

The Politics Of Constitutional Review In Germany

Rights-Based Constitutional Review Judicial Review of Constitutional Amendments Constitutional Review in Europe Constitutional Review and Democracy Constitutional Review and Democracy Report on Constitutional Enforcement and Constitutional Review in China The Oxford Handbook of Constitutional Law in Latin America Human Rights and Judicial Review Routledge Handbook of Constitutional Law Constitutionality of Law without a Constitutional Court Rule of Law and Fundamental Rights The Constitutional Review The Jurisprudence of Constitutional Conflict in the European Union Asian Comparative Constitutional Law, Volume 3 Judicial Review and the Constitution Constitutional Courts in Asia The Constitutional Foundations of Judicial Review The Constitutional Review The Constitutional Review The Politics of Constitutional Review in Germany John Bell Kemal Gözler Maartje De Visser Miodrag A. Jovanović Miodrag A. Jovanović Li Lin Conrado Hübner Mendes David M. Beatty Mark Tushnet Miroslaw Granat Alfredo Narváez Medélico Ana Bobić Ngoc Son Bui Christopher Forsyth Hongyi Chen Mark Elliott Arne Mavčič Georg Vanberg

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constitutional review has become an essential feature of modern liberal democratic constitutionalism in particular constitutional review in the context of rights litigation has proved to be most challenging for the courts by offering in depth analyses on changes affecting constitutional design and constitutional adjudication while also engaging with general theories of comparative constitutionalism this book seeks to provide a heightened understanding of the constitutional and political responses to the issue of adaptability and endurance of rights based constitutional review these original contributions written by an

array of distinguished experts and illustrated by the most up to date case law cover australia belgium finland france hungary ireland italy spain the united kingdom and the united states and include constitutional systems that are not commonly studied in comparative constitutional studies providing structured analyses the editors combine studies of common law and civil law jurisdictions centralized and decentralized systems of constitutional review and large and small jurisdictions this multi jurisdictional study will appeal to members of the judiciary policymakers and practitioners looking for valuable insights into the case law of a range of constitutional and supreme courts in this rapidly expanding field of constitutional adjudication it also serves as an excellent resource for academics scholars and advanced students in the fields of law human rights and political science

this monograph is an attempt to answer the following questions can constitutional courts review the constitutionality of constitutional amendments if yes to what extent it is endeavored in a comparative perspective to answer these questions by examining the constitutions of several countries and the case law of the austrian german hungarian romanian slovenian and turkish constitutional courts french constitutional council indian irish and the united states supreme courts

this book offers a comprehensive comparative analysis of how 11 representative european countries tackle the questions of who should uphold s the constitution and how constitutional review is organised

this volume is a follow up to the conference constitutional review and democracy organized in november 2013 at the faculty of law university of belgrade the conference was convened as part of the ongoing project constitutionalism and rule of law in the nation state building the case of serbia the book sheds new light on the complex relation between democracy and judicial review of constitutionality it starts off with some general and theoretical aspects of the debate then the second section discusses constitutional review in the european transnational setting while the third part explores the dynamics between parliaments and highest courts in constitutional democracies without the formalized constitutional review finally the book addresses the role of constitutional review in the processes of democratic transition and consolidation contents include part i general aspects and theoretical problems establishing effective constitutional review the theory of constitutional review always above the law justification of constitutional review revisited on the abstract case against constitutional review part ii constitutional review beyond the nation state constitutional review in a democratic deficit setting the case of the european union authority of european human rights law lessons for constitutional law ban on political parties in a dialogue of jurisdictions cases against turkey bulgaria and spain part iii constitutionalism and democracy without review lingering with intent the uk constitutional review constitutional review and democracy in the netherlands balancing legislative and

judicial powers in an internationalized legal order part iv constitutional review and democratic transition constitutional justice and the rule of law the contribution of the spanish constitutional court to the consolidation of democracy the romanian constitutional judge lost in transition finding ways through the clouds of uncertainty searching for paths in the desert of sorrow the functioning of constitutional justice in a non consolidated democracy constitutional review and the parliamentary supermajority the hungarian example the role of the constitutional court of serbia in developing constitutional democracy the example of a dispute on the legal nature of representative mandate series democracy and the rule of law vol 5 subject constitutional law international law

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this report analyzes the operating mechanism of the constitutional enforcement and constitutional review system in china from the perspective of comparative law the implementation of the mechanism of constitutional review in china should not copy the

experience in west countries and the relevant departments and state organs should be comprehensively integrated to advance the supervision of the constitutional enforcement this report also suggests the establishment of the constitutional council mechanism inside the npc system series china advanced research and analysis series subject constitutional law comparative law chinese law

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

human rights and judicial review a comparative perspective collects in one volume a basic description of the most important principles and methods of analysis followed by the major courts enforcing constitutional bills of rights around the world the courts include the supreme courts of japan india canada and the united states the constitutional courts of germany and italy and the european court of human rights each chapter is devoted to an analysis of the substantive jurisprudence developed by these courts to determine whether a challenged law is constitutional or not and is written by members of these courts who have had a prior academic career the book highlights the similarities and differences in the analytical methods used by these courts in determining whether or not someone s constitutional rights have been violated students and scholars of constitutional law and human rights judges and advocates engaged in constitutional litigation will find the book a unique and valuable resource

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

this book analyses the problem of the possibility of guaranteeing the constitutionality of law in cases when a constitutional court either has been weakened or does not exist a starting point of the research is the emergence of the so called illiberal constitutionalism in several states namely poland hungary and turkey as this phenomenon gravely affects the functioning of constitutional courts the work is divided into three parts the first contains contributions of a theoretical nature dedicated to the current shape of constitutional review in particular in the light of the emergence of illiberal constitutionalism this part of the book also deals with the collapse of the centralised constitutional review in poland and the attempts to resolve the constitutional crisis the second is focused on discussing specific current problems with constitutional review on the basis of states such as hungary romania turkey and poland the third relates to other forms of constitutional review that is the so called dispersed model and the parliamentary one executed in the course of the legislative process the contributions discuss such forms of constitutional review in the netherlands and finland the book will be a valuable resource for students academics and policy makers working in the areas of constitutional law and politics

this book which originated from the broadly held view that there is a lack of rule of law in mexico and from the emphasis of traditional academia on cultural elements as the main explanation explores the question of whether there is any relationship between the system of constitutional review and thus the law as such and the level of rule of law in a given state to do so it elaborates a theoretical model for achieving rule of law and compares it to the constitutional review systems of the united states the federal republic of germany and mexico the study concludes that the two former states correspond to the model while the latter does not this is fundamentally due to the role each legal system assigns to ordinary jurisdiction in carrying out constitutional review whereas the us and germany have fostered the policy that constitutional review regarding the enforcement of basic rights is the responsibility of ordinary courts mexico has relied too heavily on the specialized constitutional jurisdiction

a comparative and comprehensive account of the jurisprudence of constitutional conflict between the court of justice and national courts with the power of constitutional review this monograph addresses the incidences of and reasons for constitutional clashes in the application and enforcement of eu law it aims to determine how the principle of primacy of eu law works in reality and whether the jurisprudence of the courts under analysis supports this concept to this end the book explores the three areas of constitutional conflict ultra vires review identity review and fundamental rights review the book substantiates the descriptive and strengthens the normative contributions of the theory of constitutional pluralism in relation to the web of relations in the european judicial space by examining the influence that the jurisprudence of constitutional conflict has on the balance of powers

between the court of justice and constitutional courts the volume develops the judicial triangle as an analytical tool that depicts the consequences for the horizontal constitutional courts vis à vis the court of justice and vertical judicial relationships court of justice vis à vis ordinary national courts constitutional courts vis à vis ordinary national courts by offering a thorough compilation of the jurisprudence of constitutional conflict in the eu the jurisprudence of constitutional conflict in the european union improves our understanding of the principle of primacy of eu law and its limits as well as reinforces the theory of constitutional pluralism in explaining and guiding judicial power relations and interactions in the eu

this is the third in a four volume set that provides the definitive account of the major issues of comparative constitutional law in asia volume 3 looks at the both the formal and functional aspects of constitutional structure in 18 asian jurisdictions it considers formal aspects such as legislative executive relations the court system constitutional review including specialist ordinary judicial review and non judicial institutions of constitutional review central local relations and federalism the role of the political parties the role of the military and independent institutions such as audit election and anti corruption institutions it also answers questions about functional aspects of constitutional structure including how do these structural institutions work in practice what are the factors such as political dynamics local culture ethnic diversity and social structure influence their operation the jurisdictions covered are bangladesh china hong kong indonesia japan laos macau malaysia mongolia myanmar north korea pakistan the philippines singapore south korea sri lanka taiwan and thailand

this collection of essays presents opposing sides of the debate over the foundations of judicial review

a comparative systematic and critical analysis of constitutional courts and constitutional review in asia

this book comprehensively analyses the foundations of judicial review

this book presents a comparative constitutional analysis of the system of constitutional review in more than 150 countries it describes different models of constitutional review and the bodies that hold this special and exclusive decision making power on constitutional matters it classifies the constitutional review bodies as special bodies responsible for protecting the constitutionality for which they hold a certain legal superiority in relation to other branches of power their review quite often covers legislative acts that are the highest legal instruments of a specific legal and political system this gives the constitutional review body a special status with power to provide constitutional review under the system of the separation of powers especially in relation to the legislative power that it may even annul statutes adopted by the legislative body the book includes a french summary tables

and map presenting constitutional judicial review around the world

includes section book reviews

constitutional courts have emerged as central institutions in many advanced democracies this book investigates the sources and the limits of judicial authority focusing on the central role of public support for judicial independence the empirical sections of the book illustrate the theoretical argument in an in depth study of the german federal constitutional court including statistical analysis of judicial decisions case studies and interviews with judges and legislators the book s major finding is that the interests of governing majorities prevailing public opinion and the transparency of the political environment exert a powerful influence on judicial decisions judges are influenced not only by jurisprudential considerations and their policy preferences but also by strategic concerns by highlighting this dimension of constitutional review the book challenges the contention that high court justices are largely unconstrained actors as well as the notion that constitutional courts lack democratic legitimacy

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