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Routledge Handbook of Constitutional Law

Edited by Mark Rushmet, Thomas Fleiner and
Cheryl Saunders

Routledge Handbook Of Constitutional Law

Catherine Dupré



Routledge Handbook Of Constitutional Law:

Routledge Handbook of Constitutional Law Mark Tushnet, Thomas Fleiner, Cheryl Saunders, 2013-06-26 The Routledge Handbook of Constitutional Law is an advanced level reference work which surveys the current state of constitutional law. Featuring new specially commissioned papers by a range of leading scholars from around the world, it offers a comprehensive overview of the field as well as identifying promising avenues for future research. The book presents the key issues in constitutional law thematically, allowing for a truly comparative approach to the subject. It also pays particular attention to constitutional design, identifying and evaluating various solutions to the challenges involved in constitutional architecture. The book is split into four parts for ease of reference. Part One: General issues sets issues of constitutional law firmly in context, including topics such as the making of constitutions, the impact of religion and culture on constitutions, and the relationship between international law and domestic constitutions. Part Two: Structures presents different approaches in regard to institutions or state organization and structural concepts such as emergency powers and electoral systems. Part Three: Rights covers the key rights often enshrined in constitutions. Part Four: New Challenges explores issues of importance such as migration and refugees, sovereignty under pressure from globalization, Supranational Organizations and their role in creating post-conflict constitutions, and new technological challenges. Providing up-to-date and authoritative articles covering all the key aspects of constitutional law, this reference work is essential reading for advanced students, scholars, and practitioners in the field.

Routledge Handbook of Comparative Constitutional Change Xenophon Contiades, Alkmene Fotiadou, 2020-06-11 Comparative constitutional change has recently emerged as a distinct field in the study of constitutional law. It is the study of the way constitutions change through formal and informal mechanisms, including amendment, replacement, total and partial revision, adaptation, interpretation, disuse, and revolution. The shift of focus from constitution making to constitutional change makes sense since amendment power is the means used to refurbish constitutions in established democracies, enhance their adaptation capacity, and boost their efficacy. Adversely, constitutional change is also the basic apparatus used to orchestrate constitutional backslide as the erosion of liberal democracies and democratic regression is increasingly affected through legal channels of constitutional change. Routledge Handbook of Comparative Constitutional Change provides a comprehensive reference tool for all those working in the field and a thorough landscape of all theoretical and practical aspects of the topic. Coherence from this aspect does not suggest a common view as the chapters address different topics but reinforces the establishment of comparative constitutional change as a distinct field. The book brings together the most respected scholars working in the field and presents a genuine contribution to comparative constitutional studies, comparative public law, political science, and constitutional history.

Routledge Handbook of Constitutional Law in Greater China Ngoc Son Bui, Stuart Hargreaves, Ryan Mitchell, 2022-12-29 The Handbook of Constitutional Law in Greater China surveys important issues of constitutional law in Mainland China, Hong Kong, Macau, and Taiwan. It synthesizes existing

scholarship debates and views on important constitutional issues in the four jurisdictions Written by a range of scholars it contributes to both national and comparative scholarship on constitutional law in these jurisdictions The book includes four parts Part I History This part explores the constitutional movement of the Qing dynasty constitutional projects in modern China and aspects of the drafting and implementation history of the Hong Kong and Macau Basic Laws Part II Structure This part discusses the relationship between the party state and the Chinese constitutional order Chinese constitutionalism constitutional aspects of city development under the SAR concept constitutional review in Mainland China a history of Taiwan s Council of Grand Justices and judicial review in both Hong Kong and Macau Part III Rights Society and Economy This part deals with Hong Kong s National Security Law and its impact on the one country two systems model social movements and constitutionalism LGBT rights advocacy the integration of capitalist regions within socialist China the constitutional relevance of labour reforms in Mainland China healthcare rights in both the Mainland and the SARs and foreign investment under Art 18 of the PRC Constitution Part IV Transnational Engagement This part surveys comparative writings on China s constitution the influence of international human rights treaties on China s constitutional order the international dimension of Hong Kong s constitutional order and the changing role of the overseas judges in Hong Kong Exploring both historical and cutting edge constitutional issues this reference book is important reading for law researchers lawyers graduate students undergraduates and practitioners in the field of constitutional law and politics in Mainland China Taiwan Hong Kong and Macau

Routledge Handbook of Subnational Constitutions and Constitutionalism Patricia Popelier,Giacomo Delledonne,Nicholas Aroney,2021-09-21 This handbook provides a toolbox of definitions and typologies to develop a theory of multilevel constitutionalism and subnational constitutions The volume examines systems with subnational entities that have full subnational constituent autonomy and systems where subnational constituent powers while claimed by subnational governments are incomplete or non existent Understanding why complete subnational constituent power exists or is denied sheds significant light on the status and functioning of subnational constitutions The book deals with questions of how constitutions at multiple levels of a political system can co exist and interact The term multilevel constitutionalism recognized as explaining how a supranational European constitution can exist alongside those of the Member States is now used to capture dynamics between constitutions at the national subnational and where applicable supranational levels Broad in scope the book encompasses many different types of multi tiered systems world wide to map the possible meanings uses and challenges of subnational or state constitutions in a variety of political and societal contexts The book develops the building blocks of an explanatory theory of subnational constitutionalism and as such will be an essential reference for all those interested in comparative constitutional law federalism and governance

The Routledge Handbook of Subnational Constitutions and Constitutionalism Patricia Popelier,Giacomo Delledonne,Nicholas Aroney,2021 This handbook provides a toolbox of definitions and typologies to develop a theory of multilevel constitutionalism and subnational

constitutions The volume examines systems with subnational entities that have full subnational constituent autonomy and systems where subnational constituent powers while claimed by subnational governments are incomplete or non-existent Understanding why complete subnational constituent power exists or is denied sheds significant light on the status and functioning of subnational constitutions The book deals with questions of how constitutions at multiple levels of a political system can co-exist and interact The term multilevel constitutionalism recognized as explaining how a supranational European constitution can exist alongside those of the Member States is now used to capture dynamics between constitutions at the national subnational and where applicable supranational levels Broad in scope the book encompasses many different types of multi-tiered systems world-wide to map the possible meanings uses and challenges of subnational or state constitutions in a variety of political and societal contexts The book develops the building blocks of an explanatory theory of subnational constitutionalism and as such will be an essential reference for all those interested in comparative constitutional law federalism and governance

Principles of French Constitutional Law Marie-Luce Paris, 2024-12-11

Principles of French Constitutional Law offers a concise and accessible account of the key principles and rules of constitutional law in the French legal system presenting a much-needed up-to-date overview of this rapidly changing subject The textbook explores the five essential pillars that underpin the teaching of constitutional law namely the institutions legal history case law comparative law and current affairs and developments It is split into two core sections Part I examines the basis of French constitutional law the theoretical developments about key notions of constitutional law such as the state and the constitution as well as the historical background to French constitutional law Part II provides students with an understanding of the current Fifth Republic and how constitutional rules are adopted and applied and how they affect other areas of law and politics It offers a critical account of the 1958 Constitution's past present and future by placing it in its political and socio-historical contexts and critically assessing contemporary developments and constitutional reforms Given the growing expansion of this branch of law in the French legal system this book will be essential reading for anyone studying French Law Law with French Comparative Constitutional Law and European Legal Studies

The Age of Dignity Catherine Dupré, 2016-02-11

Human dignity is one of the most challenging and exciting ideas for lawyers and political philosophers in the twenty-first century Even though it is rapidly emerging as a core concept across legal systems and is the first foundational value of the European Union and its overarching human rights commitment under the Lisbon Treaty human dignity is still little understood and often mistrusted Based on extensive comparative and cross-disciplinary research this path-breaking monograph provides an innovative and critical investigation of human dignity's origins development and above all its potential at the heart of European constitutionalism today Grounding its analysis in the connections among human dignity human rights constitutional law and democracy this book argues that human dignity's varied and increasing uses point to a deep transformation of European constitutionalism At its heart are the construction and protection of constitutional

time and the multi dimensional definition of humanity as human beings citizens and workers Anchored in a detailed comparative study of case law including the two European supranational courts and domestic constitutional courts especially those of Germany the UK France and Hungary this monograph argues for a new understanding of European constitutionalism as a form of humanism **Reasoning Rights** Liora Lazarus,Christopher McCrudden,Nigel Bowles,2014-12-01 This book is about judicial reasoning in human rights cases The aim is to explore the question how is it that notionally universal norms are reasoned by courts in such significantly different ways What is the shape of this reasoning which techniques are common across the transnational jurisprudence and which are particular The book comprising contributions by a team of world leading human rights scholars moves beyond simply addressing the institutional questions concerning courts and human rights which often dominate discussions of this kind seeking instead a deeper examination of the similarities and divergence of reasonings by different courts when addressing comparable human rights questions These differences while partly influenced by institutional concerns cannot be attributed to them alone This book explores the diverse and rich underlying spectrum of human rights reasoning as a distinctive and particular form of legal reasoning evident in the case studies across the selected jurisdictions *Gender-Competent Legal Education* Dragica Vujadinović,Mareike Fröhlich,Thomas Giegerich,2023-02-03 Male dominated law and legal knowledge essentially characterized the whole of pre modern history in that the patriarchy represented the axis of social relations in both the private and public spheres Indeed modern and even contemporary law still have embedded elements of patriarchal heritage even in the secular modern legal systems of Western developed countries either within the content of legislation or in terms of its implementation and interpretation This is true to a greater or lesser extent across legal systems although the secular modern legal systems of the Western developed countries have made great advances in terms of gender equality The traditional understanding of law has always been self evidently dominated by men but modern law and its understanding have also been more or less malestreamed Therefore it has become necessary to overcome the given maskulinity of legal thought In contemporary legal and political orders gender mainstreaming of law has been of the utmost importance for overcoming deeply and persistently embedded power relations and gender based unequal social relations At the same time and equally importantly the gender mainstreaming of legal education to which this book aims to contribute can help to gradually eliminate this male dominance and accompanying power relations from legal education and higher education as a whole This open access textbook provides an overview of gender issues in all areas of law including sociological historical and methodological issues Written for students and teachers around the globe it is intended to provide both a general overview and in depth knowledge in the individual areas of law Relevant court decisions and case studies are supplied throughout the book *Transnational Evaluation of Constitutions* Ali Shirvani,2021-07-09 This book provides a hypothetical classification of constitutions through international law and human rights values used in any constitution which draws

connections between the inclusive standards of international law and human rights contained in the constitutions. Consequently, an evaluation method will be available for users to rank any constitution's potentiality of analysis for grounds of any commitment and responsibility of the states concerning international law and human rights. This important study uses novel quantitative and qualitative methods to explore the relationship between constitutional and international law. It is a significant contribution to the literature and pushes us further toward rigorous analysis of transnational legal regimes.

Tom Ginsburg, Professor of Political Science, Chicago Law School. **Law's Ethical, Global and Theoretical Contexts**. Upendra Baxi, Christopher McCrudden, Abdul Paliwala, 2015-10-22. *Law's Ethical, Global and Theoretical Contexts* examines William Twining's principal contributions to law and jurisprudence in the context of three issues which will receive significant scholarly attention over the coming decades. Part I explores human rights including torture, the role of evidence in human rights cases, the emerging discourse on traditional values, the relevance of Southern voices to human rights debates, and the relationship between human rights and peace agreements. Part II assesses the impact of globalization through the lenses of sociology and comparative constitutionalism and features an analysis of the development of pluralistic ideas of law in the context of privatization. Finally, Part III addresses issues of legal theory including whether global legal pluralism needs a concept of law, the importance of context in legal interpretation, the effect of increasing digitalization on legal theory, and the utility of feminist and postmodern approaches to globalization and legal theory.

The Resilience of the Hungarian Legal System since 2010. Fruzsina Gárdos-Orosz, 2024-11-11. This open access book explains the factors that cause the poor functioning or failure of certain legal institutions or the success of others in the current Hungarian legal system after the 2010 transition from liberal to illiberal populist democracy. The authors argue in most regulatory areas that reform is needed in lawmaking or in the application and practice of law because there are systemic problems with the law's capacity for doctrinal resilience which lead to the primacy of other regulators than law, such as the populist politics. An understanding of these processes is essential for the implementation of sound law and legal policy reforms for the maintenance of the legal guarantee system and for the successful development of institutions protecting and providing the fundamental rights. The volume documents how the Hungarian legal system changed after 2010 on the one hand and conceptualises these changes with the help of resilience on the other hand.

Constitutional Identity and Constitutionalism in Africa. Charles M. Fombad, Nico Steytler, 2024-01-23. In its modern history, Africa has experienced different waves of constitutional ordering. The latest democratisation wave which began in the 1990s has set the stage over the past decade for what is now a hotly debated issue: do recent new or fundamentally revised constitutions truly reflect an African constitutional identity? Thoughtfully navigating a contested field, this volume brings to the fore a number of foundational questions about African constitutionalism. *Constitutional Identity and Constitutionalism in Africa* asks whether the concept of constitutional identity clarifies our understanding of constitutional change in Africa, including an exploration of the relationship between constitutional identity

and a country's unique culture's and histories Building on this contributions examine the persistent role of colonial heritages in shaping constitutional identity in post Independence African nations and the question of path dependency Given the enduring influence of the colonial experience the volume asks how why and to what end African constitutions must be decolonised to form an authentic constitutional identity This theoretical insight is supplemented and further deepened by detailed case studies of South Africa Ethiopia Cape Verde Cameroon and Egypt and their diverse experience of constitutional continuity and change This volume in the Stellenbosch Handbooks in African Constitutional Law series brings together contributions from established scholars and emerging voices on the study of constitutional processes They provide an urgent critical analysis of existing paradigms concepts and normative ideologies of modern African constitutionalism in the context of constitutional identity

The Distorting Lens of Convergent Constitutional Theory Peter Cane, 2025-07-24 This book challenges the near universal acceptance of a US style Western constitutional paradigm as the best basis for comparative constitutional studies It does so on three main grounds anachronism othering and cultural specificity Main pillars of convergent constitutional theory are rooted in the revolutionary late eighteenth century a lost world constitutional arrangements that deviate from the paradigm are often branded as outliers or even as not constitutional at all and the foundations of the paradigm in liberal democracy give no space for other forms of constitutionalism Whatever the attractions of convergent theory as a normative ideal of good government for the purposes of understanding analysing and explaining constitutional systems it is far from ideal This book discusses and questions convergent theory's weddedness to writing as the technology of constitution making its image of a constitution as fundamental law its idea that a constitution expresses the sovereignty of the people its use of tripartite separation of powers as the basic principle of institutional design its relative neglect of administrative law its association of rights with judicially enforceable bills of rights and its obsession with a vaguely specified concept of democracy It makes suggestions for alternative preferable methods of understanding analysing and explaining constitutions and governmental and constitutional systems

Constitutions and Gender Helen Irving, 2017-06-30 Constitutions and gender is a new and exciting field attracting scholarly attention and influencing practice around the world This timely handbook features contributions from leading pioneers and younger scholars applying a gendered lens to constitution making and design constitutional practice and citizenship and constitutional challenges to gender equality rights and values It offers a gendered perspective on the constitutional text and record of multiple jurisdictions from the long established to the world's newly emerging democracies Constitutions and Gender portrays a profound shift in our understanding of what constitutions stand for and what they do

Writing Constitutions Wolfgang Babeck, Albrecht Weber, 2024-02-26 Writing Constitutions intends to serve as a practical manual for those writing constitutions or interested in their design It is the first systematic and universal approach to coherently capture concepts and contents of a modern constitution Volume II is a user friendly guide covering the current best practice in human rights and

contains a draft catalogue of human rights It empowers judges lawyers civil rights activists legislators and academics to draft and interpret over 70 Human Rights and strengthen democracies Writing Constitutions comes in three volumes Volume I Institutions Volume II Fundamental Rights Volume III Constitutional Principles *Women, Gender, and Constitutionalism in Latin America* Francisca Pou Giménez, Ruth Rubio Marín, Verónica Undurraga Valdés, 2024-04-30 This book discusses to what extent and how constitutional design and practice in Latin America have helped in combatting the subordination of women and LGBTQIA people Covering 11 jurisdictions the chapters identify the main elements of the constitutional gender order and survey jurisprudential and legislative developments in different areas incorporating contextual analysis and references to history political dynamics social movements feminist struggles normative efficacy and policy In the context of a constitutionalism that has been celebrated as particularly innovative and socially engaged the book assesses constitutional performance in the quest to supersede the separate gendered spheres tradition and the subordination of women and sexual minorities to heteronormative hegemony It fills an important gap in the field of gender and constitutionalism which has paid very little attention to Latin America compared to the Anglo American legal world and continental Europe It identifies regional trends but also variables which account for the diversity of approaches in various jurisdictions The book provides much needed insight into matters that are relevant for legal and socio legal scholars an ever growing number of social actors and movements and all those interested in comparative constitutionalism and in the intersections between law and gender

Constitutional Culture, Independence, and Rights Javier Garcia Oliva, Helen Hall, 2023-05-26 In *Constitutional Culture Independence and Rights* Javier Garcia Oliva and Helen Hall coin the term constitutional culture to encapsulate the collective rules and expectations that govern the collective life within a jurisdiction Significantly these shared norms have both legal and social elements including matters as diverse as standards of parenting the modus operandi of police officers and taboos around sexuality Using Quebec Scotland and Catalonia as case studies the book delves into what these constitutional battles mean for the rights identity and needs of everyday people and it powerfully demonstrates why the hypothetical future independence of these regions would have far reaching practical consequences beyond the realm of political structures and academic theory The book does not present a magic bullet to resolve debates around independence this is not its purpose and the text in fact demonstrates why there is no objectively optimal approach in any or all contexts Instead it seeks to shed light on aspects of these situations often overlooked in discussions around the fate of nations and it addresses what the consequences of constitutional paradigm shifts might be for individuals Constitutional culture is a complex web of interconnected understandings and behaviours and the vibrations from shaking or cutting a fundamental strand will be felt throughout the structure

Unconstitutional Constitutional Amendments Yaniv Roznai, 2017-02-16 Can constitutional amendments be unconstitutional The problem of unconstitutional constitutional amendments has become one of the most widely debated issues in comparative constitutional theory constitutional design and constitutional

adjudication This book describes and analyses the increasing tendency in global constitutionalism to substantively limit formal changes to constitutions The challenges of constitutional unamendability to constitutional theory become even more complex when constitutional courts enforce such limitations through substantive judicial review of amendments often resulting in the declaration that these constitutional amendments are unconstitutional Combining historical comparisons constitutional theory and a wide comparative study Yaniv Roznai sets out to explain what the nature of amendment power is what its limitations are and what the role of constitutional courts is and should be when enforcing limitations on constitutional amendments

Radical Constitutional Pluralism in Europe Orlando Scarcello, 2022-12-23 This book explains the challenge of constitutional pluralism and its importance showing its theoretical and practical relevance and giving a sense of why the existing scholarship on the matter is unsatisfactory The work explores how legal practitioners and theorists have faced the challenge of a society living under two constitutions at the same time This comes as the European Union which legally and politically integrates Europe and seems to challenge the view that no State can simultaneously abide by both the venerable national constitutions and the ever developing EU constitutional law is increasingly torn between calls for closer integration to face collective challenges and mounting Euroscepticism and nationalism This work employs a strongly pluralist perspective and a comparative methodology and looks at constitutional crises outside the EU to ground the claim that pluralism and conflicts are essential elements of modern constitutions It shows how the challenge of constitutional pluralism depends on a mistaken interpretation of positivist theory and how the latter reinterpreted in a manner close to legal realism has the resources to explain pluralism Finally the book addresses the issue of constitutional conflicts within the EU it examines in detail recent cases of open disobedience to EU law by national courts and distinguishes physiological conflict from constitutional pathology This work will be of particular interest to students and academics in Law and Political Science It will also be compelling reading for scholars in general jurisprudence EU law constitutional and comparative constitutional law and the history of European integration

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