

Shaping Us Military Law Governing A Constitutional Military Justice International Law And Global Security

Governing with Judges Proportionality Balancing and Constitutional Governance *Shaping US Military Law* State Constitutional Politics **The Constitution and Governance in Cameroon** Governing with Judges *The Regulatory State* **German Constitutional Law** The British Constitution: A Very Short Introduction **Foundations of Public Law** Constitutional Law - I *National Constitutions in European and Global Governance: Democracy, Rights, the Rule of Law* Constitutional Law, Democracy and Development *The DNA of Constitutional Justice in Latin America* **The Constitutional Corporation** *European Yearbook of Constitutional Law 2020* *National Constitutions in European and Global Governance: Democracy, Rights, the Rule of Law* **The Constitution of Freedom** **Cosmic Constitutional Theory** Constitutional Democracy in Indonesia Constitutionalizing World Politics **Constitutional Conventions in Westminster Systems** *Making Constitutions in Deeply Divided Societies* Governing Britain **A Constitution for All Times** **The Sovereignty of Law** *The Golden Metwand and the Crooked Cord* **Constitutionalism and Good Governance** Constitutional Law **Philosophical Foundations of Constitutional Law** **The Evolution of Constitutional Governance in Sri Lanka** **Governing Europe under a Constitution** **The Rule of Law and the Separation of Powers** **The Role of Constitutional Courts in Multilevel Governance** Dimensions of Dignity **Institutionalized Reason** **Constitutional Justice** *Administrative Law and Governance in Asia* *The Cambridge Companion to Comparative Constitutional Law* European Constitutional Courts towards Data Retention Laws

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Constitutional Law - I Dec 26 2021

The Cambridge Companion to Comparative Constitutional Law Jul 29 2019 Comparing constitutions allows us to consider the similarities and differences in forms of government as well as the normative philosophies behind constitutional choices. The objective behind this Companion is to present the reader with a succinct yet wide-ranging companion to a modern comparative constitutional law course.

Making Constitutions in Deeply Divided Societies Dec 14 2020 How can societies still grappling over the common values and shared vision of their state draft a democratic constitution? This is the central puzzle of *Making Constitutions in Deeply Divided Societies*. While most theories discuss constitution-making in the context of a moment of revolutionary change, Hanna Lerner argues that an incrementalist approach to constitution-making can enable societies riven by deep internal disagreements to either enact a written constitution or function with an unwritten one. She illustrates the process of constitution-writing in three deeply divided societies - Israel, India and Ireland - and explores the various incrementalist strategies deployed by their drafters. These

include the avoidance of clear decisions, the use of ambivalent legal language and the inclusion of contrasting provisions in the constitution. Such techniques allow the deferral of controversial choices regarding the foundational aspects of the polity to future political institutions, thus enabling the constitution to reflect a divided identity.

Constitutional Democracy in Indonesia Mar 17 2021 Indonesia's political and governmental structures underwent sweeping reforms in the late 1990s. After decades of authoritarian rule, a key aspect of the transition to constitutional democracy during this period was the amendment of the 1945 Indonesian Constitution - an important legal text governing the world's third largest democracy. The amended Constitution introduced profound changes to the legal and political system, including an emphasis on judicial independence, a bill of rights, and the establishment of a Constitutional Court. This volume, with chapters written by leading experts, explores the ongoing debates over the meaning, implementation, and practice of constitutional democracy in Indonesia. This includes debates over the powers of the legislature, the role of the military, the scope of decentralisation, the protection of rights and permissible limits on rights, the regulation of elections, the watchdog role of accountability agencies, and the leading role of the Constitutional Court. These legal issues are analysed in light of the contemporary social, political, and economic environment that has seen a decline in tolerance, freedom, and respect for minorities. Contributions to this volume review the past two decades of reform in Indonesia and assess the challenges to the future of constitutional democracy amidst the wide-spread consensus on the decline of democracy in Indonesia. Demands for amendments to the Constitution and calls to revert to its initial form would be a reversal of Indonesia's democratic gains.

The Evolution of Constitutional Governance in Sri Lanka Apr 05 2020

National Constitutions in European and Global Governance: Democracy, Rights, the Rule of Law Jun 19 2021 This two-volume book, published open access, brings together leading scholars of constitutional law from twenty-nine European countries to revisit the role of national constitutions at a time when decision-making has increasingly shifted to the European and transnational level. It offers important insights into

three areas. First, it explores how constitutions reflect the transfer of powers from domestic to European and global institutions. Secondly, it revisits substantive constitutional values, such as the protection of constitutional rights, the rule of law, democratic participation and constitutional review, along with constitutional court judgments that tackle the protection of these rights and values in the transnational context, e.g. with regard to the Data Retention Directive, the European Arrest Warrant, the ESM Treaty, and EU and IMF austerity measures. The responsiveness of the ECJ regarding the above rights and values, along with the standard of protection, is also assessed. Thirdly, challenges in the context of global governance in relation to judicial review, democratic control and accountability are examined. On a broader level, the contributors were also invited to reflect on what has increasingly been described as the erosion or 'twilight' of constitutionalism, or a shift to a thin version of the rule of law, democracy and judicial review in the context of Europeanisation and globalisation processes. The national reports are complemented by a separately published comparative study, which identifies a number of broader trends and challenges that are shared across several Member States and warrant wider discussion. The research for this publication and the comparative study were carried out within the framework of the ERC-funded project 'The Role and Future of National Constitutions in European and Global Governance'. The book is aimed at scholars, researchers, judges and legal advisors working on the interface between national constitutional law and EU and transnational law. The extradition cases are also of interest to scholars and practitioners in the field of criminal law. Anneli Albi is Professor of European Law at the University of Kent, United Kingdom. Samo Bardutzky is Assistant Professor of Constitutional Law at the University of Ljubljana, Slovenia.

Proportionality Balancing and Constitutional Governance Oct 04 2022

In this book, Alec Stone Sweet and Jud Mathews focus on the law and politics of rights protection in democracies, and in human rights regimes in Europe, the Americas, and Africa. After introducing the basic features of modern constitutions, with their emphasis on rights and judicial review, the authors present a theory of proportionality that explains why constitutional judges embraced it. Proportionality analysis is a highly

intrusive mode of judicial supervision: it permits state officials to limit rights, but only when necessary to achieve a sufficiently important public interest. Since the 1950s, virtually every powerful domestic and international court has adopted proportionality analysis as the central method for protecting rights. In doing so, judges positioned themselves to review all important legislative and administrative decisions, and to invalidate them as unconstitutional when such policies fail the proportionality test. The result has been a massive - and global - transformation of law and politics. The book explicates the concepts of 'trusteeship', the 'system of constitutional justice', the 'effectiveness' of rights adjudication, and the 'zone of proportionality'. A wide range of case studies analyse: how proportionality has spread, and variation in how it is deployed; the extent to which the U.S. Supreme Court has evolved and resisted similar doctrines; the role of proportionality in building ongoing 'constitutional dialogues' with the other branches of government; and the importance of the principle to the courts of regional human rights regimes. While there is variance in the intensity of proportionality-based dialogues, such interactions are today at the very heart of governance in the modern constitutional state and beyond.

Philosophical Foundations of Constitutional Law May 07 2020 This is a collection of essays from leading constitutional lawyers and theorists, examining the philosophical foundations of constitutional law and the issues that arise from the fundamental philosophical issues raised by the idea of a constitution.

European Constitutional Courts towards Data Retention Laws Jun 27 2019 The book analyses the impact the jurisprudence of the constitutional courts of EU Member States and the Court of Justice of the European Union has had on the perception of freedom of communications in the digital era with respect to these courts' judgments regarding regulating storage and access to telecommunications data (known as telecommunications data retention) from 2008 to 2017. To do so, it examines the jurisprudence of the constitutional courts of Austria, Bulgaria, Cyprus, Czech Republic, Ireland, Germany, Poland, Portugal, Romania, Slovenia, and Slovakia, i.e. those courts that have already ruled on domestic provisions regulating telecommunications data retention. Further, it investigates the judgments of the Court of Justice of

European Union regarding directive 2006/24/EC regulating telecommunications data retention along with relevant jurisprudence of the European Court of Human Rights. As such, the book provides a comparative study of jurisprudence and national measures to implement the Data Retention Directive. Moreover, the book discusses whether our current understanding of protection of freedom of communications guaranteed by the constitutions of EU member states and the EU Charter of Fundamental Rights, which was developed in the era of analogue communications, remains accurate in the era of digital technologies and mass surveillance (simultaneously applied by states and private corporations). In this context, the book reconstructs constitutional standards that currently apply in the EU towards data retention. This book presents a unique comparative analysis of all judgments concerning Directive 2006/24/EC, which can be used in the legislative process on the EU forum aimed at introducing new principles of data retention and by constitutional courts in the context of comparative argumentation.

European Yearbook of Constitutional Law 2020 Jul 21 2021 The European Yearbook of Constitutional Law (EYCL) is an annual publication devoted to the study of constitutional law. It aims to provide a forum for in-depth analysis and discussion of new developments in the field, both in Europe and beyond. This second volume examines the constitutional positioning of cities across space and time. Unrelenting urbanisation means that most people are, or soon will be, living in cities and that city administrations become, in many respects, their quintessential governing units. Cities are places where State power is operationalised and concretised; where laws and government policies transform from parchment objectives to practical realities. In a similar vein, cities are also places for the realisation of the constitutional rights and liberties enjoyed by individuals. The book is organised around three sets of relations that await further unpacking in theory as well as practice: that between cities and other institutions in the national constitutional architecture; that between cities and their inhabitants; and that between cities and international organisations. The contributions to this book show the marked diversity in the role and powers available to cities in Europe and beyond, and identify principles and approaches to

help stipulate new ways of thinking about the legal role and relevance of cities going forward. Ernst Hirsch Ballin is distinguished university professor at Tilburg University and vice-dean for research of Tilburg Law School. Gerhard van der Schyff is associate professor at Tilburg Law School, Department of Public Law and Governance. Maarten Stremmer is lecturer at Maastricht University, Faculty of Law, Department of Public Law. Maartje De Visser is associate professor at SMU School of Law, Singapore.

Governing Europe under a Constitution Mar 05 2020 The volume contains articles from high-ranking experts from politics and academia of different Member States about the basic principles of the actual constitutional law of the European Union and its need of reform through a Constitution for Europe. By analysing the rules to govern a Europe of 25 and in time 28 and more Member States the publication intends to make a contribution to the emerging "Ius Publicum Europaeum".

The Constitution and Governance in Cameroon Jul 01 2022 This book provides a systematic analysis of the major structural and institutional governance mechanisms in Cameroon, critically analysing the constitutional and legislative texts on Cameroon's semi-presidential system, the electoral system, the legislature, the judiciary, the Constitutional Council and the National Commission on Human Rights and Freedoms. The author offers an assessment of the practical application of the laws regulating constitutional institutions and how they impact on governance. To lay the groundwork for the analysis, the book examines the historical, constitutional and political context of governance in Cameroon, from independence and reunification in 1960–1961, through the adoption of the 1996 Constitution, to more recent events including the current Anglophone crisis. Offering novel insights on new institutions such as the Senate and the Constitutional Council and their contribution to the democratic advancement of Cameroon, the book also provides the first critical assessment of the legislative provisions carving out a special autonomy status for the two Anglophone regions of Cameroon and considers how far these provisions go to resolve the Anglophone Problem. This book will be of interest to scholars of public law, legal history and African politics. The Open Access version of this book, available at

<https://www.taylorfrancis.com/books/9781351028868>, has been made available under a Creative Commons Attribution-Non Commercial-No Derivatives 4.0 license

Governing with Judges May 31 2022 *Governing with Judges* elaborates a theory of constitutional politics, the process through which the discursive practices and techniques of constitutional adjudication come to structure the work of governments, parliaments, judges, and administrators. Focusing on the cases of France, Germany, Italy, Spain, and the European Union, the book examines the sources and consequences of the pan-European movement to confer constitutional review authority on a new governmental institution, the constitutional court. Detailed case studies illustrate how and to what extent legislative processes have been placed under the influence of constitutional judges. In a growing number of policy domains, these judges function as powerful, adjunct legislators. As constitutional courts have consolidated their position as authoritative interpreters of the constitutional law, and especially of human rights provisions, the work of the judiciary, too, has gradually been constitutionalised. Today, ordinary judges seek to detect violations of the constitution in their application of the various codes, and to rewrite statutes that they deem unconstitutional. Constitutional politics have not only provoked the demise of traditional notions of parliamentary sovereignty, they have organized profound transformations in the very nature of European governance. Stone Sweet argues that constitutional adjudication constructs complex causal linkages between rule systems and normativity, on the onehand, and the strategic behaviour of individuals, on the other. The theory constitutes a novel synthesis of normative and rational approaches to politics. The book also addresses central questions raised by a wide range of ongoing theory projects, including the 'new institutionalism,' rational choice, principal-agent theories of delegation, and the new constitutionalism in Continental legal theory.

The Golden Metwand and the Crooked Cord Aug 10 2020 This is a collection of essays on public law in the UK. The essays are written in honour of Sir William Wade, one of the leading scholars of his generation and credited for having contributed to the development of administrative law in Britain through his text *Administrative Law*.

Constitutional Justice Sep 30 2019 Scope of Judicial Review
National Constitutions in European and Global Governance: Democracy, Rights, the Rule of Law Nov 24 2021 This two-volume book, published open access, brings together leading scholars of constitutional law from twenty-nine European countries to revisit the role of national constitutions at a time when decision-making has increasingly shifted to the European and transnational level. It offers important insights into three areas. First, it explores how constitutions reflect the transfer of powers from domestic to European and global institutions. Secondly, it revisits substantive constitutional values, such as the protection of constitutional rights, the rule of law, democratic participation and constitutional review, along with constitutional court judgments that tackle the protection of these rights and values in the transnational context, e.g. with regard to the Data Retention Directive, the European Arrest Warrant, the ESM Treaty, and EU and IMF austerity measures. The responsiveness of the ECJ regarding the above rights and values, along with the standard of protection, is also assessed. Thirdly, challenges in the context of global governance in relation to judicial review, democratic control and accountability are examined. On a broader level, the contributors were also invited to reflect on what has increasingly been described as the erosion or ‘twilight’ of constitutionalism, or a shift to a thin version of the rule of law, democracy and judicial review in the context of Europeanisation and globalisation processes. The national reports are complemented by a separately published comparative study, which identifies a number of broader trends and challenges that are shared across several Member States and warrant wider discussion. The research for this publication and the comparative study were carried out within the framework of the ERC-funded project ‘The Role and Future of National Constitutions in European and Global Governance’. The book is aimed at scholars, researchers, judges and legal advisors working on the interface between national constitutional law and EU and transnational law. The extradition cases are also of interest to scholars and practitioners in the field of criminal law. Anneli Albi is Professor of European Law at the University of Kent, United Kingdom. Samo Bardutzky is Assistant Professor of Constitutional Law at the University of Ljubljana, Slovenia.

The Regulatory State Apr 29 2022 This collection of fifteen essays by leading experts in regulation is unique in its focus on the constitutional implications of recent regulatory developments in the UK, the EU, and the US. The chapters reflect current developments and crises which are significant in many areas of public policy, not only regulation. These include the development of governance in place of government in many policy areas, the emergence of networks of public and private actors, the credit crunch, techniques for countering climate change, the implications for fundamental rights of regulatory arrangements and the development of complex accountability mechanisms designed to promote policy objectives. Constitutional issues discussed in *The Regulatory State* include regulatory governance, models of economic and social regulation, non-parliamentary rule-making, the UK's devolution arrangements and regulation, the credit crisis, the rationing of common resources, regulation and fundamental rights, the European Competition Network, private law making and European integration, innovative regulator sanctions recently introduced in the UK, the auditing of regulatory reform, and parliamentary oversight and judicial review of regulators. The introductory chapter focuses on testing times for regulation, and the concluding chapter draws ten lessons from the substantive chapters, noting the importance of regulatory diversity, the complexity of networks and relations between regulatory actors and the executive, the new challenges to regulatory habits posed by climate change and the credit crisis, the wider economic and legal context in which regulation takes place and the accountability networks - including judicial review, parliamentary oversight and audit - within which regulation operates.

Shaping US Military Law Sep 03 2022 Since the United States' entry into World War II, the federal judiciary has taken a prominent role in the shaping of the nation's military laws. Yet, a majority of the academic legal community studying the relationship between the Court and the military establishment argues otherwise providing the basis for a further argument that the legal construct of the military establishment is constitutionally questionable. Centering on the Cold War era from 1968 onward, this book weaves judicial biography and a historic methodology based on primary source materials into its analysis and reviews several

military law judicial decisions ignored by other studies. This book is not designed only for legal scholars. Its intended audience consists of Cold War, military, and political historians, as well as political scientists, and, military and national security policy makers. Although the book's conclusions are likely to be favored by the military establishment, the purpose of this book is to accurately analyze the intersection of the later twentieth century's American military, political, social, and cultural history and the operation of the nation's armed forces from a judicial vantage.

The Constitution of Freedom May 19 2021 Constitutional democracy is more fragile and less 'natural' than autocracy. While this may sound surprising to complacent democrats, more and more people find autocracy attractive, because they were never forced to understand or imagine what despotism is. Generations who have lived in stable democracies with the promise that their enviable world will become the global 'normal' find government rule without constitutionalism difficult to conceive. It is difficult, but never too late, to see one's own constitutional system as something that is fragile, or up for grabs and in need of constant attention and care. In this book, András Sajó and Renáta Uitz explore how constitutionalism protects us and how it might be undone by its own means. Sajó and Uitz's intellectual history of the constitutional ideal is rich in contextual detail and informed by case studies that give an overview of both the theory and practice of constitutionalism worldwide. Classic constitutions are contrasted with twentieth-century and contemporary endeavours, and experimentations in checks and balances. Their endeavour is neither apologetic (and certainly not celebratory), nor purely defensive: this book demonstrates why constitutionalism should continue to matter. Between the rise of populist, anti-constitutional sentiment and the normalization of the apparatus of counter-terrorism, it is imperative that the political communities who seek to sustain democracy as freedom understand the importance of constitutionalism. This book is essential reading for students of law and general readers without prior knowledge of the field, as well as those in politics who believe they know how government works. It shows what is at stake in the debate on constitutionalism.

Constitutional Law, Democracy and Development Oct 24 2021 Uganda,

like many African countries in the 1990s, adopted decentralisation as a state reform measure after many years of civil strife and political conflicts, by transferring powers and functions to district councils. The decision to transfer powers and functions to district councils was, in the main, linked to the quest for democracy and development within the broader context of the nation state. This book's broader aim is to examine whether the legal and policy framework of decentralisation produces a system of governance that better serves the greater objectives of local democracy, local development and accommodation of ethnicity. Specifically, the book pursues one main aim: to examine whether indeed the existing legal framework ensures the smooth devolution process that is needed for decentralised governance to succeed. In so doing, the book seeks, overall, to offer lessons that are critically important not only for Uganda but any other developing nation that has adopted decentralisation as a state-restructuring strategy. The book uses a desk-top research method by reviewing Uganda's decentralisation legal and policy frameworks.

Institutionalized Reason Oct 31 2019 This volume gathers leading figures from legal philosophy and constitutional theory to offer a critical examination of the work of Robert Alexy. The contributions explore the issues surrounding the complex relations between rights, law, and morality and reflect on Alexy's distinctive work on these issues. The focus across the contributions is on Alexy's main pre-occupations - his anti-positivist views on the nature of law, his approach to the nature of legal reasoning, and his understanding of constitutional rights as legal principles. In an extended response to the contributions in the volume, Alexy develops his views on these central issues. The volume's juxtaposition of Anglo-American and German perspectives brings into focus the differences as well as the prospect of cross-fertilization between Continental and Anglo-American work in jurisprudence.

Governing Britain Nov 12 2020 A timely new book on how government operates - and the problems that can arise - by one of Britain's foremost constitutional experts.

The Rule of Law and the Separation of Powers Feb 02 2020 The rule of law is frequently invoked in political debate, yet rarely defined with any precision. Some employ it as a synonym for democracy, others for

the subordination of the legislature to a written constitution and its judicial guardians. It has been seen as obedience to the duly-recognised government, a form of governing through formal and general rule-like laws and the rule of principle. Given this diversity of view, it is perhaps unsurprising that certain scholars have regarded the concept as no more than a self-congratulatory rhetorical device. This collection of eighteen key essays from jurists, political theorists and public law political scientists, aims to explore the role law plays in the political system. The introduction evaluates their arguments. The first eleven essays identify the standard features associated with the rule of law. These are held to derive less from any characteristics of law per se than from a style of legislating and judging that gives equal consideration to all citizens. The next seven essays then explore how different ways of separating and dispersing power contribute to this democratic style of rule by forcing politicians and judges alike to treat people as equals and regard none as above the law.

Administrative Law and Governance in Asia Aug 29 2019 This book examines administrative law in Asia, exploring the profound changes in the legal regimes of many Asian states that have taken place in recent years. Political democratization in some countries, economic change more broadly and the forces of globalization have put pressure on the developmental state model, wherein bureaucrats governed in a kind of managed capitalism and public-private partnerships were central. In their stead, a more market-oriented regulatory state model seems to be emerging in many jurisdictions, with emphases on transparency, publicity, and constrained discretion. This book analyses the causes and consequences of this shift from a socio-legal perspective, showing clearly how decisions about the scope of administrative law and judicial review have an important effect on the shape and style of government regulation. Taking a comparative approach, individual chapters trace the key developments in the legal regimes of major states across Asia, including China, Japan, Korea, Malaysia, Taiwan, Hong Kong, Indonesia, Singapore, the Philippines, Thailand and Vietnam. They demonstrate that, in many cases, Asian states have shifted away from traditional systems in which judges were limited in terms of their influence over social and economic policy, towards regulatory models of

the state involving a greater role for judges and law-like processes. The book also considers whether judiciaries are capable of performing the tasks they are being given, and assesses the profound consequences the judicialization of governance is starting to have on state policy-making in Asia.

The British Constitution: A Very Short Introduction Feb 25 2022 The British constitution is regarded as unique among the constitutions of the world. What are the main characteristics of Britain's peculiar constitutional arrangements? How has the British constitution altered in response to the changing nature of its state - from England, to Britain, to the United Kingdom? What impact has the UK's developing relations with the European Union caused? These are some of the questions that Martin Loughlin addresses in this Very Short Introduction. As a constitution, it is one that has grown organically in response to changes in the economic, political, and social environment, and which is not contained in a single authoritative text. By considering the nature and authority of the current British constitution, and placing it in the context of others, Loughlin considers how the traditional idea of a constitution came to be retained, what problems have been generated as a result of adapting a traditional approach in a modern political world, looking at what the future prospects for the British constitution are. ABOUT THE SERIES: The Very Short Introductions series from Oxford University Press contains hundreds of titles in almost every subject area. These pocket-sized books are the perfect way to get ahead in a new subject quickly. Our expert authors combine facts, analysis, perspective, new ideas, and enthusiasm to make interesting and challenging topics highly readable.

The Role of Constitutional Courts in Multilevel Governance Jan 03 2020 Constitutional review has not only expanded geographically, it has also expanded in its mission and function, acquiring new subject areas and new roles and responsibilities. In examining these new roles and responsibilities, this collection of essays reflects on constitutional review as an aspect of constitutionalism framed in the context of multilevel governance. Bringing together a number of remarkable, yet varied, contributions, the book explores how institutional changes of multilevel governance have transformed the notion, shape, and substance of

constitutional review. To this end, four key roles, both new and old, are identified: 1) courts act as guardians of fundamental rights, 2) they oversee the institutional balance, 3) they provide a deliberative forum, and 4) they assume the function of a regulatory watchdog. The book explores these different roles played by national and European courts, and it examines the challenges brought about by the involvement in multilevel networks and the shift to new concepts of governance.

(Series: Law and Cosmopolitan Values - Vol. 3)

Constitutional Conventions in Westminster Systems Jan 15 2021

Constitutional conventions precede law and make law making possible, but attempting to define them is politically risky yet increasingly necessary.

Constitutionalism and Good Governance Jul 09 2020 With 19 articles pertaining to 12 different constitutional regimes, this book addresses current issues and developments of European and Asian constitutionalism, including topics such as: constitution making and the design of constitutions * the judicialization of politics and constitutional courts * human rights in national law and the constitutionalization of national law by regional human right regimes * different concepts of the rule of law * electoral law * federalism * the majority principle and democracy * the Association of Southeast Asian Nations (ASEAN). Highlighting an interdisciplinary and comparative approach, the book assembles historical accounts, analytical studies, and political assessments by reputed legal and social science scholars, including five (former) judges from the constitutional courts/council of Cambodia, Germany, Taiwan, as well as the Supreme Administrative Court of Thailand. (Series: CPG Series of Comparative Constitutional Law, Politics and Governance - Vol. 1)

The DNA of Constitutional Justice in Latin America Sep 22 2021

In recent times there has been a dramatic change in the nature and scope of constitutional justice systems in the global south. New or reformed constitutions have proliferated, protecting social, economic, and political rights. While constitutional courts in Latin America have traditionally been used as ways to limit power and preserve the status quo, the evidence shows that they are evolving into a functioning part of contemporary politics and a central component of a system of

constitutional justice. This book lays bare the political roots of this transformation, outlining a new way to understand judicial design and the very purpose of constitutional justice. Authors Daniel M. Brinks and Abby Blass use case studies drawn from nineteen Latin American countries over forty years to reveal the ideas behind the new systems of constitutional justice. They show how constitutional designers entrust their hopes and fears to dynamic governance systems, in hopes of directing the development of constitutional meaning over time.

Governing with Judges Nov 05 2022 Governing with Judges elaborates a theory of constitutional politics, the process through which the discursive practices and techniques of constitutional adjudication come to structure the work of governments, parliaments, judges, and administrators. Focusing on the cases of France, Germany, Italy, Spain, and the European Union, the book examines the sources and consequences of the pan-European movement to confer constitutional review authority on a new governmental institution, the constitutional court. Detailed case studies illustrate how and to what extent legislative processes have been placed under the influence of constitutional judges. In a growing number of policy domains, these judges function as powerful, adjunct legislators. As constitutional courts have consolidated their position as authoritative interpreters of the constitutional law, and especially of human rights provisions, the work of the judiciary, too, has gradually been constitutionalised. Today, ordinary judges seek to detect violations of the constitution in their application of the various codes, and to rewrite statutes that they deem unconstitutional. Constitutional politics have not only provoked the demise of traditional notions of parliamentary sovereignty, they have organized profound transformations in the very nature of European governance. Stone Sweet argues that constitutional adjudication constructs complex causal linkages between rule systems and normativity, on the one hand, and the strategic behaviour of individuals, on the other. The theory constitutes a novel synthesis of normative and rational approaches to politics. The book also addresses central questions raised by a wide range of ongoing theory projects, including the 'new institutionalism,' rational choice, principal-agent theories of delegation, and the new constitutionalism in Continental legal theory.

German Constitutional Law Mar 29 2022 This revised and fully up-to-date English translation of the 7th edition of the Casebook

Verfassungsrecht includes a new outline of the German constitution, the BVerfG Court, and its jurisprudence. It condenses more than six decades of constitutional jurisprudence in order to familiarize readers with the style, technique, and language of the Court. As well as an analysis of the general principles of German constitutional law, the book covers the salient articles of the German Constitution and offers relevant extracts of the Court's most important decisions on the provisions of the Basic Law. It provides notes and discussions of landmark cases to illustrate their legal and historical context and give the reader a clear understanding of the principles governing German constitutional law. The book covers the fundamental rights catalogue of the Basic Law and offers a comprehensive account of its intellectual moorings. It includes landmark jurisprudence on the equal treatment of same-sex couples, life imprisonment, the legal structure of property, the right to assembly, and the right to informational self-presentation. The book also covers the provisions and respective case law governing the state structure of Germany, for instance the recent decisions on the prohibition of the far-right German nationalist party, and the Court's jurisprudence on European integration, including the most recent decisions on the OMT-program of the European Central Bank.

State Constitutional Politics Aug 02 2022 Since the US Constitution came into force in 1789, it has been amended just twenty-seven times, with ten of those amendments coming in the first two years following ratification. By contrast, state constitutions have been completely rewritten on a regular basis, and the current documents have been amended on average 150 times. This is because federal amendments are difficult, so politicians rarely focus on enacting them. Rather, they work to secure favorable congressional statutes or Supreme Court decisions. By contrast, the relative ease of state amendment processes makes them a realistic and regular vehicle for seeking change. With State Constitutional Politics, John Dinan looks at the various occasions in American history when state constitutional amendments have served as instruments of governance. Among other things, amendments have constrained state officials in the way they levy taxes and spend money;

enacted policies unattainable through legislation on issues ranging from minimum wage to the regulation of marijuana; and updated understandings of rights, including religious liberty, equal protection, and the right to bear arms. In addition to comprehensively chronicling the ways amendments shape politics in the states, Dinan also assesses the consequences of undertaking changes in governance through amendments rather than legislation or litigation. For various reasons, including the greater stability and legitimacy of changes achieved through the amendment process, he argues that it might be a more desirable way of achieving change.

Dimensions of Dignity Dec 02 2019 Offers a public law theory that elaborates the idea of human dignity to illuminate and justify innovations in constitutional practice.

Constitutional Law Jun 07 2020

A Constitution for All Times Oct 12 2020 A prominent lawyer and legal scholar describes her vision of an evolving Constitution, examining current legal issues that range from health care to gun control. Pamela S. Karlan is a unique figure in American law. A professor at Stanford Law School and former counsel for the NAACP, she has argued seven cases at the Supreme Court and worked on dozens more as a clerk for Justice Harry Blackmun. In her first book written for a general audience, she examines what happens in American courtrooms--especially the Supreme Court--and what it means for our everyday lives and to our national commitments to democracy, justice, and fairness. Through an exploration of current hot-button legal issues--from voting rights to the death penalty, health care, same-sex marriage, invasive high-tech searches, and gun control--Karlan makes a sophisticated and resonant case for her vision of the Constitution. At the heart of that vision is the conviction that the Constitution is an evolving document that enables government to solve novel problems and expand the sphere of human freedom. As skeptics charge congressional overreach on such issues as the Affordable Care Act and even voting rights, Karlan pushes back. On individual rights in particular, she believes the Constitution allows Congress to enforce the substance of its amendments. And she calls out the Roberts Court for its disdain for the other branches of government and for its alignment with a conservative agenda.

Constitutionalizing World Politics Feb 13 2021 Constitutionalization of world politics is emerging as an unintended consequence of international treaty making driven by the logic of democratic power. The analysis will appeal to scholars of International Relations and International Law interested in international cooperation, as well as institutional and constitutional theory and practice.

The Sovereignty of Law Sep 10 2020 An original account of the British constitution, this book explains how the requirements of constitutional law depend on underlying considerations of legal and political theory and defends an account of the British constitution as a source of individual freedom, grounded in a persuasive interpretation of the common law constitutional tradition.

Foundations of Public Law Jan 27 2022 Foundations of Public Law offers an account of the formation of the discipline of public law with a view to identifying its essential character, explaining its particular modes of operation, and specifying its unique task. Building on the framework first outlined in *The Idea of Public Law* (OUP, 2003), the book conceives public law broadly as a type of law that comes into existence as a consequence of the secularization, rationalization and positivization of the medieval idea of fundamental law. Formed as a result of the changes that give birth to the modern state, public law establishes the authority and legitimacy of modern governmental ordering. Public law today is a universal phenomenon, but its origins are European. Part I of the book examines the conditions of its formation, showing how much the concept borrowed from the refined debates of medieval jurists. Part II then examines the nature of public law. Drawing on a line of juristic inquiry that developed from the late sixteenth to the early nineteenth centuries-extending from Bodin, Althusius, Lipsius, Grotius, Hobbes, Spinoza, Locke and Pufendorf to the later works of Montesquieu, Rousseau, Kant, Fichte, Smith and Hegel-it presents an account of public law as a special type of political reason. The remaining three Parts unpack the core elements of this concept: state, constitution, and government. By taking this broad approach to the subject, Professor Loughlin shows how, rather than being viewed as a limitation on power, law is better conceived as a means by which public power is generated. And by explaining the way that these core elements of state,

constitution, and government were shaped respectively by the technological, bourgeois, and disciplinary revolutions of the sixteenth century through to the nineteenth century, he reveals a concept of public law of considerable ambiguity, complexity and resilience.

Cosmic Constitutional Theory Apr 17 2021 What underlies this development? In this concise and highly engaging work, Federal Appeals Court Judge and noted author (From Brown to Bakke) J. Harvie Wilkinson argues that America's most brilliant legal minds have launched a set of cosmic constitutional theories that, for all their value, are undermining self-governance.

The Constitutional Corporation Aug 22 2021 This book argues that instead of consigning shareholders to a passive role, they should be given opportunities to be active members of corporations. The ideas of accountability, deliberation and contestability provide a valuable framework for assessing corporate structures and process and for encouraging greater shareholder participation.

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