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DONAVAN PRATT

Comparative Law - Engaging Translation
Oxford University Press

This fully revised and updated second edition of The Oxford Handbook of Comparative Law provides a wide-ranging and diverse critical survey of comparative law at the beginning of the twenty-first century. It summarizes and evaluates a discipline that is time-honoured but not easily understood in all its dimensions. In the current era of globalization, this

discipline is more relevant than ever, both on the academic and on the practical level. The Handbook is divided into three main sections. Section I surveys how comparative law has developed and where it stands today in various parts of the world. This includes not only traditional model jurisdictions, such as France, Germany, and the United States, but also

other regions like Eastern Europe, East Asia, and Latin America. Section II then discusses the major approaches to comparative law - its methods, goals, and its relationship with other fields, such as legal history, economics, and linguistics. Finally, section III deals with the status of comparative studies in over a dozen subject matter areas, including the major categories of private, economic, public, and criminal law. The Handbook contains forty-eight chapters written by experts from around the world. The aim of each chapter is to provide an accessible, original, and critical account of the current state of comparative law in its respective area which will help to shape the agenda in the years to come. Each chapter also includes a short bibliography referencing the definitive works in the field.

Constitutionalism in the Americas

Cambridge University Press

This book analyses the unique constitutional system in operation in Thailand as a continuous process of bricolage between various Western constitutional models and Buddhist doctrines of Kingship. Reflecting on the category of 'constitutional monarchy' and

its relationship with notions of the rule of law, it investigates the hybridised semi-authoritarian, semi-liberal monarchy that exists in Thailand. By studying constitutional texts and political practices in light of local legal doctrine, the book shows that the monarch's affirmation of extraordinary prerogative powers strongly rests on wider doctrinal claims about constitutionalism and the rule of law. This finding challenges commonly accepted assertions about Thailand, arguing that the King's political role is not the remnant of the 'unfinished' borrowing of Western constitutionalism, general disregard for the law, or cultural preference for 'charismatic authority', as generally thought. Drawing on materials and sources not previously available in English, this important work provides a comprehensive and critical account of the Thai 'mixed constitutional monarchy' from the late 19th century to the present day. The Unity of Public Law? Oxford University Press

Comparative Constitutional Studies takes a rich area of research and teaching and makes it attractive for the classroom setting and beyond. Every constitution has

an interesting story to tell, and for this book Günter Frankenberg has selected vibrant examples that encourage readers to practice realism, demonstrate critical spirit and examine the dark side of framers' reports and normative theories.

The Public Law of Gender Springer
Comparative constitutional change has recently emerged as a distinct field in the study of constitutional law. It is the study of the way constitutions change through formal and informal mechanisms, including amendment, replacement, total and partial revision, adaptation, interpretation, disuse and revolution. The shift of focus from constitution-making to constitutional change makes sense, since amendment power is the means used to refurbish constitutions in established democracies, enhance their adaptation capacity and boost their efficacy. Adversely, constitutional change is also the basic apparatus used to orchestrate constitutional backslide as the erosion of liberal democracies and democratic regression is increasingly affected through legal channels of constitutional change. Routledge Handbook of Comparative Constitutional Change provides a

comprehensive reference tool for all those working in the field and a thorough landscape of all theoretical and practical aspects of the topic. Coherence from this aspect does not suggest a common view, as the chapters address different topics, but reinforces the establishment of comparative constitutional change as a distinct field. The book brings together the most respected scholars working in the field, and presents a genuine contribution to comparative constitutional studies, comparative public law, political science and constitutional history.

Hybridity: Law, Culture and Development
Edward Elgar Publishing

Comparing the structures and challenges of democratic constitutionalism in India and the European Union, this book explores how democracy is possible within vastly diverse societies of continental scale, and why a constitutional framework is best able to secure the ideals of collective autonomy and individual dignity. It contributes to an emerging comparative discussion on structures of power, separation of powers and a comparative law of democracy, which has long been neglected in comparative constitutional

studies.

Shareholder Primacy and Global Business
Edward Elgar Publishing

Comparative constitutionalism emerged in its current form against the backdrop of the fall of the Berlin Wall and the end of the Cold War. As that backdrop recedes into the past, it is being replaced by a more multi-polar and confusing world, and the current state of the discipline of comparative constitutionalism reflects this fragmentation and uncertainty. This has opened up space for new, more varied, and increasingly critical voices seeking to improve the project of democratic constitutionalism. But it also raises questions: What of the past, if anything, is worth preserving? Which more recent parts should be defining of the field? In this context, this book asks which are - or should be - the canonical texts of comparative constitutionalism. The theoretical scope of the contributions is broad and ambitious, selecting primary material from beyond the existing textbooks to engage the concept of a canon. This framework provides significant insights about inclusion and exclusion, and proposes candidates for canonical and

anti-canonical materials. The result is a wide-ranging discussion, among many voices, of how particular judgments and other primary texts have shaped or should shape our understanding of central elements of democratic constitutionalism from a comparative law perspective. This book is not a prescription of one universal understanding, but a broader conversation about the field and the future of constitutional democracy.

Authoritarian Constitutionalism

Bloomsbury Publishing

Constitutions around the world have overwhelmingly been the creation of men, but this book asks how far constitutions have affirmed the equal citizenship status of women or failed to do so. Using a wealth of examples from around the world, Ruth Rubio-Marín considers constitutionalism from its inception to the present day and places current debates in their vital historical context. Rubio-Marín adopts an inclusive concept of gender and sexuality, and discusses the constitutional gender order as it has been shaped by debates such those around same-sex marriage and the rights of trans persons. Covering a wide range of themes, from

reproductive rights to political gender quotas and violence against women, this book offers a comprehensive feminist account of constitutional law. Truly international in scope and ambitious in subject matter, this is an invaluable resource for students and scholars working on gender within multiple disciplines. [Legal Experiments for Development in Latin America](#) Oxford University Press

The proportionality test, as proposed in Robert Alexy's principles theory, is becoming commonplace in comparative constitutional studies. And yet, the question "are courts justified in borrowing proportionality?" has not been expressly put in many countries where judicial borrowings are a reality. This book sheds light on this question and examines the circumstances under which courts are authorized to borrow from alien legal sources to rule on constitutional cases. Taking the Supreme Federal Court of Brazil – and its enthusiastic recourse to proportionality when interpreting the Federal Constitution – as a case study, the book investigates the normative reasons that could justify the court's attitude and offers a comprehensive overview of its

case law on controversial constitutional matters like abortion, same-sex union, racial quotas, and the right to public healthcare. Providing a valuable resource for those interested in comparative constitutional law and legal theory, or curious about Brazilian constitutional law, this book questions the alleged universality of the proportionality test, challenges the premises of Alexy's principles theory, and discloses more than 68 Brazilian Supreme Court decisions delivered from 2003 to 2018 that would otherwise have remained unknown to an English-speaking audience.

Global Gender Constitutionalism and Women's Citizenship Cambridge University Press

In an era marked by processes of economic, political and legal integration that are arguably unprecedented in their range and impact, the translation of law has assumed a significance which it would be hard to overstate. The following situations are typical. A French law school is teaching French law in the English language to foreign exchange students. Some US legal scholars are exploring the possibility of developing a generic or

transnational constitutional law. German judges are referring to foreign law in a criminal case involving an honour killing committed in Germany with a view to ascertaining the relevance of religious prescriptions. European lawyers are actively working on the creation of a common private law to be translated into the 24 official languages of the European Union. Since 2004, the World Bank has been issuing reports ranking the attractiveness of different legal cultures for doing business. All these examples raise in one way or the other the matter of translation from a comparative legal perspective. However, in today's globalised world where the need to communicate beyond borders arises constantly in different guises, many comparatists continue not to address the issue of translation. This edited collection of essays brings together leading scholars from various cultural and disciplinary backgrounds who draw on fields such as translation studies, linguistics, literary theory, history, philosophy or sociology with a view to promoting a heightened understanding of the complex translational implications pertaining to comparative

law, understood both in its literal and metaphorical senses.

Comparative Constitutional Design

Cambridge University Press

Are the courts our friend or our foe? This book has three parts: Part I considers the case for judicial independence Part II looks at the question 'Is judicial independence under threat?' Part III reflects on whether judicial independence be defended and protected. Prompted by the constitutional crisis following the referendum of 2016, the Foundation for Law Justice and Society convened the second Putney Debates. Now convened on an annual basis, they provide a forum each year for the discussion of matters of constitutional importance. The original Putney Debates were held in St Mary's Church, Putney in 1647. The Civil War had been won, the King was held prisoner, the New Model Army was in control. In late October of that year, the weekly meeting of the High Council of the New Model Army, under the chairmanship of Oliver Cromwell, together with several civilians, turned into a debate about the constitution. This is perhaps the only occasion in modern history that a constitutional convention has been held on

the English constitution.

The Constitution of Freedom

Bloomsbury Publishing

The Oxford Handbook of Law and Anthropology is a ground-breaking collection of essays that provides an original and internationally framed conception of the historical, theoretical, and ethnographic interconnections of law and anthropology. Each of the chapters in the Handbook provides a survey of the current state of scholarly debate and an argument about the future direction of research in this dynamic and interdisciplinary field. The structure of the Handbook is animated by an overarching collective narrative about how law and anthropology have and should relate to each other as intersecting domains of inquiry that address such fundamental questions as dispute resolution, normative ordering, social organization, and legal, political, and social identity. The need for such a comprehensive project has become even more pressing as lawyers and anthropologists work together in an ever-increasing number of areas, including immigration and asylum processes, international justice forums, cultural

heritage certification and monitoring, and the writing of new national constitutions, among many others. The Handbook takes critical stock of these various points of intersection in order to identify and conceptualize the most promising areas of innovation and sociolegal relevance, as well as to acknowledge the points of tension, open questions, and areas for future development.

The Courts and the People: Friend or Foe?

Oxford University Press

The debate over the use of foreign law on the U.S. Supreme Court is a part of a much larger constitutional conversation occurring in many jurisdictions regarding the migration of constitutional ideas. The migration of constitutional ideas across legal systems is rapidly emerging as one of the central features of contemporary constitutional practice. The migration of constitutional ideas has been identified to a limited extent at a descriptive level. But many basic conceptual issues have received almost no attention in the large and growing critical literature on comparative constitutional law. For example, the existing literature has not addressed systematically the methodology

of constitutional migration, nor the normative underpinnings of this enterprise. The Migration of Constitutional Ideas tackles this phenomenon from a diverse range of methodological perspectives. In this introductory essay, I describe and defend a theory of the use of comparative constitutional materials in constitutional interpretation which I term dialogical interpretation. The goal is to use comparative materials as an interpretive foil, to expose the factual and normative assumptions underlying the court's own constitutional order. First, comparative materials are engaged to identify the assumptions embedded in positive legal materials. But in the process of articulating the assumptions underlying foreign jurisprudence, a court will inevitably uncover its own. The next move is to engage in a process of justification. If the assumptions are different, the question becomes why they are different. Comparative engagement highlights the contingency of legal and constitutional order, and opens for discussion and contestation those characteristics which had remained invisible to whether those assumptions ought to be shared. Finally,

the court is faced with a set of interpretive choices. A court may be able to justify the similarity with, or the difference between, the assumptions underlying its own constitutional order and a foreign one. Comparative engagement, then, leads to a heightened sense of legal awareness through interpretive clarification and confrontation. But the identification and attempted justification of constitutional assumptions through comparison may lead a court to challenge and reject those assumptions and search for new ones. In cases of constitutional similarity, a court may determine a difference to be unfounded, and may rely on comparative jurisprudence as the engine of legal change.

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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, Andras Sajó and Renata 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.

Handbook of Culture and Globalization

Routledge

Constitutionalism in the Americas unites the work of leading scholars of constitutional law, comparative law and Latin American and U.S. constitutional law to provide a critical and provocative look at the state of constitutional law across the Americas today. The diverse chapters employ a variety of methodologies – empirical, historical, philosophical and textual analysis – in the effort to provide a comprehensive look at a generation of constitutional change across two continents.

Foundations of Public Contracts

Cambridge University Press

'A delightful and fresh approach to the comparative study of law.' (Jans Smits, Maastricht University, the Netherlands) (of the first edition). This textbook presents a clear and thought-provoking introduction

to the study of comparative law. The book provides students with in-depth analyses of the major global comparative methodologies and theories. Written in a lively style, it leads the student through debates in comparative legal scholarship, both in the Western world and in the lesser studied jurisdictions, beyond Europe and North America. The second edition includes a revised structure to help the student understand the subject, an updated introductory chapter, and new material on legal transplants and globalisation. It also explores allied disciplines, including linguistics, history, and post-colonial studies giving students full context of the subject.

Introduction to Comparative Law

Bloomsbury Publishing

This Research Agenda documents and establishes the thinking of leading scholars in the field of political marketing and related sub-fields, also encompassing additional social science disciplines that intersect at the crossroads of political marketing.

The Cambridge Companion to the Rule of Law

Bloomsbury Publishing

In the context of growing public interest in

sustainability, Corporate Social Responsibility (CSR) has not brought about the expected improvement in terms of sustainable business. Self-regulation has been unable to provide appropriate answers for unsustainable business frameworks, despite empirical proof that sustainable behaviour is entirely in corporate enlightened self-interest. The lack of success of the soft law approach suggests that hard law regulation may be needed after all. This book discusses these options, alongside the issue of shareholder primacy and its externalities in corporate, social, and natural environment. To escape the "prisoner's dilemma" European corporations and their global counterparts have found themselves in, help is needed in the form of EU hard law to advocate sustainability through mandatory rules. This book argues that the necessity of these laws is based on the first-mover's advantage of such corporate law approach towards sustainable development. In the current EU law environment, where codification of corporate law is sought for, forming and defining a general EU policy could not only help corporations embrace this self-enlightened behaviour but could

also build the necessary "EU corporate citizenship" atmosphere. Considering the developments in the field of CSR as attempts to mitigate negative externalities resulting from inappropriate shareholder primacy use, the book is centred around a discussion of the shareholder primacy paradigm, its legal position and its (un)suitability for modern global business. Going beyond solely legal analysis, juxtaposing legal principles and argumentation with economic theoretic approaches and, more importantly, real-life examples, this book is accessible to both professionals and academics working within the fields of business, economics, corporate governance and corporate law. *Comparative Constitutional Studies* Taylor

& Francis

Assesses what we know - and do not know - about comparative constitutional design and particular institutional choices concerning executive power and other issues.

Culture in the Domains of Law Edward Elgar Publishing

Examines the public law of gender and equality from the perspectives of comparative constitutional law, international law and governance.

Comparative Constitutional Studies Routledge

Constitutionalism, Human Rights, and Islam after the Arab Spring offers a comprehensive analysis of the impact that

new and draft constitutions and amendments - such as those in Jordan, Morocco, Syria, Egypt, and Tunisia - have had on the transformative processes that drive constitutionalism in Arab countries. This book aims to identify and analyze the key issues facing constitutional law and democratic development in Islamic states, and offers an in-depth examination of the relevance of the transformation processes for the development and future of constitutionalism in Arab countries. Using an encompassing and multi-faceted approach, this book explores underlying trends and currents that have been pivotal to the Arab Spring, while identifying and providing a forward looking view of constitution making in the Arab world.

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