

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

This book develops a constitutional theory of international organization to explain the legitimation of supranational organizations. Supranational organizations play a key role in contemporary global governance, but recent events like Brexit and the threat by South Africa to withdraw from the International Criminal Court suggest that their legitimacy continues to generate contentious debates in many countries. Rethinking international organization as a constitutional problem, Oates argues that it is the representation of the constituent power of a constitutional order, that is, the collective subject in whose name authority is wielded, which explains the legitimation of supranational authority. Comparing the cases of the European Union, the World Trade Organization, and the International Criminal Court, Oates shows that the constitution of supranationalism is far from a functional response to the pressures of interdependence but a value-laden struggle to define the proper subject of global governance. The book will be of interest to students and scholars of international organization and those working in the broader fields of global governance and general International Relations theory. It should also be of interest to international legal scholars, particularly those focused on questions related to global constitutionalism. What is the effect of revolutions on legal systems? What role do constitutions play in legitimating regimes? How do constitutions and revolutions converge or clash? Taking the Arab Spring as its case study, this book explores the role of law and constitutions during societal upheavals, and critically evaluates the different trajectories they could follow in a revolutionary setting. The book urges a rethinking of major categories in political, legal, and constitutional theory in light of the Arab Spring. The book is a novel and comprehensive examination of the constitutional order that preceded and followed the Arab Spring in Egypt, Tunisia, Libya, Morocco, Jordan, Algeria, Oman, and Bahrain. It also provides the first thorough discussion of the trials of former regime officials in Egypt and Tunisia. Drawing on a wide range of primary sources,

including an in-depth analysis of recent court rulings in several Arab countries, the book illustrates the contradictory roles of law and constitutions. The book also contrasts the Arab Spring with other revolutionary situations and demonstrates how the Arab Spring provides a laboratory for examining scholarly ideas about revolutions, legitimacy, legality, continuity, popular sovereignty, and constituent power.

In this insightful book, Massimo Fichera provides an original account of European integration as a process. He argues that European constitutionalism has been informed from its earliest stages by a meta-rationale, which is expressed by security and fundamental rights as discourses of power. Employing this descriptive and normative conceptual framework to analyse the development of the EU as a polity, chapters cover significant recent events such as the Eurozone crisis, the refugee crisis, the rule of law crisis, Brexit and the constitutional identity crisis. This title tackles the dominant constitutional theories provided by Ronald Dworkin and Robert Alexy and presents a critical counterpoint. It considers the paradoxical relationship between principles and rules within constitutional theory. This is essential reading for those involved in constitutional adjudication involving rules and principles.

This book focuses on the historical configuration of the territorial borders and functional boundaries of the European nation state. It presents integration as a process of boundary transcendence, redefinition, shift, and change that fundamentally alters the nature of the European states. Its core concern lies in the relationship between the specific institutional design of the new Brussels centre, the boundary redefinitions that result from its political production, and, finally, the consequences of these two elements on established and developing national European political structures. Integration is examined as a new historical phase in the development of Europe, characterized by a powerful trend toward legal, economic, and cultural de-differentiation after the five-century process of differentiation that led to the European system of nation states. Considering the EU as the formation of an enlarged territorial system, this work recovers some of the classic issues of political modernization theory: Is the EU an

attempt at state formation? Is it an attempt at centre formation without nation building? Is it a process of centre formation without democratization? This work also seeks to sharpen the conceptual tools currently available to deal with processes of territorial enlargement and unification. It develops a theoretical framework for political structuring beyond the nation state, capable of linking all aspects of EU integration (inter-governmentalism, definition of rights, the 'constitutionalization' of treaties, the tensions between the new territorial hierarchy and the nation states, etc.). The book adopts an 'holistic' approach to integration, in the form of a theory from which hypotheses can be generated (even if it is not possible to test all of its components). This theoretical framework has three principal aims: to overcome a rigid distinction between domestic politics and international relations; to link actors' orientations, interests, and motivations with macro outcomes; and to relate structural profiles with dynamic processes of change.

This book discusses the future steps in European integration, which are to be taken after the likely entry into force of the Lisbon Treaty in 2010. Against the background of the drafting of this new treaty, and the constitutional discussion within EU law during the last decades, the book questions whether the Treaty and leading EU law theorists have really grasped and addressed the true future challenges of European integration. Instead of always trying to balance supra-nationalism and inter-governmentalism, and seeing the EU as less democratic than a nation-state, at least the doctrine ought to embrace the most characteristic trait of European integration - namely supra-national decision-making - and discuss its future potential. In the book, recent changes in EU constitutional law and constitutional theory are observed. Leading EU theorists - such as Weiler, Majone, and Habermas - are critically analyzed, with a view to their inability to see the EU today for what it really is. Finally, alternative strategies for the next decades are discussed, which may make the EU work more efficiently and, at the same time, bridge the gap between the Union and its citizens. Westphalian constitutionalism has shaped our understanding of politics, socio-political institutions and personal and political freedom for centuries. It is historically based in

the foundations of Western modernity, such as humanism and rationalism, and is organised around familiar principles of national sovereignty, the rule of law, the separation of powers, and democracy. But since the end of the twentieth century, global constitutionalism has gradually emerged, challenging both the constitutional ideology and the constitutional design of Westphalian constitutional law. This book critically assesses the structural and functional transformations in the Westphalian constitutional tradition produced by the emergence of supranational and global constitutionalism. In so doing, it evaluates the theory of global constitutionalism, its legal and socio-political limits, and important issues concerning the supranational constitutionalism of the EU. This leads to an articulation of the constitutional theory of the emerging post-Westphalian constitutionalism, examining its development during a period of significantly increased access to and sharing of information, increased mobility and more open statehood, as well as the rise of human rights and its encounter with populism and nationalism. This book will be of great interest to scholars of constitutional law and theory, particularly those with an interest in globalisation and supranationalism.

An examination of the intertwined lives and writings of a group of prominent twentieth-century Jewish thinkers who experienced exile and migration *Exile, Statelessness, and Migration* explores the intertwined lives, careers, and writings of a group of prominent Jewish intellectuals during the mid-twentieth century—in particular, Theodor Adorno, Hannah Arendt, Walter Benjamin, Isaiah Berlin, Albert Hirschman, and Judith Shklar, as well as Hans Kelsen, Emmanuel Levinas, Gershom Scholem, and Leo Strauss. Informed by their Jewish identity and experiences of being outsiders, these thinkers produced one of the most brilliant and effervescent intellectual movements of modernity. Political philosopher Seyla Benhabib's starting point is that these thinkers faced migration, statelessness, and exile because of their Jewish origins, even if they did not take positions on specifically Jewish issues personally. The sense of belonging and not belonging, of being "eternally half-other," led them to confront essential questions: What does it mean for the individual to be an equal citizen and to wish to retain one's ethnic, cultural, and religious

differences, or perhaps even to rid oneself of these differences altogether in modernity? Benhabib isolates four themes in their works: dilemmas of belonging and difference; exile, political voice, and loyalty; legality and legitimacy; and pluralism and the problem of judgment. Surveying the work of influential intellectuals, *Exile, Statelessness, and Migration* recovers the valuable plurality of their Jewish voices and develops their universal insights in the face of the crises of this new century.

[Centre Formation, System Building, and Political Structuring between the Nation State and the European Union](#)

[Na de storm](#)

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[Ideologies and the European Union](#)

[Legitimation by Constitution](#)

This open access book raises crucial questions about the citizenship of the European Union. Is it a new citizenship beyond the nation-state although it is derived from Member State nationality? Who should get it? What rights and duties does it entail? Should EU citizens living in other Member States be able to vote there in national elections? If there are tensions between free movement and social rights, which should take priority? And should the European Court of Justice determine what European citizenship is about or the legislative institutions of the EU or national parliaments? This book collects a wide range of answers to these questions from legal scholars, political scientists, and political practitioners. It is structured as a series of three conversations in which authors respond to each other. This exchange of arguments provides unique depth to the debate.

Concepts shape how we understand and participate in international legal affairs. They are an important site for order, struggle and change. This comprehensive and authoritative volume introduces a large number of concepts that have shaped, at various points in history, international legal practice and thought; intimates at how the many projects of international law have grappled with, and influenced, the world through certain concepts; and introduces new concepts into the discipline.

Presents a new approach to prominent judgments of the European Court of Justice drawing on the writings of Judge Robert Lecourt.

Prominent in the EU's recent transformations has been the tendency to advance extraordinary measures in the name of crisis response. From emergency lending to macro-economics, border management to Brexit, policies are pursued unconventionally

and as measures of last resort. This book investigates the nature, rise, and implications of this politics of emergency as it appears in the transnational setting. As the author argues, recourse to this method of rule is an expression of the deeper weakness of executive power in today's Europe. It is how policy-makers contend with rising socio-economic power and diminishing representative ties, seeking fall-back authority in the management of crises. In the structure of the EU they find incentives and few impediments. Whereas political exceptionalism tends to be associated with sovereign power, here it is power's diffusion and functional disaggregation that spurs politics in the emergency mode. The effect of these governing patterns is not just to challenge and reshape ideas of EU legitimacy rooted in constitutionalism and technocracy. The politics of emergency fosters a counter-politics in its mirror image, as populists and others play with themes of necessity and claim the right to disobedience in extremis. The book examines the prospects for democracy once the politics of emergency takes hold, and what it might mean to put transnational politics on a different footing. 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. Can a constitutional democracy commit suicide? Can an illiberal antidemocratic party legitimately obtain power through democratic elections and amend liberalism and democracy out of the constitution entirely? In Weimar Germany, these theoretical questions were both practically and existentially relevant. By 1932, the Nazi and Communist parties combined held a majority of seats in parliament. Neither accepted the legitimacy of liberal democracy. Their only reason for participating democratically was to amend the constitution out of existence. This book analyses Carl Schmitt's state and constitutional theory and shows how it was conceived in response to the Weimar crisis. Right-wing and left-wing political extremists recognized that a path to legal revolution lay in the Weimar constitution's combination of democratic procedures, total neutrality toward political goals, and positive law. Schmitt's writings sought to address the unique problems posed by mass democracy. Schmitt's thought anticipated 'constrained' or 'militant' democracy, a type of constitution that guards against subversive expressions of popular sovereignty and whose mechanisms include the entrenchment of basic constitutional commitments and party bans. Schmitt's state and constitutional theory remains important: the problems he identified continue to exist within liberal democratic states. Schmitt offers democrats today a novel way to understand the legitimacy of liberal democracy and the limits of constitutional change. 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.

This book addresses the question of social constitutionalism, especially with regard to its role in the contemporary European project. For reasons of history and democracy, Europeans share a deep commitment to social constitutionalism. But in the contemporary European constitutional debate, constitutionalism and social democracy have become antagonists, with the survival of the one seeming to require sacrifice of the other. This book challenges the common view that constitutionalization means de-politicization. It argues that courts can exert a more indirect, creative, and agenda-setting role in the process of an ongoing clarification of the meaning of a right. The CJEU and the ECtHR - as courts beyond the nation state - are able to constructively re-open and re-politicize controversies that may appear settled at the national level in their constitutionalizing jurisprudence. And, crucially, our understanding of shared European constitutional principles is itself subject to revision and reconsideration as we accumulate experiences of dealing with diverse national contexts. By examining the jurisprudence of the CJEU and the ECtHR, the book demonstrates that in domain after domain, ranging from the protection of the vulnerable in the European social market to the guarantee of freedom of conscience, which in Europe emerged after many centuries of religious persecution, both courts can enhance and deepen democracy and thereby encourage the liberal project of constitutionalism beyond the state. Over time, once interpretive answers have become established in practice, courts can then move towards stronger forms of judicial intervention that consolidate best practice. It is this democratic and experimental process which lies at the heart of the distinctive model of contemporary Euroconstitutionalism.

[*The Constitutional Theory of the Federation and the European Union*](#)

[*The Oxford Handbook of International Political Theory*](#)

[*Political and Legal Integration Beyond Brexit*](#)

[*Constituent Power in the European Union*](#)

[*Exile, Statelessness, and Migration*](#)

[*A Systems Theory of European Constitutionalism*](#)

[*hoe we de democratie in Europa kunnen redden*](#)

[*Self-Constitution of European Society*](#)

[*A Critical Analysis*](#)

[*Constituent Power and the Legitimacy of International Organizations*](#)

[*Between the Hydra and Hercules*](#)

[*Euroconstitutionalism and Its Discontents*](#)

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*.

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.

The European Union is at a crossroads. Slowly recovering from a series of financial and economic crises, with trust fundamentally shaken by processes of disaggregation and increasingly nationalist politics, it is searching for new visions that are at once inspiring and workable. In its White Paper of 1 March 2017, the Commission proposed five non-exclusive options for the Future of Europe. As put by the Commission, the five scenarios are illustrative in nature to provoke thinking. They are not detailed blueprints or policy prescriptions. Likewise, they deliberately make no mention of legal or institutional processes – the form will follow the function. This book takes the current state of the Union seriously. However, it aims to debate not only the political vision of Europe, but also the issue of legal integration beyond Brexit. Apart from addressing the

institutional challenges for the EU, the contributions to this volume focus on two key areas: rule of law and security. Rule of law and security are not only paradigmatic for the future of Europe but are also closely connected to a particular vision of Europe based on 'integration through law'; a vision that has been strongly contested in recent years. The overarching question is: how can sustainable political and legal integration be achieved in Europe? The volume builds on a conference organised by the Swedish Network for European Legal Studies in November 2017 and includes chapters by leading scholars in the field from the Nordic countries and wider Europe.

In this book Bosko Tripkovic develops a theory of value-based arguments in constitutional adjudication. In contrast to the standard question of constitutional theory that asks whether the courts get moral answers wrong, it asks a more fundamental question of whether the courts get the morality itself wrong. Tripkovic argues for an antirealist conception of value -one that does not presuppose the existence of mind-independent moral truths- and accounts for the effect this ought to have on existing value-based arguments made by constitutional courts. The book identifies three dominant types of value-based arguments in comparative constitutional practice: arguments from constitutional identity, common sentiment, and universal reason, and explains why they fail as self-standing approaches to moral judgment. It then suggests that the appropriate moral judgments emerge from the dynamics between practical confidence, which denotes the inescapability of the self and the evaluative attitudes it entails, and reflection, which denotes the process of challenging and questioning these attitudes. The book applies the notions of confidence and reflection to constitutional reasoning and maintains that the moral inquiry of the constitutional court ought to depart from the emotive intuitions of the constitutional community and then challenge these intuitions through reflective exposure to different perspectives in order to better understand and develop the underlying constitutional identity. The book casts new light on common constitutional dilemmas and allows us to envisage new ways of resolving them. Constituent power is the power to create new constitutions. Frequently exercised during political revolutions, it has been historically associated with extra-legality and violations of the established legal order. This book examines the relationship between constituent power and the law. It considers the place of constituent power in constitutional history, focusing on the legal and institutional implications that theorists, politicians, and judges have derived from it. Commentators and citizens have relied on the concept of constituent power to defend the idea that electors have the right to instruct representatives, to negate the doctrine of parliamentary sovereignty, and to argue that the creation of new constitutions must take place through extra-legislative processes, including primary assemblies open to all citizens. More recently, several Latin American constitutions explicitly incorporate the theory of constituent power and allow citizens, acting through popular initiative, to trigger constitution-making episodes that may result in the replacement of the entire constitutional order. Constitutional courts have also at times employed constituent power to justify their jurisdiction to invalidate constitutional

amendments that alter the fundamental structure of the constitution and thus amount to a constitution-making exercise. Some governments have used it to defend the legality of attempts to transform the constitutional order through procedures not contemplated in the constitution's amendment rule, but considered participatory enough to be equivalent to 'the people in action', sometimes sanctioned by courts. Building on these findings, Constituent Power and the Law argues that constituent power, unlike sovereignty, should be understood as ultimately based on a legal mandate to produce a particular type of juridical content. In practice, this makes it possible for a constitution-making body to be understood as legally subject to popularly ratified substantive limits. Sovereignty marks the boundary between politics and law. Highlighting the legal context of politics and the political context of law, it thus contributes to the internal dynamics of both political and legal systems. This book comprehends the persistence of sovereignty as a political and juridical concept in the post-sovereign social condition. The tension and paradoxical relationship between the semantics and structures of sovereignty and post-sovereignty are addressed by using the conceptual framework of the autopoietic social systems theory. Using a number of contemporary European examples, developments and paradoxes, the author examines topics of immense interest and importance relating to the concept of sovereignty in a globalising world. The study argues that the modern question of sovereignty permanently oscillating between *de iure* authority and *de facto* power cannot be discarded by theories of supranational and transnational globalized law and politics. Criticising quasi-theological conceptualizations of political sovereignty and its juridical form, the study reformulates the concept of sovereignty and its persistence as part of the self-referential communication of the systems of positive law and politics. The book will be of considerable interest to academics and researchers in political, legal and social theory and philosophy.

Brexit will have significant consequences for the country, for Europe, and for global order. And yet much discussion of Brexit in the UK has focused on the causes of the vote and on its consequences for the future of British politics. This volume examines the consequences of Brexit for the future of Europe and the European Union, adopting an explicitly regional and future-oriented perspective missing from many existing analyses. Drawing on the expertise of 28 leading scholars from a range of disciplines, *Brexit and Beyond* offers various different perspectives on the future of Europe, charting the likely effects of Brexit across a range of areas, including institutional relations, political economy, law and justice, foreign affairs, democratic governance, and the idea of Europe itself. Whilst the contributors offer divergent predictions for the future of Europe after Brexit, they share the same conviction that careful scholarly analysis is in need – now more than ever – if we are to understand what lies ahead for the EU. Praise for *Brexit and Beyond* 'a wide-ranging and thought-provoking tour through the vagaries of British exit, with the question of Europe's fate never far from sight...Brexit is a wake-up call for the EU. How it responds is an open question—but respond it must. To better understand its options going forward you should turn to this book, which has also been made free online.'

Prospect Magazine 'This book explores wonderfully well the bombshell of Brexit: is it a uniquely British phenomenon or part of a wider, existential crisis for the EU? As the tensions and complexities of the Brexit negotiations come to the fore, the collection of essays by leading scholars will prove a very valuable reference for their depth of analysis, their lucidity, and their outlining of future options.' - Kevin Featherstone, Head of the LSE European Institute, London School of Economics 'Brexit and Beyond is a must read. It moves the ongoing debate about what Brexit actually means to a whole new level. While many scholars to date have examined the reasons for the British decision to leave, the crucial question of what Brexit will mean for the future of the European project is often overlooked. No longer. Brexit and Beyond bundles the perspectives of leading scholars of European integration. By doing so, it provides a much needed scholarly guidepost for our understanding of the significance of Brexit, not only for the United Kingdom, but also for the future of the European continent.' - Catherine E. De Vries, Professor in the department of Government, University of Essex and Professor in the department of Political Science and Public Administration Free University Amsterdam 'Brexit and Beyond provides a fascinating (and comprehensive) analysis on the how and why the UK has found itself on the path to exiting the European Union. The talented cast of academic contributors is drawn from a wide variety of disciplines and areas of expertise and this provides a breadth and depth to the analysis of Brexit that is unrivalled. The volume also provides large amounts of expert-informed speculation on the future of both the EU and UK and which is both stimulating and anxiety-inducing.' -Professor Richard Whitman, Head of School, Professor of Politics and International Relations, Director of the Global Europe Centre, University of Kent

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.

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[The Constitutional Dilemma of the European Union](#)

[Concepts for International Law](#)

[Politics of Last Resort](#)

Many political and legal philosophers compare the EU to a federal union and believe its basic laws should be subject to the standards of constitutional law, and thus find it lacking or incomplete. This book proposes a rival theory: that the substance of EU law is not constitutional, but international, and provides a close examination of the treaties and the precedents of the European courts to explore this

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concept further. Just like international law, EU law applies primarily to the relations between member states, who have democratically chosen to adapt their constitutional arrangements in order to share legislative and executive powers with their partners. The legal architecture of the European Union is thus best understood under a theory of dualism and not pluralism. According to this 'internationalist' view, EU law is part of the law of nations and its distinction from domestic law is a matter of substance, not form. This arrangement is supported by a cosmopolitan theory of international justice, which we may call progressive internationalism. The EU is a union of democratic peoples, freely organizing their interdependence on the basis of principles of equality and reciprocity. Its central principles are not the principles of a constitution, but cosmopolitan principles of accountability, liberty, and fairness. Presenting an 'internationalist' reading, this book proposes that the EU is a creation of the law of nations, and argues for a dualist account of its legal architecture, with EU law and domestic law allocated different institutional roles.

Constitutionalism: Past, Present, and Future will offer a definitive collection of Professor Dieter Grimm's most important scholarly writings on constitutional thought and interpretation. The essays included in this volume explore the conditions under which the modern constitution could emerge; they treat the characteristics that must be given if the constitution may be called an achievement, the appropriate way to understand and interpret constitutional law under current conditions, the function of judicial review, the remaining role of national constitutions in a changing world, as well as the possibility of supra-national constitutionalism. Many of these essays have influenced the German and European discussion on constitutionalism and for the first time, much of the work of one of Germany's leading scholars of public law will be available in the English language.

The most current, contextual and authoritative EU law text, including Brexit, the euro, and the migration crisis.

This book seeks to develop a new approach to EU legitimacy by reformulating the classical notion of constituent power for the context of European integration and challenging the conventional theoretical assumptions regarding the EU's ultimate source of authority.

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

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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.

An authoritative and comprehensive survey of the major themes, thinkers, and movements in modern European intellectual history. This volume offers a critical inquiry into the ever-evolving notion of cultural heritage and the way it has been made accessible, governed, and protected by the institutional, operational, and legal structures of the European Union.

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.

[The Constitution of Supranationalism](#)

[Constitutionalism](#)

[Playing Chess with History from Hannah Arendt to Isaiah Berlin](#)

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[Contributions to Disciplinary Thought](#)

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[The Cambridge History of Modern European Thought: Volume 2, The Twentieth Century](#)

[Rethinking the Landmark Decisions of the Foundational Period](#)

"Legitimation by constitution" is a phrase coined by Michelman and Ferrara to represent an idea in Rawlsian political liberalism of reliance on a dualist democracy: ground-level laws are subject to the constraints of a legal constitution that all citizens, across the political spectrum, can accept as a framework for their collective politics.

Recognize: 1. Vertical Constitutionalism: the justification of the supremacy of European law and the theory of the economic constitution -- 2. Europe as regulatory state? the masters of the Treaties -- 3. Constitutionalisation of governance in the European multi-level system.

Internationale topdenkers over de toekomst van democratie in Europa Een indrukwekkend rijtje denkers die Herman Van Rompuy als Europese president ontmoette, buigt zich over de vraag hoe het verder moet met de democratie in

Europa nu de eurocrisis op zijn retour is. De eurocrisis die in 2010 in alle hevigheid losbarstte, liet diepe sporen na in het continent. De democratische legitimiteit van de Europese instellingen staat meer dan ooit ter discussie. Herman Van Rompuy nodigde een gezelschap van internationale topdenkers uit om na te denken over de toekomst van de democratie in Europa. Dani Rodrik, Pierre Rosanvallon en Larry Siedentop zijn maar enkele van de zwaargewichten die in hun pen kropen voor dit boek. Stof tot nadenken én tot discussie. Met bijdragen van: Herman Van Rompuy Rémi Brague Maurizio Ferrera Dieter Grimm Jürgen Habermas Turkuler Isiksel Ivan Krastev Koen Lenaerts David Miller Dani Rodrik Pierre Rosanvallon Fritz Scharpf Paul Schefer Amartya Sen Larry Siedentop Frank Vandembroucke

This book uses constitutional analysis and theory to explore the transformation of Europe from the post-war era until the Euro-crisis. Authoritarian liberalism has developed over these years and, as the book suggests, is now perhaps reaching its limit. This book uses history and theory to reveal the EU's journey and highlight future challenges.

International Political Theory (IPT) focuses on the point where two fields of study meet - International Relations and Political Theory. It takes from the former a central concern with the 'international' broadly defined; from the latter it takes a broadly normative identity. IPT studies the 'ought' questions that have been ignored or side-lined by the modern study of International Relations and the 'international' dimension that Political Theory has in the past neglected. A central proposition of IPT is that the 'domestic' and the 'international' cannot be treated as self-contained spheres, although this does not preclude states and the states-system from being regarded by some practitioners of IPT as central points of reference. This Handbook provides an authoritative account of the issues, debates, and perspectives in the field, guided by two basic questions concerning its purposes and methods of inquiry. First, how does IPT connect with real world politics? In particular, how does it engage with real world problems, and position itself in relation to the practices of real world politics? And second, following on from this, what is the relationship between IPT and empirical research in international relations? This Handbook showcases the distinctive and valuable contribution of normative inquiry not just for its own sake but also in addressing real world problems. The Oxford Handbooks of International Relations is a twelve-volume set of reference books offering authoritative and innovative engagements with the principal sub-fields of International Relations. The series as a whole is under the General Editorship of Christian Reus-Smith of the University of Queensland and Duncan Snidal of the University of Oxford, with each volume edited by a distinguished pair of specialists in their respective fields. The series both surveys the broad terrain of International Relations scholarship and reshapes it, pushing each sub-field in challenging new directions. Following the example of the original Reus-Smit and Snidal The Oxford Handbook of International Relations, each volume is organized around a strong central thematic by a pair of scholars drawn from alternative perspectives, reading its sub-field in an entirely new way, and pushing scholarship in challenging new

directions.

"A Theory of Disfunctionality: The European Micro-states as Disfunctional States in the International System" explains the continuing survival of European micro-states as members of the international system. Micro-states are small sovereign states with populations of 1 million or less, of which there are 10 in Europe. The existence of micro-states raises a number of questions about the nature of statehood, the recognition of sovereignty, and the ability of such states to maintain a presence in international politics. This book establishes the 'theory of disfunctionality' in which a functional account of statehood is proposed. It is argued that the state has six functions—but the micro-states are so small that they 'contract out' some state functions to others in the international system. By doing this, the micro-states ensure their continuing survival in international politics. The book, which focuses on two case studies—Monaco and Luxembourg—, will be of particular interest to those involved in small state studies including scholars, students, practitioners and policy-makers, as well as those researching International Relations and state theory.

[A Union of Peoples](#)

[Carl Schmitt's State and Constitutional Theory](#)

[The Future of Europe](#)

[Legitimacy and Constitutionalism After the Arab Spring](#)

[The Foundations of the EU as a Polity](#)

[A Critical Inquiry into Law and Policy](#)

[The Law in the Process of Constitutionalizing Europe](#)

[Handbook on Global Constitutionalism](#)

[Constitutionalism and the Paradox of Principles and Rules](#)