

CONSTITUTIONAL LAW AND NATIONAL PLURALISM

STEPHEN TIERNEY



Constitutional Law And National Pluralism

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Constitutional Law and National Pluralism Stephen Tierney, 2006 Since the 1970s sub state national minorities in a number of developed liberal democracies have both reasserted their cultural distinctiveness and demanded recognition of it in legal and political terms This book examines the role played by law in the negotiation of competing rights claims

Peacebuilding, Constitutionalism and the Global South Kajit Bagu (John Paul), 2019-07-05 This book presents the case that liberal constitutionalism in the global South is a legacy of colonialism and is inappropriate as a means of securing effective peace in regions that have been subject to recurrent conflict The work demonstrates the failure of liberal constitutionalism in guaranteeing peace in the postcolonial global South It develops an alternative more compelling constitutionalism for peacebuilding in conflicted regions This is based on constitutionalism that recognises plurality as a major feature in the global South Drawing on events in Nigeria it develops a constitutional model based on Cognitive Justice which could deliver peace by addressing historic conceptual legal institutional and structural issues that have created social inequality and injustice The study also incorporates insights from the development of plurinational constitutions in South America The book will be an invaluable resource for researchers academics and policy makers with an interest in constitutional legal theory peacebuilding and postcolonial studies

Handbook on Global Constitutionalism Anthony F. Lang, Jr., Antje Wiener, 2017-10-27 This Handbook introduces scholars and students to the history philosophy and evidence of global constitutionalism Contributors provide their insights from law politics international relations philosophy and history drawing on diverse frameworks and empirical data sets Across them all however is a recognition that the international order cannot be understood without an understanding of constitutional theory The Handbook will define this field of inquiry for the next generation by bringing together some of the leading contemporary scholars

Debating Legal Pluralism and Constitutionalism Guillaume Tusseau, 2020-02-24 The book gathers the general report and the national reports presented at the XXth General Congress of the IACL in Fukuoka Japan on the topic Debating legal pluralism and constitutionalism new trajectories for legal theory in the global age Discussing the major contemporary changes occurring in and problems faced by domestic legal systems in the global age the book describes how and to what extent these trends affect domestic legal orderings and practices and challenges the traditional theoretical lenses that are offered to tackle them constitutionalism and pluralism Combining comparative law and comparative legal doctrine and drawing on the national contributions the general report concludes that most of the classic tools offered by legal doctrine are not appropriate to address most of today's practical and theoretical global legal challenges and as such the book also offers new intellectual tools for the global age

The Cosmopolitan Constitution Alexander Somek, 2014 Originally the constitution was expected to express and channel popular sovereignty It was the work of freedom springing from and facilitating collective self determination After the Second World War this perspective changed the modern constitution owes its authority not only to collective authorship it also must

commit itself credibly to human rights Thus people recede into the background and the national constitution becomes embedded into one or other system of peer review among nations This is what Alexander Somek argues is the creation of the cosmopolitan constitution Reconstructing what he considers to be the three stages in the development of constitutionalism he argues that the cosmopolitan constitution is not a blueprint for the constitution beyond the nation state let alone a constitution of the international community rather it stands for constitutional law reaching out beyond its national bounds This cosmopolitan constitution has two faces the first political face reflects the changed circumstances of constitutional authority It conceives itself as constrained by international human rights protection firmly committed to combating discrimination on the grounds of nationality and to embracing strategies for managing its interaction with other sites of authority such as the United Nations The second administrative face of the cosmopolitan constitution reveals the demise of political authority which has been traditionally vested in representative bodies Political processes yield to various and often informal strategies of policy co ordination so long as there are no reasons to fear that the elementary civil rights might be severely interfered with It represents constitutional authority for an administered world

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

European Union Law Damian Chalmers, Gareth Davies, Giorgio Monti, Veerle Heyvaert, 2024-03-28 This new edition sets out an account of EU law that includes not only that law s established features but captures its development in recent years and the challenges facing the European Union With dedicated new chapters on climate change data protection free movement of capital and the EU s relations with other European States topics such as the Union s response to covid 19 and the Ukraine crisis are addressed in detail As with previous editions the new edition integrates case law legislation academic materials and wider policy contributions in a way that broadens students understanding of the law and prompts greater critical reflection on the limits challenges and possibilities of EU law It seeks to set out EU law not so much as a series of laws to be learned but as something that stimulates heavy debate about some of the most contentious and significant issues of our time

The Edinburgh law review, 2006 **Constitutional Pluralism in the EU** Klemen Jaklic, 2014-01-09 Where does the law and political power of

any given territory come from Until recently it was believed that it came from a single and hierarchical source of constitutional authority a sovereign people and their constitution However how can this model account for the new Europe Where state constitutions and the European Constitution which are ultimately equally self standing sources of constitutional authority overlap heterarchically over a shared piece of territory Constitutional pluralism is a new branch within constitutional thought that argues sovereignty is no longer the accurate and normatively superior constitutional foundation It instead replaces this thought with its own foundation It emerged on the basis of contributions by the leading EU constitutionalists and has now become the most dominant branch of European constitutional thought Its claims have also overstepped the European context suggesting that it offers historic advantages for further development of the idea of constitutionalism and world order as such This book offers the first overarching examination of constitutional pluralism Comprehensively mapping out the leading contributions to date and solving the complicated labyrinth they currently form Klemen Jaklic offers a complete assessment against existing and new criticisms while elaborating his own original vision Constitutional pluralism thus refined has the potential to rightfully be considered the superior new approach within constitutional thought

Devolution, Law Making and the Constitution Robert Hazell, Richard Rawlings, 2005 Law making is a primary function of government and how well the three devolved UK legislatures exercise this function will be a crucial test of the whole devolution project This book provides the first systematic study and authoritative data to start that assessment It represents the fruits of a four year collaboration between top constitutional lawyers from Scotland Wales and Northern Ireland and leading researchers in UCL's Constitution Unit The book opens with detailed studies of law making in the period 1999-2004 in the Scottish Parliament and the Assemblies in Wales and Northern Ireland and how they interact with Westminster Later contributions look at aspects of legislative partnership in the light of the UK's strongly asymmetric devolutionary development and also explain the unexpected impact of devolution on the courts Individual chapters focus on various constitutional aspects of law making examining the interplay of continuity and change in political legal and administrative practice and the competing pressures for convergence and divergence between the different parliaments and assemblies This book is essential reading for academics and students in law and in politics and for anyone interested in the constitutional and legal aspects of UK devolution not least the practitioners and policymakers in London Edinburgh Cardiff and Belfast

The King's College Law Journal, 2005

The Supreme Court and Constitutional Theory, 1953-1993 Ronald Kahn, 1994 Combining theoretical sophistication with a fundamental comprehension of the political institutions of the USA this study aims to demystify the workings of the United States Supreme Court and its place in democracy

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

Scotland's Constitution Chris Himsworth, Christine M. O'Neill, 2009 Scotland's Constitution Law and Practice is a clear comprehensive account of the Scottish dimension of constitutional law within its UK and European context It describes and analyses constitutional arrangements while integrating that analysis with a general background to constitutional law and the UK institutions which have a continuing relevance for the government of Scotland This highly regarded text considers law making powers for Scotland the legislative process at Westminster and at Holyrood the accountability and scrutiny of government the independence of the judiciary and the role of the courts in interpreting and adjudicating upon constitutional and administrative law questions The second edition has been fully updated throughout and includes a wholly new chapter entitled Citizen and State covering important recent developments in human rights and civil liberties Account is also taken of the work of the Calman Commission the current Scottish government's National Conversation and developments in the House of Lords and the Supreme Court Further new material relating to data protection and freedom of information elections and the reform of the tribunals system has been included This text provides an essential introduction to constitutional law for law students and for others with a general interest in this subject Chris Himsworth is Professor of Administrative Law at the University of Edinburgh and is a Solicitor admitted in Scotland and in England and Wales Christine O'Neill is a Partner at Brodies LLP

Contents Constitutions and Constitutional Law
 Constitutional Law and Constitutional Values The Scottish Constitutional Context The UK and Scottish Parliaments Law Making Competences for Scotland The UK Government and the Scottish Executive Local Authorities and Other Public Bodies Law Making Procedures The Parliamentary Accountability of Government Public Finance Courts and the Independence of Judiciary Public Law Adjudication I

Research Handbook on Legal Pluralism and EU Law Gareth Davies, Matej Avbelj, The Research Handbook on Legal Pluralism and EU Law explores the diversity of phenomenon of overlapping legal systems

within the European Union the nature of their interactions and how they deal with the difficult question of the legal hierarchy between them. The contributors reflect on the history, sociology and legal scholarship on constitutional and legal pluralism and develop this further in the light of the challenges currently facing the EU.

Constitutional Pluralism in the European Union and Beyond Matej Avbelj, Jan Komárek, 2012. 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.

Constitutional Law, Administrative Law, and Human Rights Ian Loveland, 2006. Loveland's introduction to constitutional law renders the subject comprehensible in political and historical as well as legal terms. This third edition builds on the expanded content of the second and also emphasises the importance of human rights and devolution issues.

Political Pluralism Gongquan Xiao, 1927.

The Triangular Constitution Tom Flynn, 2019-05-16. This book offers a new account of modern European constitutionalism. It uses the Irish constitutional order to demonstrate that right across the European Union, the national constitution can no longer be understood on its own, in isolation from the EU legal order or from the European Convention on Human Rights. The constitution is instead triangular, with these three legal orders forming the points of a triangle and the relationship and interactions between them forming the triangle's sides. It takes as its starting point the theory of constitutional pluralism, which suggests that overlapping constitutional orders are not necessarily arranged on top of each other but that they may be arranged heterarchically or flatly, without a hierarchy of superior and subordinate constitutions. However, it departs from conventional accounts of this theory by emphasising that we must still pay close attention to jurisdictional specificity in order to understand the norms that regulate pluralist constitutions. It shows, through application of the theory to case studies, that any attempt to extract universal principles from the jurisdictionally contingent interactions between specific legal orders is fraught with difficulty. The book is an important contribution to constitutional theory in general and constitutional pluralism in particular and will be

of great interest to scholars in the field

Rethinking Europe's Constitution A. A. M. Kinneging, 2007

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