

# Europes Functional Constitution A Theory Of Constitutionalism Beyond The State Oxford Constitutional Theory

EVENTUALLY, YOU WILL AGREE TO DISCOVER AN ADDITIONAL EXPERIENCE AND ABILITY BY SPENDING MORE CASH. YET WHEN? ACCOMPLISH YOU GIVE A POSITIVE RESPONSE THAT YOU REQUIRE TO ACQUIRE THOSE ALL NEEDS TAKING INTO ACCOUNT HAVING SIGNIFICANTLY CASH? WHY DONT YOU TRY TO ACQUIRE SOMETHING BASIC IN THE BEGINNING? THATS SOMETHING THAT WILL GUIDE YOU TO COMPREHEND EVEN MORE ALMOST THE GLOBE, EXPERIENCE, SOME PLACES, BEARING IN MIND HISTORY, AMUSEMENT, AND A LOT MORE?

IT IS YOUR TOTALLY OWN GET OLDER TO PRETEND REVIEWING HABIT. IN THE COURSE OF GUIDES YOU COULD ENJOY NOW IS **EUROPES FUNCTIONAL CONSTITUTION A THEORY OF CONSTITUTIONALISM BEYOND THE STATE OXFORD CONSTITUTIONAL THEORY** BELOW.

**CONSTITUTIONALISM** - DIETER GRIMM 2016-09-08

CONSTITUTIONALISM: PAST, PRESENT, AND FUTURE IS THE DEFINITIVE COLLECTION OF DIETER GRIMM'S MOST INFLUENTIAL WRITINGS ON CONSTITUTIONAL THOUGHT AND INTERPRETATION. THE ESSAYS INCLUDED IN THIS VOLUME EXPLORE THE CONDITIONS UNDER WHICH THE MODERN CONSTITUTION COULD EMERGE; THEY TREAT THE CHARACTERISTICS THAT MUST BE GIVEN IF THE CONSTITUTION MAY BE CALLED AN ACHIEVEMENT, THE APPROPRIATE WAY TO UNDERSTAND AND INTERPRET CONSTITUTIONAL LAW UNDER CURRENT CONDITIONS, THE FUNCTION OF JUDICIAL REVIEW, THE REMAINING ROLE OF NATIONAL CONSTITUTIONS IN A CHANGING WORLD, AS WELL AS THE POSSIBILITY OF SUPRA-NATIONAL CONSTITUTIONALISM. MANY OF THESE ESSAYS HAVE INFLUENCED THE GERMAN AND EUROPEAN DISCUSSION ON CONSTITUTIONALISM AND FOR THE FIRST TIME, MUCH OF THE WORK OF ONE OF GERMAN'S LEADING SCHOLARS OF PUBLIC LAW WILL BE AVAILABLE IN THE ENGLISH LANGUAGE.

**THE AMERICAN CONSTITUTION AND THE DEBATE OVER ORIGINALISM** - DENNIS J. GOLDFORD 2005-04-25

LOCATED AT THE INTERSECTION OF LAW, POLITICAL SCIENCE, PHILOSOPHY, AND LITERARY THEORY, THIS BOOK EXPLORES THE NATURE OF AMERICAN CONSTITUTIONAL INTERPRETATION THROUGH A RECONSIDERATION OF THE LONG-STANDING DEBATE BETWEEN THE INTERPRETIVE THEORIES OF ORIGINALISM AND NONORIGINALISM. IT TRACES THAT DEBATE TO A PARTICULAR SET OF PREMISES ABOUT THE NATURE OF LANGUAGE, INTERPRETATION, AND OBJECTIVITY, PREMISES THAT RAISE THE SPECTER OF UNCONSTRAINED, UNSTRUCTURED CONSTITUTIONAL INTERPRETATION THAT HAS HAUNTED CONTEMPORARY CONSTITUTIONAL THEORY.

**CONSTITUENT POWER IN THE EUROPEAN UNION** - MARKUS PATBERG 2021-01-03

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.

**POLITY AND CRISIS** - MASSIMO FICHERA 2016-04-22

EUROPEAN INTEGRATION IS AN OPEN-ENDED, ONGOING PROCESS WHICH HAS BEEN DEEPLY CHALLENGED BY INTEGRAL WORLD CAPITALISM. THIS STUDY EXPLORES THE PRESENT EU FOUNDATIONAL DILEMMA, LOOKING AT THE PROBLEMATIC RELATIONSHIP BETWEEN THE IDEAL MODEL OF INTEGRATION AND THE REALITY OF THE 21ST CENTURY. INCLUDING CONTRIBUTIONS FROM LEADING THEORISTS, THIS VOLUME EXPLORES THE WAYS AND EXTENT TO WHICH THE PRESENT EUROPEAN CRISIS COULD CREATE A POLITICO-LEGAL SPACE FOR NEW POSSIBILITIES AND OPPORTUNITIES FOR ACTION. THE AUTHORS DISCUSS THE CURRENT ROLE OF THE EU, AND WHETHER IT ASPIRES TO BE A DEMOCRATIC POLITY OR A FUNCTIONAL ORGANIZATION BASED ON INTER-GOVERNMENTAL BARGAINING. THE CHAPTERS QUESTION WHETHER THE FUTURE OF EUROPEAN INTEGRATION AFTER THE CRISIS WILL BE PAVED BY DECISIONS WHICH CONFLICT WITH ITS TREATY BASIS, AND HOW IT MIGHT COME UP WITH ALTERNATIVES WHICH WOULD DO MORE THAN ECHO THE COMPULSIONS OF THE GLOBAL MARKET. ISSUES ARE ANALYSED FROM A HISTORICAL PERSPECTIVE TO SEE WHAT CAN BE LEARNT FROM ITS PAST AND TO EXPLORE THE OPTIONS FOR THE FUTURE. WITH CONTRIBUTIONS FROM PROMINENT INTERNATIONAL LEGAL AND POLITICAL SCHOLARS, THE BOOK WILL BE OF INTEREST TO ACADEMICS, STUDENTS AND POLICY-MAKERS WORKING IN THESE AREAS.

**AUTHORITARIAN LIBERALISM AND THE TRANSFORMATION OF MODERN EUROPE** - MICHAEL A. WILKINSON 2021

THIS BOOK USES CONSTITUTIONAL ANALYSIS AND THEORY TO EXPLORE THE TRANSFORMATION OF EUROPE FROM THE POST-WAR ERA UNTIL THE EURO-CRISIS. AUTHORITARIAN LIBERALISM HAS DEVELOPED OVER THESE YEARS AND, AS THE BOOK SUGGESTS, IS NOW PERHAPS REACHING ITS LIMIT. THIS BOOK USES HISTORY AND THEORY TO REVEAL THE EU'S JOURNEY AND HIGHLIGHT FUTURE CHALLENGES.

**THE TANGLED COMPLEXITY OF THE EU CONSTITUTIONAL PROCESS** - GIUSEPPE MARTINICO 2022-08-05

OFFERING A FRESH VIEW ON THE EU CONSTITUTIONALISATION PROCESS, THE NEW EDITION OF THE TANGLED COMPLEXITY OF THE EU CONSTITUTIONAL PROCESS PRESENTS THREE MAIN POINTS: THE IDEA OF CONSTITUTIONAL COMPLEXITY, THE TENSION BETWEEN CONSTITUTIONAL EVOLUTIONISM AND CONSTITUTIONAL CONSTRUCTIVISM IN THE PROCESS OF EUROPEAN INTEGRATION, AND THE FUNCTIONAL NATURE OF CONFLICTS IN THE EVOLUTION OF THE EU. BECAUSE OF ITS PRODIGIOUSNESS, EUROPEAN LAW PRODUCES CONSTERNATION AMONG CONSTITUTIONALISTS ACCUSTOMED TO TRADITIONAL PATTERNS OF POWER. THIS BOOK ARGUES THAT WHILE CONSTITUTIONAL CONFLICTS HAVE FREQUENTLY BEEN DEPICTED AS ELEMENTS OF DISTURBANCE ALONG THE PATH TOWARDS LEGAL COHERENCE, THEY ARE PHYSIOLOGICAL AND MIGHT EVEN BE FUNCTIONAL TO THE DEVELOPMENT OF THE EUROPEAN LEGAL ORDER, WHICH SHOULD NOT BE UNDERSTOOD IN A DETERMINISTIC MANNER. THE NEW EDITION WILL BE OF PARTICULAR INTEREST TO ACADEMICS AND STUDENTS IN THE DISCIPLINES OF LAW, INTERNATIONAL RELATIONS, AND POLITICAL SCIENCE.

**CONSTITUTIONAL COURTS AND DELIBERATIVE DEMOCRACY** - CONRADO HENRI MENDES 2013-12-19

CONTEMPORARY DEMOCRACIES HAVE GRANTED AN EXPANSIVE AMOUNT OF POWER TO UNELECTED JUDGES THAT SIT IN CONSTITUTIONAL

OR SUPREME COURTS. THIS POWER SHIFT HAS NEVER BEEN EASILY SQUARED WITH THE INSTITUTIONAL BACKBONES THROUGH WHICH DEMOCRACY IS POPULARLY SUPPOSED TO BE STRUCTURED. THE BEST INSTITUTIONAL TRANSLATION OF A 'GOVERNMENT OF THE PEOPLE, BY THE PEOPLE AND FOR THE PEOPLE' IS USUALLY EXPRESSED THROUGH ELECTIONS AND ELECTORAL REPRESENTATION IN PARLIAMENTS. JUDICIAL REVIEW OF LEGISLATION HAS BEEN CHALLENGED AS BYPASSING THAT COMMON SENSE CONCEPTION OF DEMOCRATIC RULE. THE ALLEGED 'DEMOCRATIC DEFICIT' BEHIND WHAT COURTS ARE LEGALLY EMPOWERED TO DO HAS BEEN MET WITH A VARIETY OF JUSTIFICATIONS IN FAVOUR OF JUDICIAL REVIEW. ONE COMMON JUSTIFICATION CLAIMS THAT CONSTITUTIONAL COURTS ARE, IN COMPARISON TO ELECTED PARLIAMENTS, MUCH BETTER SUITED FOR IMPARTIAL DELIBERATION AND PUBLIC REASON-GIVING. FUNDAMENTAL RIGHTS WOULD THUS BE BETTER PROTECTED BY THAT INSULATED MODE OF DECISION-MAKING. THIS JUSTIFICATION HAS REMAINED LARGELY SUPERFICIAL AND, SOMETIMES, TOO EASILY EMBRACED. THIS BOOK ANALYSES THE ARGUMENT THAT THE LEGITIMACY OF COURTS ARISES FROM THEIR DELIBERATIVE CAPACITY. IT EXAMINES THE THEORY OF POLITICAL DELIBERATION AND ITS IMPLICATIONS FOR INSTITUTIONAL DESIGN. AGAINST THIS BACKGROUND, IT TURNS TO CONSTITUTIONAL REVIEW AND ASKS WHETHER AN ARGUMENT CAN BE MADE IN SUPPORT OF JUDICIAL POWER ON THE BASIS OF DELIBERATIVE THEORY.

**THEORY AND REFORM IN THE EU** - DIMITRIS N. CHRYSOCHOOU 2013-07-19

THIS ELECTRONIC VERSION HAS BEEN MADE AVAILABLE UNDER A CREATIVE COMMONS (BY-NC-ND) OPEN ACCESS LICENSE. THIS SUBSTANTIALLY UPDATED AND REVISED EDITION OFFERS A COMPREHENSIVE OVERVIEW OF THE CHALLENGES CONFRONTING THE POLITICAL SYSTEM AS WELL AS THE INTERNATIONAL POLITICS OF THE EUROPEAN UNION. IT DRAWS FROM A SPECTRUM OF REGIONAL INTEGRATION THEORIES TO DETERMINE WHAT THE UNION ACTUALLY IS AND HOW IT IS DEVELOPING, EXAMINING THE CONSTITUTIONAL POLITICS OF THE EUROPEAN UNION, FROM THE SINGLE EUROPEAN ACT TO THE TREATY OF NICE AND BEYOND. THE ONGOING DEBATE ON THE FUTURE OF EUROPE LINKS TOGETHER THE QUESTIONS OF DEMOCRACY AND LEGITIMACY, COMPETENCES AND RIGHTS, AND THE PROSPECTS FOR EUROPEAN POLITY-BUILDING. THE AIM IS TO CONTRIBUTE TO A BETTER UNDERSTANDING OF THE EMERGING EUROPEAN POLITY AND THE QUESTIONS THAT FURTHER TREATY REFORM GENERATES FOR THE FUTURE OF THE REGIONAL SYSTEM. THE AUTHORS ALSO ASSESS THE EVOLVING EUROPEAN SECURITY ARCHITECTURE; THE LIMITS AND POSSIBILITIES OF A GENUINE EUROPEAN FOREIGN, SECURITY AND DEFENCE POLICY; AND THE ROLE OF THE EU IN THE POST-COLD WAR INTERNATIONAL SYSTEM. COMMON THEMES INVOLVE DEBATES ABOUT STABILITY AND INSTABILITY, CONTINUITY AND CHANGE, MULTIPOLARITY AND LEADERSHIP, CO-OPERATION AND DISCORD, POWER CAPABILITIES AND PATTERNS OF BEHAVIOUR. THE BOOK TRACES THE DEFINING FEATURES OF THE 'NEW ORDER' IN EUROPE AND INCORPORATES AN ANALYSIS OF THE POST-SEPTEMBER 11TH CONTEXT.

**BEYOND CONSTITUTIONALISM** - NICO KRISCH 2012-09-06

UNDER PRESSURE FROM GLOBALISATION, THE CLASSICAL DISTINCTION BETWEEN DOMESTIC AND INTERNATIONAL LAW HAS BECOME INCREASINGLY BLURRED, SPURRING DEMAND FOR NEW PARADIGMS TO CONSTRUCT THE EMERGING POSTNATIONAL 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 FAIR COOPERATION IN PLURALIST SETTINGS.

**DEMOCRATIC DIALOGUE AND THE CONSTITUTION** - ALISON L. YOUNG 2017-04-14

CONSTITUTIONS DIVIDE INTO THOSE THAT PROVIDE FOR A CONSTITUTIONALLY PROTECTED SET OF RIGHTS, WHERE COURTS CAN STRIKE

DOWN LEGISLATION, AND THOSE WHERE RIGHTS ARE PROTECTED PREDOMINANTLY BY PARLIAMENT, WHERE COURTS CAN INTERPRET LEGISLATION TO PROTECT RIGHTS, BUT CANNOT STRIKE DOWN LEGISLATION. THE UK'S HUMAN RIGHTS ACT 1998 IS REGARDED AS AN EXAMPLE OF A COMMONWEALTH MODEL OF RIGHTS PROTECTIONS. IT IS JUSTIFIED AS A NEW FORM OF PROTECTION OF RIGHTS WHICH PROMOTES DIALOGUE BETWEEN THE LEGISLATURE AND THE COURTS - DIALOGUE BEING SEEN NOT JUST AS A BETTER MEANS OF PROTECTING RIGHTS, BUT AS A NEW FORM OF CONSTITUTIONALISM OCCUPYING A MIDDLE GROUND BETWEEN LEGAL AND POLITICAL CONSTITUTIONALISM. THIS BOOK ARGUES THAT THERE IS NO CLEAR MIDDLE GROUND FOR DIALOGUE TO OCCUPY, WITH MOST THEORIES OF LEGAL AND POLITICAL CONSTITUTIONALISM COMBINING LEGAL AND POLITICAL PROTECTIONS, AS WELL AS PROVIDING AN ACCOUNT OF INTERACTIONS BETWEEN THE LEGISLATURE AND THE JUDICIARY. NEVERTHELESS, DIALOGUE HAS A ROLE TO PLAY. IT DIFFERS FROM LEGAL AND POLITICAL CONSTITUTIONALISM IN TERMS OF THE ASSUMPTIONS ON WHICH IT IS BASED AND THE QUESTIONS IT ASKS. IT FOCUSES ON ANALYSING MECHANISMS OF INTER-INSTITUTIONAL INTERACTIONS, AND ASSESSING WHEN THESE INTERACTIONS CAN PROVIDE A BETTER PROTECTION OF RIGHTS, FACILITATE DELIBERATION, ENGAGE CITIZENS AND ACT AS AN EFFECTIVE CHECK AND BALANCE BETWEEN INSTITUTIONS OF THE CONSTITUTION. THIS BOOK EVALUATES DIALOGUE IN THE UK CONSTITUTION, ASSESSING THE PROTECTION OF HUMAN RIGHTS THROUGH THE HUMAN RIGHTS ACT 1998, THE COMMON LAW AND EU LAW. IT ALSO EVALUATES COURT-COURT DIALOGUE BETWEEN THE UK COURT AND THE EUROPEAN COURT OF JUSTICE AND THE EUROPEAN COURT OF HUMAN RIGHTS. THE CONCLUSION EVALUATES THE IMPLICATIONS OF THE PROPOSED BRITISH BILL OF RIGHTS AND THE REFERENDUM DECISION TO LEAVE THE EUROPEAN UNION.

*SOVEREIGNTY IN POST-SOVEREIGN SOCIETY* - JÜRGEN HABERMAS 2016-03-09

SOVEREIGNTY MARKS THE BOUNDARY BETWEEN POLITICS AND LAW. HIGHLIGHTING THE LEGAL CONTEXT OF POLITICS AND THE POLITICAL CONTEXT OF LAW, IT THUS CONTRIBUTES TO THE INTERNAL DYNAMICS OF BOTH POLITICAL AND LEGAL SYSTEMS. THIS BOOK COMPREHENDS THE PERSISTENCE OF SOVEREIGNTY AS A POLITICAL AND JURIDICAL CONCEPT IN THE POST-SOVEREIGN SOCIAL CONDITION. THE TENSION AND PARADOXICAL RELATIONSHIP BETWEEN THE SEMANTICS AND STRUCTURES OF SOVEREIGNTY AND POST-SOVEREIGNTY ARE ADDRESSED BY USING THE CONCEPTUAL FRAMEWORK OF THE AUTOPOIETIC SOCIAL SYSTEMS THEORY. USING A NUMBER OF CONTEMPORARY EUROPEAN EXAMPLES, DEVELOPMENTS AND PARADOXES, THE AUTHOR EXAMINES TOPICS OF IMMENSE INTEREST AND IMPORTANCE RELATING TO THE CONCEPT OF SOVEREIGNTY IN A GLOBALISING WORLD. THE STUDY ARGUES THAT THE MODERN QUESTION OF SOVEREIGNTY PERMANENTLY OSCILLATING BETWEEN DE IURE AUTHORITY AND DE FACTO POWER CANNOT BE DISCARDED BY THEORIES OF SUPRANATIONAL AND TRANSNATIONAL GLOBALIZED LAW AND POLITICS. CRITICISING QUASI-THEOLOGICAL CONCEPTUALIZATIONS OF POLITICAL SOVEREIGNTY AND ITS JURIDICAL FORM, THE STUDY REFORMULATES THE CONCEPT OF SOVEREIGNTY AND ITS PERSISTENCE AS PART OF THE SELF-REFERENTIAL COMMUNICATION OF THE SYSTEMS OF POSITIVE LAW AND POLITICS. THE BOOK WILL BE OF CONSIDERABLE INTEREST TO ACADEMICS AND RESEARCHERS IN POLITICAL, LEGAL AND SOCIAL THEORY AND PHILOSOPHY.

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*EUROPE'S FUNCTIONAL CONSTITUTION* - TURKULER ISIKSEL 2016

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.

*CONSTITUTIONALISM UNDER STRESS* - ULADZISLAU BELAVUSAU 2020-09-10

CONSTITUTIONALISM UNDER STRESS REFLECTS ON COMPARATIVE CONSTITUTIONALISM IN CENTRAL AND EASTERN EUROPE THROUGH THE WORK OF EMINENT CONSTITUTIONAL SCHOLAR WOJCIECH SADURSKI. THE BOOK EXAMINES THE CURRENT DECLINE OF LIBERAL DEMOCRACIES AND POPULIST CHALLENGES TO THE RULE OF LAW IN THE REGION - EVENTS THAT SADURSKI PREDICTED EARLY ON IN HIS WRITINGS ABOUT JURGEN HAIDER AFFAIR IN AUSTRIA AND THE INTRODUCTION OF ARTICLE 7 TEU BY THE AMSTERDAM TREATY. SADURSKI'S WORK HAS CHRONICLED THE TRANSITION FROM CONCERN FOR THE MOST BASIC OF HUMAN RIGHTS UNDER AUTHORITARIAN RULE TO THE CHALLENGES OF DEMOCRATIC GOVERNANCE. THE COMPELLING RIGHTS DISCOURSE OF AN EARLIER PERIOD GAVE WAY TO CLAIMS OF ABUSE OF MAJORITARIAN PREROGATIVES AS THE HOPES OF LIBERAL DEMOCRACY ENCOUNTERED THE POWER OF ILLIBERALISM. THE THEORETICAL RESPONSES OFFERED FOR THE PRESERVATION OF LIBERAL DEMOCRACY, IN LIGHT OF THE CURRENT TURBULENCE REGARDING THE RULE OF LAW IN THE REGION, PRODUCES A FAR REACHING AND EFFECTIVE REFERENCE TOOL ON MATTERS OF CONSTITUTIONAL CAPTURE AND ILLIBERAL DEMOCRACY.

*LEGITIMATION BY CONSTITUTION* - ALESSANDRO FERRARA 2021

LEGITIMATION BY CONSTITUTION IS THE PHRASE, COINED BY DISTINGUISHED AUTHORS FRANK MICHELMAN AND ALESSANDRO FERRARA, FOR A KEY IDEA IN RAWLSIAN POLITICAL LIBERALISM OF A RELIANCE ON A DUALIST FORM OF DEMOCRACY-A SUBJECTION OF GROUND-

LEVEL LAWMAKING TO THE CONSTRAINTS OF A HIGHER-LAW CONSTITUTION THAT MOST CITIZENS COULD FIND ACCEPTABLE AS A FRAMEWORK FOR THEIR POLITICS-AS A RESPONSE TO THE PROBLEM OF MAINTAINING A LIBERALLY JUST, STABLE, AND OPPRESSION-FREE DEMOCRATIC GOVERNMENT IN CONDITIONS OF PLURALIST VISIONARY CONFLICT. LEGITIMATION BY CONSTITUTION RECALLS, COLLECTS, AND COMBINES A SERIES OF EXCHANGES OVER THE YEARS BETWEEN MICHELMAN AND FERRARA, INSPIRED BY RAWLS' ENCAPSULATION OF THIS CONCEPTION IN HIS PROPOSED LIBERAL PRINCIPLE OF LEGITIMACY. FROM A SHARED STANDPOINT OF SYMPATHETIC IDENTIFICATION WITH THE POLITICAL-LIBERAL STATEMENT OF THE PROBLEM, FOR WHICH LEGITIMATION BY CONSTITUTION IS PROPOSED AS A SOLUTION, THESE EXCHANGES CONSIDER THE PERCEIVED DIFFICULTIES ARGUABLY STANDING IN THE WAY OF THIS PROPOSAL'S FULFILLMENT ON TERMS CONSISTENT WITH POLITICAL LIBERALISM'S DEFINING IDEAS ABOUT POLITICAL JUSTIFICATION. THE AUTHORS DISCUSS THE MYSTERIES OF A DEMOCRATIC CONSTITUENT POWER; THE TENSIONS BETWEEN GOVERNMENT-BY-THE-PEOPLE AND GOVERNMENT-BY-CONSENT; THE CHALLENGES POSED TO CONCRETIZATION BY JUDICIAL AUTHORITIES OF NATIONAL CONSTITUTIONAL LAW; AND THE MAGNIFICATION OF THESE TENSIONS AND CHALLENGES UNDER THE LENSES OF AMBITION TOWARDS TRANSNATIONAL LEGAL ORDERING. THESE DISCUSSIONS ENGAGE WITH OTHER LEADING CONTEMPORARY THEORISTS OF LIBERAL-DEMOCRATIC CONSTITUTIONALISM INCLUDING BRUCE ACKERMAN, RONALD DWORKIN, AND JURGEN HABERMAS.

*A THEORY OF CONSTITUTIONAL RIGHTS* - ROBERT ALEXY 2010

IN ANY COUNTRY WHERE THERE IS A BILL OF RIGHTS, CONSTITUTIONAL RIGHTS REASONING IS AN IMPORTANT PART OF THE LEGAL PROCESS. AS MORE AND MORE COUNTRIES ADOPT HUMAN RIGHTS LEGISLATION AND ACCEDE TO INTERNATIONAL HUMAN RIGHTS AGREEMENTS, AND AS THE EUROPEAN UNION INTRODUCES ITS OWN BILL OF RIGHTS, JUDGES STRUGGLE TO IMPLEMENT THESE RIGHTS CONSISTENTLY AND SOMETIMES THE REASONING BEHIND THEM IS LOST. EXAMINING THE PRACTICE IN OTHER JURISDICTIONS CAN BE A VALUABLE GUIDE. ROBERT ALEXY'S CLASSIC WORK RECONSTRUCTS THE REASONING BEHIND THE JURISPRUDENCE OF THE GERMAN BASIC LAW AND IN DOING SO PROVIDES A THEORY OF GENERAL APPLICATION TO ALL JURISDICTIONS WHERE JUDGES WRESTLE WITH RIGHTS ADJUDICATION. IN CONSIDERING THE FEATURES OF CONSTITUTIONAL RIGHTS REASONING, THE AUTHOR MOVES FROM THE DOCTRINE OF PROPORTIONALITY, PROCEDURAL RIGHTS AND THE STRUCTURE AND SCOPE OF CONSTITUTIONAL RIGHTS, TO GENERAL RIGHTS OF LIBERTY AND EQUALITY AND THE PROBLEM OF HORIZONTAL EFFECT. A POSTSCRIPT WRITTEN FOR THE ENGLISH EDITION CONSIDERS CRITIQUES OF THE THEORY SINCE IT FIRST APPEARED IN 1985, FOCUSING IN PARTICULAR ON THE DISCRETION LEFT TO LEGISLATURES AND IN AN EXTENDED INTRODUCTION THE TRANSLATOR ARGUES THAT THE THEORY MAY BE USED TO CLARIFY THE NATURE OF LEGAL REASONING IN THE CONTEXT OF RIGHTS UNDER THE BRITISH CONSTITUTION. THIS BOOK WILL BE OF CENTRAL INTEREST TO ALL LEGAL AND CONSTITUTIONAL THEORISTS AND HUMAN RIGHTS SCHOLARS.

*THE FUTURE OF EU CONSTITUTIONALISM* - MATEJ AVBELJ 2023-02-23

IS THERE A REAL AND MEANINGFUL FUTURE FOR EU CONSTITUTIONALISM? THIS COLLECTION EXPLORES THIS QUESTION IN LIGHT OF RECENT CHALLENGES TO EU CONSTITUTIONAL LAW; NAMELY THE PANDEMIC AND THE POLITICAL SCHISMS EMERGING ACROSS THE EUROPEAN UNION. THE CONTRIBUTORS EXPLORE THE QUESTION THROUGH THE PRISM OF THE FIVE MAIN PILLARS OF EU CONSTITUTIONALISM: THE CONSTITUTIONAL VALUES, THE EU FORMAL CONSTITUTIONAL FRAMEWORK, ITS SUBSTANCE CONSISTING OF THE EU POLITICAL AND ECONOMIC CONSTITUTION, AND CONCLUDE BY LOOKING AT THE FOUNDATIONAL CONCEPT OF SOVEREIGNTY (NATIONAL AND EUROPEAN) IN A GLOBAL REALM. DRAWING ON EXPERTISE FROM BOTH 'OLD' AND 'NEW' EUROPE, IT GIVES VOICE TO THE MOST FUNDAMENTAL QUESTION FACING THE UNION IN ITS SECOND HALF CENTURY.

*THE INTERPRETABLE CONSTITUTION* - WILLIAM F. HARRIS 1993

"IN THE INTERPRETABLE CONSTITUTION WILLIAM F. HARRIS II EXAMINES THREE FEATURE OF AMERICAN CONSTITUTIONALISM THAT ARE USUALLY TAKEN FOR GRANTED: THE CONSTITUTION'S AUTHORITATIVENESS, ITS WRITTEN CHARACTER, AND ITS CONSEQUENT READABILITY. DRAWING ON RECENT WORK IN LITERARY AS WELL AS CONSTITUTIONAL THEORY, HARRIS AIMS TO CHANGE THE VERY CONTOUR AND CHARACTER OF DEBATE ON CONSTITUTIONAL MEANING." "A CENTRAL INSIGHT OF HARRIS'S WORK IS HIS VIEW OF AMERICAN POLITICS AS CONSISTING OF TWO "TEXTS" - THE FAMILIAR CONSTITUTION ITSELF AND THE WORKING POLITY THAT IT SIGNIFIES. EMBRACING BOTH OF THESE "TEXTS," HARRIS OFFERS A RIGOROUS METHODOLOGY FOR INTERPRETING EACH IN LIGHT OF THE OTHER. HE ALSO ATTEMPTS TO OFFER A MIDDLE GROUND BETWEEN THE TWO EXTREMES OF STRICT CONSTRUCTIONISM, ON THE ONE HAND, AND HISTORICISM (THE NOTION THAT EACH GENERATION INTERPRETS THE CONSTITUTION ANEW), ON THE OTHER. IN THE PROCESS, HE DESCRIBES THE WAYS IN WHICH THE WRITTEN CONSTITUTION AND THE WORKING POLITY MUTUALLY LIMIT AND TRANSFORM EACH OTHER." "THE CENTRAL IDEA," HARRIS WRITES IN HIS INTRODUCTION, "IS THAT THE SYSTEMATIC INTERPRETABILITY OF THE CONSTITUTION IS ESSENTIAL TO ITS BINDINGNESS AS LAW. THE CONVERSE IS THAT AD HOC INTERPRETATIONS OR THE RANDOM TAKING UP OF CONVENIENT INTERPRETIVE TECHNIQUES FUNDAMENTALLY UNDERMINES THE CONSTITUTIONAL ORDER."--BOOK JACKET. TITLE SUMMARY FIELD PROVIDED BY BLACKWELL NORTH AMERICA, INC. ALL RIGHTS RESERVED

*GLOBAL CONSTITUTIONALISM FROM EUROPEAN AND EAST ASIAN PERSPECTIVES* - TAKAO SUAMI 2018-11-29

EXAMINES AND COMPARES EAST ASIAN AND EUROPEAN PERSPECTIVES OF GLOBAL CONSTITUTIONALISM.

*CONSTITUTIONS AND POLITICAL THEORY* - JAN-ERIK LANE 1996

JAN-ERIK LANE BEGINS BY EXAMINING THE ORIGINS AND HISTORY OF CONSTITUTIONALISM, THE DOCTRINE THAT THE STATE MUST BE REGULATED BY MEANS OF A SET OF INSTITUTIONS THAT GUARANTEE CITIZEN RIGHTS AND PROCEDURAL ACCOUNTABILITY. HE THEN EXAMINES THE STRUCTURE OF THE STATE IN ORDER TO IDENTIFY THE ESSENTIAL ELEMENTS THAT CONSTITUTIONAL INSTITUTIONS REGULATE. LANE ASKS WHY CONSTITUTIONS EXIST, AND HOW THEY MATTER FOR SOCIETY. FINALLY HE SEEKS OUT THE REQUIREMENTS FOR A FAIR AND DEMOCRATIC CONSTITUTION BY REFERRING TO THREE KEY CONCEPTS IN POLITICAL THEORY: JUSTICE, EQUALITY AND THE RULE OF LAW. THE BOOK ALSO OFFERS A COMPARATIVE SURVEY OF FORMAL CONSTITUTIONAL ARRANGEMENTS IN DIFFERENT COUNTRIES, AND AN ANALYSIS OF HOW CONSTITUTIONS DEVELOP IN PRACTICE, THROUGH THE IMPLEMENTATION OF CONSTITUTIONAL AND

ADMINISTRATIVE LAW IN A COUNTRY'S COURTS.  
EUROPE'S FUNCTIONAL CONSTITUTION - NIHAL TIRAKCI LER ISIKSEL 2010

**THE FEDERAL VISION** - KALYPSO NICOLA DIS 2001

THIS BOOK IS INTENDED FOR SCHOLARS AND STUDENTS OF EUROPEAN UNION, POLITICAL SCIENCE, INTERNATIONAL LAW, INTERNATIONAL RELATIONS, POLITICAL ECONOMY, COMPARATIVE FEDERALISM, EUROPEAN AND AMERICAN POLITICS

CARL SCHMITT'S STATE AND CONSTITUTIONAL THEORY - BENJAMIN SCHUPMANN 2017-11-17

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.

**REPUBLICAN EUROPE** - ANNA KOCHAROV 2017-06-01

CONSTITUTIONAL ORDERS CONSTITUTE POLITICAL COMMUNITIES - AND INTERNATIONAL ORDERS DERIVING FROM THEM - BY MANAGING CONFLICTS THAT THREATEN PEACE. THIS BOOK EXPLORES HOW A EUROPEAN POLITICAL COMMUNITY CAN BE ADVANCED THROUGH EU CONSTITUTIONAL LAW. THE CONSTITUTIONAL ROLE OF THE UNION IS TO ENSURE PEACE BY ADDRESSING TWO TYPES OF CONFLICT. THE FIRST ARE STATIC CONFLICTS OF INTERESTS BETWEEN THE NATIONAL POLITIES IN THE EU. THESE ARE AVOIDED BY ENSURING RECIPROCAL NON-INTERFERENCE BETWEEN MEMBER STATES IN THE UNION THROUGH DEREGULATION IN UNION LAW. THE SECOND ARE DYNAMIC CONFLICTS OF IDEAS ABOUT POSITIVE LIBERTY HELD BY THE PEOPLES OF EUROPE. THESE CAN BE RESOLVED THROUGH REGULATION IN A EUROPEAN POLITICAL SPACE. HERE, EU LAW ENABLES A CONTINUOUS PROCESS OF RE-NEGOTIATING A SHARED EUROPEAN IDEA OF POSITIVE LIBERTY THAT CAN BE ACCEPTED AS ITS OWN BY EACH NATIONAL POLITY IN THE EU. THESE SOLUTIONS TO THE TWO TYPES OF CONFLICTS CORRESPOND TO THE LIBERAL AND REPUBLICAN MODELS FOR EUROPE. THE CLAIM OF THIS BOOK IS THAT THE CONSTITUTIONAL DESIGN OF EUROPE PRESENTS BOTH LIBERAL AND REPUBLICAN FEATURES. TAKING AN INNOVATIVE APPROACH, WHICH DRAWS ON ARGUMENTS FROM SUBSTANTIVE LAW, CONSTITUTIONAL THEORY, CASE LAW ANALYSIS, INSIGHTS FROM PSYCHOLOGY AND PHILOSOPHY, IT IDENTIFIES HOW BEST TO STRENGTHEN THE UNION THROUGH CONSTITUTIONAL LAW.

CONSTITUTIONAL FRAGMENTS - GUNTHER TEUBNER 2012-03

THE POWERFUL PRIVATE SECTORS OF THE WORLD ECONOMY REMAIN LARGELY UNCONSTRAINED BY FUNDAMENTAL CONSTITUTIONAL RULES, LEADING TO HUMAN RIGHTS ABUSES ON A MASSIVE SCALE. THIS BOOK EXAMINES HOW THE VALUES OF CONSTITUTIONAL GOVERNANCE CAN BE APPLIED TO THE PRIVATE SPHERE IN THE MODERN WORLD, THROUGH A NETWORK OF CONSTITUTIONAL FRAGMENTS.

**CONSTITUTIONALISM IN THE GLOBAL REALM** - POUL F. KJAER 2014-04-03

THIS BOOK DEVELOPS A SOCIOLOGICALLY INFORMED THEORY OF CONSTITUTIONALISM IN THE GLOBAL REALM, ADDRESSING BOTH NATIONAL AND TRANSNATIONAL FORMS OF CONSTITUTIONAL ORDERING. THE BOOK BEGINS WITH THE ARGUMENT THAT CURRENT APPROACHES TO CONSTITUTIONALISM REMAIN TIED TO A STATE-BASED CONCEPTION OF CONSTITUTIONS, AND OVERLOOKS UNDERLYING STRUCTURAL TRANSFORMATIONS THAT TRIGGER THE EMERGENCE OF CONSTITUTIONAL FORMS OF ORDERING. POUL F. KJAER AIMS TO ADDRESS THIS SHORTCOMING BY OFFERING A SOCIOLOGICAL AND HISTORICALLY INFORMED ANALYSIS OF THE EVOLUTION OF CONSTITUTIONALISM IN THE FACE OF GLOBALISATION. THE ANALYSIS CONTEXTUALISES ON-GOING CONSTITUTIONAL DEVELOPMENTS THROUGH THE USE OF A LONG-TERM HISTORICAL PERSPECTIVE, WHICH IS CAPABLE OF HIGHLIGHTING THE IMPACT OF DEEPER STRUCTURAL TRANSFORMATIONS UNFOLDING WITHIN SOCIETY. THE BOOK LOOKS AT THE WAYS IN WHICH NATIONAL AND TRANSNATIONAL LEGAL FORMS HAVE EVOLVED ALONGSIDE ONE ANOTHER. IT DEMONSTRATES THAT THE FORMATION OF GLOBAL CONSTITUTIONS HAS NOT RESULTED IN A CORRESPONDING DECREASE IN THE POWER OF NATION STATES, BUT INSTEAD, LEGAL AND POLITICAL ASPECTS OF BOTH THE NATION STATE AND THE TRANSNATIONAL HAVE BEEN RECONFIGURED AND INTENSIFIED IN A MUTUALLY SUPPORTIVE MANNER. IN COMBINING INSIGHTS FROM A RANGE OF FIELDS, THIS INTERDISCIPLINARY BOOK WILL BE OF GREAT INTEREST TO STUDENTS AND SCHOLARS OF CONSTITUTIONAL LAW, SOCIOLOGY, GLOBAL GOVERNANCE STUDIES, AND LEGAL, SOCIAL AND POLITICAL THEORY.

**CONSTITUTIONAL IMAGINARIES** - JIANG PING 2023-05-31

THIS BOOK OFFERS A SOCIAL THEORETICAL ANALYSIS OF IMAGINARIES AS CONSTITUENT SOCIAL FORCES OF POSITIVE LAW AND POLITICS. CONSTITUTIONAL IMAGINARIES INVITE CONSTITUTIONAL AND POLITICAL THEORISTS, PHILOSOPHERS AND SOCIOLOGISTS TO RETHINK THE CONCEPT OF CONSTITUTION AS THE NORMATIVE LEGAL LIMITATION AND CONTROL OF POLITICAL POWER. THEY SHOW THAT POLITICAL CONSTITUTIONS INCLUDE SOCIETAL FORCES IMPOSSIBLE TO CONTAIN BY LEGAL NORMS AND POLITICAL INSTITUTIONS. THE CONSTITUTION OF SOCIETY AS ONE POLITY DEFINED BY THE UNITY OF TOPOS-ETHNOS-NOMOS, THAT IS THE UNITY OF TERRITORY, PEOPLE AND THEIR LAWS, INFORMED THE RISE OF MODERN NATIONS AND NATIONALISMS AS MUCH AS CONSTITUTIONAL DEMOCRATIC

STATEHOOD AND ITS LIBERAL AND REPUBLICAN REGIMES. HOWEVER, THE IMAGINARY OF POLITY AS ONE NATION LIVING ON A GIVEN TERRITORY UNDER THE CONSTITUTIONAL RULE OF LAW IS CHALLENGED BY THE PROCESS OF EUROPEAN INTEGRATION AND ITS IMAGINARIES INFORMED BY TRANSNATIONAL LEGAL AND SOCIETAL PLURALISM, ADMINISTRATIVE GOVERNANCE, ECONOMIC PERFORMATIVITY AND DEMOCRATICALLY MOBILISED POLITY. THIS BOOK DISCUSSES THE SOCIOLOGY OF IMAGINED COMMUNITIES AND THE PHILOSOPHY OF MODERN SOCIAL IMAGINARIES IN THE CONTEXT OF TRANSNATIONAL EUROPEAN CONSTITUTIONALISM AND ITS RECENT THEORIES, MOST NOTABLY THE THEORY OF SOCIETAL CONSTITUTIONS. IT OFFERS A NEW APPROACH TO THE LEGAL CONSTITUTIONS AS SOCIETAL POWER FORMATIONS EVOLVING AT NATIONAL, EUROPEAN AND GLOBAL LEVELS. THE BOOK WILL BE OF INTEREST TO SCHOLARS AND STUDENTS INTERESTED IN CONSTITUTIONAL AND EUROPEAN LAW THEORY AND PHILOSOPHY AS MUCH AS INTERDISCIPLINARY AND SOCIO-LEGAL STUDIES OF TRANSNATIONAL LAW AND SOCIETY.

*EUROPEAN CONSTITUTIONAL IMAGINARIES* - JAN KOMREK 2023-02-07

HOW CAN THE EU BE MADE LEGITIMATE AND SUSTAINABLE THROUGH (CONSTITUTIONAL) LAW - AND WHAT IS THE ROLE OF CONSTITUTIONAL LAWYERS AND THEIR IDEAS IN CREATING THIS "SENSE OF LEGITIMACY"? THIS BOOK SEEKS TO ANSWER THESE QUESTIONS THROUGH THE CONCEPT OF THE "CONSTITUTIONAL IMAGINARY": SETS OF IDEAS AND BELIEFS THAT MOTIVATE AND JUSTIFY THE PRACTICE OF GOVERNMENT AND COLLECTIVE SELF-RULE. CONSTITUTIONAL IMAGINARIES ARE AS IMPORTANT AS INSTITUTIONS AND OFFICE-HOLDERS, AS THEY PROVIDE POLITICAL ACTION WITH AN OVERARCHING SENSE AND PURPOSE RECOGNIZED AS LEGITIMATE BY THOSE GOVERNED. CONSTITUTIONAL IMAGINARIES ARE 'NECESSARY FICTIONS' THAT MAKE POLITICAL RULE POSSIBLE, AND AT THE SAME TIME THEY ARE IDEOLOGIES WHICH HIDE FROM VIEW VARIOUS FORMS OF DOMINATION. EUROPEAN CONSTITUTIONAL IMAGINARIES DEALS WITH A VARIETY OF QUESTIONS AND IS SPLIT INTO FOUR PARTS TO ADDRESS: THE FIRST PART EXPLORES IN MORE DETAIL VARIOUS MEANINGS OF EUROPEAN CONSTITUTIONAL IMAGINARY, AS SEEN BY DIFFERENT DISCIPLINES: LEGAL SOCIOLOGY, POLITICAL AND CONSTITUTIONAL THEORY, AND PHILOSOPHY. THE SECOND PART REVISITS THE CONTRIBUTION OF SOME KEY AUTHORS TO THE CREATION OF EUROPEAN CONSTITUTIONAL IMAGINARIES, AND THE THIRD PART OFFERS VARIOUS NEW WAYS OF THINKING ABOUT EUROPEAN CONSTITUTIONALISM. THE FOURTH AND FINAL PART EXAMINES POLITICAL ECONOMY BEHIND VARIOUS CONSTITUTIONAL IMAGINARIES. WRITTEN BY A BALANCED MIX OF WELL-ESTABLISHED AUTHORS AND NEWER TALENT, EUROPEAN CONSTITUTIONAL IMAGINARIES PROMISES TO OPEN DEBATES ON EUROPEAN CONSTITUTIONALISM THAT ARE NECESSARY TO UNDERSTANDING EUROPE'S PRESENT PREDICAMENT AND ITS VARIOUS CRISES, ALL NAVIGATED THROUGH THE MEDIUM OF LAW.

**THE CONSTITUTIONAL DILEMMA OF THE EUROPEAN UNION** - JOAKIM NERGELIUS 2009

THIS BOOK DISCUSSES THE FUTURE STEPS IN EUROPEAN INTEGRATION, WHICH ARE TO BE TAKEN AFTER THE LIKELY ENTRY INTO FORCE OF THE LISBON TREATY IN 2010. AGAINST THE BACKGROUND OF THE DRAFTING OF THIS NEW TREATY, AND THE CONSTITUTIONAL DISCUSSION WITHIN EU LAW DURING THE LAST DECADES, THE BOOK QUESTIONS WHETHER THE TREATY AND LEADING EU LAW THEORISTS HAVE REALLY GRASPED AND ADDRESSED THE TRUE FUTURE CHALLENGES OF EUROPEAN INTEGRATION. INSTEAD OF ALWAYS TRYING TO BALANCE SUPRA-NATIONALISM AND INTER-GOVERNMENTALISM, AND SEEING THE EU AS LESS DEMOCRATIC THAN A NATION-STATE, AT LEAST THE DOCTRINE OUGHT TO EMBRACE THE MOST CHARACTERISTIC TRAIT OF EUROPEAN INTEGRATION - NAMELY SUPRA-NATIONAL DECISION-MAKING - AND DISCUSS ITS FUTURE POTENTIAL. IN THE BOOK, RECENT CHANGES IN EU CONSTITUTIONAL LAW AND CONSTITUTIONAL THEORY ARE OBSERVED. LEADING EU THEORISTS - SUCH AS WEILER, MAJONE, AND HABERMAS - ARE CRITICALLY ANALYZED, WITH A VIEW TO THEIR INABILITY TO SEE THE EU TODAY FOR WHAT IT REALLY IS. FINALLY, ALTERNATIVE STRATEGIES FOR THE NEXT DECADES ARE DISCUSSED, WHICH MAY MAKE THE EU WORK MORE EFFICIENTLY AND, AT THE SAME TIME, BRIDGE THE GAP BETWEEN THE UNION AND ITS CITIZENS.

*THE CAMBRIDGE COMPANION TO COMPARATIVE CONSTITUTIONAL LAW* - ROGER MASTERMAN 2019-10-03

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.

**SELF-CONSTITUTION OF EUROPEAN SOCIETY** - JIANG PING 2016-05-26

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 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.

**NEW CONSTITUTIONAL HORIZONS** - CORMAC MAC AMHLAIGH 2022-03-21

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.

**EUROPE'S FUNCTIONAL CONSTITUTION** - TURKULER ISIKSEL 2016

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.

*POPULAR SOVEREIGNTY IN EARLY MODERN CONSTITUTIONAL THOUGHT* - DANIEL LEE 2016-02-18

POPULAR SOVEREIGNTY - THE DOCTRINE THAT THE PUBLIC POWERS OF STATE ORIGINATE IN A CONCESSIVE GRANT OF POWER FROM "THE PEOPLE" - IS THE CARDINAL DOCTRINE OF MODERN CONSTITUTIONAL THEORY, PLACING FULL CONSTITUTIONAL AUTHORITY IN THE PEOPLE AT LARGE, RATHER THAN IN THE HANDS OF JUDGES, KINGS, OR A POLITICAL ELITE. THIS BOOK EXPLORES THE INTELLECTUAL ORIGINS OF THIS INFLUENTIAL DOCTRINE AND INVESTIGATES ITS CHIEF SOURCE IN LATE MEDIEVAL AND EARLY MODERN THOUGHT - THE LEGAL SCIENCE OF ROMAN LAW. LONG REGARDED THE PRINCIPAL SOURCE FOR MODERN LEGAL REASONING, ROMAN LAW HAD A PROFOUND IMPACT ON THE MAJOR ARCHITECTS OF POPULAR SOVEREIGNTY SUCH AS FRANÇOIS HOTMAN, JEAN BODIN, AND HUGO GROTIUS. ADOPTING THE JURIDICAL LANGUAGE OF OBLIGATIONS, PROPERTY, AND PERSONALITY AS WELL AS THE CLASSICAL MODEL OF THE ROMAN CONSTITUTION, THESE JURISTS CRAFTED A UNIFORM THEORY THAT LOCATED THE RIGHT OF SOVEREIGNTY IN THE PEOPLE AT LARGE AS THE LEGAL OWNERS OF STATE AUTHORITY. IN RECOVERING THE ORIGINS OF POPULAR SOVEREIGNTY, THE BOOK DEMONSTRATES THE IMPORTANCE OF THE ROMAN LAW AS A CHIEF SOURCE OF MODERN CONSTITUTIONAL THOUGHT.

**GLOBAL CONSTITUTIONALISM AND ITS CHALLENGES TO WESTPHALIAN CONSTITUTIONAL LAW** - MARTIN BELOV 2018-05-31

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.

EUROPEAN CONSTITUTIONALISM - KAARLO TUORI 2015-07-16

THIS BOOK PROVIDES A NEW UNDERSTANDING OF THE EUROPEAN CONSTITUTION AS A MULTIDIMENSIONAL PROCESS OF CONSTITUTIONALIZATION, CONSTANTLY INTERACTING WITH MEMBER STATE CONSTITUTIONS.

EUROPEAN UNION CONSTITUTIONALISM IN CRISIS - NICOLE SCICLUNA 2014-10-17

SEVERAL YEARS AFTER THE FIRST GREEK BAILOUT, THE INTEGRATION PROJECT OF THE EUROPEAN UNION FACES AN INTERLOCKING SET OF POLITICAL, ECONOMIC, LEGAL AND SOCIAL CHALLENGES THAT GO TO THE VERY CORE OF ITS EXISTENCE. AUSTERITY IS THE ORDER OF THE DAY, AND CITIZENS IN BOTH DEBTOR AND CREDITOR STATES INCREASINGLY TURN TO THE POLITICAL MOVEMENTS OF THE FAR LEFT AND RIGHT, ANTI-POLITICS AND STREET PROTESTS TO VENT THEIR FRUSTRATION. THIS BOOK DEMONSTRATES THE LIMITS OF

CONSTITUTIONALISM IN THE EU. IT EXPLORES THE 'TWIN CRISES' - THE FAILURE OF THE CONSTITUTIONAL TREATY IN 2005 AND THE MORE RECENT EUROZONE CRISIS - TO ILLUMINATE BOTH THE POSSIBILITIES AND PITFALLS OF THE INTEGRATION PROJECT. IT ARGUES THAT EUROPEAN INTEGRATION OVERBURDENED LAW IN AN ATTEMPT TO OVERCOME DEEP-SEATED POLITICAL DEFICIENCIES. IT FURTHER CONTENTS THAT THE EU SHIFTED FROM AN UNSUCCESSFUL ATTEMPT AT DEMOCRATISATION VIA POLITICISATION (THE CONSTITUTIONAL TREATY), TO AN UNINTENDED POLITICISATION WITHOUT DEMOCRATISATION (THE EUROZONE CRISIS) ONLY A FEW YEARS LATER. THE BOOK MAKES THE CASE THAT THIS COURSE IS UNSUSTAINABLE AND THREATENS THE GOAL OF EUROPEAN UNITY. THIS TEXT WILL BE OF KEY INTEREST TO STUDENTS AND SCHOLARS IN THE FIELDS OF EU STUDIES, EU LAW, DEMOCRACY STUDIES, CONSTITUTIONAL STUDIES AND INTERNATIONAL RELATIONS.

**HOW CONSTITUTIONS CHANGE** - DAWN OLIVER 2011-08-09

THIS SET OF ESSAYS EXPLORES HOW CONSTITUTIONS CHANGE AND ARE CHANGED IN A NUMBER OF COUNTRIES, AND HOW THE 'CONSTITUTION' OF THE EU CHANGES AND IS CHANGED. FOR A RANGE OF REASONS, INCLUDING INTERNAL AND EXTERNAL PRESSURES, THE CONSTITUTIONAL ARRANGEMENTS IN MANY COUNTRIES ARE CHANGING. CONSTITUTIONAL CHANGE MAY BE FORMAL, INVOLVING AMENDMENTS TO THE TEXTS OF CONSTITUTIONS OR THE PASSAGE OF LEGISLATION OF A CLEARLY CONSTITUTIONAL KIND, OR INFORMAL AND ORGANIC, AS WHERE COURT DECISIONS AFFECT THE OPERATION OF THE SYSTEM OF GOVERNMENT, OR WHERE NEW ADMINISTRATIVE AND OTHER ARRANGEMENTS (EG AGENCIFICATION) AFFECT OR ARTICULATE OR ALTER THE OPERATION OF THE CONSTITUTION OF THE COUNTRY, WITHOUT THE NEED TO RESORT TO FORMAL CHANGE. THE COUNTRIES IN THIS STUDY INCLUDE, FROM THE EU, A COMMON LAW COUNTRY, A NORDIC ONE, A FORMER COMMUNIST STATE, SEVERAL CIVIL LAW SYSTEMS, PARLIAMENTARY SYSTEMS AND A HYBRID ONE (FRANCE). CHAPTERS ON NON EU COUNTRIES INCLUDE TWO ON DEVELOPING COUNTRIES (INDIA AND SOUTH AFRICA), TWO ON COMMON LAW COUNTRIES WITHOUT ENTRENCHED WRITTEN CONSTITUTIONS (ISRAEL AND NEW ZEALAND), A PRESIDENTIAL SYSTEM (THE USA) AND THREE FEDERAL ONES (SWITZERLAND, THE USA AND CANADA). IN THE LAST TWO CHAPTERS THE EDITORS CONDUCT A DETAILED COMPARATIVE ANALYSIS OF THE JURISDICTION-BASED CHAPTERS AND EXPLORE THE QUESTION WHETHER ANY OVERARCHING THEORY OR THEORIES ABOUT CONSTITUTIONAL CHANGE IN LIBERAL DEMOCRACIES EMERGE FROM THE STUDY.

THE TWILIGHT OF CONSTITUTIONALISM? - PETRA DOBNER 2012-01-26

THE CONCEPTS AND VALUES THAT UNDERPIN TRADITIONAL CONSTITUTIONALISM ARE INCREASINGLY BEING CHALLENGED BY 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 CONSTITUTIONALISM IN A TRANSNATIONAL ENVIRONMENT.

**THE GLOBAL MODEL OF CONSTITUTIONAL RIGHTS** - KAI MØLLER 2012-10-25

THE RAPID SPREAD OF JUDICIALLY-ENFORCED CONSTITUTIONAL RIGHTS HAS BEEN ONE OF THE MOST DRAMATIC DEVELOPMENTS IN MODERN LAW. THIS BOOK ARGUES THAT THERE IS NOW A GLOBAL MODEL FOR HOW SUCH RIGHTS SHOULD FUNCTION, AND DEVELOPS AN ORIGINAL, PHILOSOPHICALLY GROUNDED, ACCOUNT OF THEIR NATURE AND SCOPE.