

European Constitutionalism Beyond The State

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Constitutions
Globalization and Sovereignty
The Many
Constitutions of Europe
The Worlds of European
Constitutionalism

Global Technology and Legal Theory

The idea of the EU as a constitutional order has recently taken on renewed life, as the Court of Justice declared the primacy of EU law not just over national constitutions but also over the international legal order, including the UN Charter. This book explores the nature and character of EU legal and political authority, and the complex analytical and normative questions which the notion of European constitutionalism raises, in both the EU's internal and its external relations. The book culminates in a dialogical epilogue in which the authors' arguments are questioned and challenged by the editor, providing a unique and stimulating approach to the subject. By bringing together leading constitutional theorists of the European Union, this book offers a sharp, challenging and engaging discussion for students and researchers alike.

Controlling the State

Constitutional pluralism has become immensely popular among scholars who study European integration and issues of global governance. Some of them believe that constitutionalism, traditionally thought to be bound to a nation state, can emerge beyond state borders - most importantly in the

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process of European integration, but also beyond that, for example, in international regulatory regimes such as the WTO, or international systems of fundamental rights protection, such as the European Convention. At the same time, the idea of constitutional pluralism has not gone unchallenged. Some have questioned its compatibility with the very nature of law and the values which law brings to constitutionalism. The critiques have come from both sides: from those who believe in the 'traditional' European constitutionalism based on a hierarchically superior authority of the European Union as well as from scholars focusing on constitutions of particular states. The book collects contributions taking opposing perspectives on constitutional pluralism - some defending and promoting the concept of constitutional pluralism, some criticising and opposing it. While some authors can be called 'the founding fathers of constitutional pluralism', others are young academics who have recently entered the field. Together they offer fresh perspectives on both theoretical and practical aspects of constitutional pluralism, enriching our existing understanding of the concept in current scholarship.

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Constitutionalism and Democracy

The concepts and values that underpin traditional constitutionalism are increasingly being challenged by

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political realities that place substantial power beyond the state. Among the few certainties of a global economy is the growing incongruity between the political (the world of things that need to be ordered collectively in order to sustain society) and the state (the major institution of authoritative political decision-making during modern times). The consequences, and possible remedies, of this double disjunction of politics and state and of state and constitution form the centre of an open debate about 'constitutionalism beyond the state'. The essays gathered in this collection explore the range of issues raised by this debate. The effects of recent changes on two of the main building blocks of constitutionalism - statehood and democracy - are examined in Parts I and II. Since the movement of overcoming statehood has, arguably, been advanced furthest in the European context, the question of the future of constitutionalist ideas in the framework of the EU provides the key theme of Part III. The remaining parts consider possible transformations or substitutes. The engagement of constitutions with international law offers one line of transmutation of constitutionalism (Part IV) and the diffusion of constitutionalism into separate social spheres provides an alternative way of pursuing constitutionalism in a new key (Part VI). Finally, the ability of the theory of global administrative law (examined in Part V) to offer an alternative account of the potential of jurisdictional control of global governing processes is examined. Through these explorations, the book offers cross-disciplinary insights into the impact of recent political and economic changes on modern constitutionalism and an assessment of the prospects for

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constitutionalism in a transnational environment.

Constitutional Identity in a Europe of Multilevel Constitutionalism

This book addresses the question of social constitutionalism, especially with regard to its role in the contemporary European project. For reasons of history and democracy, Europeans share a deep commitment to social constitutionalism. But in the contemporary European constitutional debate, constitutionalism and social democracy have become antagonists, with the survival of the one seeming to require sacrifice of the other. This book challenges the common view that constitutionalization means de-politicization. It argues that courts can exert a more indirect, creative, and agenda-setting role in the process of an ongoing clarification of the meaning of a right. The CJEU and the ECtHR - as courts beyond the nation state - are able to constructively re-open and re-politicize controversies that may appear settled at the national level in their constitutionalizing jurisprudence. And, crucially, our understanding of shared European constitutional principles is itself subject to revision and reconsideration as we accumulate experiences of dealing with diverse national contexts. By examining the jurisprudence of the CJEU and the ECtHR, the book demonstrates that in domain after domain, ranging from the protection of the vulnerable in the European social market to the guarantee of freedom of conscience, which in Europe emerged after many centuries of religious persecution, both courts can enhance and deepen

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democracy and thereby encourage the liberal project of constitutionalism beyond the state. Over time, once interpretive answers have become established in practice, courts can then move towards stronger forms of judicial intervention that consolidate best practice. It is this democratic and experimental process which lies at the heart of the distinctive model of contemporary Euroconstitutionalism.

The Constitution of European Democracy

This book has its roots in a conference on recent developments in Nordic and German constitutional law that took place in Berlin in 2002 at the Nordic Cultural Centre. That conference was organised within the project "Konstitutionalism, demokrati och den nordiska valfardsstaten" (Constitutionalism, Democracy and the Nordic Welfare State), financed by the Joint Committee for Nordic Research Councils for the Humanities and the Social Sciences (NOS-HS). The volume contains the edited and updated papers which emerged from this meeting of minds. They offer insight into some of the new, exciting strands of constitutional thought that are currently present in the Nordic doctrine, where many new paths have been opened in recent years. The contrast with the situation two decades ago is indeed striking. As far as German and European law are concerned, some of the most important theoretical issues in the doctrine are analysed in a number of particularly rewarding and inspiring contributions.

European Constitutionalism

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The rise and spread of the Internet has accelerated the global flows of money, technology and information that are increasingly perceived as a challenge to the traditional regulatory powers of nation states and the effectiveness of their constitutions. The acceleration of these flows poses new legal and political problems to their regulation and control, as shown by recent conflicts between Google and the European Union (EU). This book investigates the transnational constitutional dimension of recent conflicts between Google and the EU in the areas of competition, taxation and human rights. More than a simple case study, it explores how the new conflicts originating from the worldwide expansion of the Internet economy are being dealt with by the institutional mechanisms available at the European level. The analysis of these conflicts exposes the tensions and contradictions between, on the one hand, legal and political systems that are limited by territory, and, on the other hand, the inherently global functioning of the Internet. The EU's promising initiatives to extend the protection of privacy in cyberspace set the stage for a broader dialogue on constitutional problems related to the enforcement of fundamental rights and the legitimate exercise of power that are common to different legal orders of world society. Nevertheless, the different ways of dealing with the competition and fiscal aspects of the conflicts with Google also indicate the same limits that are generally attributed to the very project of European integration, showing that the constitutionalization of the economy tends to outpace the constitutionalization of politics. Providing a

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detailed account of the unfolding of these conflicts, and their wider consequences to the future of the Internet, this book will appeal to scholars working in EU law, international law and constitutional law, as well as those in the fields of political science and sociology.

Europe's Second Constitution

Whether the Constitutional Treaty will enter into effect and/or the prospect of the EU having a constitutional text is pushed back to a much more distant future the ratification of an EU Constitution raises questions of fundamental importance from the point of view of national constitutional law. Whilst constitutions have traditionally been linked to states, more recent theories, such as post-national, multi-level, or intertwined constitutionalism, recognise the possibility for a constitution to exist in a non-state context. In this very valuable book, which focuses on the ratification of the European Constitutional Treaty, twenty-eight authorities in constitutional and EU law examine the extent to which such theories have made inroads in national constitutional thinking. The contributors examine the debates and official documents of the political institutions that have been involved in the ratification process in the Member States, as well as constitutional court decisions and scholarly discourse. They also cover a range of closely related issues, such as the amendment of national constitutions, ratification referendums, and the implications of the codification of the principle of primacy in the European Constitution. The book

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includes reports from 17 EU Member States, as well as a view from a candidate country, Croatia. These reports, along with other papers on the nature and content of the Constitutional Treaty, consider the following issues: the process and legal framework of ratification in each of the examined Member States; the novel category of constitutional treaty; constitutional elements in existing EC/EU treaties; types of constitutions and constitutionalism, and constitutions in non-state contexts; the implications of the primacy clause; ratification referendums; eurosceptic fears of the development of a super-state. The book is based on the proceedings of an international conference that was held in Tallinn, Estonia, in November 2005. By assessing the implications of the European Constitution from the perspective of national constitutional law, this book fills an important gap in the literature. It also makes a contribution to the emergence of a true European-wide constitutional debate, by providing both researchers and policy-makers with comparative information regarding the constitutional aspects of ratification in Member States. It will be of absorbing interest and value for years to come as the European constitutional debate continues.

National Sovereignty in the European Union

Under pressure from globalisation, the classical distinction between domestic and international law has become increasingly blurred, spurring demand for new paradigms to construe the emerging postnational

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legal order. The typical response of constitutional and international lawyers as well as political theorists has been to extend domestic concepts - especially constitutionalism - beyond the state. Yet as this book argues, proposals for postnational constitutionalism not only fail to provide a plausible account of the changing shape of postnational law but also fall short as a normative vision. They either dilute constitutionalism's origins and appeal to 'fit' the postnational space; or they create tensions with the radical diversity of postnational society. This book explores an alternative, pluralist vision of postnational law. Pluralism does not rely on an overarching legal framework but is characterised by the heterarchical interaction of various suborders of different levels - an interaction that is governed by a multiplicity of conflict rules whose mutual relationship remains legally open. A pluralist model can account for the fragmented structure of the European and global legal orders and it reflects the competing (and often equally legitimate) claims for control of postnational politics. However, it typically provokes concerns about stability, power and the rule of law. This book analyses the promise and problems of pluralism through a theoretical enquiry and empirical research on major global governance regimes, including the European human rights regime, the contestation around UN sanctions and human rights, and the structure of global risk regulation. The empirical research reveals how prevalent pluralist structures are in postnational law and what advantages they possess over constitutionalist models. Despite the problems it also reveals, the analysis suggests cautious optimism about the possibility of stable and

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fair cooperation in pluralist settings.

Euroconstitutionalism and Its Discontents

The book examines one of the most debated issues in current international law: to what extent the international legal system has constitutional features comparable to what we find in national law. This question has become increasingly relevant in a time of globalization, where new international institutions and courts are established to address international issues. Constitutionalization beyond the nation state has for many years been discussed in relation to the European Union. This book asks whether we now see constitutionalization taking place also at the global level. The book investigates what should be characterized as constitutional features of the current international order, in what way the challenges differ from those at the national level and what could be a proper interaction between different international arrangements as well as between the international and national constitutional level. Finally, it sketches the outlines of what a constitutionalized world order could and should imply. The book is a critical appraisal of constitutionalist ideas and of their critique. It argues that the reconstruction of the current evolution of international law as a process of constitutionalization -against a background of, and partly in competition with, the verticalization of substantive law and the deformalization and fragmentation of international law- has some explanatory power, permits new insights and allows

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for new arguments. The book thus identifies constitutional trends and challenges in establishing international organisational structures, and designs procedures for standard-setting, implementation and judicial functions. This paperback edition features the authors' discussion of this book on the EJIL Talks blog.

Global Constitutionalism from European and East Asian Perspectives

Examines and compares East Asian and European perspectives of Global Constitutionalism.

The Triangular Constitution

Leading scholars of European constitutionalism highlight different facets of the constitutional discussion.

The Tangled Complexity of the EU Constitutional Process

Sovereignty and the sovereign state are often seen as anachronisms; Globalization and Sovereignty challenges this view. Jean L. Cohen analyzes the new sovereignty regime emergent since the 1990s evidenced by the discourses and practice of human rights, humanitarian intervention, transformative occupation, and the UN targeted sanctions regime that blacklists alleged terrorists. Presenting a systematic theory of sovereignty and its transformation in international law and politics, Cohen argues for the continued importance of sovereign

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equality. She offers a theory of a dualistic world order comprised of an international society of states, and a global political community in which human rights and global governance institutions affect the law, policies, and political culture of sovereign states. She advocates the constitutionalization of these institutions, within the framework of constitutional pluralism. This book will appeal to students of international political theory and law, political scientists, sociologists, legal historians, and theorists of constitutionalism.

The Constitutionalization of International Law

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

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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.

Constitutionalism

This book offers a new account of modern European constitutionalism. It uses the Irish constitutional order to demonstrate that, right across the European Union,

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the national constitution can no longer be understood on its own, in isolation from the EU legal order or from the European Convention on Human Rights. The constitution is instead triangular, with these three legal orders forming the points of a triangle, and the relationship and interactions between them forming the triangle's sides. It takes as its starting point the theory of constitutional pluralism, which suggests that overlapping constitutional orders are not necessarily arranged 'on top of' each other, but that they may be arranged heterarchically or flatly, without a hierarchy of superior and subordinate constitutions. However, it departs from conventional accounts of this theory by emphasising that we must still pay close attention to jurisdictional specificity in order to understand the norms that regulate pluralist constitutions. It shows, through application of the theory to case studies, that any attempt to extract universal principles from the jurisdictionally contingent interactions between specific legal orders is fraught with difficulty. The book is an important contribution to constitutional theory in general, and constitutional pluralism in particular, and will be of great interest to scholars in the field.

The Future of Europe

An authoritative legal critique of the attractions and demerits of European integration.

Europe's Functional Constitution

The concept of a European Constitutional Area has

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been used in legal scholarship to describe a common space of constitutionalism where national and international constitutional guarantees interact to maintain the common constitutional values of Europe. This concept has not yet been tested in a case where the constitutional order of a Member State of the European Union seems to develop systemic deficiencies. The present volume aims to assess recent constitutional developments in Hungary and Romania, as well as the interplay of national, international and European constitutionalism which react to the loopholes in national constitutions. Accordingly, a core part of the volume is an in-depth analysis of the situation in Hungary and Romania. Based on that, the volume offers an account of the different reaction mechanisms of the European Union and of the Council of Europe. Beyond a detailed stock-taking of these mechanisms, their legal and political frameworks are explored, as well as different ways to extend their reach. In this way, the volume contributes to a little-studied aspect of European constitutionalism.

Reclaiming Constitutionalism

Recent social and political developments in the EU have clearly shown the profound structural changes in European society and its politics. Reflecting on these developments and responding to the existing body of academic literature and scholarship, this book critically discusses the emerging notion of European constitutionalism, its varieties and different contextualization in theories of EU law, general

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jurisprudence, sociology of law, political theory and sociology. The contributors address different problems related to the relationship between the constitutional state and non-state constitutionalizations and critically analyze general theories of constitutional monism, dualism and pluralism and their juridical and political uses in the context of EU constitutionalism. Individual chapters emphasize the importance of interdisciplinary and socio-legal methods in the current research of EU constitutionalism and their potential to re-conceptualize and re-think traditional problems of constitutional subjects, limitation and separation of power, political symbolism and identity politics in Europe. This collection simultaneously describes the EU and its self-constitution as one polity, differentiated society and shared community and its contributors conceptualize the sense of common identity and solidarity in the context of the post-sovereign multitude of European society.

European Yearbook of Constitutional Law 2019

This book examines how the judicialization of politics, and the politicization of courts, affect representative democracy, rule of law, and separation of powers. This volume critically assesses the phenomena of judicialization of politics and politicization of the judiciary. It explores the rising impact of courts on key constitutional principles, such as democracy and separation of powers, which is paralleled by increasing criticism of this influence from both liberal

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and illiberal perspectives. The book also addresses the challenges to rule of law as a principle, preconditioned on independent and powerful courts, which are triggered by both democratic backsliding and the mushrooming of populist constitutionalism and illiberal constitutional regimes. Presenting a wide range of case studies, the book will be a valuable resource for students and academics in constitutional law and political science seeking to understand the increasingly complex relationships between the judiciary, executive and legislature.

The Constitutional State

An interdisciplinary perspective is adopted to examine international and European models of constitutionalism. In particular the book reflects critically on a number of constitutional themes, such as the nature of European and international constitutional models and their underlying principles; the telos behind international and European constitutionalism; the role of the state and of central courts; and the relationships between composite orders. Transnational Constitutionalism brings together a group of European and international law scholars, whose thought-provoking contributions provide the necessary intellectual insight that will assist the reader in understanding the political and legal phenomena that take place beyond the state. This edited collection represents an original and pioneering contribution to the international and European constitutional discourse.

Constitutional Pluralism in the European Union and Beyond

Ruling the World?: Constitutionalism, International Law, and Global Governance provides an interdisciplinary analysis of the major developments and central questions in debates over international constitutionalism at the UN, EU, WTO, and other sites of global governance. The essays in this volume explore controversial empirical and structural questions, doctrinal and normative issues, and questions of institutional design and positive political theory. Ruling the World? grows out of a three-year research project that brought twelve leading scholars together to create a comprehensive and integrated framework for understanding global constitutionalization. Ruling the World? is the first volume to explore in a cross-cutting way constitutional discourse across international regimes, constitutional pluralism, and relations among transnational and domestic constitutions. The volume examines the core assumptions, basic analytic tools, and key challenges in contemporary debates over international constitutionalization.

Europe's Functional Constitution

The Constitutional State provides an original analytical account of the state and its associated constitutional phenomena. It presents the state as a form of social group, consisting of people, territory and institutions bound together by rules. The institutions of the state make a distinctive and

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characteristic claim over the people of the state, who, in turn, have a distinctive and characteristic relationship with these institutions. This account reveals the importance of at least two forms of pluralism - legal and constitutional. It also casts light on some of the more difficult questions faced by writers on constitutions - such as the possibility of states undertaking actions and forming intentions, the moral significance of these actions for the people of the state, and the capacity of the state to carry responsibility for acts between generations.

Self-Constitution of European Society

Constitutionalism Beyond Liberalism bridges the gap between comparative constitutional law and constitutional theory. The volume uses the constitutional experience of countries in the global South - China, India, South Africa, Pakistan, Indonesia, and Malaysia - to transcend the liberal conceptions of constitutionalism that currently dominate contemporary comparative constitutional discourse. The alternative conceptions examined include political constitutionalism, societal constitutionalism, state-based (Rousseau-ian) conceptions of constitutionalism, and geopolitical conceptions of constitutionalism. Through these examinations, the volume seeks to expand our appreciation of the human possibilities of constitutionalism, exploring constitutionalism not merely as a restriction on the powers of government, but also as a creating collective political and social possibilities in diverse geographical and historical settings.

Transnational Constitutionalism

This volume assesses the implications of membership in the European Union for countries' understanding of the concept of sovereignty, based on the perspective of the Czech Republic. The starting point of this work is acceptance of the Czech Republic's membership in the European Union as a basic fact. The goal of the analysis presented here is to offer a theoretical approach to reconciling state sovereignty with the participation of the Czech Republic in the European integration project. To do so, the book pursues an in-depth analysis of the reactions of the Constitutional Court of the Czech Republic to the challenges associated with membership in the EU. Above all, it addresses the following two basic research questions: 1. Is membership of the state in the European Union associated with a loss of sovereignty, a sharing of sovereignty, or does it have no real consequences for the scope or understanding of the concept of state sovereignty, such that the phenomenon remains a classical, static and defining element of the state? 2. How does the Czech Constitutional Court deal with the specific characteristics of European Union law and what is its stance on the nature of the relationship between supranational and national law?

Beyond Constitutionalism

Constitutionalism and democracy have been interpreted as both intimately related and intrinsically opposed. On the one hand constitutions are said to

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set out the rules of the democratic game, on the other as constraining the power of the demos and their representatives to rule themselves - including by reforming the very processes of democracy itself. Meanwhile, constitutionalists themselves differ on how far any constitution derives its authority from, and should itself be subject to democratic endorsement and interpretation. They also dispute whether constitutions should refer solely to democratic processes, or also define and limit democratic goals. Each of these positions produces a different view of judicial review, the content and advisability of a Bill of Rights and the nature of constitutional politics. These differences are not simply academic positions, but are reflected in the different types of constitutional democracy found in the United States, continental Europe, Britain and many commonwealth countries. The selected essays explore these issues from the perspectives of law, philosophy and political science. A detailed and informative introduction sets them in the context of contemporary debates about constitutionalism.

Constitutional Pluralism in the European Union and Beyond

The European Union is at a crossroads. Slowly recovering from a series of financial and economic crises, with trust fundamentally shaken by processes of disaggregation and increasingly nationalist politics, it is searching for new visions that are at once inspiring and workable. In its White Paper of 1 March 2017, the Commission proposed five non-exclusive

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options for the Future of Europe. As put by the Commission, the five scenarios are illustrative in nature to provoke thinking. They are not detailed blueprints or policy prescriptions. Likewise, they deliberately make no mention of legal or institutional processes – the form will follow the function. This book takes the current state of the Union seriously. However, it aims to debate not only the political vision of Europe, but also the issue of legal integration beyond Brexit. Apart from addressing the institutional challenges for the EU, the contributions to this volume focus on two key areas: rule of law and security. Rule of law and security are not only paradigmatic for the future of Europe but are also closely connected to a particular vision of Europe based on 'integration through law'; a vision that has been strongly contested in recent years. The overarching question is: how can sustainable political and legal integration be achieved in Europe? The volume builds on a conference organised by the Swedish Network for European Legal Studies in November 2017 and includes chapters by leading scholars in the field from the Nordic countries and wider Europe.

Constitutionalism beyond Liberalism

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National Constitutions in European and Global Governance: Democracy, Rights, the Rule of Law

European constitutionalisation has met with scepticism - this book analyses the steps necessary to move to EU's 'Second Constitution'.

Ruling the World?

Provides a new understanding of the European constitution as a multidimensional process of constitutionalization, constantly interacting with Member State constitutions.

European Constitutional Law

Reclaiming Constitutionalism articulates an argument for why the constitutional phenomenon remains attached to the state - despite the recent advent of

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theories of global constitutionalism. Drawing from the idea that constitutionalism historically sought to build social consensus, this book argues that the primary aim of constitutionalism is to create social peace and to shield, rather than to limit, the power of political elites in any given state. Implicit in the effort to preserve social peace is the fundamentally important acknowledgement of social conflict. Constitutionalism seeks to offer a balance between opposing social forces. However, this balancing process can sometimes ignite, rather than appease, social conflict. Constitutionalism may thus further a project of social struggles and emancipation, for it incorporates within its very nucleus the potential for an agonistic version of democracy. In light of the connection between social conflict and constitutionalism, this book explores the conditions for and locations of the former. From the state and the EU to the global level, it considers the role of citizenship, national identities, democracy, power, and ideology, in order to conclude that the state is the only site that satisfies the prerequisites for social conflict. Reclaiming constitutionalism means building a discourse that opens up an emancipatory potential; a potential that, under current conditions, cannot be fulfilled beyond the borders of the state.

Constitutionalism beyond Liberalism

Written at the intersection of law and political science, this book adopts a new and original perspective on the legal implications of the Eastward enlargement of the Council of Europe and the European Union. Case

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studies offer a novel examination of the development of legal norms and institutions within these supranational bodies.

European Constitutionalism Beyond the State

Presents a critical outline and comparison of selected EU Member State constitutional identities in the context of EU multilevel constitutionalism.

Constitutionalism and the Enlargement of Europe

Courts, Politics and Constitutional Law

This volume makes a contribution to the ongoing lively discussion on European constitutionalism by offering a new perspective and a new interpretation of European constitutional plurality. The book combines diverse disciplinary approaches to the constitutional debate. It brings together complementing contributions from scholars of European politics, economics, and sociology, as well as established scholars from various fields of law. Moreover, it provides analytical clarity to the discussion and combines theory with more practical and critical approaches that make use of the constitutional toolbox in analysing the tensions between the different constitutions. The collection is a valuable point of reference not only for scholars interested in European studies but also for graduate

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and post-graduate students.

The Constitution of Europe

Europe is in crisis. With rising unrest among citizens of EU member states exemplified by the UK's decision to leave the EU, and the growing popularity of anti-EU political parties, Dieter Grimm presents the argument that Europe has to change its method of further integration or risks failure. This book, containing essays many of which have not been published in the English language to date, explores how the EU has become over-constitutionalized. Grimm argues that this has left the EU with a democratic deficit leading to the alienation of citizens. This book highlights Europe's democracy problem. The most prominent argument running throughout is that the EU and its decision-making processes have become over-constitutionalized. This is due to the constitutionalization of European treaties, which has occurred by raising them to the eminence of a constitution as a result of the jurisprudence of the European Court of Justice. However, the treaties contain provisions that would be ordinary law in member states. The fact that they enjoy constitutional status in Europe detaches them from the democratic processes in the member states and the EU itself, and contributes to the growing independence of the EU's executive and judicial institutions. The book also asserts that currently the EU does not have enough sources of legitimation to uphold itself, surviving solely on the legitimation provided by member states. One popular remedy is

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the suggestion of "parliamentarization" of the EU, giving the European Parliament the powers typically possessed by national parliaments as a means of heightening its legitimation. This is criticized by Grimm as expanding the Parliament's powers would not change the effects of over-constitutionalization as the Parliament is inferior to the constitution. In order to reduce the EU's legitimacy deficit, Grimm makes several recommendations. The repoliticization of the decision-making processes, which can be achieved by reducing treaties to the capacity necessary for their constitutional function; the reinvigoration of European Parliament elections, by having "Europeanized" parties to increase engagement with European society and give voters the opportunity to more immediately influence European politics; and a new division of powers based on subject matter to restrain European expansionism, reserving particular areas of policy to the responsibility of member states even if this affects the common market.

The European Constitution and National Constitutions

This textbook on European constitutional law offers a coherent and scholarly analysis presented within a clear structure.

Globalization and Sovereignty

Constitutionalism has become a byword for legitimate government, but is it fated to lose its relevance as

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constitutional states relinquish power to international institutions? This book evaluates the extent to which constitutionalism, as an empirical idea and normative ideal, can be adapted to institutions beyond the state by surveying the sophisticated legal and political system of the European Union. Having originated in a series of agreements between states, the EU has acquired important constitutional features like judicial review, protections for individual rights, and a hierarchy of norms. Nonetheless, it confounds traditional models of constitutional rule to the extent that its claim to authority rests on the promise of economic prosperity and technocratic competence rather than on the democratic will of citizens. Critically appraising the European Union and its legal system, this book proposes the idea of 'functional constitutionalism' to describe this distinctive configuration of public power. Although the EU is the most advanced instance of functional constitutionalism to date, understanding this pragmatic mode of constitutional authority is essential for assessing contemporary international economic governance.

The Many Constitutions of Europe

The European Yearbook of Constitutional Law (EYCL) is an annual publication initiated by the Department of Public Law and Governance at Tilburg University and 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 inaugurate volume

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examines the safeguards and limits of judicial power in a variety of constitutional systems, both at the national and supranational level. The book approaches the judiciary as part of the constitutional system operating within a legal order that connects the citizens and institutions of the state to each other. Looking at the judiciary from this broader perspective, the traditional doctrine of the separation of powers would appear no longer to adequately represent the diversity and complexity of constitutional systems and their democratic legitimacy. Judicial independence does not mean isolation, but should better be understood as institutionalizing relationships that legitimize the power of the courts. The notions of 'safeguards' and 'limits' indicate the reciprocally enabling and protecting nature of these relationships. In recognition of this, the contributions to this volume analyse these safeguards and limits as relations existing within a complex constitutional architecture. State institutions, today, are involved in a fundamental transformation of their selfunderstanding as a result of changes in political culture. Several contributions to this volume provide examples of political criticism and pressure on the judiciary, against which the usual guarantees are unable to provide adequate protection. A convincing and effective response to threats to the judiciary's independence requires a detailed and precise analysis of the judiciary's constitutional safeguards and limits. This book offers a step in that direction.

The Worlds of European Constitutionalism

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Despite the rejection of the EU Constitutional Treaty eventually leading to the adoption of the Lisbon Treaty, the debates concerning the European Union's constitutional framework continue. This book builds on the discourse in European Union constitutionalism in order to offer a novel analysis of the EU's constitutional developments. Giuseppe Martinico sets out a unique account of EU constitutionalism which argues that the EU legal order is a complex entity which shares some features with natural systems. The book is soundly anchored in the theory and methodology of legal science and based on a deep knowledge of judicial practices. The author contends that Europe is still suffering from the failure of the Constitutional Treaty and is practicing the new institutional equilibrium afforded by the coming into force of the Reform Treaty. The book goes on to explore the methodological implications of such constitutional complexity for the study of EU law. *The Tangled Complexity of the EU Constitutional Process* will be of particular interest to academics and students in the disciplines of Law, International Relations and Political Science.

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