

THE RULE OF LAW

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subject to the following principles:



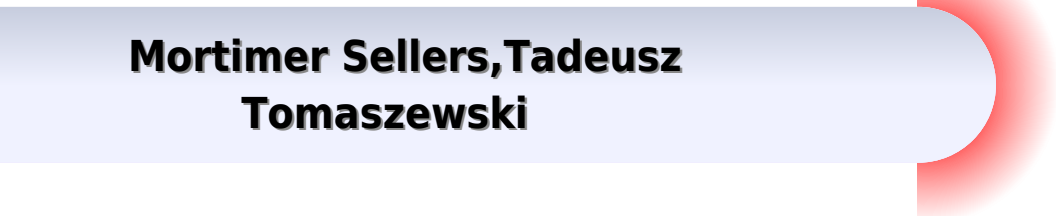
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Rule Of Law

**Mortimer Sellers, Tadeusz
Tomaszewski**



Rule Of Law :

The Rule of Law Cheryl Saunders, Katherine Le Roy, 2003 This book brings together the views of an extraordinary range of well known authors It contains essays by Chief Justice Murray Gleeson High Court of Australia Justice Louise Arbour Supreme Court of Canada Justice Ruth Bader Ginsburg Supreme Court of USA Dr Radhika Coomaraswamy the UN Special Rapporteur on Violence against Women and Professors Saunders Australia Dyzenhaus Canada and Troper France The essays cover issues such as the debate about the meaning and application of the rule of law the gaps between the theory and practice of the rule of law relations between governments and people the tensions between the judiciary and the elected branches of government international criminal justice and the position of women in situations of conflict and insurrection The analyses in the book draw on topical events ranging from the Florida appeal in the election of President Bush to the indictment of Slobodan Milosevic at the War Crimes Tribunal *Handbook on the Rule of Law* Christopher May, Adam Winchester, 2018-08-31 The discussion of the norm of the rule of law has broken out of the confines of jurisprudence and is of growing interest to many non legal researchers A range of issues are explored in this volume that will help non specialists with an interest in the rule of law develop a nuanced understanding of its character and political implications It is explicitly aimed at those who know the rule of law is important and while having little legal background would like to know more about the norm *The Rule of Law in America* Ronald A. Cass, 2001 Drawing upon extensive experience in law government service teaching and research Ronald Cass offers a contribution to the ongoing public discussion on law and society After opening his discussion with chapters on the rule of law in American society Cass turns to the hard case of its application to the president of the United States Through this prism Cass examines the behavior of judges who may not always act according to a perfect model This book provides a corrective to criticism of the American legal system raised all too frequently by some members of the academy Rather than concentrating on relatively minor inconsistencies in the law and slight departures from the ideal of perfectly constrained decision making Cass argues that the energies of his fellow scholars could be better spent on more serious defects in the legal system With a special section on the 2000 presidential election including the Florida recount and Supreme Court decision The rule of law in America offers a look at a subject of interest to legal scholars and general readers alike *The Cambridge Companion to the Rule of Law* Jens Meierhenrich, Martin Loughlin, 2021-08-12 The Cambridge Companion to the Rule of Law introduces students scholars and practitioners to the theory and history of the rule of law one of the most frequently invoked and least understood ideas of legal and political thought and policy practice It offers a comprehensive re assessment by leading scholars of one of the world's most cherished traditions This high profile collection provides the first global and interdisciplinary account of the histories moralities pathologies and trajectories of the rule of law Unique in conception and critical in its approach it evaluates breaks down and subverts conventional wisdom about the rule of law for the twenty first century Relocating the Rule of Law Gianluigi Palombella, Neil Walker, 2008-12-18

In this set of interdisciplinary essays leading scholars discuss the future of the Rule of Law a concept whose meaning and import has become ever more topical and elusive Historically the term denoted the idea of government limited by law It has also come to be equated more broadly with certain goods suggested by the idea of legality as such including the preservation of human dignity and other individual and social benefits predicated upon or conducive to a rule based social order But in both its narrow and broader senses the Rule of Law remains a much contested concept These essays seek to capture the main areas and levels of controversy by relocating the Rule of Law not just at the philosophical level but also in its main contemporary arenas of application both national and increasingly supranational and international

Rule of Law in China Katrin Blasek, 2014-11-01 This book analyzes in detail differing interpretations of the rule of law in Western legal systems and in the People's Republic of China As the rule of law is seen by many as a prerequisite for China's future development politicians activists and entrepreneurs from China and from the West alike have long been calling for adherence to this principle which is constitutive of Western democracies All these groups use the same words but do they truly share the same idea In order to address this question the book compares the Rule of Law with Chinese characteristics as propagated by Chinese leaders and in official Chinese publications to different applications of the rule of law as it is understood in Western civilization In particular the author takes a closer look at the implementations of recognized core elements of the rule of law in representative Western countries which include the separation of power the supremacy of law the protection of fundamental rights and the independence of the justice system

The Rule of Law in Comparative Perspective Mortimer Sellers, Tadeusz Tomaszewski, 2010-07-23 This volume compares the different conceptions of the rule of law that have developed in different legal cultures It describes the social purposes and practical applications of the rule of law and how it might be improved in the varied circumstances

Globalisation and the Rule of Law Spencer Zifcak, 2004-08-02 Globalisation and the Rule of Law reassesses the idea of the rule of law within the present complex and increasingly internationalized environment There have been many books studying the phenomenon of globalization and its economic social or cultural consequences This book however is the first to relate globalization exclusively to law It examines the impact of globalization upon the rule of law a fundamental value within liberal democratic sovereign states The book opens with three chapters discussing the theory of the rule of law and its necessary reconceptualization in a global environment Then in three sections considering global trade security and human rights it proposes new ways of thinking about global law and its application in new and existing institutions of global governance Contributors include top flight academics politicians and judges making this book significant and relevant in both jurisprudential theory and political practice

Institutional Supports for the International Rule of Law Charles Sampford, Ramesh Thakur, 2014-08-27 The rule of law is widely seen as the cornerstone of any effective polity and increasingly a vital component of the international political system If the international rule of law were to be strengthened it would greatly contribute to trade security human

rights and global cooperation in a range of fields Yet in many areas the rule of law seems almost absent in international affairs This book explores the institutions that support the effectiveness of the rule of law domestically It focuses on the extent to which similar institutions already exist at international level and analyses the possibility of their further development The authors speculate on how the international rule of law might be advanced in the future thereby suggesting potential strategies for strengthening the international rule of law Adopting an interdisciplinary approach and combining the fields of international relations politics and law this book covers a range institutions including UN Security Council International Court of Justice Human rights machinery Regional human rights International Criminal Court World Trade Organization International Tribunal for the Law of the Sea UN Department of Peacekeeping Operations It will be of strong interest to students and scholars of international relations international organisations global governance international law migration law international peace and security law applied ethics political economy political science and sociology

Transitional Justice and Rule of Law Reconstruction Padraig McAuliffe, 2013-06-26 This short and accessible book is the first to focus exclusively on the inter relation between transitional justice and rule of law reconstruction in post conflict and post authoritarian states In so doing it provides a provocative reassessment of the various tangled relationships between the two fields exploring the blind spots contradictions and opportunities for mutually beneficial synergies in practice and scholarship between them Though it is commonly assumed that transitional justice for past human rights abuses is inherently conducive to restoring the rule of law differences in how both fields conceptualise the rule of law the scope of transition and obligations to citizens have resulted in divergent approaches to transitional criminal trial international criminal law restorative justice and traditional justice mechanisms Adopting a critical comparative approach that assesses the experiences of post authoritarian and post conflict polities in Latin America Asia Europe and Africa undergoing transitional justice and justice sector reform simultaneously it argues that the potential benefits of transitional justice are exaggerated and urges policy makers to rebalance the compromises inherent in transitional justice mechanisms against the foundational demands of rule of law reconstruction This book will be of interest to scholars in the fields of transitional justice rule of law legal pluralism and peace building concerned by the failure of transitional justice to leave a positive legacy to the justice system of the states where it operates This is a bold and nuanced scrutiny of the international system s approach to transitional justice and the much vaunted rule of law project Dr McAuliffe should be congratulated for this well researched book which should be a must read for not only scholars and researchers in transitional justice and peace and conflict studies but also policy makers in the international system Dr Hakeem O Yusuf Senior Lecturer University of Strathclyde and author of Transitional Justice Judicial Accountability and the Rule of Law

The Rule of Law in Developing Countries Chowdhury Ishrak Ahmed Siddiky, 2018-02-12 Bangladesh one of the most densely populated countries in the world and second in South Asia is known for its natural disasters floods and political violence However the country plans to become a middle income country by

2020 due to rapid economic growth led by strong and vibrant garments and pharmaceutical sectors A developing country Bangladesh cannot reach its true potential if there is a weak legal system and the executive have no regard for the rule of law This book discusses and analyses the legal system of Bangladesh It studies the various weaknesses and whether the judiciary of the country is really independent International experts scholars and lawyers with significant experience of working in Bangladesh and at international agencies and universities examine the role of the judiciary in maintaining the rule of law in the country and the critical role it can play in strengthening democracy The chapters show the various roles played by the judiciary in promoting its independence and thereby strengthening democracy in the country The first book to analyse the role of the judiciary and the various weaknesses in the legal system of Bangladesh it is a relevant case study in the context of developing countries The problems found in the legal system of Bangladesh prevail in most of the developing countries in Asia Africa and Latin America The book will be of interest to academics in the field of development studies South Asian Studies and Asian Law

Rule of Law vs Majoritarian Democracy Giuliano Amato, Benedetta Barbisan, Cesare Pinelli, 2021-08-26 What is more paradoxically democratic than a people exercising their vote against the harbingers of the rule of law and democracy What happens when the will of the people and the rule of law are at odds Some commentators note that the presence of illiberal political movements in the public arena of many Western countries demonstrates that their democracy is so inclusive and alive that it comprehends and countenances even undemocratic forces and political agendas But what if on the contrary these were the signs of the deconsolidation of democracy instead of its good health What if democratically elected regimes were to ignore constitutional principles representing the rule of law and the limits of their power With contributions from judges and scholars from different backgrounds and nationalities this book explores the framework in which this tension currently takes place in several Western countries by focusing on four key themes The Rule of Law presenting a historical and theoretical reconstruction of the evolution of the Rule of Law The People dealing with a set of problems around the notion of people and the forces claiming to represent their voice Democracy and its enemies tackling a variety of phenomena impacting on the traditional democratic balance of powers and institutional order Elected and Non Elected focusing on the juxtaposition between judges and more generally non representative bodies and the people s representation

The Development of the Rule of Law in ASEAN Imelda Deinla, 2017-06-29 An interdisciplinary work on regional integration and the rule of law in ASEAN and the emergence of a soft regulatory regime

A Rule of Law for Our New Age of Anxiety Stephen J Toope, 2023-06 In an age of anxiety Toope makes the case for a revitalised rule of law to bolster collective resilience and restore our capacity to build healthier societies A pragmatic approach to the rule of law recognises its ability to chasten power while not disconnecting law from other sources of social action and human agency

Reconceptualising the Rule of Law in Global Governance, Resources, Investment and Trade Photini Pazartzis, Maria Gavouneli, 2016-06-30 The relevance and importance of the rule of law to the international legal order cannot be doubted and

was recently reaffirmed by the Declaration of the High level Meeting of the General Assembly on the Rule of Law at the National and International Level s solemn commitment to it on behalf of states and international organizations In this edited collection leading scholars and practitioners from the fields of global governance resources investment and trade examine how the commitment to the rule of law manifests itself in the respective fields The book looks at cutting edge issues within each field and examines the questions arising from the interplay between them With a clear three part structure it explores each area in detail and addresses contemporary challenges while trying to assure a commitment to the rule of law The contributions also consider how the rule of law has been or should be reconceptualised Taking a multi disciplinary approach the book will appeal to international lawyers from across the spectrum including practitioners in the field of international investment and trade law

Permanent States of Emergency and the Rule of Law Alan Greene, 2018-04-05 Permanent States of Emergency and the Rule of Law explores the impact that oxymoronic permanent states of emergency have on the validity and effectiveness of constitutional norms and ultimately constituent power It challenges the idea that many constitutional orders are facing permanent states of emergency due to the objective nature of threats facing modern states today arguing instead that the nature of a threat depends upon the subjective assessment of the decision maker In light of this it further argues that robust judicial scrutiny and review of these decisions is required to ensure that the temporariness of the emergency is a legal question and that the validity of constitutional norms is not undermined by their perpetual suspension It does this by way of a narrower conception of the rule of law than standard accounts in favour of judicial review of emergency powers in the literature which tend to be based on the normative value of human rights In so doing it seeks to refute the fundamental constitutional challenge posed by Carl Schmitt that all state power cannot be constrained by law

The Rule of Law and the Separation of Powers Richard Bellamy, 2017-07-05 The rule of law is frequently invoked in political debate yet rarely defined with any precision Some employ it as a synonym for democracy others for the subordination of the legislature to a written constitution and its judicial guardians It has been seen as obedience to the duly recognised government a form of governing through formal and general rule like laws and the rule of principle Given this diversity of view it is perhaps unsurprising that certain scholars have regarded the concept as no more than a self congratulatory rhetorical device This collection of eighteen key essays from jurists political theorists and public law political scientists aims to explore the role law plays in the political system The introduction evaluates their arguments The first eleven essays identify the standard features associated with the rule of law These are held to derive less from any characteristics of law per se than from a style of legislating and judging that gives equal consideration to all citizens The next seven essays then explore how different ways of separating and dispersing power contribute to this democratic style of rule by forcing politicians and judges alike to treat people as equals and regard none as above the law

Towards the Rule of Law in China Weidong Ji, 2022-03-03 Growing up in China while educated in Japan and the US the author has in the past few

decades both witnessed and actively participated in the historical process of legal transformations in contemporary China Through a series of academic contributions as well as meetings activities and memberships with policymakers and practitioners the author has spared no effort in applying his theoretical scholarship to real concrete practices He has made significant contributions to the building of a rule of law system in China with great social influences The publishing of this book is to share with English speaking readers his insights experiences and practices related to the institutional undertaking of building the rule of law in China It offers a legal perspective on some of the cutting edge issues in our society at large e g risk and uncertainty AI network the COVID 19 pandemic and big data

Promoting the Rule of Law in Post-Conflict States Laura Grenfell, 2013-07-11 Laura Grenfell critically evaluates how the rule of law is contextualized and promoted in states where customary law is prevalent

Legal Method and the Rule of Law Sebastián Urbina, 2002-08-31 We cannot see the world as it is because we face it in a contaminated vein That is our conceptual scheme and biological constitution condition our world view The legal normative world we are dealing with has some special features like the primacy of practical reason over theoretical reason and the primacy of the internal point of view over the external point of view Although it is not a feature of all legal traditions legal dogmatics is a privileged way of knowing legal normative object that is our legal orders But we are not undertaking as legal scholars an empiricist enterprise because among other reasons we are not interested in the reality in itself but in the relevant reality at least for us In this respect we do not only depend on theories like physicists but also on legal authoritative sources that is power and legitimacy Legal scholars and other participants in the legal life are not neutral observers of their own world trying to discover some hidden truth They are committed experts trying to describe justify and improve the legal order

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