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*Constitutional Courts
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CONRADO HÜBNER MENDES

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**Conrado Hübner Mendes, Roberto
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Constitutional Courts, Media and Public Opinion Angioletta Sperti, 2023-11-16 This book explores how constitutional courts have transformed communication and overcome their reluctance to engage in direct dialogue with citizens How has the information revolution affected the relationship of constitutional courts with the public and the media The book looks in detail at the communication strategies of the US Supreme Court the Supreme Court of Canada and in Europe the German Federal Constitutional Tribunal the French Conseil Constitutionnel and the Italian Constitutional Court arguing that when it comes to the relationship between courts and the media different jurisdictions share many similarities It focuses on the consequences of the communication revolution of courts both in terms of their relationship with public opinion and of the legitimacy of judicial review of legislation Some constitutional courts have attracted criticism by engaging in proactive communication and therefore arguably yielding to the temptation of public support The book argues that objections to the developing institutional communications employed by courts come from a preconceived notion of public opinion It considers the burden the communication revolution has placed on constitutional courts to achieve a balance between transparency and seclusion proximity and distance from public opinion It puts forward important arguments for how this balance can be achieved The book will interest scholars in constitutional law and public comparative law sociologists historians political scientists and scholars of media law and communication studies

Supermajority Voting in Constitutional Courts

Cristóbal Caviedes, 2024-08-02 This book challenges the wide use of majority rule in many constitutional courts for declaring statutes unconstitutional and argues that these courts should rather perform constitutional review by using supermajority rules Considering that constitutional courts often tackle hard moral issues it is questionable whether a bare majority of judges should suffice for settling them especially considering these courts counter majoritarian nature Further the wide use of majority rule for checking the constitutionality of legislation may increasingly risk their reputation Such a concern is developing in the United States following a series of Supreme Court decisions This book argues that majority rule is unjustified in constitutional review This means that in constitutional review considering majority rule's traits there are no decisive reasons for using this voting rule over other voting rules Additionally the book argues that when checking the constitutionality of legislation constitutional courts should replace majority rule with supermajority rules Thus for declaring statutes unconstitutional it is argued that more than 50% of the judges present plus one judge present should be needed This book will be of interest to academics researchers and policy makers working in the areas of Constitutional Law and Politics

Constitutional Courts and Deliberative Democracy Conrado Hübner Mendes, 2013-12-19 Contemporary democracies have granted an expansive amount of power to unelected judges that sit in constitutional or supreme courts This power shift has never been easily squared with the institutional backbones through which democracy is popularly supposed to be structured The best institutional translation of a government of the people by the people and for the people is usually expressed through

elections and electoral representation in parliaments Judicial review of legislation has been challenged as bypassing that common sense conception of democratic rule The alleged democratic deficit behind what courts are legally empowered to do has been met with a variety of justifications in favour of judicial review One common justification claims that constitutional courts are in comparison to elected parliaments much better suited for impartial deliberation and public reason giving Fundamental rights would thus be better protected by that insulated mode of decision making This justification has remained largely superficial and sometimes too easily embraced This book analyses the argument that the legitimacy of courts arises from their deliberative capacity It examines the theory of political deliberation and its implications for institutional design Against this background it turns to constitutional review and asks whether an argument can be made in support of judicial power on the basis of deliberative theory

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

Humanitarian Intervention, Colonialism, Islam and Democracy Gustavo Gozzi, 2021-04-12 This book offers a critical analysis of the European colonial heritage in the Arab countries and highlights the way this legacy is still with us today informing the current state of relations between Europe and the formerly colonized states The work analyses the fraught relationship between the Western powers and the Arab countries that have been subject to their colonial rule It does so by looking at this relationship from two vantage points On the one hand is that of humanitarian intervention a paradigm under which colonial rule coexisted alongside humanitarian policies pursued on the dual assumption that the colonized were barbarous peoples who wanted to be civilized and that the West could lay a claim of superiority over an inferior humanity On the other hand is the Arab view from which the humanitarian paradigm does not hold up and which accordingly offers its own insights into the processes through which the Arab countries have sought to wrest themselves from colonial rule In unpacking this analysis the book traces a history of international and colonial law to this end also using the tools offered by the history of political thought The book will be of interest to students academics and researchers working in legal history international law international relations the history of political thought and colonial studies

From Maastricht to Brexit Richard Bellamy, Dario Castiglione, 2019-06-04 Is the European Union still a viable project The last few years have been difficult both economically and politically while its integrative function and legitimacy have been seriously tested For many social economic and geo political reasons its expansionary moment has stopped abruptly On the contrary the Greek economic crisis and the Brexit referendum have raised the spectre of fragmentation and political disintegration The promise of the EU as a possible model for legitimate governance beyond the nation state lies somewhat in tatters Even if the EU may indeed survive most of its current crises is the project of a EU as a normative project beyond rescue Ever since Maastricht the democratic legitimacy of the EU has been a key concern of policy makers citizens and academics alike This issue is

essentially a normative one and over the same period our work in this area has been at the forefront in exploring what has come to be known following an early working paper we wrote with this title in 2000 the normative turn in EU studies The debate on the democratic form and legitimacy of the EU is one that has gone on for some time and to which we together with other scholars have tried to contribute in the course of the last twenty years or so Collecting articles written over the course of this period is not just meant as the testimony of an intellectual journey but also a way of tracing such a journey in retrospect and mapping the important moments of the intellectual and scholarly debates that have contributed to shaping both our understanding and our expectations of the EU's possible futures

Constitutional Resilience in South Asia Swati Jhaveri, Tarunabh Khaitan, Dinesha Samararatne, 2023-06-01 South Asia has had a tumultuous and varied experience with constitutional democracy that predates the recent rise in populism and its study in established democracies And yet this region has remained largely ignored by constitutional studies and democracy scholars This book addresses this gap and presents a contribution to the South Asia centric literature on the topic of the stability and resilience of constitutional democracies Chapters deal not only with relatively well known South Asian countries such as India Bangladesh Pakistan and Sri Lanka but also with countries often ignored by scholars such as Bhutan Nepal Maldives and Afghanistan The contributions consider the design and functioning of an array of institutions and actors including political parties legislatures the political executive the bureaucracy courts fourth branch guarantor institutions such as electoral commissions the people and the military to examine their roles in strengthening or undermining constitutional democracy across South Asia Each chapter offers a contextual and jurisdictionally tethered account of the causes behind the erosion of constitutional democracy and some examine the resilience of constitutional institutions against democratic erosion

Law, Liberty, and the Rule of Law Imer B. Flores, Kenneth E. Himma, 2012-09-29 In recent years there has been a substantial increase in concern for the rule of law Not only have there been a multitude of articles and books on the essence nature scope and limitation of the law but citizens elected officials law enforcement officers and the judiciary have all been actively engaged in this debate Thus the concept of the rule of law is as multifaceted and contested as it's ever been and this book explores the essence of that concept including its core principles its rules and the necessity of defining or even redefining the basic concept Law Liberty and the Rule of Law offers timely and unique insights on numerous themes relevant to the rule of law It discusses in detail the proper scope and limitations of adjudication and legislation including the challenges not only of limiting legislative and executive power via judicial review but also of restraining active judicial lawmaking while simultaneously guaranteeing an independent judiciary interested in maintaining a balance of power It also addresses the relationship not only between the rule of law human rights and separation of powers but also the rule of law constitutionalism and democracy

Sovereignty, Civic Participation, and Constitutional Law Brecht Deseure, Raf Geenens, Stefan Sottiaux, 2021-04-13 This book brings recent insights about sovereignty and citizen participation in the Belgian Constitution to scholars in the fields of law philosophy

history and politics Throughout the Western world there are increasing calls for greater citizen participation Referendums citizen councils and other forms of direct democracy are considered necessary antidotes to a growing hostility towards traditional party politics This book focuses on the Belgian debate where the introduction of participatory politics has stalled because of an ambiguity in the Constitution Scholars and judges generally claim that the Belgian Constitution gives ultimate power to the nation which can only speak through representation in parliament In light of this direct democracy would be an unconstitutional power grab by the current generation of citizens This book critically investigates this received interpretation of the Constitution and by reaching back to the debates among Belgium's 1831 founding fathers concludes that it is untenable The spirit if not the text of the Belgian Constitution allows for more popular participation than present day jurisprudence admits This book is the first to make recent debates in this field accessible to international scholars It provides a rare source of information on Belgium's 1831 Constitution which was in its time seen as modern constitutionalism's greatest triumph and which became a model for countless other constitutions Yet the questions it asks reverberate far beyond Belgium Combining new insights from law philosophy history and politics this book is a showcase for continental constitutional theory It will be a valuable resource for academics and researchers in constitutional law political and legal philosophy and legal history

The Oxford Handbook of Law and Politics Keith E. Whittington, R. Daniel Kelemen, Gregory A. Caldeira, 2010-06-11 The study of law and politics is one of the foundation stones of the discipline of political science and it has been one of the most productive areas of cross fertilization between the various subfields of political science and between political science and other cognate disciplines This Handbook provides a comprehensive survey of the field of law and politics in all its diversity ranging from such traditional subjects as theories of jurisprudence constitutionalism judicial politics and law and society to such re-emerging subjects as comparative judicial politics international law and democratization The Oxford Handbook of Law and Politics gathers together leading scholars in the field to assess key literatures shaping the discipline today and to help set the direction of research in the decade ahead

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