feature in the constitutional lexicon of more than 20 and 110 states respectively. For example, under the Constitution of Angola of 2010, the state is enjoined to “promote the well-being, social solidarity and improved quality of life for the people of Angola, specifically amongst the most deprived groups of the population.”²⁵ The preamble to the Namibian Constitution of 1990 affirms that the “right of the individual to life, liberty and the pursuit of happiness” are the “inalienable rights of all members of the human family [that] is indispensable for freedom, justice and peace.”²⁶

The proliferation of happiness provisions mirrors and manifests the confluence of two contemporary trends in law and politics—the revived emphasis on happiness as a policy objective, and the globalization of the practice of adopting a written constitution.²⁷ These happiness provisions epitomize the phenomenon of the “constitutionalization of happiness,” which denotes

²⁰Thio Li-ann, *Constitutionalism in Illiberal Polities*, in *THE OXFORD HANDBOOK OF COMPARATIVE CONSTITUTIONAL LAW* 134 (Michel Rosenfeld & András Sajó eds., 2012).

²¹Tom Ginsburg & Alberto Simpser, *Introduction: Constitutions in Authoritarian Regimes*, in *CONSTITUTIONS IN AUTHORITARIAN REGIMES 2* (Tom Ginsburg & Alberto Simpser eds., 2014).

²²USTAWA RZĄDOWA Z DNIA 3 MAJA 1791 ROKU, ch. VII (emphasis added).

²³1793 CONSTITUTION, art. 1 (Fr.) (emphasis added).

²⁴NIHONKOKU KENPŌ [KENPŌ] [CONSTITUTION] 1947, art. 13 (Japan) (emphasis added).

²⁵CONSTITUTION OF ANGOLA 2010, art. 21(d).

²⁶CONSTITUTION OF NAMIBIA 1990, pmb1.

²⁷ALBERT H.Y. CHEN, *Constitutions and Constitutionalism: China*, in *CONSTITUTIONALISM IN CONTEXT* 68 (David S. Law ed., 2022).

the process of elevating happiness to the constitutional echelon, thereby bearing discernible legal and political implications. This phenomenon is animated by the three categories of or functions that happiness provisions play, and highlights that, despite its inherent conceptual vagueness, happiness can be a consequential *legal* concept. The aim of this article is to unpack these functional and semantic nuances and, moving beyond the “philosophical” and “psychological” accounts of happiness,²⁸ put forward a “constitutional” account of happiness.

All constitutional provisions in force as of 2022 that contain either or both of the terms “happiness” and “well-being” are collated for the purpose of this study.²⁹ As a matter of empirical strategy, provisions that contain the term “well-being” are also included for two reasons. First, happiness is often used interchangeably with well-being in common parlance, despite objections and arguments to the contrary.³⁰ Second, this strategy accommodates variations in translation, for it is not always the case that ostensibly similar ideas and concepts from different cultures can be precisely translated into or captured by the English term “happiness.” One further point on the scope of this article should be noted. The happiness provisions collated and analyzed pertain only to happiness of the *people* or *citizens* of the state. Constitutions sometimes purport to protect the well-being of non-human subjects, such as the economy, but provisions to that effect are excluded from the purview of this study.

An audit of all happiness provisions reveals that they boil down to three categories—happiness as a national objective, happiness as a policy paradigm, and the pursuit of happiness as a human right. Of course, the sectional assignment, language, as well as semantic and structural configuration of a happiness provision are often determinative of its category. For example, the Bulgarian Constitution of 1991 announces, in the section enumerating fundamental principles, that “[t]he foreign policy of the Republic of Bulgaria shall have as its highest objective the national security and independence of the country, the well-being and the fundamental rights and freedoms of the Bulgarian citizens, and the promotion of a just international order.”³¹ This unequivocally establishes that the promotion of citizens’ well-being is a national objective of Bulgaria, at least in the context of foreign policy. These three categories do not occupy separate watertight compartments. Happiness provisions frequently fulfill more than one function, traversing the boundaries of these fluid categories.

The meaning and jurisprudential landscape of happiness provisions within one specific constitutional framework is furthermore molded by, on top of the semantic and structural configuration, a dynamic interplay among three factors, which include the indigenous and socio-cultural conception of happiness of that state, interpretations put forward by judges and other constitutional actors, and transnational influences such as the migration of constitutional ideas and jurisprudence. These factors do not operate in a vacuum or a mutually exclusive manner. Indeed, they often collide with or complement one another, thereby furnishing a distinct constitutional meaning of happiness within particular settings. These factors will now be examined in turn.

First, the meaning of happiness within a particular constitutional context is heavily influenced by the indigenous or socio-cultural conception of that state and society. Just as the “particular manifestations and descriptions of happiness are culturally informed and contextualized,”³² the

²⁸See THE EXPLORATION OF HAPPINESS: PRESENT AND FUTURE PERSPECTIVES (Antonella Delle Fave ed., 2013) (offering an excellent overview of the state of the field of happiness studies); see also Sabrina Intelisano, Julia Krasko & Maike Luhmann, *Integrating Philosophical and Psychological Accounts of Happiness and Well-Being*, 21 J. HAPPINESS STUD. 161 (2020).

²⁹Analysis was carried out using constitutional texts (and their translations) available on the Constitute Project website operated by the Comparative Constitutions Project. Zachary Elkins, Tom Ginsburg & James Melton, *Constitute: The World’s Constitutions to Read, Search, and Compare*, constituteproject.org.

³⁰Jason R. Raibley, *Happiness is Not Well-Being*, 13 J. HAPPINESS STUD. 1105 (2012).

³¹КОНСТИТУЦИЯ НА РЕПУБЛИКА БЪЛГАРИЯ [CONSTITUTION] 1991, art. 24 (Bulg.).

³²Seyyed Hossein Nasr, *Happiness and the Attainment of Happiness: An Islamic Perspective*, 29 J. L. RELIG. 76, 76 (2014).

constitutional meaning of happiness bespeaks the polity's unique socio-cultural and historical character so long as the text does not prescribe a meaning that is fundamentally at odds.

Second, judges and other constitutional actors are often enlisted in the enterprise of interpreting and fleshing out the content of happiness provisions. Constitutional language is often general and vague.³³ Happiness provisions provide no exception, for intrinsic ambiguity renders difficult any attempt to concretize the concept. Such ambiguity opens up broad discursive space, effectively extending an invitation to interpreters to partake in the exercise of filling the definitional void. Governmental or executive institutions do so through policy-making or executive interpretation, the legislature through parliamentary law-making, judges through judicial decision-making, and scholars through academic debates. Viewed thus, happiness provisions are just one branch of the bigger 'living tree', the interpretation of which is capable of evolution over time.

Certainly, the prospect of disagreements among interpreters remains well and alive. The resolution of such interpretive differences is entwined with and contingent upon the power dynamics and aptitudes of the institutions involved,³⁴ a realm of inquiry beyond the scope of this article. Suffice to note that such interpretive contestations themselves constitute an important impetus propelling the expansion of the discursive space, and ultimately contributing to a better and more nuanced understanding of the constitutional meaning of happiness.

Third, transnational and foreign influences, including the migration of constitutional ideas and jurisprudence, shape how happiness is understood within a domestic constitutional setting. There is now a sophisticated body of literature documenting how constitutional ideas, designs, and provisions "migrate" from one jurisdiction to another through multiple mechanisms,³⁵ discrediting the previously held notion of a monolithic "We the People" wielding the *pouvoir constituant*.³⁶ These mechanisms encompass the conscious copying of constitutional text and language, the imposition of constitutional arrangements from one state onto another, and the judicial borrowing of and citation to foreign constitutional ideas and jurisprudence.³⁷ Through these avenues, the constitutional meaning of happiness breaches state and jurisdictional boundaries, and intertwines with pre-existing indigenous and socio-cultural conceptions of happiness.

These three factors do not operate in a mutually exclusive manner or in isolation. Indeed, it is more often than not the case that multiple factors are concurrently at play. In these instances, these factors may either complement or contradict one another. These forces are likewise not static either, allowing for evolution or alteration of the meaning of constitutionalized happiness across time and space.

C. Happiness as a Constitutionally-Enshrined National Objective

National objectives comprise an important part of modern constitutions. They are "central to a comprehensive understanding of the structure of constitutions, their hopes, their contingencies, and what inspired their designs."³⁸ They constitute a framework that steers the interpretation and execution of the operative provisions, and offer guidance to the interpreters as to the intent of the

³³Rosalind Dixon & Tom Ginsburg, *Deciding Not to Decide: Deferral in Constitutional Design*, 9 INT'L J. CONS. L. 636 (2011).

³⁴David S. Law & Hsiang-Yang Hsieh, *Judicial Review of Constitutional Amendments: Taiwan*, in CONSTITUTIONALISM IN CONTEXT, *supra* note 27, at 192.

³⁵Sujit Choudhry, *Migration as a New Metaphor in Comparative Constitutional Law*, in THE MIGRATION OF CONSTITUTIONAL IDEAS 1–36 (Sujit Choudhry ed., 2007).

³⁶See Hans Agné, *Democratic Founding: We the People and the Others*, 10 INT'L J. CONS. L. 836 (2012).

³⁷See generally Benedikt Goderis & Mila Versteeg, *The Diffusion of Constitutional Rights*, 39 INT'L REV. L. ECON. 1 (2014) (analyzing in detail mechanisms of transnational diffusion of constitutional norms and provisions).

³⁸Fernando Leal, *National Objectives*, in MAX PLANCK ENCYCLOPEDIA OF COMPARATIVE CONSTITUTIONAL LAW (Rainer Grote, Frauke Lachenmann & Rüdiger Wolfrum eds., 2017).

drafters.³⁹ The incorporation of national objective provisions into modern constitutions is, however, a relatively recent phenomenon. As Leal underscored, it is often “associated with developing countries whose constitutions incorporate a vast catalogue of rights and aim to orientate transitions from authoritarian to more democratic regimes.”⁴⁰

Promoting the happiness of citizens stands as one salient objective that has secured a pride of place in modern constitutions. This goal sometimes finds sanctuary in the preamble, the “*locus par excellence* to detect desired state of affairs.”⁴¹ The preamble to the Eswatini Constitution of 2005 announces that “as a nation we desire to march forward progressively under our own constitution guaranteeing peace, order and good government, and the happiness and welfare of all our people.”⁴² The preamble of the Thai Constitution of 2017 calls upon all Thai people to “unite in observing, protecting and upholding the Constitution . . . and to bring about happiness, prosperity and dignity to His Majesty’s subjects throughout the Kingdom.”⁴³ The preamble of the Constitution of Bhutan of 2008 enjoins the Bhutanese people to “strengthen the sovereignty of Bhutan, to secure the blessings of liberty, to ensure justice and tranquility and to enhance the unity, happiness and well-being of the people for all time.”⁴⁴ Under the Kenyan Constitution of 2010, the people of Kenya are committed to “nurturing and protecting the well-being of the individual, the family, communities and the nation.”⁴⁵ The preamble to the Armenian Constitution of 1995 affirms the “aim of ensuring the freedom, general well-being, and civic solidarity of the generations.”⁴⁶

Happiness provisions may also be housed within a cluster of “national objectives provisions” or “mission statement provisions”⁴⁷ in the operative sections, in particular the section enumerating the fundamental or general principles of the state. When situated within the section on fundamental principles, the happiness provisions accentuate their own “centrality relative to other important, yet possibly competing, ideals.”⁴⁸ The rest of the text is to be understood and interpreted in the light of this national objective. Article 5 of the Turkish Constitution of 1982 stipulates that “[t]he fundamental aims and duties of the State are to safeguard the independence and integrity of the Turkish Nation, the indivisibility of the country, the Republic and democracy, to ensure the welfare, peace, and happiness of the individual and society.”⁴⁹ Article 16 of the Azerbaijani Constitution of 1995 obligates the Republic to “[ensure] the improvement of the well-being of the people and every citizen, their social protection and normal living standard.”⁵⁰ The Honduran Constitution of 1982 announces in Article 1 that the fundamental aim of the state is “to ensure its inhabitants the enjoyment of justice, liberty, culture, and social and economic well-being.”⁵¹

At times, constitutions mandate a specific domain of state activity be conducted in a manner that advances the happiness of the people. These domains encompass foreign policy, as seen in the case of Bulgaria, decentralization in the case of Uruguay, economic and social policies in the case of Guinea-Bissau, and religious policies in the case of Timor-Leste. Article 50 of the Uruguayan Constitution of 1966 states that “the State shall initiate policies of decentralization, in such a way

³⁹Jeff King, *Constitutions as Mission Statements*, in *SOCIAL AND POLITICAL FOUNDATIONS OF CONSTITUTIONS* 81 (Denis J. Galligan & Mila Versteeg eds., 2014).

⁴⁰Leal, *supra* note 38.

⁴¹*Id.*

⁴²CONSTITUTION OF ESWATINI 2005, pmb.

⁴³RADTHATHAMMANOON [CONSTITUTION] 2017, pmb. (Thai.).

⁴⁴DRUK-GI CHA-THRIMS-CHEN-MO [CONSTITUTION] 2008, pmb. (Bhutan).

⁴⁵CONSTITUTION OF KENYA 2010, pmb.

⁴⁶CONSTITUTION OF ARMENIA 1995, pmb.

⁴⁷KING, *supra* note 39.

⁴⁸Shulztiner & Carmi, *supra* note 10, at 476.

⁴⁹TÜRKİYE CUMHURİYETİ ANAYASASI [CONSTITUTION] 1982, Madde 5 (Turk.).

⁵⁰AZERBAIJAN REPUBLİKASI KONSTITUSIYA [CONSTITUTION] 1995, art. 16 (Azer.).

⁵¹CONSTITUTION OF HONDURAS 1982, art. 1.

as to promote regional development and the general well-being.”⁵² Article 11 of the Constitution of Guinea-Bissau of 1984 provides that “[t]he economic and social organization of Guinea-Bissau has as objective the continuous promotion of its people’s well-being and the elimination of all forms of subjection of human beings to degrading interests, for the benefit of individuals, groups or classes.”⁵³ The Timor-Leste Constitution of 2002 charges the state to prompt “cooperation with the different religious denominations that contribute to the well-being of the people of East Timor.”⁵⁴

Several African constitutions obligate the government to manage the economy in a way that is conducive to promoting the happiness of the people. In strikingly similar phraseology, indicative of transnational influences and migration of constitutional provisions, both the Eswatini Constitution of 2005 and Ghanaian Constitution of 1992 direct the state to:

. . . take all necessary action to ensure that the national economy is managed in such a manner as to maximize the rate of economic development and to secure the maximum welfare, freedom and happiness of every person . . . and to provide adequate means of livelihood and suitable employment and public assistance to the needy.⁵⁵

In the same vein, Section 16(1)(b) of the Nigerian Constitution of 1999 calls upon the state to “control the national economy in such manner as to secure the maximum welfare, freedom and happiness of every citizen on the basis of social justice and equality of status and opportunity.”⁵⁶ Despite its semblance to a non-justiciable “programmatic exhortation to the elected branches,”⁵⁷ the Nigerian courts have invested the provision with a certain degree of legal bite. In *Bamidele Aturu v. Minister of Petroleum Resources*, the policy to deregulate the downstream sector of the Nigerian oil industry and the government’s refusal to fix the prices for petroleum products were found to be illegal and unconstitutional by the Federal High Court of Nigeria. The Court ruled that the policy violated Section 16(1)(b) and the relevant provisions of the Petroleum Act and Price Control Act, a combined reading of which imposed a duty to regulate and fix the prices of petroleum products.⁵⁸ This decision, encouraging though it may be, ought not be mistranslated as a broad judicial endorsement of the justiciability of provisions of this kind. That is because, under the Federal High Court’s decision, Section 16(1)(b) was only “made justiciable via legislation,” namely the Petroleum Act and Price Control Act.⁵⁹

Other constitutions ordain the promotion of the well-being of specific groups of people. Article 76 of the Icelandic Constitution of 1944 states that “[f]or children, the law shall guarantee the protection and care which is necessary for their well-being.”⁶⁰ Article 60(3) of the Vietnamese Constitution of 1992 stipulates that “[t]he State and society shall provide favorable environment for the construction of the Vietnamese family which is well off, progressive, and happy; create the Vietnamese people who are healthy, cultural, profoundly patriotic, solidary, independent, and responsible.”⁶¹ Article 34 of the Nicaraguan Constitution of 1987 obligates the state to “protect

⁵²CONSTITUCIÓN DE LA REPÚBLICA ORIENTAL DEL URUGUAY [CONSTITUTION] 1997, art. 50.

⁵³CONSTITUTION OF GUINEA-BISSAU 1996, art. 11.

⁵⁴KONSTITUISAUN REPÚBLIKA DEMOKRÁTICA TIMOR-LESTE [CONSTITUTION] 2002, art. 12(2).

⁵⁵CONSTITUTION OF ESWATINI 2005, art. 59(1) and CONSTITUTION OF GHANA 1992, art. 36(1).

⁵⁶CONSTITUTION OF NIGERIA (1979), § 16(1)(b).

⁵⁷Julieta Rossi & Daniel M. Brinks, *Social and Economic Rights: Argentina*, in CONSTITUTIONALISM IN CONTEXT, *supra* note 27, at 263.

⁵⁸*Bamidele Aturu v. Minister of Petroleum Resources*, Suit no. FHC/ABJ/CS/591/2009, at 132 (Nigeria). For an overview of the case, see A. E. Akintayo, *Economic Diversification in the Context of a Constitutional Right to Happiness: Implications for Law and Policy Initiatives*, 5 UNILAG J. HUM. 96, 104 (2017).

⁵⁹Akinola E. Akintayo, *A Good Thing from Nazareth? Stemming the Tide of Neo-Liberalism Against Socio-Economic Rights: Lessons from the Nigerian case of Bamidele Aturu v. Minister of Petroleum Resources and Other*, 15 ESR REV. 5, 7 (2014).

⁶⁰STJÓRNARSKRÁ LÝÐVELDSINS ÍSLANDS [CONSTITUTION] 1944, art. 76 (Ice.).

⁶¹HIỆN PHÁP [CONSTITUTION] 1992, art. 60(3) (Viet.).

crime victims” who “have a right to the protection of their safety, physical and psychological well-being, dignity and private life in conformity with the law.”⁶² Section 13 of article II of the Constitution of the Philippines of 1987 provides that “[t]he State recognizes the vital role of the youth in nation-building and shall promote and protect their physical, moral, spiritual, intellectual, and social well-being.”⁶³ Article 127 of the Panama Constitution of 1972 guarantees to “indigenous communities the reservation of necessary lands an collective ownership thereof, to ensure their economic and social well-being.”⁶⁴

Certain constitutions identify the foundations for happiness and well-being, alluding to subjects such as agriculture, health, environmental quality, and the entitlement to land. Article 4 of the Mexican Constitution of 1917 identifies “the right to a healthy environment” as essential for any person’s “own development and well-being.”⁶⁵ Article 366 of the Colombian Constitution of 1991 ordains that “[t]he general well-being and improvement of the population’s quality of life are social purposes of the State” and the “objective of their activity [is] . . . to address the unfulfilled public health, educational, environmental, and drinking water needs of those affected.”⁶⁶ Article 57 of the Costa Rican Constitution of 1949 guarantees the workers’ right “to a minimum salary, fixed periodically, for a normal working day, that procures them well-being and dignified existence.”⁶⁷ Article 247 of the Haitian Constitution of 1987 identifies “[a]griculture, which is the main source of the Nation’s wealth” as “a guarantee of the well-being of the people and the socio-economic progress of the Nation.”⁶⁸ Article 109 of the Constitution of Mozambique of 2004 provides that “[a]s a universal means for the creation of wealth and of social well-being, the use and enjoyment of land shall be the right of all the Mozambican people.”⁶⁹

One common pillar of happiness resides within the realm of work and labor, under which the meaningful involvement in and fulfillment derived from work play a pivotal role in enhancing overall well-being. Article 21 of the Guyana Constitution of 1980 considers that “[t]he source of the growth of social wealth and of the well-being of the people, and of each individual, is the labour of the people.”⁷⁰ Article 35 of the Azerbaijani Constitution identifies that “[w]ork is the basis of individual and social well-being.”⁷¹ Article 25 of the Tanzanian Constitution of 1977 goes even further and expresses that “[w]ork alone creates the material wealth in society, and is the source of the well-being of the people and the measure of human dignity.”⁷²

Despite having ventured into the foundations of happiness, many happiness provisions still fall short of capably articulating an explicit constitutional meaning for the two remain conceptually distinct. The murkiness may furthermore be attributed to the fact that some drafters or interpreters are simply not bothered, for they consider happiness provisions as mere “window dressing”⁷³ vacuous rhetoric the single function of which is to coat a veneer of legitimacy on the state without any intended substantive or legal impact.

One counter-tendency surrounding the use of happiness as a national objective warrants attention. The obligation to promote happiness may be used to rationalize constraints on human

⁶²CONSTITUCIÓN POLÍTICA DE LA REPÚBLICA DE NICARAGUA [CONSTITUTION] 1987, art. 34.

⁶³CONSTITUTION OF THE PHILIPPINES 1987, art. II, § 13.

⁶⁴CONSTITUTION OF PANAMA 1972, art. 127.

⁶⁵CONSTITUCIÓN POLÍTICA DE LOS ESTADOS UNIDOS MEXICANOS [CONSTITUTION] 1917, art. 4 (Mex.).

⁶⁶CONSTITUCIÓN POLÍTICA DE COLOMBIA [CONSTITUTION] 1991, art. 366 (Colom.).

⁶⁷CONSTITUCIÓN POLÍTICA DE COSTA RICA [CONSTITUTION] 1949, art. 57 (Costa Rica).

⁶⁸CONSTITUTION DE LA RÉPUBLIQUE D’HAÏTI [CONSTITUTION] 1987, art. 247 (Haiti).

⁶⁹CONSTITUTION OF MOZAMBIQUE 2004, art. 109.

⁷⁰CONSTITUTION OF GUYANA 1980, art. 21.

⁷¹AZERBAIJAN REPUBLIKASI KONSTITUSIYA [CONSTITUTION] 1995, art. 35 (Azer.).

⁷²CONSTITUTION OF TANZANIA 1977, art. 25 (Tanz.).

⁷³GINSBURG & SIMPSON, *supra* note 21, at 26.

rights and freedoms that are, at least presumptively, simultaneously crucial for happiness. The Cuban Constitution of 2019 contains a general limitation clause under which human rights may be limited for the purpose of protecting the well-being of others. Article 45 states that “[t]he exercise of these rights of the people” can be “limited by the rights of others, collective security, general well-being, respect for public order, the Constitution, and the laws.”⁷⁴ Similarly, Article 31 of the Provisional Constitution of Somalia of 2012 requires, without laying down any criteria or parameter, the state to “promote the positive traditions and cultural practices of the Somali people” and “eliminate from the community customs and emerging practices which negatively impact the unity, civilization and well-being of society.”⁷⁵ Under such schematic, imposing restrictions on the rights and freedoms under the pretext of advancing general well-being may well prove antithetical to the happiness of other individuals.

D. Happiness as a Constitutional Policy Paradigm

Section C traced how happiness is enshrined in modern constitutions as a national objective. Nevertheless, the realization of this objective, by whatever rubric, is self-evidently unlikely to be within reach at least in the short term, even if we assume that the state is willing to see through the mission impossible. The reality, perhaps, is more likely that the drafters and implementers who pen and execute constitutions simply do not have a smidgen of true grit to roll up their sleeves and make those goals happen, relegating them to mere “façades” that “combine fantasy with farce.”⁷⁶

Some constitutions take an additional stride. Instead of confining happiness to merely a national objective, the framers embed it pervasively within the operative articles, which in turn translate the abstract concept into detailed and perhaps justiciable policy directives. These operative articles, spanning diverse domains such as the economy, social welfare, education, health, land, environment, cultural heritage, science, and labor, combine to form a complex policy web with happiness inhabiting the core. This section delves into three case studies, wherein a pre-existing substantive conception of happiness structures and engulfs the constitutionally embedded policy paradigm operationalized by an array of provisions. These case studies include the Bhutanese Constitution drafted in the spirit of the theory of Gross National Happiness, and the Ecuadorian and Bolivian Constitutions which are heavily influenced by the Andean philosophy of *buen vivir*.

I. Bhutan: Gross National Happiness

Bhutan, a Buddhist kingdom nestled in the Himalayas, has garnered worldwide recognition for its unique developmental paradigm centered on the idea of Gross National Happiness (GNH). GNH was first conceived by the fourth King of Bhutan, Jigme Singye Wangchuck, back in 1972,⁷⁷ when he famously declared that “Gross National Happiness is more important than Gross Domestic Product.”⁷⁸ Over the years, GNH has blossomed into a rich and vibrant philosophy undergirded by a quintet of core elements. They include holism, which denotes the recognition of all aspects of the people’s needs including spiritual, material, physical, and social; balance, which

⁷⁴CONSTITUCIÓN DE LA REPÚBLICA DE CUBA [CONSTITUTION] 2019, art. 45 (Cuba).

⁷⁵DASTUURKA JAMHUURIYADDA FEDERAALKA SOOMAALIYA [CONSTITUTION] 2012, art. 31 (Som.).

⁷⁶David S. Law & Mila Versteeg, *Sham Constitutions*, 101 CALIF. L. REV. 863, 867 (2013).

⁷⁷Jigmi Y. Thinley & Janette Hartz-Karp, *National Progress, Sustainability and Higher Goals: The Case of Bhutan’s Gross National Happiness*, 2 SUSTAINABLE EARTH 1, 3 (2019).

⁷⁸Tim Harford, *Why Happiness is Easy to Venerate and Hard to Generate*, FINANCIAL TIMES (Mar. 1, 2019), <https://www.ft.com/content/7f73002a-3a95-11e9-b856-5404d3811663>.

emphasizes a balanced progress between the different features of GNH; collectiveness, which recognizes happiness as an all-encompassing collective phenomenon; sustainability, which calls for pursuit of the well-being of both the current and future generations; and equitableness, which focuses on realizing a reasonable and equitable level of well-being.⁷⁹ These five core elements are in turn operationalized by four pillars, namely sustainable and equitable socio-economic development, environmental conservation, preservation and promotion of culture, and good governance. Bringing down to policymaking praxis, these four pillars are further unfolded into a kaleidoscope of nine domains which “map more specifically the key areas of GNH.”⁸⁰ They include “psychological wellbeing, health, education, cultural diversity and resilience, time use, good governance, community vitality, living standard, and ecological diversity, and resilience.”⁸¹

The ethos of happiness in GNH diverges sharply from the purely subjective and hedonistic conception of well-being. As Jigmi Y. Thinley, the first democratically elected Prime Minister of Bhutan, said:

We have now clearly distinguished the ‘happiness’ . . . in GNH from the fleeting, pleasurable ‘feel good’ moods so often associated with that term. We know that true abiding happiness cannot exist while others suffer, and comes only from serving others, living in harmony with nature, and realizing our innate wisdom and the true and brilliant nature of our own minds.⁸²

GNH finds its genesis in Buddhist culture. The former Prime Minister further explained:

A Buddhist equivalent of a ‘Social Contract’ declared in Bhutan in 1675 said that happiness of sentient beings and teachings of the Buddha were mutually dependent . . . much about what we may call Buddhist science of mind is about managing feelings and emotions, that invisible mental world which destroys all around us if we cannot manage. Thus, a great deal of cultural knowledge and education in traditional society was meant to train people’s psychology towards happiness of all.⁸³

According to the incumbent King Jigme Khesar Namgyel Wangchuck:

[GNH] signifies simply—Development with Values—where we strive for the benefits of economic growth and modernization while ensuring that in our drive for economic progress we do not forget to nurture that which makes us united, harmonious, and secure as Bhutanese. Whether it is our strong community structure or our culture and heritage, our traditional respect for the environment or the desire for a peaceful coexistence with other nations, the duty of the Bhutanese State is to ensure that these invaluable elements contributing to the happiness and well-being of our people are protected and strengthened. Our government must be human. Thus, for Bhutan, [GNH] is the bridge between the fundamental values of Kindness, Equality, and Humanity and the necessary pursuit of economic growth.⁸⁴

⁷⁹KARMA URA, SABINA ALKIRE, TSHOKI ZANGMO & KARMA WANGDI, AN EXTENSIVE ANALYSIS OF GNH INDEX 7 (2012).

⁸⁰*Id.* at 10.

⁸¹*Id.*

⁸²Quoted in *id.* at 8.

⁸³Jigmi Y. Thinley, *What is Gross National Happiness?* 4 (Second International Conference on Gross National Happiness, 2007).

⁸⁴Jigme Khesar, *Foreword* to THE OXFORD HANDBOOK OF HAPPINESS, at vii (Susan David, Ilona Boniwell & Amanda Conley Ayers eds., 2014).

After four decades of steady evolution in theory and practice, GNH was formally incorporated into the new Constitution of 2008 as a guiding policy for the nation and attained the zenith of significance. Article 9(2) proclaimed that “[t]he State shall strive to promote those conditions that will enable the pursuit of Gross National Happiness.”⁸⁵ Article 20(1) commits the Royal Government to “protect and strengthen the sovereignty of the Kingdom, provide good governance, and ensure peace, security, well-being and happiness of the people.”⁸⁶

Having affirmed the role of GNH as *the* guiding national policy, the Bhutanese Constitution then proceeds to systematically translate the four pillars of GNH into actionable directives across a broad spectrum of policy domains. For culture, Article 4(1) charges the state to “preserve, protect and promote the cultural heritage of the country, including monuments, places and objects of artistic or historic interest, Dzongs, Lhakhangs, Goendeys, Ten-sum, Nyes, language, literature, music, visual arts and religion to enrich society and the cultural life of the citizens.”⁸⁷ As for environmental sustainability, Article 5(1) regards every Bhutanese as “a trustee of the Kingdom’s natural resources and environment for the benefit of the present and future generations,” and stipulates that every citizen must “contribute to the protection of the natural environment.”⁸⁸ Article 5(3) follows up by requiring the Royal Government to ensure “a minimum of sixty percent of Bhutan’s total land shall be maintained under forest cover for all time.”⁸⁹ The inclusion of a quantitative rather than qualitative standard of forest protection has been hailed as a “remarkable development within the field of global environmental constitutionalism.”⁹⁰ In the domain of equitable economic development, Article 5(2) commands the Royal Government to “secure ecologically balanced sustainable development while promoting justifiable economic and social development.”⁹¹ Finally, in the sphere of good governance, Article 9(3) obligates the state to “create a civil society free of oppression, discrimination and violence, based on the rule of law, protection of human rights and dignity, and to ensure the fundamental rights and freedoms of the people.”⁹²

As chronicled by Givel, in the wake of the 2008 Constitution, the National Assembly of Bhutan embarked upon a legislative odyssey, enacting a plethora of legislation that delineate in even more concrete terms GNH-informed policy directives in specific areas of concern.⁹³ Consider healthcare legislation. Under the Tobacco Control Act of 2010, it is declared that “the physical health and wellbeing of the people of Bhutan . . . are important elements of the development principle of Gross National Happiness.”⁹⁴ The University of Medical Sciences Act of 2012 states that “the people must have access to the high quality, wholesome health care services through holistic, patient centred, evidence-based and culturally appropriate approaches in harmony with the development paradigm of Gross National Happiness.”⁹⁵ Consider also legislation on environmental protection. The preamble to the Water Act of 2011 puts beyond doubt its intention “to protect the environment and human health through integrated water resources management in pursuit of Gross National Happiness and the age-old tradition of living in harmony with nature.”⁹⁶

⁸⁵Druk-Gi Cha-Thrims-Chen-Mo [CONSTITUTION] 2008, art. 9(2) (Bhutan).

⁸⁶Druk-Gi Cha-Thrims-Chen-Mo [CONSTITUTION] 2008, art. 20(1) (Bhutan).

⁸⁷Druk-Gi Cha-Thrims-Chen-Mo [CONSTITUTION] 2008, art. 4(1) (Bhutan).

⁸⁸Druk-Gi Cha-Thrims-Chen-Mo [CONSTITUTION] 2008, art. 5(1) (Bhutan).

⁸⁹Druk-Gi Cha-Thrims-Chen-Mo [CONSTITUTION] 2008, art. 5(3) (Bhutan).

⁹⁰Stephen J. Turner, *The Constitution of Bhutan: A Quantitative Environmental Standard*, in ENVIRONMENTAL RIGHTS: THE DEVELOPMENT OF STANDARDS 329 (Stephen J. Turner, Dinah L. Shelton, Jona Razzaque, Owen McIntyre & James R. May eds., 2019).

⁹¹Druk-Gi Cha-Thrims-Chen-Mo [CONSTITUTION] 2008, art. 5(2) (Bhutan).

⁹²Druk-Gi Cha-Thrims-Chen-Mo [CONSTITUTION] 2008, art. 9(3) (Bhutan).

⁹³Michael Givel, *Evolution of the Meaning of Happiness in Modern Bhutan from 2008 to 2019*, 43 J. BHUTAN STUD. 47, 53–56 (2020).

⁹⁴The Tobacco Control Act 2010, pml. (Bhutan).

⁹⁵The University of Medical Sciences Act 2012, pml. (Bhutan).

⁹⁶Water Act 2011, pml. (Bhutan).

Bhutan offers a paradigmatic example in which a pre-existing socio-cultural conception of happiness ascended to constitutional stature, informing and underpinning the language and design of the rest of the text. At the same time, the expansive nature of GNH as a developmental philosophy provides the foundation for and catalyzes its evolution and adaptation under the tutelage of constitution-makers who translate overarching precepts into actionable constitutional directives. This effort extends to parliamentarians who, in turn, concretize these constitutional directives through statutory enactments across diverse policy domains. In this process, both constitution-makers and parliamentarians are endowed with the opportunity to proffer their own interpretations of GNH, beyond its crude contours.

As a final note, it is worth pointing out that GNH has by-and-large remained untouched by the winds of transnational influence. Vigilant against potential engulfment by its formidable neighbors, Bhutan has strategically embraced a policy characterized by “[i]solation, caution toward outsiders, and cultivation of national identity.”⁹⁷ This approach enabled Bhutan to not only safeguard the original essence and purity of GNH, but also position itself as a net exporter of cultural influence to the world through GNH, now widely celebrated across the globe.

II. Ecuador and Bolivia: Buen Vivir

The term *buen vivir*, when translated from Spanish, approximately conveys the notion of “living well” or “good living.”⁹⁸ It is a “traditional philosophy of indigenous native American tribes of the Amazon and Andean Highland areas.”⁹⁹ In recent decades, this social philosophy has undergone rapid resurgence, stemming from the “widespread disenchantment”¹⁰⁰ with neoliberal reforms. The renewed interest has catalyzed *buen vivir*’s metamorphosis into a more expansive political and developmental paradigm.¹⁰¹ At its core, *buen vivir* envisions a “balanced relationship between people and their community and natural surroundings” and calls for the “[enjoyment of] human rights responsibly while respecting common goods within the context of a harmonious coexistence.”¹⁰² Scholars have, for the most part, coalesced around the consensus that the essential core of *buen vivir* encapsulates harmony with nature, respect for values and principles of the indigenous peoples, satisfaction of basic needs, democratic governance, and the state’s responsibility to ensure social justice and equality.¹⁰³

In a trajectory parallel to that of GNH, *buen vivir* achieved constitutional rank in the two Latin American nations of Ecuador and Bolivia, the populations of which continue to profess fidelity to their cultural traditions,¹⁰⁴ around a similar time. Constitutionalization momentum was picked up against the backdrop of consecutive elections that brought left-wing politicians to power. This enabled the “expression of indigenous knowledge and traditions that were oppressed, minimized or subordinated over centuries”¹⁰⁵ via new constitutions adopted in 2008 (Ecuador) and 2009 (Bolivia) respectively. These new constitutions openly flouted the frequently-voiced criticism that

⁹⁷David S. Law, *Isolation and Globalization: The Dawn of Legal Education in Bhutan*, 9 YONSEI L.J. 41, 45 (2018).

⁹⁸Unai Villalba, *Buen Vivir vs Development: A Paradigm Shift in the Andes?*, 34 THIRD WORLD Q. 1427, 1427 (2013).

⁹⁹Marina Mero-Figueroa, Emilio Galdeano-Gómez, Laura Piedra-Muñoz & Moisés Obaco, *Measuring Well-Being: A Buen Vivir (Living Well) Indicator for Ecuador*, 152 SOC. INDIC. RES. 265, 265 (2020).

¹⁰⁰Julien Vanhulst & Adrian E. Beling, *Buen vivir: Emergent Discourse within or Beyond Sustainable Development?*, 101 ECOL. ECON. 54, 56 (2014).

¹⁰¹Martin Calisto Friant & John Langmore, *The Buen Vivir: A Policy to Survive the Anthropocene?*, 6 GLOB. POL’Y 64 (2014).

¹⁰²Mero-Figueroa, Galdeano-Gómez, Piedra-Muñoz & Obaco, *supra* note 99, at 265.

¹⁰³Sara Caria & Rafael Domínguez, *Ecuador’s Buen vivir: A New Ideology for Development*, 43 LAT. AM. PERSP. 18, 20 (2015).

¹⁰⁴Vanhulst & Beling, *supra* note 100, at 57.

¹⁰⁵Edurado Gudynas, *Buen Vivir: Today’s Tomorrow*, 54 DEV. 441, 442 (2011).

the incorporation of *buen vivir* represented mere rhetoric,¹⁰⁶ and that the philosophy “falls short of its promise when brought down to political, economic, and social praxis.”¹⁰⁷

Even though *buen vivir* has for all practical purposes assumed the role of a “central reference”¹⁰⁸ in both new constitutions, the two Latin American nations have opted for divergent pathways in achieving that outcome.¹⁰⁹ In the Bolivian Constitution, *buen vivir* (or *suma qamaña*) is defined upfront as an ethical and moral principle. Article 8(I), under the chapter of “Principles, Values and Purposes of the State,” proclaims that “[t]he State adopts and promotes the following as ethical, moral principles of the plural society: *ama qhilla*, *ama llulla*, *ama suwa* [do not be lazy, do not be a liar or a thief], *suma qamaña* [live well], *ñandereko* [live harmoniously], *teko kavi* [good life], *ivi maraei* [land without evil] and *qhapaj ñan* [noble path or life].”¹¹⁰ Structurally, *buen vivir* plays a “transversal role”¹¹¹ in the text, governing how the rest of the instrument is to be comprehended, interpreted, implemented and enforced.

In particular, *suma qamaña* underlies the idea of a “plural economy,” constitutionally recognized as the principal form of economic organization in Bolivia.¹¹² Article 306 maps out the gist of this economic model. Article 306(II) envisions that the plural economy comprises “different forms of economic organization based on the principles of complementariness, reciprocity, solidarity, redistribution, equality, legal security, sustainability, equilibrium, justice and transparency,” and obligates the state to place “the highest value on human beings and assures development through the equitable redistribution of economic surplus in the social policies of health, education, culture, and the re-investment in productive economic development.”¹¹³

In contrast, Ecuador embraces a hybrid of approaches to the constitutionalization of *buen vivir*, or *sumak kawsay*. First, in its inaugural appearance in the preamble, *buen vivir* is presented as a national objective. The preamble calls for the need of “[a] new form of public coexistence, in diversity and in harmony with nature, to achieve the good way of living, the *sumak kawsay*.”¹¹⁴ Second, *buen vivir* informs and blueprints, as a policy paradigm, an array of operative provisions across diverse governance domains, similar to the role GNH plays in the Bhutanese Constitution of 2008. Article 3(5) declares at the outset that “[p]lanning national development, eliminating poverty, and promoting sustainable development and the equitable redistribution of resources and wealth to enable access to the good way of living”¹¹⁵ is one of the state’s “prime duties.”¹¹⁶ In contradistinction to the Bolivian Constitution, *buen vivir* has and is fortified by “its own regime,”¹¹⁷ located in Chapter II of Title II “*Derechos del Buen vivir*” [Rights of Good Way of Living] and Title VII “*Régimen del Buen vivir*” [Good Way of Living System]. These chapters house a torrent of provisions that are exclusively dedicated to giving *buen vivir* concrete legal expression across specific policy domains, including science, health, education, and environmental protection etc.¹¹⁸

Third, the Ecuadorian Constitution espouses a rights-based approach, under which *sumak kawsay* is recast into a sophisticated framework of justiciable rights.¹¹⁹ The most groundbreaking and widely-recognized *buen vivir* rights are the “rights of nature (*Pacha mama*),” enshrined in

¹⁰⁶C. Unai Villalba-Eguiluz & Iker Etxano, *Buen Vivir vs Development (II): The Limits of (Neo-)Extractivism*, 138 ECOL. ECON. 1, 1 (2017).

¹⁰⁷Vanhulst & Beling, *supra* note 100, at 56.

¹⁰⁸*Id.* at 57.

¹⁰⁹Gudynas, *supra* note 105, at 442.

¹¹⁰CONSTITUCIÓN POLÍTICA DEL ESTADO [CONSTITUTION] 2009, art. 8(I) (Bol.).

¹¹¹Vanhulst & Beling, *supra* note 100, at 57.

¹¹²*Id.*

¹¹³CONSTITUCIÓN POLÍTICA DEL ESTADO [CONSTITUTION] 2009, art. 306(II) (Bol.).

¹¹⁴CONSTITUCIÓN POLÍTICA DE LA REPÚBLICA DEL ECUADOR [CONSTITUTION] 2008, pmb. (Ecuador).

¹¹⁵CONSTITUCIÓN POLÍTICA DE LA REPÚBLICA DEL ECUADOR [CONSTITUTION] 2008, art. 3(5) (Ecuador).

¹¹⁶*Id.*

¹¹⁷Vanhulst & Beling, *supra* note 100, at 56.

¹¹⁸*Id.*

¹¹⁹Gudynas, *supra* note 105, at 443.

Chapter VII of Title II. Article 71 states that “[n]ature, or Pacha Mama, where life is reproduced and occurs, has the right to integral respect for its existence and for the maintenance and regeneration of its life cycles, structure, functions and evolutionary processes.”¹²⁰ Article 72 continues: “[n]ature has the right to be restored. This restoration shall be apart from the obligation of the State and natural persons or legal entities to compensate individuals and communities that depend on affected natural systems.”¹²¹ These provisions have earned acclaim for being pioneering, for they mark the first instance in which a national constitution explicitly recognizes nature as a right-holder.¹²²

Although the rights of nature may seem initially as being concerned exclusively with the well-being of the nature and environment rather than the Ecuadorians, the Constitutional Court of Ecuador has taken pains to dismantle this simplistic view and foreground the inherent interdependence between the well-being of nature and well-being of human beings. In a landmark decision delivered in November 2021, the Constitutional Court nullified the issuance of mining permits to Ecuador’s national mining company, Enami EP, for breaching the rights of nature granted to Los Cedros, a protected cloud forest in northwestern Ecuador.¹²³ The Constitutional Court rejected the view that the rights of nature were “mere ideals or rhetorical statements.”¹²⁴ Instead, “[t]he rights of nature protect ecosystems and natural processes for their intrinsic value, thus complementing the human right to a healthy and ecologically balanced environment. The rights of nature, like all constitutional rights, are fully justiciable and, consequently, judges are obligated to guarantee them.”¹²⁵

The Constitutional Court then proceeded to flesh out the substratum of the rights of nature. Recognizing that the “intrinsic valorization of nature is difficult to understand from a rigidly anthropocentric perspective, which conceives of human beings as the most valuable species,”¹²⁶ the rights of nature should be conceptualized in the following way: “the human being should not be the only subject of rights, nor the center of environmental protection. On the contrary, while recognizing specificities and differences, a complementarity is proposed between human beings, other species, and natural systems, given that, they integrate common life systems.”¹²⁷

The experience of Ecuador and Bolivia mirrors that of Bhutan. In all three cases, a pre-existing indigenous or socio-cultural conception of happiness or well-being is given constitutional expression. The very breadth and adaptability of these local expressions of well-being functioned as the impetus catalyzing their very enrichment through constitution-making and parliamentary law-making. Transnational influence can also be observed in the aftermath of the adoption of the Bolivian and Ecuadorian Constitutions. While the Bolivian Constitution is silent on the issue of whether the nature itself enjoys rights, the Bolivian National Assembly in 2010 passed the Law of Rights of Mother Earth,¹²⁸ and in 2012 the Framework Law of Mother Earth and Integral Development for Living Well,¹²⁹ recognizing in no uncertain terms the rights of mother earth, which include *inter alia* the right to life, diversity of life, water, clean air, balance, restoration, and pollution-free living.

¹²⁰CONSTITUCIÓN POLÍTICA DE LA REPÚBLICA DEL ECUADOR [CONSTITUTION] 2008, art. 71 (Ecuador).

¹²¹CONSTITUCIÓN POLÍTICA DE LA REPÚBLICA DEL ECUADOR [CONSTITUTION] 2008, art. 72 (Ecuador).

¹²²Craig M. Kauffman & Pamela L. Martin, *Can Rights of Nature Make Development More Sustainable? Why Some Ecuadorian Lawsuits Succeed and Others Fail*, 92 WORLD DEV. 130, 130 (2017).

¹²³CORTE CONSTITUCIONAL DEL ECUADOR [CONSTITUTIONAL COURT OF ECUADOR] Nov. 10, 2021, Sentencia No. 1149-19-JP/20 (Ecuador), translated in GLOBAL ALLIANCE FOR THE RIGHTS OF NATURE AND COMMUNITY ENVIRONMENTAL LEGAL DEFENSE FUND, <https://celdf.org/wp-content/uploads/2015/08/Los-Cedros-Decision-ENGLISH-Final.pdf> (Ecuador).

¹²⁴*Id.* at para. 35.

¹²⁵*Id.* at para. 337.

¹²⁶*Id.* at para. 48.

¹²⁷*Id.* at para. 50.

¹²⁸Ley N° 71, Ley de derechos de la madre tierra 2010 (Bol.).

¹²⁹Ley N° 300, Ley Marco De La Madre Tierra Y Desarrollo Integral Para Vivir Bien 2012 (Bol.).

E. The Constitutional Right to Pursuit of Happiness

The right to pursuit of happiness boasts an illustrious lineage, harking back to the United States Declaration of Independence of 1776, in which the right to life, liberty and pursuit of happiness were declared to be the inalienable rights of men. Despite its eventual exclusion from the United States Constitution, “giving way, in the Fifth Amendment’s due process clause, to a more sober concern for the rights of property,”¹³⁰ the right to pursuit of happiness has not receded into the background. In *Loving v. Virginia*, the United States Supreme Court held that “[t]he freedom to marry has long been recognized as one of the vital personal rights essential to the orderly pursuit of happiness by free men.”¹³¹ In *Meyer v. Nebraska*, where a Nebraska statute prohibiting the teaching of foreign language was invalidated, the Supreme Court, through the lens of the pursuit of happiness, defined liberty to mean:

... not merely freedom from bodily restraint but also the right of the individual to contract, to engage in any of the common occupations of life, to acquire useful knowledge, to marry, establish a home and bring up children, to worship God according to the dictates of his own conscience, and generally to enjoy those privileges long recognized at common law as essential to the orderly pursuit of happiness by free men.¹³²

The right to pursuit of happiness found early constitutional expression in the Liberian Constitution of 1847, a document that was heavily influenced by and patterned after the United States Constitution.¹³³ Article 1 proclaims that “all men are born equally free and independent, and have certain natural, inherent and unalienable rights; among which, are the rights of enjoying and defending life and liberty, of acquiring, possessing and protecting property and of pursuing and obtaining safety and happiness.”¹³⁴

Even though the 1847 Constitution would eventually be suspended and later superseded by the 1986 Constitution, the concept of happiness did not fade into obscurity. Article 1 of the 1986 Constitution announces that “All power is inherent in the people. All free governments are instituted by their authority and for their benefit and they have the right to alter and reform the same when their safety and happiness so require.”¹³⁵ Several constitutions have likewise recited the trinity of the right to life, liberty and pursuit of happiness, mostly in their preambles, including the Haitian Constitution of 1987,¹³⁶ the Namibian Constitution of 1990,¹³⁷ and Seychellois Constitution of 1993.¹³⁸

Shifting gears, a number of constitutions incorporate the right to pursuit of happiness directly into their operative articles. This raises, almost immediately, issues of justiciability and enforceability. Given the conceptual ambiguity that surrounds happiness, a recurring thread in this article, judges are more than likely to run into substantial difficulties in trying to identify the boundaries, nature, and contours of this right, all of which are essential prerequisites for effective

¹³⁰Joseph R. Grodin, *Rediscovering the State Constitutional Right to Happiness and Safety*, 25 HASTINGS CONST. LAW Q. 1, 1 (1997). See also CARLI N. CONKLIN, *THE PURSUIT OF HAPPINESS IN THE FOUNDING ERA: AN INTELLECTUAL HISTORY* (2019) (offering a more detailed history of the right to pursuit of happiness in the American context).

¹³¹388 U.S. 1, 12 (1967) (U.S.).

¹³²262 U.S. 390, 399 (1923) (U.S.).

¹³³See Albert P. Blaustein, *Our Most Important Export: The Influence of the United States Constitution Abroad*, 3 CONN. J. INT’L L. 15, 21–22 (1987); see also Shultziner & Carmi, *supra* note 10, at 469 (“Three more countries are small islands that were under the United States’ influence for an extended period of time, in addition to Liberia, whose legal and political system was founded by former slaves who emigrated from the United States in the nineteenth century and borrowed key elements from the United States Constitution.”).

¹³⁴CONSTITUTION OF LIBERIA 1847, art. 1.

¹³⁵CONSTITUTION OF LIBERIA 1986, art. 1.

¹³⁶CONSTITUTION DE LA RÉPUBLIQUE D’HAÏTI [CONSTITUTION] 1987, pmb. (Haiti).

¹³⁷CONSTITUTION OF NAMIBIA 1990, pmb.

¹³⁸CONSTITUTION DE LA RÉPUBLIQUE DES SEYCHELLES 1993, pmb.

enforcement. Indeed, if one subscribes to a broad understanding of happiness, be it in the hedonistic or eudaimonistic sense of the term, a wide spectrum of situations could easily be construed as violations of the right, ranging from the absence of sufficiently appetizing food to widespread rampant corruption. The adoption of a broad understanding coupled with rigorous enforcement of the right could therefore open a Pandora's box, prompting litigants to inundate and flood the courts with an assortment of trivial and potentially vexatious complaints. The very possibility of this conjecture materializing may be a strong reason why courts could be discouraged from recognizing the right as justiciable in the first place.

This section examines how the constitutional right to pursuit of happiness has been processed by courts, governmental institutions, and academics. It unravels the nuanced theories on the nature and boundaries of this right crafted by these actors, zeroing in on the constitutions of Japan and Korea, both of which explicitly enshrine a right to pursuit of happiness, and dissects the jurisprudential trajectory in respective context.

1. The Right to Pursuit of Happiness in the Japanese Constitution of 1947

Article 13 of the Japanese Constitution of 1947 provides that:

All of the people shall be respected as individuals. Their right to life, liberty, and the *pursuit of happiness* shall, to the extent that it does not interfere with the public welfare, be the supreme consideration in legislation and in other governmental affairs.¹³⁹

The genesis of this provision can be succinctly stated. The text was drafted largely under the direction of General Douglas MacArthur and the Supreme Commander of the Allied Powers (SCAP) staff after the end of World War II.¹⁴⁰ Indeed, American influence over the text and the drafting of the text was simply all-encompassing so much so that one commentator found it “difficult to conceive of any other single action of the Allied Occupation of Japan comparable in external or internal importance to the formulation of the new constitution.”¹⁴¹ This sheds light on the recurrent debate on whether the Japanese Constitution is an “imposed constitution.”¹⁴² The rights to life, liberty and the pursuit of happiness, a defining trinity of the United States Declaration of Independence, were written into the Japanese Constitution against such historical backdrop, as a product of pervasive American involvement.¹⁴³

While the right to pursuit of happiness itself is of foreign pedigree, two competing theories have emerged, both vying to illuminate its nature and contours. The first school of thought is the “general right to freedom of action theory,” rooted in German constitutional jurisprudence.¹⁴⁴ Article 2(1) of the German Basic Law stipulates that “Every person shall have the right to free development of his personality insofar as he does not violate the rights of others or offend against the constitutional order or the moral law.” Article 2(1) should be, as the German Federal Constitutional Court held in the *Elfes* case, “understood as freedom of action in the broadest

¹³⁹NIHONKOKU KENPŌ [KENPŌ] [CONSTITUTION] 1947, art. 13 (Japan) (emphasis added).

¹⁴⁰CHAIHARK HAHM & SUNG HO KIM, MAKING WE THE PEOPLE: DEMOCRATIC CONSTITUTIONAL FOUNDING IN POSTWAR JAPAN AND SOUTH KOREA (2015).

¹⁴¹Robert E. Ward, *The Origins of the Present Japanese Constitution*, 50 AM. POL. SCI. REV. 980, 1008 (1956).

¹⁴²David S. Law, *Imposed Constitutions and Romantic Constitutions*, in THE LAW AND LEGITIMACY OF IMPOSED CONSTITUTIONS (Richard Albert, Xenophon Contiades & Alkmene Fotiadou eds., 2019) (arguing that “the *Kenpō* has, from the outset, enjoyed strong popular support and, in that sense, was never truly ‘imposed’ upon the Japanese people”).

¹⁴³Giorgio Fabio Colombo, *The Right to Pursue Happiness and Japanese Legal Culture: The Hunting of the Snark*, 13 J. COMP. L. 33, 35 (2018).

¹⁴⁴RES. COMM’N ON THE CONST. OF THE H.R. OF JAPAN, FINAL REP. 388, [https://www.shugiin.go.jp/internet/itdb_kenpou.nsf/html/kenpou/report.pdf/\\$File/report.pdf](https://www.shugiin.go.jp/internet/itdb_kenpou.nsf/html/kenpou/report.pdf/$File/report.pdf) (2005).

sense.”¹⁴⁵ Borrowing the German line of reasoning, some argue that the protection afforded by the right to pursuit of happiness should encompass almost all human activities, regardless of their value, importance, and essentiality to the development of one’s personality.

The second and prevailing school of thought is the “personal interest theory.” According to Nobuyoshi Ashibe, a towering figure in Japanese constitutional law, the right to pursuit of happiness does *not* protect all spheres of human activity. Instead, it only safeguards those that are essential and necessary to the development of one’s personality.¹⁴⁶ This theory presupposes that “people as personal entities [have] character and morality,”¹⁴⁷ and accordingly only those activities that are deemed valuable to the development of one’s character are worthy of protection. This constitutes an intrinsic limit on the scope of protection available under Article 13.

In a decision delivered in August 2022, the Takamatsu District Court upheld the constitutionality of a piece of Kagawa prefectural law which imposes restrictions on the time that minors are allowed to play online games.¹⁴⁸ Among the constitutional arguments raised by the claimants is the assertion that the law infringes upon the right to pursue happiness, particularly the derivative right to self-determination. The Court showed no sympathy toward this argument, opining that playing online games was not a pursuit essential to one’s personality and therefore did not warrant protection under Article 13.¹⁴⁹

The right to pursuit of happiness is frequently invoked as the doctrinal bedrock under which what is termed “new human rights”—rights that are not explicitly enumerated in the Constitution but are deemed worthy of legal protection—are derived.¹⁵⁰ Within this doctrinal rubric, new human rights proffered thus far include for example the right to a healthy environment, right to privacy, right to sunshine, right to tranquility, right to beach, right to information, right not to smoke, right to health, and right to self-determination.¹⁵¹ As far as the derivative right to self-determination is concerned, there are suggestions to the effect that it ought to encompass, further down the line, the rights to decide whether to marry, whether to have children, one’s appearance and outfit, and to refuse medical treatment.¹⁵²

Japanese courts, counting the Supreme Court of Japan (SCJ), have exhibited a noticeable hesitation to imbue the right to pursuit of happiness with strong legal bite. As one commentator said, the courts “largely agree that such right is just a little more than a mere declaration of intent, with no prescriptive value in itself, but only in combination of the rest of the article.”¹⁵³ Likewise, whilst a number of “new human rights” have been posited under Article 13, not all of them have garnered authoritative acknowledgment from the courts, with the right to portrait, viewed as a facet of the right to privacy, standing out as an exception. In the *Student Union of Kyoto Prefecture Case* dated 24 December 1969, the SCJ was asked to consider the constitutionality of a police officer photographing a citizen during a demonstration. The SCJ ruled, invoking Article 13, that the citizens’ freedom in private life should be protected against the intrusion of state power, including police power. As part and parcel of the freedom in private life, citizens also had the right not to have his or her face or appearance photographed without consent or good reason.¹⁵⁴ In the

¹⁴⁵Bundesverfassungsgericht [BVerfG] [Federal Constitutional Court], 1 BvR 253/56, Jan. 16, 1957, https://www.bundesverfassungsgericht.de/SharedDocs/Entscheidungen/EN/1957/01/rs19570116_1bvr025356gen.html (Ger.).

¹⁴⁶NOBUYOSHI ASHIBE, KENPŌ [CONSTITUTIONAL LAW] 130 (Li Hông-hi trans., 2015).

¹⁴⁷RES. COMM’N ON THE CONST. OF THE H.R. OF JAPAN, *supra* note 144, at 388.

¹⁴⁸Takamatsu Chihō Saibansho [Takamatsu Dist. Ct.] Aug. 30, 2022, Reiwa 2 (wa 7) no. 339, SAIBANSHO SAIBANREI JŌHŌ [SAIBANSHO WEB.] 1, 43–44, <http://www.courts.go.jp> (Japan).

¹⁴⁹*Id.*

¹⁵⁰ASHIBE, *supra* note 146, at 131.

¹⁵¹*Id.*

¹⁵²*Id.* at 134.

¹⁵³Colombo, *supra* note 143, at 38.

¹⁵⁴Saikō Saibansho [Sup. Ct.] Dec. 24, 1969, Showa 40 (A ㊟) no. 1187, 23 SAIKŌ SAIBANSHO KEIJI HANREISHŪ [KEISHŪ] 162 (Japan).

Fingerprint Case, the SCJ concluded that the freedom in private life under Article 13 included the freedom not to be compelled to undergo compulsory fingerprinting in the absence of due cause.¹⁵⁵

Perhaps one of the most contentious Article 13 decisions rendered by the SCJ is the 2015 *Surname Case*. There, Article 750 of the Japanese Civil Code came under constitutional fire. The provision reads “[a] husband and wife shall adopt the surname of the husband or wife in accordance with that which is decided at the time of marriage.”¹⁵⁶ Dismissing the challenge, the SCJ held that, whilst “a person’s name should be held to form part of personal rights,” the “freedom from being *forced* to change one’s surname at the time of marriage cannot be regarded as part of personal rights that are guaranteed as constitutional rights.”¹⁵⁷ The identical issue was re-litigated before the SCJ again in 2021. The claimants cited to changes in social circumstances, including increased female employment, as evidence in support of their bid to overturn the earlier decision. Despite their strenuous efforts, the SCJ remained unmoved.¹⁵⁸

Manifest judicial reluctance toward robust enforcement notwithstanding, the right has not been confined entirely to obscurity. Other constitutional actors have proactively engaged with and elicited assistance from the right in separate endeavors. Consider how the right has been marshaled to substantiate the reinterpretation of Article 9 of the Japanese Constitution, commonly known as the “pacifist clause.”¹⁵⁹ Under Article 9, the Japanese people unequivocally “renounce war as a sovereign right of the nation,” and the “threat or use of force as means of settling international disputes” was outlawed conclusively.¹⁶⁰ The provision has been subject to multiple rounds of reinterpretation by the executive. In one earlier executive interpretation, Article 9 was construed to render permissible for Japan to undertake self-defense measures under specified conditions, including where self-defense measures are “inevitable for dealing with imminent unlawful situations where the people’s right to life, liberty and the pursuit of happiness is fundamentally overturned due to an armed attack by a foreign country.”¹⁶¹ A 2014 executive decision stretched the above interpretation further in order to broaden the range of circumstances under which Japan may lawfully resort to the use of force, once again invoking the right to pursuit of happiness. According to the decision, self-defense measures can be taken in the event of an attack on a *foreign* country in a close relationship with Japan which poses similarly clear danger to the Japanese peoples’ right to life, liberty and pursuit of happiness.¹⁶² This decision paved way for the eventual passage of the Peace and Security Legislation authorizing the Japanese Self-Defence Force to engage in overseas collective self-defense in 2015.¹⁶³

Japan furnishes an example under which the hitherto alien legal notion of the right to pursuit of happiness made an abrupt entry into the Japanese legal landscape. American pedigree notwithstanding, sophisticated jurisprudential theories on the nature and limits of the right soon ushered in, injecting a splash of complexity to the constitutional narrative. Such jurisprudential and interpretive evolution is propelled, galvanized and animated by the distinct yet

¹⁵⁵Saikō Saibansho [Sup. Ct.] Dec. 15, 1995, Heisei 2 (Aあ) no. 848, 49 SAIKŌ SAIBANSHO KEIJI HANREISHŪ [KEISHŪ] 842 (Japan).

¹⁵⁶Minpō [Civ. C.] 1896, art. 750 (Japan).

¹⁵⁷Saikō Saibansho [Sup. Ct.] Dec. 16, 2015, Heisei 26 (Oオ) no. 1023, 69 SAIKŌ SAIBANSHO MINJI HANREISHŪ [MINSHŪ] 2586 (Japan).

¹⁵⁸Saikō Saibansho [Sup. Ct.] Jun. 23, 2021, Reiwa 2 (kuク) no. 102, 266 SAIKŌ SAIBANSHO SAIBANSHŪ MINJI [SHŪMIN] 1 (Japan).

¹⁵⁹Gavan McCormack, *Japan’s “Positive Pacifism”: Issues of Historical Memory in Contemporary Foreign Policy*, 20 BROWN J. WORLD AFFS. 73, 73 (2014).

¹⁶⁰NIHONKOKU KENPŌ [KENPŌ] [CONSTITUTION] 1947, art. 9 (Japan).

¹⁶¹MINISTRY OF DEFENSE OF JAPAN, DEFENSE OF JAPAN (ANNUAL WHITE PAPER) 216 (2021) (Japan).

¹⁶²CABINET DECISION ON DEVELOPMENT OF SEAMLESS SECURITY LEGISLATION TO ENSURE JAPAN’S SURVIVAL AND PROTECT ITS PEOPLE, MINISTRY OF FOREIGN AFFAIRS OF JAPAN (July 1, 2014), https://www.mofa.go.jp/fp/nsp/page23e_000273.html (Japan).

¹⁶³Hitoshi Nasu, *Japan’s 2015 Security Legislation: Challenges to its Implementation under International Law*, 92 INT’L L. STUD. 249 (2016).

concerted efforts of courts, governmental institutions and the academia, and these efforts helped breathe life into and preserve the contemporary relevance of an otherwise aspirational statements.

II. The Right to Pursuit of Happiness in the South Korean Constitution of 1987

Like its East Asian neighbor, the South Korean Constitution also inscribes a right to pursuit of happiness. Article 10 provides that:

All citizens shall be assured of human worth and dignity and have the *right to pursuit of happiness*. It shall be the duty of the State to confirm and guarantee the fundamental and inviolable human rights of individuals.¹⁶⁴

The right did not secure a berth in the original 1948 version of the Constitution, adopted in the same year that South Korea was established. Its incorporation only came about as a result of the eighth revision of the 1948 Constitution in 1980, orchestrated by military dictator Chun Doo-hwan. According to Lim, the move was a purposeful mimicry of the parallel provision in the Japanese Constitution, aimed at bolstering the country's frail democratic credentials and legitimizing the military regime.¹⁶⁵ This resembles a kind of constitutional borrowing in service of superficial embellishment and window dressing. Hahm, on the other hand, suggested that the right, which was appended to the preceding dignity clause, served in part to “respond to the complaint that the provision on human dignity by itself was too vague and abstract.”¹⁶⁶

Very much like their Japanese counterparts, Korean scholars have produced dense and sophisticated discourse unpacking the nuances of the right to pursuit of happiness. Some scholars dismiss the right as nothing more than “a mere ethical proclamation”¹⁶⁷ devoid of substantive legal significance. Others posit that the right safeguards the “German-inspired” notion of “general freedom of action,” a viewpoint waning in popularity in Japan.¹⁶⁸ These academic debates have infiltrated and are canvassed in the jurisprudence of the Constitutional Court of Korea (CCK). In fact, the CCK has wasted little time constructing a rich corpus of decisions on the right, driven in part by the high frequency of its invocation in pleadings. Indeed, much like the dignity clause, the happiness clause was treated as “a fallback, a catch-all provision by almost everyone claiming violation of his or her constitutional rights.”¹⁶⁹

The dismissive position taken by some scholars that the right is a non-justiciable declaration of intent has largely fallen out of favor.¹⁷⁰ Scholars and judges now agree that the right to pursuit of happiness, alongside the right to human dignity, is a comprehensive meta-right that guides the interpretation of and underpins various other individual rights and freedoms. In the *Discrimination of Second-Generation Patients of Defoliant Exposure Case*, the CCK, embracing the language of the “general freedom of action” theory, declared in no uncertain terms that:

The right to pursue happiness provided in Article 10 of the Constitution does not indicate the right of citizens to actively demand benefits required to pursue happiness from the state, but the right to liberty in the broad sense that citizens are entitled to act freely without being intervened by state powers in pursuing their happiness.¹⁷¹

¹⁶⁴DAEHANMINKUK HUNBEOB [HUNBEOB] [CONSTITUTION] 1987, art. 10 (S. Kor.) (emphasis added).

¹⁶⁵Jibong Lim, *Pursuit of Happiness Clause in the Korean Constitution*, 1 J. KOREAN L. 71, 75 (2001).

¹⁶⁶Chaihark Hahm, *Constitutional Discourse on Human Dignity in South Korea*, in HUMAN DIGNITY IN ASIA 63 (Jimmy Chia-Shin Hsu ed., 2022).

¹⁶⁷*Id.* at 66.

¹⁶⁸*Id.* These debates are summarized in Lim, *supra* note 165, at 76–79.

¹⁶⁹Hahm, *supra* note 166, at 65.

¹⁷⁰Lim, *supra* note 165, at 79.

¹⁷¹Hunbeobjaepanso [Const. Ct.], Apr. 24, 2014, 2011Hun-Ba228 (S. Kor.).

The right has two interrelated dimensions: the right to general freedom of action, and the right to free development of personality.¹⁷² Consider first the right to general freedom of action. The CCK has held that the right to general freedom of action safeguards not only those actions that are valuable or essential to the development of one's personality, in contradistinction to the Japanese position, but also covers matters of one's lifestyle and hobbies, and protects even the right to live a risky lifestyle.¹⁷³ This can be illustrated through a CCK case that is analogous to the Takamatsu District Court case on the temporal limitation on access to online games. In the *Case on Prohibition of Nighttime Access to Online Games by Juveniles*,¹⁷⁴ the complainants challenged the constitutionality of the relevant provisions in the Juvenile Protection Act banning juveniles from accessing online games between midnight and 6 a.m., otherwise known as the "shutdown law." The majority opined that the right to pursuit of happiness encompasses, "in specific terms, the right to general freedom of action and free development of personality, and the protection of general freedom of action also involves the protection of one's lifestyle and hobbies."¹⁷⁵ Restriction on night-time access to online games therefore *prima facie* infringed upon the juveniles' right to general freedom of action. Despite this finding, the majority proceeded to dismiss the complaint. In contrast to the Takamatsu District Court, which based its conclusion on the premise that playing online games was not a protected interest such that the right to pursuit of happiness was not engaged in the first place, the shutdown law survived constitutional muster because it satisfied the proportionality test. The majority concluded that the law struck a reasonable balance between the relatively modest burden imposed on juveniles and the societal benefits yielded from reduced social costs linked to internet gaming addiction. The shutdown law would eventually be scrapped in 2021.¹⁷⁶

The right to "general freedom of action" comprises both a "positive" right to act and a "negative" right not to act in order to achieve "happiness".¹⁷⁷ In the *Seatbelt Case*, the Court held that the right to general freedom of action was rooted in the idea that a free and rational individual was capable of deciding whether or not to engage in an act, for he or she could take care of his or her own affairs. That is why the right to general freedom of action also encompassed the right to live in a dangerous way, under which the right not to wear seatbelts fell. That said, the impugned mandatory seatbelt law would eventually be upheld as proportionate and constitutional.¹⁷⁸

In the *Constitutionality of the Police Action Blocking Passage to Seoul Plaza Case*,¹⁷⁹ the CCK wrestled with the issue of whether the blockade amounted to an unconstitutional restriction on the complainant's positive right to act. The majority sided with the complainant, ruling that a limitation on the use of a property earmarked for public passage, recreational, and cultural purposes, coupled with the obligation to seek user permission, constituted an undue encroachment on the right to general freedom of action. The general freedom of action likewise undergirds the freedom to contract,¹⁸⁰ and the workers' freedom *not* to organize and *not* to be forced to join a labor union.¹⁸¹ In the *Family Ritual Standards Act Case*, the CCK invalidated a statute prohibiting the service of alcohol and food to wedding guests on the same ground.¹⁸²

¹⁷²NAKIN SUNG, HUNBEOB HAK [CONSTITUTIONAL LAW] 294 (2005); and HA-YURL KIM, HUNBEOB KANGUI [CONSTITUTIONAL LAW] 308 (4th ed. 2021).

¹⁷³Hunbeobjaepanso [Const. Ct.], Oct. 30, 2003, 2002Hun-Ma518 (S. Kor.).

¹⁷⁴Hunbeobjaepanso [Const. Ct.], Apr. 24, 2014, 2011Hun-Ma659 & 683 (consol.) (S. Kor.).

¹⁷⁵*Id.*

¹⁷⁶Bahk Eun-ji, *Korea to Lift Game Curfew for Children*, KOREAN TIMES (Aug. 25, 2021), https://www.koreatimes.co.kr/www/tech/2021/08/134_314499.html?fl.

¹⁷⁷Hunbeobjaepanso [Const. Ct.], Jun. 30, 2011, 2009Hun-Ma406 (S. Kor.).

¹⁷⁸Hunbeobjaepanso [Const. Ct.], Oct. 30, 2003, 2002Hun-Ma518 (S. Kor.).

¹⁷⁹Hunbeobjaepanso [Const. Ct.], Jun. 30, 2011, 2009Hun-Ma406 (S. Kor.).

¹⁸⁰Hunbeobjaepanso [Const. Ct.], Sept. 29, 2011, 2007Hun-Ma1083, 2009Hun-Ma230 & 352 (consol.) (S. Kor.).

¹⁸¹Hunbeobjaepanso [Const. Ct.], Nov. 24, 2005, 2002Hun-Ba95 & 96, 2003Hun-Ba9 (consol.) (S. Kor.).

¹⁸²Hunbeobjaepanso [Const. Ct.], Oct. 15, 1998, 98Hun-Ma168 (S. Kor.).

All being said, skepticism toward the right's breadth remains well and alive within the Court. That is why the CCK has formulated constraints in order to prevent its otherwise unchecked expansion. The Court has repeatedly emphasized that the right to pursuit of happiness will only be relied upon *directly* in the absence of more specific individual rights, such as the right to freedom of expression, which might be relevant and pleaded at bar.¹⁸³ In other words, "the right to pursue happiness is the *supplementary* basic right for other specified basic rights."¹⁸⁴

Some Justices have sounded a note of caution against the view that the right to general freedom of action ought to protect all spheres of human activity. In the *Case on the Act on the Punishment of Commercial Sex Acts*, where the criminalization of sex trafficking was challenged, Justices Lee Jung-Mi and Ahn Chang-Ho wrote in their concurring opinion that:

Protecting all human actions that surrender to sensation or desire, instead of rationality, within the framework of the Constitution would indicate that all sorts of socially harmful crimes can be protected if they have been committed under human instinct. This will throw the entire society into disorder and chaos, and make the lives of its members unhappy. The right to pursue happiness should be based on the protection of values shared among members of society and the rational constraint required to enable this. Any desires that are swayed by uncontrolled instinct, thus damaging the values pursued by the community, and the actions that realize such desires, cannot be protected by the right to pursue happiness.¹⁸⁵

They concluded that:

The sexual self-determination protected by the Constitution derives from liberation from sexual violence, exploitation and oppression. It is highly questionable whether sex trafficking, which commercializes sex and treats it as an object to be traded, and harms a sound sexual culture and sexual morality of society, should be protected within the constitutional framework of 'sexual self-determination.'¹⁸⁶

In the *Adultery Case* of 2015, where the CCK ruled effectively to decriminalize adultery,¹⁸⁷ Justices Lee Jung-Mi and Ahn Chang-Ho penned a dissent echoing their concurring opinion above:

Nonetheless, the act of adultery committed by a married person is not included in the realm of the protected individual right to sexual self-determination, because such an act would violate the marital fidelity despite he/she chose marriage as a social system and thereby damages the social and legal system, which is marriage based on monogamy, having a destructive impact on the family community Nevertheless, an act of adultery or fornication that infringes on the legal interests of others or community, beyond his/her own boundary, would depart from the inherent limitation of the right to sexual self-determination.¹⁸⁸

Consider next the second dimension of the right to pursuit of happiness, the derivative right to free development of personality, which operates to safeguard the basic conditions for personal

¹⁸³Hunbeobjaepanso [Const. Ct.], Dec. 14, 2000, 99Hun-Ma112 (S. Kor.).

¹⁸⁴Hunbeobjaepanso [Const. Ct.], Aug. 28, 2014, 2011Hun-Ba32, 2011Hun-Ka18, 2012Hun-Ba185 (consol.) (S. Kor.).

¹⁸⁵Hunbeobjaepanso [Const. Ct.], Mar. 31, 2016, 2013Hun-Ka2 (S. Kor.).

¹⁸⁶*Id.*

¹⁸⁷Hunbeobjaepanso [Const. Ct.], Feb. 26, 2015, 2009Hun-Ba17 & 205, 2010Hun-Ba194, 2011Hun-Ba4, 2012Hun-Ba57 & 255 & 411, 2013Hun-Ba139 & 161 & 267 & 276 & 342 & 365, 2014Hun-Ba53 & 464, 2011Hun-Ka31, 2014Hun-Ka4 (consol.) (S. Kor.).

¹⁸⁸Hunbeobjaepanso [Const. Ct.], Feb. 26, 2015, 2011Hun-Ba31 (consol.) (S. Kor.).

identity and autonomy.¹⁸⁹ The right to pursuit of happiness, together with the adjacent right to dignity, furnish the doctrinal substratum on which the German-style “general right to personality” was recognized and anchored.¹⁹⁰ In the *Case on Placing Limitation on Number of Transfer of Workplace by Foreign Workers*, the CCK stated that the right to pursuit of happiness, “when concretely expressed, includes the general freedom of action and the right to free development of personality.”¹⁹¹ In the *Adultery Case*, the CCK further declared that the right to free development of personality encapsulated the right to self-determination, and that the latter “connotes the right to sexual self-determination that is the freedom to choose sexual activities and partners.”¹⁹² In the *Case on Public Announcement of List of Successful Candidates for National Bar Examination*, the CCK affirmed that it is possible to deduce the right to self-determination in relation to one’s personal information from Article 10, which encompasses “the right that the information holder can determine on his/her own as to when, to whom, and to what extent his/her personal information can be disclosed and used.”¹⁹³

Much like a functional equivalent of Article 13 of the Japanese Constitution, the right to pursuit of happiness in the Korean Constitution supplies “an independent source of justiciable rights, for example, of rights not enumerated in the already fairly extensive bill of rights part of the Constitution.”¹⁹⁴ It operates as the standard for determining what are the rights that can legitimately be recognized via Article 37(1), which confirms that “[f]reedoms and rights of citizens shall not be neglected on the grounds that they are not enumerated in the Constitution.”¹⁹⁵ The CCK has demonstrated a notable willingness to recognize unenumerated rights. For instance, in the *Case of the Date of the First Phase of the Judicial Examination*, the decision to schedule judicial examinations on a Sunday was challenged on the basis that it violated, among others, the right to rest, which lacks explicit textual support in the Korean Constitution. Whilst the claimant did not emerge victorious, the CCK did affirm that the right to rest could be derived from the right to pursuit of happiness via Article 37(1).¹⁹⁶ Other unenumerated rights proffered include the right to life, sleep, sunshine, and sports etc.¹⁹⁷

Examining how Japan and Korea approach constitutionalizing the pursuit of happiness in parallel, a host of similarities become immediately apparent. First, constitutionalization unfolded against the backdrop of transnational influence, albeit to varying extents. Article 13 of the Japanese Constitution is a product of direct American involvement in the making of the text, whilst deliberate domestic replication gave birth to the right in Article 10 of the Korean Constitution. Second, German constitutional jurisprudence—in particular, the general right to freedom of action—offered a doctrinal lens that structured the jurisprudential debates on the parameters of the right. Third, the right functions as the source of unenumerated rights and the right to self-determination. It resembles what former President of the Israeli Supreme Court Aharon Barak called a “framework right” or “mother right”—a right at a higher level of generality that supplies a “common roof” below which “daughter rights” of a lower level of generality can be derived.¹⁹⁸

In conclusion, the trajectory of the right to pursuit of happiness in the Japanese and Korean constitutional landscape illustrates how a foreign legal concept or constitutional provision can be migrated and domesticated. Whilst the American pedigree continues to loom large in the

¹⁸⁹KIM, *supra* note 172, at 308.

¹⁹⁰Hahm, *supra* note 166, at 68.

¹⁹¹Hunbeobjaepanso [Const. Ct.], Sept. 29, 2011, 2007Hun-Ma1083, 2009Hun-Ma230 & 352 (consol.) (S. Kor.).

¹⁹²Hunbeobjaepanso [Const. Ct.], Feb. 26, 2015, 2011Hun-Ba31 (consol.) (S. Kor.).

¹⁹³Hunbeobjaepanso [Const. Ct.], Mar. 26, 2020, 2018Hun-Ma77 & 283 & 1024 (consol.) (S. Kor.).

¹⁹⁴Chaihark Hahm, *Law, Culture, and the Politics of Confucianism*, 16 COLUM. J. ASIAN L. 253, 283 (2002).

¹⁹⁵DAEHANMINKUK HUNBEOB [HUNBEOB] [CONSTITUTION] 1987, art. 37(1) (S. Kor.).

¹⁹⁶Hunbeobjaepanso [Const. Ct.], Sept. 27, 2001, 2000Hun-Ma159 (S. Kor.).

¹⁹⁷SUNG, *supra* note 172, at 294.

¹⁹⁸AHARON BARAK, HUMAN DIGNITY: THE CONSTITUTIONAL VALUE AND THE CONSTITUTIONAL RIGHT 156–57 (2015).

background, it eventually yielded to more complex jurisprudential theories developed by and actively contested among courts, governmental institutions, and academics. This demonstrates that the meaning of constitutionalized happiness is and has not been fixated in time, let alone space. Rather, its malleability and adaptability endow it with the capacity to evolve over time so as to accommodate changing social and political landscapes. The Korean example also exemplifies how a window-dressing provision could be repurposed and transformed by judges into a robust tool to identify and rectify constitutional illegality.

F. Conclusion

Happiness has since time immemorial wielded profound influence over the trajectory of law and politics. Mounting enthusiasm in recent decades toward the notion that happiness can be harnessed to devise public policies has rekindled and intensified interest in theorizing and transforming into actionable programs the intricate interplay between happiness, law, and politics. The fact that happiness has secured the pride of place in myriad codified constitutions, a phenomenon which I term “constitutionalization of happiness,” is one such manifestation.

This article is an original attempt to explore the universe of the constitutionalization of happiness. It analyzes all constitutional provisions in force as of 2022 that contain either or both of the terms happiness and well-being, and this audit reveals that they boil down to three categories—happiness as a national objective, happiness as a policy paradigm, and the pursuit of happiness as a human right. The meaning and jurisprudential landscape of happiness provisions in a specific constitutional framework is molded by, on top of the semantic and structural configuration, a dynamic interplay among three factors, which include the indigenous and socio-cultural conception of happiness of that state, interpretations put forward by judges and other constitutional actors, and transnational influences such as the migration of constitutional ideas and jurisprudence.

Presenting a constitutional account of happiness is the central thrust of this article. This means that it inevitably falls short of addressing other interesting questions about the relationship between constitutions and happiness, among which includes the empirical relationship, if any, between the two. Indeed, as early as 1951, Karl Loewenstein questioned whether “the constitution [is] instrumental for the pursuit of happiness of the people.”¹⁹⁹ This question echoes a recurrent theme that has occupied scholars in comparative constitutional law for many years—the incongruence between the text and practice. Future research should address the empirical relationship between happiness provisions, or more generally the different types of constitutional arrangements, and the actual level of happiness of citizens. It is worth noting that prior studies have found evidence that democratic institutions²⁰⁰ and economic freedoms²⁰¹ are robust predictors of happiness or subjective well-being. To fully harness the potential of constitutions as an engine to promote happiness, research into the “constitutional determinants” of happiness should take center stage.

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¹⁹⁹Karl Loewenstein, *Reflections on the Value of Constitutions in Our Revolutionary Age*, in CONSTITUTIONS AND CONSTITUTIONAL TRENDS SINCE WORLD WAR II: AN EXAMINATION OF SIGNIFICANT OF POSTWAR PUBLIC LAW WITH PARTICULAR REFERENCE TO THE CONSTITUTIONS OF WESTERN EUROPE 191 (Arnold J. Zurcher ed., 1951).

²⁰⁰Bruno S. Frey & Alois Stutzer, *Happiness Prospers in Democracy*, 1 J. HAPPINESS STUD. 79 (2000).

²⁰¹Rok Spruk & Aleskandar Kešeljević, *Institutional Origins of Subjective Well-Being: Estimating the Effects of Economic Freedom on National Happiness*, 17 J. HAPPINESS STUD. 659 (2016).

APPENDIX: SELECTED HAPPINESS PROVISIONS IN NATIONAL CONSTITUTIONS IN FORCE AS OF 2022²⁰²

Constitution of Angola (2010)	Article 21(d): The fundamental tasks of the Angolan state shall be . . . to promote the well-being, social solidarity and improved quality of life for the people of Angola, specifically amongst the most deprived groups of the population.
Constitution of Armenia (1995)	Preamble: The Armenian People, accepting as a basis the fundamental principles of Armenian statehood and pan-national aspirations enshrined in the Declaration on the Independence of Armenia, having fulfilled the sacred behest of its freedom-loving ancestors to restore the sovereign state, dedicated to the strengthening and prosperity of the fatherland, with the aim of ensuring the freedom, general well-being, and civic solidarity of the generations, and affirming its commitment to universal values, adopts the Constitution of the Republic of Armenia.
Constitution of Azerbaijan (1995)	Article 16(1): The Republic of Azerbaijan ensures the improvement of the well-being of the people and every citizen, their social protection and normal living standard. Article 35(1): I. Work is the basis of individual and social well-being.
Constitution of Bhutan (2008)	Preamble: WE, the people of Bhutan . . . solemnly pledging ourselves to strengthen the sovereignty of Bhutan, to secure the blessings of liberty, to ensure justice and tranquility and to enhance the unity, happiness and well-being of the people for all time. Article 9(2): The State shall strive to promote those conditions that will enable the pursuit of Gross National Happiness. Article 20(1): The Government shall protect and strengthen the sovereignty of the Kingdom, provide good governance, and ensure peace, security, well-being and happiness of the people.
Constitution of Bolivia (2009)	Article 8(1): The State adopts and promotes the following as ethical, moral principles of the plural society: <i>ama qhilla</i> , <i>ama llulla</i> , <i>ama suwa</i> (do not be lazy, do not be a liar or a thief), <i>suma qamaña</i> (live well), <i>ñandereko</i> (live harmoniously), <i>teko kavi</i> (good life), <i>ivi maraei</i> (land without evil) and <i>qhapaq ñan</i> (noble path or life).
Constitution of Bulgaria (1991)	Article 24(2): The foreign policy of the Republic of Bulgaria shall have as its highest objective the national security and independence of the country, the well-being and the fundamental rights and freedoms of the Bulgarian citizens, and the promotion of a just international order.
Constitution of Colombia (1991)	Article 366: The general well-being and improvement of the population's quality of life are social purposes of the State. A basic objective of their activity shall be to address the unfulfilled public health, educational, environmental, and drinking water needs of those affected.
Constitution of Costa Rica (1949)	Article 57: All workers have the right to a minimum salary, fixed periodically, for a normal working day, that procures them well-being and dignified existence. The salary will always be equal for equal work in identical conditions of efficiency.
Constitution of Cuba (2019)	Article 45: The exercise of these rights of the people are only limited by the rights of others, collective security, general well-being, respect for public order, the Constitution, and the law.

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²⁰²The provisions are extracted from the Constitute website, <https://constituteproject.org/>. Only the happiness provisions that have been referred to or discussed in the main text are excerpted.

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Constitution of Ecuador (2008)	<p>Preamble: We women and men, the sovereign people of Ecuador . . . hereby decide to build . . . [a] new form of public coexistence, in diversity and in harmony with nature, to achieve the good way of living, the <i>sumak kawsay</i>.</p> <p>Article 3(5): The State's prime duties are . . . planning national development, eliminating poverty, and promoting sustainable development and the equitable redistribution of resources and wealth to enable access to the good way of living.</p> <p>Article 71: Article 71 Nature, or Pacha Mama, where life is reproduced and occurs, has the right to integral respect for its existence and for the maintenance and regeneration of its life cycles, structure, functions and evolutionary processes. All persons, communities, peoples and nations can call upon public authorities to enforce the rights of nature. To enforce and interpret these rights, the principles set forth in the Constitution shall be observed, as appropriate. The State shall give incentives to natural persons and legal entities and to communities to protect nature and to promote respect for all the elements comprising an ecosystem.</p> <p>Article 72: Nature has the right to be restored. This restoration shall be apart from the obligation of the State and natural persons or legal entities to compensate individuals and communities that depend on affected natural systems. In those cases of severe or permanent environmental impact, including those caused by the exploitation of nonrenewable natural resources, the State shall establish the most effective mechanisms to achieve the restoration and shall adopt adequate measures to eliminate or mitigate harmful environmental consequences</p>
Constitution of Eswatini (2005)	<p>Preamble: Whereas as a Nation we desire to march forward progressively under our own constitution guaranteeing peace, order and good government, and the happiness and welfare of ALL our people.</p> <p>Article 59(1): The State shall take all necessary action to ensure that the national economy is managed in such a manner as to maximise the rate of economic development and to secure the maximum welfare, freedom and happiness of every person in Swaziland and to provide adequate means of livelihood and suitable employment and public assistance to the needy.</p>
Constitution of Ghana (1992)	<p>Article 36(1): The State shall take all necessary action to ensure that the national economy is managed in such a manner as to maximize the rate of economic development and to secure the maximum welfare, freedom and happiness of every person in Ghana and to provide adequate means of livelihood and suitable employment and public assistance to the needy.</p>
Constitution of Guinea-Bissau (1984)	<p>Article 11(2): The economic and social organization of Guinea-Bissau has as objective the continuous promotion of its people's well-being and the elimination of all forms of subjection of human beings to degrading interests, for the benefit of individuals, groups or classes.</p>
Constitution of Guyana (1980)	<p>Article 21: The source of the growth of social wealth and of the well-being of the people, and of each individual, is the labour of the people.</p>
Constitution of Haiti (1987)	<p>Preamble: The Haitian people proclaim this Constitution . . . to guarantee their inalienable and imprescriptible rights to life, to liberty and to the pursuit of happiness; in accordance with their Act of Independence of 1804 and with the Universal Declaration of the Rights of Man of 1948.</p> <p>Article 247: Agriculture, which is the main source of the Nation's wealth, is a guarantee of the wellbeing of the people and the socio-economic progress of the Nation.</p>
Constitution of Honduras (1982)	<p>Article 1: Honduras is a State of law, sovereign, constituted as a free, democratic and independent republic to ensure its inhabitants the enjoyment of justice, liberty, culture, and social and economic well-being.</p>

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Constitution of Iceland (1944)	Article 76: The law shall guarantee for everyone the necessary assistance in case of sickness, invalidity, infirmity by reason of old age, unemployment and similar circumstances. The law shall guarantee for everyone suitable general education and tuition. For children, the law shall guarantee the protection and care which is necessary for their well-being.
Constitution of Japan (1947)	Article 13: All of the people shall be respected as individuals. Their right to life, liberty, and the pursuit of happiness shall, to the extent that it does not interfere with the public welfare, be the supreme consideration in legislation and in other governmental affairs.
Constitution of Kenya (2010)	Preamble: We, the people of Kenya . . . committed to nurturing and protecting the well-being of the individual, the family, communities and the nation.
Constitution of Liberia (1986)	Article 1: All power is inherent in the people. All free governments are instituted by their authority and for their benefit and they have the right to alter and reform the same when their safety and happiness so require. In order to ensure democratic government which responds to the wishes of the governed, the people shall have the right at such period, and in such manner as provided for under this Constitution, to cause their public servants to leave office and to fill vacancies by regular elections and appointments.
Constitution of Mexico (1917)	Article 4: Any person has the right to a healthy environment for his/her own development and well-being. The State will guarantee the respect to such right. Environmental damage and deterioration will generate a liability for whoever provokes them in terms of the provisions by the law.
Constitution of Mozambique (2004)	Article 109(3): As a universal means for the creation of wealth and of social well being, the use and enjoyment of land shall be the right of all the Mozambican people.
Constitution of Namibia (1990)	Preamble: Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is indispensable for freedom, justice and peace; Whereas the said rights include the right of the individual to life, liberty and the pursuit of happiness, regardless of race, colour, ethnic origin, sex, religion, creed or social or economic status.
Constitution of Nicaragua (1987)	Article 34: The State shall protect crime victims and make sure that the damage suffered is compensated. The victims have a right to the protection of their safety, physical and psychological well-being, dignity and private life in conformity with the law.
Constitution of Nigeria (1999)	Section 16(1)(b): The State shall, within the context of the ideals and objectives for which provisions are made in this Constitution . . . control the national economy in such manner as to secure the maximum welfare, freedom and happiness of every citizen on the basis of social justice and equality of status and opportunity
Constitution of Panama (1972)	Article 127: The State guarantees to indigenous communities the reservation of necessary lands an collective ownership thereof, to ensure their economic and social well-being. Procedures to be followed for obtaining this purpose, and the definition of boundaries within which private appropriation of land is prohibited, shall be regulated by law.
Constitution of Republic of Korea (South Korea) (1987)	Article 10: All citizens shall be assured of human worth and dignity and have the right to pursue happiness. It shall be the duty of the State to confirm and guarantee the fundamental and inviolable human rights of individuals.
Constitution of Seychelles (1993)	Preamble: We, the People of Seychelles . . . reaffirming that these rights include the rights of the individual to life, liberty and the pursuit of happiness free from all types of discrimination.

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Constitution of Somalia (2012)	Article 31(1): The state shall promote the positive traditions and cultural practices of the Somali people, whilst striving to eliminate from the community customs and emerging practices which negatively impact the unity, civilization and well-being of society.
Constitution of the Tanzania (1977)	Article 25(1): Work alone creates the material wealth in society, and is the source of the wellbeing of the people and the measure of human dignity.
Constitution of Thailand (2017)	Preamble: May all Thai people unite in observing, protecting and upholding the Constitution of the Kingdom of Thailand in order to maintain the democratic regime of government and the sovereign power derived from the Thai people, and to bring about happiness, prosperity and dignity to His Majesty's subjects throughout the Kingdom according to the will of His Majesty in every respect.
Constitution of the Philippines (1987)	Article II(13): The State recognizes the vital role of the youth in nation-building and shall promote and protect their physical, moral, spiritual, intellectual, and social well-being. It shall inculcate in the youth patriotism and nationalism, and encourage their involvement in public and civic affairs.
Constitution of Timor-Leste (2002)	Article 12(2): The State promotes the cooperation with the different religious denominations that contribute to the well-being of the people of East Timor.
Constitution of Turkey (1982)	Article 5: The fundamental aims and duties of the State are to safeguard the independence and integrity of the Turkish Nation, the indivisibility of the country, the Republic and democracy, to ensure the welfare, peace, and happiness of the individual and society; to strive for the removal of political, economic, and social obstacles which restrict the fundamental rights and freedoms of the individual in a manner incompatible with the principles of justice and of the social state governed by rule of law; and to provide the conditions required for the development of the individual's material and spiritual existence.
Constitution of Uruguay (1966)	Article 50: Likewise, the State shall initiate policies of decentralization, in such a way as to promote regional development and the general well-being.
Constitution of Vietnam (1992)	Article 60(3): The State and society shall provide favorable environment for the construction of the Vietnamese family which is well off, progressive, and happy; create the Vietnamese people who are healthy, cultural, profoundly patriotic, solidary, independent, and responsible.