

Survival of the idea: European constitutionalism (EU, Council of Europe)

- Not global, but regional, especially in Europe: (1) EU, (2) Council of Europe (much weaker: Inter-American Court of Human Rights)
- Conceptualisations:
 - the decoupling of state and constitution (Ulrich K Preuß, Joseph Weiler, Paul Craig, Fabian Amtenbrink, Giuseppe Martinico),
 - 'postnational constitutionalism' (Anneli Albi, Jacques Ziller, Jo Shaw),
 - 'unity of European and national constitutional law' (Ingolf Pernice),
 - 'transnational constitutionalism' (Nicholas Tsagourias),
 - 'multilevel constitutionalism' (Ingolf Pernice),
 - 'constitutional pluralism' (Nicholas William Barber, Matej Avbelj, Jan Komarek)
- As opposed to the global level, at European level it is legal reality
- But also shaken, uncertain future (maybe, it becomes stronger, maybe it will be broken): the main battleground is in Eastern Europe

European And U S Constitutionalism

Katalin Kelemen



European And U S Constitutionalism:

European and US Constitutionalism Georg Nolte, 2005-09-29 This book asks whether and how far constitutional theory and judicial practice differ between Europe and the United States This question is explored with respect to the areas of freedom of speech human dignity duty of the state to protect individuals from harm adjudication by constitutional and other courts and finally democratic theory and international influences The authors of this book are constitutional scholars from Europe and the United States as well as from other constitutional states such as Canada Israel Japan Peru and South Africa

European and US Constitutionalism Georg Nolte, 2005 This book asks whether and how far constitutional theory and judicial practice differ between Europe and the United States The areas explored are freedom of speech human dignity duty of the state to protect individuals from harm adjudication by constitutional and other courts and democratic theory and international influences

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European and US Constitutionalism Georg Nolte, European Commission for Democracy through Law, 2005-01-01 This book compiles the papers and comments delivered at the Conference on European and American constitutionalism which took place in G ttingen in 2003 Through topics like freedom of speech human dignity the protective function of the state adjudication and democracy and international influences the conference papers identify salient features of the constitutional systems on both sides of the Atlantic and address recent developments following the end of the soviet era in eastern Europe and the terrorists attacks of 11 September 2001

Digital Constitutionalism in Europe Giovanni De Gregorio, 2022-05-26 This book is about rights and powers in the digital age It is an attempt to reframe the role of constitutional democracies in the algorithmic society By focusing on the European constitutional framework as a lodestar this book examines the rise and consolidation of digital constitutionalism as a reaction to digital capitalism The primary goal is to examine how European digital constitutionalism can protect fundamental rights and democratic values against the charm of digital liberalism and the challenges raised by platform powers Firstly this book investigates the reasons leading to the development of digital constitutionalism in Europe Secondly it provides a normative framework analysing to what extent European constitutionalism provides an architecture to protect rights and limit the exercise of unaccountable powers in the algorithmic society This title is also available as open access on Cambridge Core

European Constitutional Imaginaries Jan Komárek, 2023 What does it mean to say that the European Union has a constitution theoretically but more importantly practically What sort of possibilities such assertion opens for various actors politicians legal professionals or the general public And what is the role of constitutional thinkers in establishing constitutional discourse as the dominant way in which European law is or was conceived after 1989 This volume seeks to

answer such questions with a special emphasis on the last one European Constitutional Imaginaries are the central focus of the book These are sets of ideas and beliefs that help to motivate and at the same time justify the practice of government and collective self rule established by the constitution written or unwritten Such imaginaries are as important as institutions and office holders They provide political action with an overarching sense and purpose recognized by those governed as legitimate The book brings together reflections by lawyers philosophers sociologists or political economists who shed light on various constitutional imaginaries of Europe They provide critical intellectual histories of particular legal approaches to European integration and look behind the language of law to reach deeper insights into the contested history and political economy of Europe They ask us to think about European law differently

EU Federalism and Constitutionalism Andrew Glencross, Alexander H. Trechsel, 2010-10-21 EU Federalism and Constitutionalism The Legacy of Altiero Spinelli edited by Andrew Glencross and Alexander H Trechsel represents the first book length study of the travails of the implementation of federalism at the European level from the perspective of Altiero Spinelli s ideas and his political life which were both devoted to a federally united Europe It is also a timely publication given the protracted struggle to implement a new EU institutional architecture the 2009 Lisbon Treaty that is already being tested by the fallout from the global financial crisis This fallout has brought into stark relief the tensions within the EU over the question of enhancing solidarity and federal unity or remaining a looser association of sovereign states Hence by examining the successes and failures of federalism within the EU system the book seeks to explain not only how the EU has reached its current impasse but also how it may fare in the future To achieve this objective the book takes an interdisciplinary approach that covers all three dimensions of the European project historical legal and political In this fashion Andrew Glencross and Alexander H Trechsel s EU Federalism and Constitutionalism The Legacy of Altiero Spinelli offers a comprehensive and up to date analysis of the history evolution and future of federal principles and institutions in the European integration process

European Constitutional Language András Jakab, 2016-04-15 Provides a systematic analysis of both the historical development and current interpretation of constitutional law discourse in Europe

Law and New Governance in the EU and the US Gráinne de Búrca, Joanne Scott, 2006-04-26 New approaches to governance have attracted significant scholarly attention in recent years Commentators on both sides of the Atlantic have identified charted and evaluated the rise and spread of forms of governance forms which seem to differ from previous regulatory and legal paradigms In Europe the emergence of the Open Method of Coordination has provided a focal point for new governance studies In the US scholarship on issues such as collaborative problem solving democratic experimentalism and problem solving courts exemplify the interest in similar developments This book covers diverse policy sectors and subjects including the environment education anti discrimination food safety and many others While some chapters concentrate on the operation of new governance mechanisms in a federal and multilevel context and others look at the relationship between public and private mechanisms and settings what all the contributors share in

common is the pursuit of effective mechanisms for addressing complex social problems and the challenges they raise for our understanding of law and constitutionalism and of legal and constitutional values

National Constitutions in European and Global Governance: Democracy, Rights, the Rule of Law Anneli Albi, Samo Bardutzky, 2019-05-29 This two volume book published open access brings together leading scholars of constitutional law from twenty nine European countries to revisit the role of national constitutions at a time when decision making has increasingly shifted to the European and transnational level It offers important insights into three areas First it explores how constitutions reflect the transfer of powers from domestic to European and global institutions Secondly it revisits substantive constitutional values such as the protection of constitutional rights the rule of law democratic participation and constitutional review along with constitutional court judgments that tackle the protection of these rights and values in the transnational context e g with regard to the Data Retention Directive the European Arrest Warrant the ESM Treaty and EU and IMF austerity measures The responsiveness of the ECJ regarding the above rights and values along with the standard of protection is also assessed Thirdly challenges in the context of global governance in relation to judicial review democratic control and accountability are examined On a broader level the contributors were also invited to reflect on what has increasingly been described as the erosion or twilight of constitutionalism or a shift to a thin version of the rule of law democracy and judicial review in the context of Europeanisation and globalisation processes The national reports are complemented by a separately published comparative study which identifies a number of broader trends and challenges that are shared across several Member States and warrant wider discussion The research for this publication and the comparative study were carried out within the framework of the ERC funded project The Role and Future of National Constitutions in European and Global Governance The book is aimed at scholars researchers judges and legal advisors working on the interface between national constitutional law and EU and transnational law The extradition cases are also of interest to scholars and practitioners in the field of criminal law Anneli Albi is Professor of European Law at the University of Kent United Kingdom Samo Bardutzky is Assistant Professor of Constitutional Law at the University of Ljubljana Slovenia

Foundations of American Constitutionalism David A. J. Richards, 1989-12-14 In writing the constitution the Founders combined a Lockean theory of politically legitimate power with the political science they had learned from Machiavelli Harrington Hume and Montesquieu to articulate a new conception of constitutional argument Examining the Founders humanist analytical methods and working assumptions this book combines history political philosophy and interpretive practice as it demonstrates an alternative exegesis of the Constitution It clarifies a wide range of interpretive issues of federalism enumerated rights religious liberty and free speech unenumerated rights the constitutional right to privacy and equal protection

The Oxford Handbook of Constitutional Law in Latin America Conrado Hübner Mendes, Roberto Gargarella, Sebastián Guidi, 2022 This Oxford Handbook details the constitutions and constitutional history of Latin America providing comparative analysis of the prevailing institutional models and major

themes in the region's constitutionalism *Judicial Dissent in European Constitutional Courts* Katalin Kelemen, 2017-09-28

Dissent in courts has always existed. It is natural and healthy that judges disagree on legal issues of a certain importance and difficulty. The question is if it is reasonable to conceal dissent. Not every legal system allows judges to explain their disagreement to the public in a separate opinion attached to the judgment of the court. Most constitutional courts do. This book presents a comparative analysis of the practice of judicial dissent in constitutional courts from the perspective of the civil law tradition. It discusses the theoretical background, presents the history of the institution and today's practice, thus laying down the basis for an accurate consideration of the phenomenon from a legal perspective. 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. Rights: Concepts and Contexts Horacio Spector, 2017-05-15

Rights: Concepts and Contexts contains the central works of recent scholarship on the nature of rights, with contributions by some of the most prominent contemporary theorists in moral, legal and political philosophy, including Joseph Raz, Robert Alexy, Jeremy Waldron, Morton Horowitz, Stephen Darwall, Margaret Gilbert, David Lyons and Aharon Barak. With approaches ranging from the political to the historical and from the analytical to the critical, this collection touches on the major conceptual and practical questions of this important field: what is the nature and grounding of human rights? How should conflicts of rights best be analyzed? Are rights best understood in terms of choice, benefits or some hybrid of the two? What are the connections between rights and duties and between rights and justice? The collection also offers useful introductions to emerging issues in rights theory, such as the purported bipolarity of rights. *American Constitutionalism Heard Round the World, 1776-1989* George Athan Billias, 2011-12

Winner of the 2010 Book Award from the New England Historical Association. American constitutionalism represents this country's greatest gift to human freedom, yet

its story remains largely untold For over two hundred years its ideals ideas and institutions influenced different peoples in different lands at different times American constitutionalism and the revolutionary republican documents on which it is based affected countless countries by helping them develop their own constitutional democracies Western constitutionalism of which America was a part along with Britain and France reached a major turning point in global history in 1989 when the forces of democracy exceeded the forces of autocracy for the first time Historian George Athan Billias traces the spread of American constitutionalism from Europe Latin America and the Caribbean region to Asia and Africa beginning chronologically with the American Revolution and the fateful shot heard round the world and ending with the conclusion of the Cold War in 1989 The American model contributed significantly by spearheading the drive to greater democracy throughout the Western world and Billias s landmark study tells a story that will change the way readers view the important role American constitutionalism played during this era [eBook: Representative Government in Modern Europe, 5e](#) GALLAGHER,2021-04-09 [eBook Representative Government in Modern Europe 5e](#) [The Max Planck Handbooks in European Public Law](#) Armin von Bogdandy,Peter M. Huber,Christoph Grabenwarter,2023 The fourth volume of the Max Planck Handbooks in European Public Law series compares European constitutional jurisdiction in the perspective of the European legal space It examines the structures of the organization the appointment of judges the procedures and the methods of argumentation and interpretation their impact on state and society their legitimacy or their role in the division of powers and thus completes the picture following the country reports in Volume III This comparative perspective is supplemented by an examination that illustrates the relationship to the ECJ the ECtHR and the Venice Commission as well as their constitutional function Finally the volume is devoted to the challenges currently facing constitutional jurisdiction in the European Legal Space The historical political and theoretical foundations as well as the basic doctrinal features of constitutional jurisdiction are presented in such a way that the discussion about its role and further development in this legal space is sustainably stimulated **Constitutional Evolution in Central and Eastern Europe** Dr Kyriaki Topidi,Professor Alexander H E Morawa,2013-02-28 This book examines EU enlargement by studying how domestic constitutional evolution in the new member states contributes to European integration In contrast to the usual top down analytical pattern it reverses the paradigm by looking at constitutional developments and dynamics from the bottom up studying how domestic constitutional evolution contributes to European integration The authors analyze constitutional trends from the perspective of new Member States as policy makers and not strictly as policy takers The issue of conditionality is also explored in a discussion of the extent to which pre 2004 and 2007 conditionality has had lasting effects at the level of constitutionalization of different areas and norms and if so of what kind The exploration of Europeanization effects in recent Member States substantiates and demonstrates how enlargement has been an important driving force for the effective export of EU legal rules in this region The book utilizes a comparative approach to highlight the merits and obstacles created by the growing

diversity in the constitutional rules and patterns of the new Member States It also contains a section that places the CEE constitutionalizing map in a broader comparative European and global context establishing links with similar transitional regimes in the continent and elsewhere *Constitutional Terminology in Transition* Izabela J?drzejowska,2011-01-01

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