

OXFORD CONSTITUTIONAL THEORY



Europe's Functional Constitution

A Theory of Constitutionalism Beyond the State

TURKULER ISIKSEL

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

Nico Krisch



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Europe's Functional Constitution Turkuler Isiksel, 2016 Constitutionalism has become a byword for legitimate government but is it fated to lose its relevance as 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

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

Constituent Power in the European Union Markus Patberg, 2020 Oxford Constitutional Theory has rapidly established itself as the primary point of reference for theoretical reflections on the growing interest in constitutions and constitutional law in domestic regional and global contexts The majority of the works published in the series are monographs that advance new understandings of their subject But the series aims to provide a forum for further innovation in the field by also including well conceived edited collections that bring a variety of perspectives and disciplinary approaches to bear on specific themes in constitutional thought and by publishing English translations of leading monographs in constitutional theory that have originally been written in languages other than English Book jacket

European Union Law Damian Chalmers, Gareth Davies, Giorgio Monti, Veerle Heyvaert, 2024-03-28 The most current contextual and authoritative EU law text written for both EU and non EU markets and promoting critical reflection

Research Handbook on Critical Legal Theory Emiliios Christodoulidis, Ruth Dukes, Marco Goldoni, 2019 Critical theory characteristically linked with the politics of theoretical engagement covers the manifold of the connections between theory and praxis This thought provoking Research Handbook captures the broad range of those connections as far as legal thought is concerned and retains an emphasis both on the politics of theory and on the notion of theoretical engagement The first part examines the question of definition and tracks the origins and development of critical legal theory along its European and North American trajectories The second part looks at the thematic connections between the development of legal theory and other currents of critical thought such as Feminism Marxism Critical Race Theory varieties of post modernism as well as the various turns ethical aesthetic political of

critical legal theory The third and final part explores particular fields of law addressing the question how the field has been shaped by critical legal theory or what critical approaches reveal about the field with the clear focus on opportunities for social transformation

The Routledge Handbook of Differentiation in the European Union Benjamin Leruth, Stefan Gänzle, Jarle Trondal, 2022-05-11 The Routledge Handbook of Differentiation in the European Union offers an essential collection of groundbreaking chapters reflecting on the causes and consequences of this complex phenomenon With contributions from key experts in this subfield of European Studies it will become a key volume used for those interested in learning the nuts and bolts of differentiation as a mechanism of dis integration in the European Union especially in the light of Brexit Organised around five key themes it offers an authoritative encyclopaedia of differentiation and addresses questions such as How can one define differentiation in the European Union in the light of the most recent events Does differentiation create more challenges or opportunities for the European Union Is Europe moving away from an ever closer Union and heading towards an ever more differentiated Union especially as leading political figures across Europe favour the use of differentiation to reconcile divergences between member states This handbook is essential reading and an authoritative reference for scholars students researchers and practitioners involved in and actively concerned about research in the study of European integration As European differentiation is multifaceted and involves a wide range of actors and policies it will be of further interest to those working on countries and or in policy areas where differentiation is an increasingly relevant feature The Introduction and chapters 13 21 30 and 35 of this book is available for free in PDF format as Open Access from the individual product page at www.routledge.com It has been made available under a Creative Commons Attribution Non Commercial No Derivatives 4.0 license

Ideologies and the European Union Carlo Invernizzi Accetti, Jonathan White, 2021-05-13 This volume examines what the concept of ideology can add to our understanding of the European Union and the way in which the process of European integration has inflected the ideological battles that define contemporary European politics both nationally and transnationally Contemporary debates on the nature and value of the European Union often touch on the notion of ideology The EU's critics routinely describe it as an ideologically motivated project associating it from the left with a form of neo liberal capitalism or from the right with liberal multiculturalism Its defenders often praise it in explicitly post or anti ideological terms as a regulatory body focused on the production of output legitimacy or as a bulwark against dangerous ideological revivals in the form of nationalism and populism Yet the existing academic literature linking the study of the EU with that of ideologies is surprisingly thin This volume brings together a number of original contributions by leading international scholars and takes an approach that is both historical and conceptual probing the EU's ideological roots while also laying the grounds for a reappraisal of its contemporary ideological make up The chapters in this book were originally published as a special issue of the *Journal of European Public Policy*

Democratic Authority Josef Weinzierl, 2024-01-11 What is the nature of EU's authority This fascinating book explores this question and is much needed

given the increased scrutiny of the EU's actions in the face of growing nationalism and various other internal and external challenges. By setting out an original account of the preferred moral standard to evaluate such authority, i.e. democratic authority, it illustrates how that standard affects the practical reasoning of those subject to the EU's authority. Theoretically significant, the book also has important practical value as legitimacy challenges in the EU increase. Constitutional lawyers and theorists as well as political scientists will welcome this innovative new work.

The Twilight of Constitutionalism? Petra Dobner, Martin Loughlin, 2010-02-11. The essays gathered in this collection explore the effects of recent changes on two of the main building blocks of constitutionalism: statehood and democracy. It also looks at movements to overcome statehood in the EU and considers possible transformations to or substitutes for statehood. Source: other than Library of Congress.

Self-Constitution of European Society Jiří Přibáň, 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.

Constitutional Pluralism in the European Union and Beyond Matej Avbelj, Jan Komárek, 2012-02-29. 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 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 The Oxford Companion to American Law Kermit Hall (ed),David S. Clark,2002-05-02 A landmark in legal publishing The Oxford Companion to the Supreme Court is a now classic text many of whose entries are regularly cited by scholars as the definitive statement on any particular subject In the tradition of that work editor in chief Kermit L Hall offers up The Oxford Companion to American Law a one volume A Z encyclopedia that covers topics ranging from aging and the law wiretapping and electronic eavesdropping the Salem Witch Trials and Plessy vs Ferguson The Companion takes as its starting point the insight that law is embedded in society and that to understand American law one must necessarily ask questions about the relationship between it and the social order now and in the past The volume assumes that American law in all its richness and complexity cannot be understood in isolation as simply the business of the Supreme Court or as a list of common law doctrines Hence the volume takes seriously issues involving laws role in structuring decisions about governance the significance of state and local law and legal institutions and the place of American law in a comparative international perspective Nearly 500 entries are included written by over 300 expert contributors Intended for the working lawyer or judge the high school student working on a term paper or the general adult reader interested in the topic the Companion is the authoritative reference work on the subject of American law **European Constitutionalism Beyond the State** J. H. H. Weiler,Marlene Wind,2003-09-04 Some of the most innovative scholars in the field of European constitutionalism come together in this book to highlight different facets of the new constitutional discussion Provoking deep analysis of the different ideas of constitution and constitutionalism it delineates new ways of thinking about the future of Europe In particular it aims to challenge the idea of the European Union as an evolving federal polity This book will appeal to anyone interested in the timely subject of constitutionalism including student and practitioners of law politics and philosophy *Tilburg Foreign Law Review* ,1993

The Constitutional Theory of the Federation and the European Union Signe Rehling Larsen,2021-02-04 From the start of the European integration process one question has puzzled scholars what type of political association is the European Union In absence of an agreed upon response most scholars have suggested that the European Union is sui generis This book challenges the sui generis thesis by demonstrating that the EU is not a unique form of association but rather a federal union of states or what this book calls a federation This is a discrete form of political association on par with though differentiated from political modernity s two other main forms namely the state and the empire The federation cannot be understood on the basis of the general theory of the state or its concept of sovereignty The statist imaginary still dominates both the debates on federalism and the EU meaning that all federal policies are either seen as confederal associations of sovereign states or sovereign federal states This book challenges this binary by demonstrating that the federation is not a super state but a

discrete political form with its own constitutional theory It is characterized by a double political existence a lack of internal hierarchy and the internal absence contestation or repression of sovereignty This book details the key aspects of federal constitutional theory and how this theory accounts for the EU s constitutional form as well as the crises it has faced in recent years This book is broken into five chapters that cover the introduction to federalism origins of the EU state transformation and teleology unity in diversity and emergency rule without a sovereign This book draws on a variety of literatures and historical material to help the reader develop a critical understanding of constitutional myths and the theory of federalism

The Three Branches Christoph Möllers, 2013-03-14 The idea of the separation of powers is still popular in much political and constitutional discourse though its meaning for the modern state remains unclear and contested This book develops a new comprehensive and systematic account of the principle It then applies this new concept to legal problems of different national constitutional orders the law of the European Union and international institutional law It connects an argument from normative political theory with phenomena taken from comparative constitutional law The book argues that the conflict between individual liberty and democratic self determination that is characteristic of modern constitutionalism is proceduralized through the establishment of different governmental branches A close analysis of the relation between individual and collective autonomy on the one hand and the ways lawmaking through public institutions can be established on the other hand helps us identify criteria for determining how legislative administrative and judicial lawmaking can be distinguished and should be organized These criteria define a common ground in the confusing variety of western constitutional traditions and their diverse use of the notion of separated powers They also enable us to establish a normative framework that throws a fresh perspective on problems of constitutional law in different constitutional systems constitutional judicial review of legislation limits of legislative delegation parliamentary control of the executive and standing Linking arguments from comparative constitutional law and international law the book then uses this framework to offer a new perspective on the debate on constitutionalism beyond the state The concept permits certain institutional insights of the constitutional experiences within states to be applied at the international level without falling into any form of methodological nationalism

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 construe 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

Current Law Index ,2004 **Subject Index to Periodicals** ,2009 **European Constitutional Language** András Jakab,2016-04-15 If the task of constitutional theory is to set out a language in which the discourse of constitutional law may be grounded a question of the utmost importance is how this terminology is created defined and interpreted In this groundbreaking new work Andr s Jakab maps out and analyses the grammar and vocabulary on which the core European traditions of constitutional theory are based He suggests understanding key constitutional concepts as responses to historical and present day challenges experienced by European societies Drawing together a great and diverse range of literature much of which has never before been touched upon by scholarship in the English language Jakab reconceptualises and argues for a new understanding of European constitutional law discourse In so doing he shines new light on what constitutes its distinctively European nature This remarkable book is essential reading for all scholars and students of constitutional theory in Europe and beyond

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~~web the function of the male reproductive system figure 27-2 is to produce sperm and transfer them to the female~~

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