
Europes Functional Constitution A Theory Of Constitutionalism Beyond The State

Oxford Constitutional Theory

Selected Writings

Constitutions and Constitutional Trends Since World War II

Constitutional and Political Theory

The Constitution of Supranationalism

Towards a Pluralist Constitutional Theory

A Theory of Constitutionalism Beyond the State

The Left Case for Brexit

The Constitutional Theory of the Federation and the European Union

Beyond Constitutionalism

Indonesian Law

The Many Constitutions of Europe

Responding to Imperfection

Beyond the People

Constituent Power in the European Union

The Routledge Handbook of Differentiation in the European Union

Constitutionalism, Identity, Difference, and Legitimacy

Handbook on Global Constitutionalism

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Principles of European Constitutional Law

Constitutional Pluralism in Ireland, the EU and the ECHR

Memory and the future of Europe

A Liberal Theory of Majority Rights

Constitutional Law of the European Union

The Future of Europe

Beyond EU politics, law and governance

Theoretical Perspectives

Constituent Power and the Legitimacy of International Organizations

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Europe's Functional Constitution

European Union Law

Self-Constitution of European Society

A Theory of Constitutionalism Beyond the State
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DAVIES VICTORIA

Selected Writings Oxford University Press, USA

This new text in the Law in Focus series offers a distinctive focus on the public, constitutional law of the EU, treating this not as a set of formalist procedures, but relating it to underlying principles e.g. in terms of democracy, transparency, accountability and respect for individual rights. The book incorporates a critical assessment of the institutions and constitutional law of the EU and the part they play in the democratic process, an investigation of the member states, and the political ramifications of this relationship. An overriding objective of the book is to present EU law as a rather more exciting and engaging subject than often presented, locating it much more in its historical and political context than other works.

Constitutions and Constitutional Trends Since World War II Routledge

An increasing number of constitutional theorists, within both the legal academy and university departments of government, are focusing on the conceptual and political problems attached to the notion of constitutional amendment. Amendments are, among other things, recognitions of the imperfection of existing schemes of government. The relative ease or difficulty of amendment has significant implications for the ways that governments respond to problems that call either for new structures of governance or new powers for already established structures. This book brings together essays by leading legal authorities and political scientists on a range of questions from whether the U.S. Constitution is subject to amendment by procedures other than those authorized by Article V to how significant change is conceptualized within classical rabbinic Judaism. Though the essays are concerned for the most part with the American experience, other constitutional traditions are considered as well. The contributors include Bruce Ackerman, Akhil Reed Amar, Mark E. Brandon, David R. Dow, Stephen M. Griffin, Stephen Holmes and Cass R. Sunstein, Sanford Levinson, Donald Lutz, Walter Murphy, Frederick Schauer, John R. Vile, and Noam J. Zohar.

Constitutional and Political Theory Europe's Functional Constitution A Theory of Constitutionalism Beyond the State

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 and post-graduate students.

The Constitution of Supranationalism Oxford University Press

Beyond the People develops a provocative, interdisciplinary, and meta-theoretical critique of the idea of popular sovereignty. It asks simple but far-reaching questions: Can 'imagined' communities, or 'invented' peoples, ever be theorized without, at the same time, being re-imagined and re-invented anew? Can polemical concepts, such as popular sovereignty or constituent power, be theorized objectively? If, as this book argues, the answer to these questions is no, theorists who approach the figure of a sovereign people must acknowledge that their activity is inseparable from the practice of constituent imagination. Though widely accepted as important, even vital, for the development of political concepts, the social practice of imagination is almost always presumed to operate either historically or impersonally, but seldom individually. Those who theorize the figures of popular sovereignty do not see that they are, in effect, 'conjurors' of peoplehood. This book invites constitutional, international, normative, and other political and legal theorists of sovereign peoplehood to embrace the conjuring-side of their professional identities, as a way of exploring the possibility of moving beyond eternally recurring, insolvable, and increasingly irrelevant questions. Instead of asking: Who is the people? What is the function of constituent power? Where may the people exercise its right to self-determination? Beyond the People asks the reader to consider the prospect of a riskier and more adventurous theoretical road, that opens with the question: What do I as a 'theorist-imaginer', or 'conjurer of peoplehood', assume, anticipate, and aspire to as I theorize the vehicles that mediate the assumptions, anticipations, and aspirations of others? This question is examined throughout the book as it interrogates the idea of peoplehood beyond disciplinary boundaries, showing how polemical, visual, affective, conceptual, and allegorical language critically shapes our idea of peoplehood. It offers a nuanced account of the contested relationship between the social imaginary of peoplehood on the ground, and the imaginative practices of the professional 'conjurors' of peoplehood in the academy.

Towards a Pluralist Constitutional Theory Oxford University Press

This title recounts the transformation of Europe from the post-war era until the Euro-crisis, using the tools of constitutional analysis and critical theory. The central claim is twofold: Europe has been gradually reconstituted in a manner that combines political authoritarianism with economic liberalism and that this order is now in a critical condition. Authoritarian liberalism is constructed supranationally, through a taming of inter-state relations in the project of European integration; at the domestic level, through the depoliticization of state-society relations; and socially, through the emergence of a new constitutional imaginary based on liberal individualism. In the language of constitutional theory, this transformation can be captured by the substitution of supranationalism for

internationalism, technocracy for democracy, and economic for political freedom. Sovereignty is restrained, democracy curtailed, and class struggle repressed. This constitutional trajectory takes time to unfold and develop and it presents continuities and discontinuities. On the one hand, authoritarian liberalism is deepened by the neoliberalism of the Maastricht era and the creation of Economic and Monetary Union. On the other hand, counter-movements then also begin to emerge, geopolitically, in the return of the German question, domestically, in the challenges to the EU presented by constitutional courts, and informally, in the rise of anti-systemic political parties and movements. Sovereignty, democracy, and political freedom resurface, but are then more actively suppressed through the harsher authoritarian liberalism of the Euro-crisis phase. This leads now to an impasse. Anti-systemic politics return but remain uneasily within the EU, suggesting authoritarian liberalism has reached its limits if just about managing to maintain constitutional order. As yet, there has been no definitive rupture, with the possible exception of Brexit.

A Theory of Constitutionalism Beyond the State Routledge

The Cultural Defense of Nations presents a timely, thought-provoking thesis on some of the most pressing issues of our time-global immigration, majority groups, and national identity. Never in human history has so much attention been paid to human movement. Global migration yields demographic shifts of historical significance, profoundly shaking up world politics-as has been seen in the refugee crisis, the Brexit referendum, and the 2016 U.S. election. The Cultural Defense of Nations addresses one of the greatest challenges facing liberalism today: is a liberal state justified in restricting immigration and access to citizenship in order to protect its majority culture? Liberal theorists and human rights advocates recognize the rights of minorities to maintain their unique cultural identity, but assume that majorities have neither a need for similar rights nor a moral ground for defending them. The majority culture, so the argument goes, "can take care of itself." However, with more than 250 million immigrants worldwide, majority groups increasingly seek to protect what they consider to be their national identity. In recent years, liberal democracies have introduced proactive immigration and citizenship policies that are designed to defend the majority culture. This book shifts the focus from the prevailing discussion of cultural minority rights and, for the first time, addresses the cultural rights of majorities. It proposes a new approach by which liberal democracies can welcome immigrants without fundamentally changing their cultural heritage, forsaking their liberal traditions, or slipping into extreme nationalism. Disregarding the topic of cultural majority rights is not only theoretically wrong, but also politically unwise. With forms of "majority nationalism" rising and the growing popularity of extreme right-wing parties in the West, time has come to liberally address the new challenge.

The Left Case for Brexit BRILL

Europe's Functional Constitution A Theory of Constitutionalism Beyond the State Oxford University Press

The Constitutional Theory of the Federation and the European Union Oxford University Press

Westphalian constitutionalism has shaped our understanding of politics, socio-political institutions and personal and political freedom for centuries. It is historically based in the foundations of Western modernity, such as humanism and rationalism, and is organised around familiar principles of national sovereignty, the rule of law, the separation of powers, and democracy. But since the end

of the twentieth century, global constitutionalism has gradually emerged, challenging both the constitutional ideology and the constitutional design of Westphalian constitutional law. This book critically assesses the structural and functional transformations in the Westphalian constitutional tradition produced by the emergence of supranational and global constitutionalism. In so doing, it evaluates the theory of global constitutionalism, its legal and socio-political limits, and important issues concerning the supranational constitutionalism of the EU. This leads to an articulation of the constitutional theory of the emerging post-Westphalian constitutionalism, examining its development during a period of significantly increased access to and sharing of information, increased mobility and more open statehood, as well as the rise of human rights and its encounter with populism and nationalism. This book will be of great interest to scholars of constitutional law and theory, particularly those with an interest in globalisation and supranationalism.

Beyond Constitutionalism Bloomsbury Publishing

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

Indonesian Law Europa Law Publishing

This book seeks to develop a new approach to EU legitimacy by reformulating the classical notion of constituent power for the context of European integration and challenging the conventional theoretical assumptions regarding the EU's ultimate source of authority.

The Many Constitutions of Europe Cambridge University Press

We live in a pluralist world of multi-level law and governance. More than ever before multiple legal systems and governing authorities at different levels - sub-state, state, supranational, international - are recognized as applying to, and claiming authority over, the affairs of the same sets of individuals and institutions. Yet our constitutional theories fail to adequately capture this pluralist state of affairs. This book examines some of the key conceptual and theoretical puzzles which the contemporary state of multilevel pluralism poses for our constitutional theories. It offers fresh perspectives on these questions by addressing the pluralism of norms and authorities from the viewpoint of legality and legitimacy respectively, proposing novel solutions for pluralizing constitutional theory in the light of contemporary multilevel governance. Our turbulent times are on a steady trajectory of ever-more pluralism of law and governance to tackle the defining social and political problems of our age including populism, pandemic, and climate change and this book provides an essential intervention in debates on how to pluralize constitutional theory to better understand and, perhaps more importantly, legitimize the tools to address these increasingly shared problems.

Responding to Imperfection Oxford University Press

The essays in this collection were first presented at an October 1991 conference on comparative constitutionalism under the auspices of the Jacob Burns Institute for Advanced Legal Studies, and the Cardozo-New School Project on Constitutionalism. Essays are organized in sections on the rebirth of constitutionalism, the legitimation of constitution making, the identity of the constitutional subject, the struggle between identity and difference, and the role of property rights. Annotation copyright by Book News, Inc., Portland, OR

Beyond the People OUP Oxford

Can a constitutional democracy commit suicide? Can an illiberal antidemocratic party legitimately

obtain power through democratic elections and amend liberalism and democracy out of the constitution entirely? In Weimar Germany, these theoretical questions were both practically and existentially relevant. By 1932, the Nazi and Communist parties combined held a majority of seats in parliament. Neither accepted the legitimacy of liberal democracy. Their only reason for participating democratically was to amend the constitution out of existence. This book analyses Carl Schmitt's state and constitutional theory and shows how it was conceived in response to the Weimar crisis. Right-wing and left-wing political extremists recognized that a path to legal revolution lay in the Weimar constitution's combination of democratic procedures, total neutrality toward political goals, and positive law. Schmitt's writings sought to address the unique problems posed by mass democracy. Schmitt's thought anticipated 'constrained' or 'militant' democracy, a type of constitution that guards against subversive expressions of popular sovereignty and whose mechanisms include the entrenchment of basic constitutional commitments and party bans. Schmitt's state and constitutional theory remains important: the problems he identified continue to exist within liberal democratic states. Schmitt offers democrats today a novel way to understand the legitimacy of liberal democracy and the limits of constitutional change.

Constituent Power in the European Union Oxford University Press

Through a critical appraisal of the European Union and its legal system, this book evaluates the extent to which constitutionalism as an empirical idea and normative ideal can be adapted to institutions beyond the state.

The Routledge Handbook of Differentiation in the European Union Princeton University Press

In this representative edition of Ernst-Wolfgang Böckenförde's definitive work in constitutionalism, law, and politics, readers have access to the legal discourse of one of Germany's leading contemporary theorists and former judge of the federal constitutional court, available in the English language for the first time.

Constitutionalism, Identity, Difference, and Legitimacy Bloomsbury Publishing

Indonesia has a growing population of almost 300 million people, it is increasingly involved in world affairs, and has a booming economy. The need to better understand its unique, complex, and often obscure legal system, has become pressing. This is true across a wide range of sectors including, but not limited to, trade and investment, crime and terrorism, and human rights. Indonesia's democratization after the fall of Soeharto in 1998 triggered massive social and political changes that opened up this diverse, and formerly tightly-controlled, society. Law reform was a key driver of Indonesia's transformation and its full effect remains to be seen. This book offers clear and detailed explanations of the foundations of Indonesia's legal system in the context of its legal reform and rapid development. It offers succinct commentaries on a wide range of issues, examining the judicial process, the constitution, corruption and the court system, contract law, administrative law, foreign investment, taxation, Islamic law, and family law. It examines current substantive law and judicial interpretation and presents case studies of how the system operates in practice. Written in an accessible and engaging style, this book is an essential guide for readers seeking quick and clear answers to questions regarding the law and its application in Indonesia.

Handbook on Global Constitutionalism Oxford University Press

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 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.

Routledge

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The Cambridge History of Modern European Thought: Volume 2, The Twentieth Century Bloomsbury Publishing

For the time being, the political project of basing the European Union on a document entitled 'Constitution' has failed. The second, revised and enlarged edition of this volume retains its title nonetheless. Building on a scholarly rather than black-letter law account, it shows European constitutional law as it looks following the Treaty of Lisbon, with the EU's foundational treaties mandating the exercise of public authority, establishing a hierarchy of norms and legitimising legal acts, providing for citizenship, and granting fundamental rights. In this way the treaties shape the relations between legal orders, between public interest regulation and market economy, and

between law and politics. The contributions demonstrate in detail how a constitutional approach furthers understanding of the core issues of EU law, how it offers theoretical and doctrinal insights, and how it adds critical perspective. From Reviews of the First Edition: "...should be mandatory reading for anyone who wants to get a holistic perspective of the academic debate on Europe's constitutional foundations...It is impossible to present the richness of thought contained in the 833 pages of the book in a short review." Common Market Law Review "an enduring scholarly work, which gives an English-speaking audience important, and overdue, access to the long-standing and forever-vigorous traditions of (European) constitutional law... unhesitatingly recommend[ed]." European Law Journal "...real scholarship in the profound sense of the word..." K Lenaerts, Professor of European Law, Leuven

Principles of European Constitutional Law Duke University Press

The University of Notre Dame Press is pleased to bring Ernst Haas's classic work on European

integration, *The Uniting of Europe*, back into print. First published in 1958 and last printed in 1968, this seminal volume is the starting point for anyone interested in the pre-history of the European Union. Haas uses the European Coal and Steel Community (ECSC) as a case study of the community formation processes that occur across traditional national and state boundaries. Haas points to the ECSC as an example of an organization with the "power to redirect the loyalties and expectations of political actors." In this pathbreaking book Haas contends that, based on his observations of the actual integration process, the idea of a "united Europe" took root in the years immediately following World War II. His careful and rigorous analysis tracks the development of the ECSC, including, in his 1968 preface, a discussion of the eventual loss of the individual identity of the ECSC through its absorption into the new European Community. Featuring a new introduction by Haas analyzing the impact of his book over time, as well as an updated bibliography, *The Uniting of Europe* is a must-have for political scientists and historians of modern and contemporary Europe. This book is the inaugural volume of Notre Dame's new Contemporary European Politics and Society Series.

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