

Free Constitutionalism Identity Difference And

The last fifty years has seen a worldwide trend toward constitutional democracy. But can constitutionalism become truly global? Relying on historical examples of successfully implanted constitutional regimes, ranging from the older experiences in the United States and France to the relatively recent ones in Germany, Spain and South Africa, Michel Rosenfeld sheds light on the range of conditions necessary for the emergence, continuity and adaptability of a viable constitutional identity - citizenship, nationalism, multiculturalism, and human rights being important elements. The Identity of the Constitutional Subject is the first systematic analysis of the concept, drawing on philosophy, psychoanalysis, political theory and law from a comparative perspective to explore the relationship between the ideal of constitutionalism and the need to construct a common constitutional identity that is distinct from national, cultural, ethnic or religious identity. The Identity of the Constitutional Subject will be of interest to students and scholars in law, legal and political philosophy, political science, multicultural studies, international relations and US politics.

"The cover of this book portrays the Myth of Europa . The story has it that Europa, a Phoenician princess, was abducted by Zeus, the god of thunder, disguised as a bull. Zeus had been searching for a wife beautiful enough to become Queen of his native Crete. When he saw Europa he was smitten. Europa was gathering flowers by the seaside with her friends when she came upon the bull. Uncommonly gentle, the bull inspired no fear. Decking its horns with flowers, Europa climbed upon its back, whereupon the bull - Zeus - took off at a trot and dived into the sea. Europa was carried off to Crete,

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where she became the mother of Minos, the mythical King of Crete, who periodically demanded a tribute of young men and women of Athens to be sacrificed to the Minotaur"--

This book explores the relationship between populism or populist regimes and constitutional interpretation used in those regimes. The volume discusses the question of whether contemporary populist governments and movements have developed, or encouraged new and specific constitutional theories, doctrines and methods of interpretation, or whether their constitutional and other high courts continue to use the old, traditional interpretative tools in constitutional adjudication. The book is divided into four parts. Part I contains three chapters elaborating the theoretical basis for the discussion. Part II examines the topic from a comparative perspective, representing those European countries where populism is most prevalent, including Austria, Croatia, the Czech Republic, Greece, Hungary, Italy, Poland, Romania, Spain, and the United Kingdom. Part III extends the focus to the United States, reflecting how American jurisprudence and academia have produced the most important contributions to the theory of constitutional interpretation, and how recent political developments in that country might challenge the traditional understanding of judicial review. This section also includes a general overview on Latin America, where there are also some populist governments and strong populist movements. Finally, the editors' closing study analyses the outcomes of the comparative research, summarizing the conclusions of the book. Written by renowned national constitutional scholars, the book will be essential reading for students, academics and researchers working in Constitutional Law and Politics.

The English are now in need of a new sense of home and belonging, and a re-assessment of who they are. This is a history of who they were, with present needs in mind. It

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begins by considering how the English state created an English nation which from very early days refused to see itself simply as the state's creature. There was more to being English than paying taxes and obeying a king. It considers also how that nation survived shattering revolutions in industry, urban living and global conflict while at the same time retaining a softer, more humane vision of themselves and their land. There was more to living in England than work and wages, there was more to running an empire than exploiting it. From this rich store of history and possibility, the book connects how the meaning of England has changed and changed again in the past, with how it is changing now in the future.

An argument for why emergencies are no excuse for extralegal action by presidents Using emergency as a cause for action ultimately leads to an almost unnoticed evolution in the political understanding of presidential powers. The Constitution, however, was designed to function under "states of exception," most notably through the separation of powers, and provides ample internal checks on emergency actions taken under claims of necessity. Thomas Crocker urges Congress, the courts, and other bodies to put those checks into practice.

Dieses Werk enthält Forschungsergebnisse zu Fragestellungen bezüglich der Auswirkungen von Legalitätsmaximen und der Regulierung von Machtbefugnissen in verschiedenen Rechtsbereichen aus südafrikanischer und deutscher Perspektive, die in Zusammenarbeit der Universitäten Augsburg und Johannesburg entstanden sind. Aktuelle Themen werden von Wissenschaftlern aus Deutschland eingeführt und anschließend von südafrikanischen Kollegen reflektiert. Dies führt zu einem besseren Verständnis ungeklärter Rechtsfragen beider Rechtssysteme. Mit Beiträgen von

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Martina Benecke, Michael Biesinger, Isabella Brosig, Jennifer Hölzlwimmer, Michael Kort, Maximilian Kübler-Wachendorff, Stefan Lorenzmeier, Thomas M.J. Möllers, Thilo Rensmann, Matthias Rossi, Wolfgang Wurmnest.

This collection of 24 essays, written by eminent philosophers and political theorists, brings together fresh debates on some of the most fundamental questions in contemporary political philosophy, including human rights, equality, constitutionalism, the value of democracy, identity and political neutrality. Presents fresh debates on six of the fundamental questions in contemporary political philosophy Each question is treated by a pair of opposing essays written by eminent scholars Lively debate format sharply defines the issues, invites the reader to participate in the exchange of arguments and paves the way for further discussion Will serve as an accessible introduction to the major topics in political philosophy, whilst also capturing the imagination of professional philosophers Offers the unique opportunity to observe leading philosophers engaging in head-to-head debate

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

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practical and theoretical global legal challenges, and as such, the book also offers new intellectual tools for the global age. The migration of constitutional ideas across jurisdictions is one of the central features of contemporary constitutional practice. The increasing use of comparative jurisprudence in interpreting constitutions is one example of this. In this 2007 book, leading figures in the study of comparative constitutionalism and comparative constitutional politics from North America, Europe and Australia discuss the dynamic processes whereby constitutional systems influence each other. They explore basic methodological questions which have thus far received little attention, and examine the complex relationship between national and supranational constitutionalism - an issue of considerable contemporary interest in Europe. The migration of constitutional ideas is discussed from a variety of methodological perspectives - comparative law, comparative politics, and cultural studies of law - and contributors draw on case-studies from a wide variety of jurisdictions: Australia, Hungary, India, South Africa, the United Kingdom, the United States, and Canada. 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

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refugee crisis, the rule of law crisis, Brexit and the constitutional identity crisis.

Constitutional Identity in a Europe of Multilevel Constitutionalism Cambridge University Press

Over the past few years, 'national constitutional identity' has become the new buzzword in European constitutionalism. Much has been written about the concept involving the Member States' national constitutional identities: it has been welcomed for (finally) accommodating constitutional particularities in EU law, demonized for potentially disintegrating the EU, and wielded as a 'sword' by certain constitutional courts. Scholars, judges, and advocates in general have rendered the concept currently so fashionable and, yet, so ambivalent, that an in-depth analysis is warranted to put some order into the intense debate over constitutional identity. This collection brings together a series of contributions in order to shed some light into the dark corners of constitutional identity. To this end, a threefold approach has been followed: a conceptual or philosophical approach, an approach based on EU law, and an analysis of the case-law of several European courts. First, the book explores what constitutional identity means and who decides on it. Further, the contributions analyze (and at times unveil) the areas that might collide or at least interact with constitutional identity. Among other issues, the book touches upon EU law primacy, Article 53 of the Charter of Fundamental Rights, EU criminal law and the essential functions of the State, and the existence of an EU 'constitutional core' enjoyable and enforceable through EU citizenship.

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Finally, the book deals with the case-law of European courts on national constitutional identity, including the perspective of various national constitutional courts, such as those of Eastern and Central European Member States, the Court of Justice of the European Union, and the much-less analyzed European Court of Human Rights. (Series: Law and Cosmopolitan Values - Vol. 4)

How can societies still grappling over the common values and shared vision of their state draft a democratic constitution? This is the central puzzle of *Making Constitutions in Deeply Divided Societies*. While most theories discuss constitution-making in the context of a moment of revolutionary change, Hanna Lerner argues that an incrementalist approach to constitution-making can enable societies riven by deep internal disagreements to either enact a written constitution or function with an unwritten one. She illustrates the process of constitution-writing in three deeply divided societies - Israel, India and Ireland - and explores the various incrementalist strategies deployed by their drafters. These include the avoidance of clear decisions, the use of ambivalent legal language and the inclusion of contrasting provisions in the constitution. Such techniques allow the deferral of controversial choices regarding the foundational aspects of the polity to future political institutions, thus enabling the constitution to reflect a divided identity.

The right to free movement is the one privilege that EU citizens value the most in the Union, but one that has also created much political controversy in recent years, as the debates preceding the 2016 Brexit referendum

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aply illustrate. This book examines how European politicians have justified and criticized free movement from the commencement of the first Commission of the EU-25 in November 2004 to the Brexit referendum in June 2016. The analysis takes into account the discourses of Heads of State, Governments and Ministers of the Interior (or Home Secretaries) of six major European states: the UK, Germany, France, Italy, Spain and Romania. In addition to these national leaders, the speeches of European Commissioners responsible for free movement matters are also considered. The book introduces a new conceptual framework for analysing practical reasoning in political discourses and applies it in the analysis of national free movement debates contextualised in respective migration histories. In addition to results related to political discourses, the study unearths wider problems related to free movement, including the diversified and variegated approaches towards different groups of movers as well as the exclusive attitudes apparent in both discourses and policies. The History and Politics of Free Movement within the European Union is of interest to anyone studying national and European politics and ideologies, contemporary history, migration policies and political argumentation.

Constitutional Statecraft in Asian Courts explores how courts engage in constitutional state-building in aspiring, yet deeply fragile, democracies in Asia. Yvonne Tew offers an in-depth look at contemporary Malaysia and Singapore, explaining how courts protect and construct constitutionalism even as they confront dominant political

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parties and negotiate democratic transitions. This richly illustrative account offers at once an engaging analysis of Southeast Asia's constitutional context, as well as a broader narrative that should resonate in many countries across Asia that are also grappling with similar challenges of colonial legacies, histories of authoritarian rule, and societies polarized by race, religion, and identity. The book explores the judicial strategies used for statecraft in Asian courts, including an analysis of the specific mechanisms that courts can use to entrench constitutional basic structures and to protect rights in a manner that is purposive and proportionate. Tew's account shows how courts in Asia's emerging democracies can chart a path forward to help safeguard a nation's constitutional core and to build an enduring constitutional framework.

In this controversial and provocative book, Mary Anne Franks examines the thin line between constitutional fidelity and constitutional fundamentalism. *The Cult of the Constitution* reveals how deep fundamentalist strains in both conservative and liberal American thought keep the Constitution in the service of white male supremacy. Constitutional fundamentalists read the Constitution selectively and self-servingly. Fundamentalist interpretations of the Constitution elevate certain constitutional rights above all others, benefit the most powerful members of society, and undermine the integrity of the document as a whole. The conservative fetish for the Second Amendment (enforced by groups such as the NRA) provides an obvious example of constitutional fundamentalism; the liberal fetish for the

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First Amendment (enforced by groups such as the ACLU) is less obvious but no less influential. Economic and civil libertarianism have increasingly merged to produce a deregulatory, "free-market" approach to constitutional rights that achieves fullest expression in the idealization of the Internet. The worship of guns, speech, and the Internet in the name of the Constitution has blurred the boundaries between conduct and speech and between veneration and violence. But the Constitution itself contains the antidote to fundamentalism. The Cult of the Constitution lays bare the dark, antidemocratic consequences of constitutional fundamentalism and urges readers to take the Constitution seriously, not selectively.

Provides a new understanding of the European constitution as a multidimensional process of constitutionalization, constantly interacting with Member State constitutions.

"An important contribution to contemporary jurisprudential debate and to legal thought more generally, *Just Interpretations* is far ahead of currently available work."--Peter Goodrich, author of *Oedipus Lex*

"I was struck repeatedly by the clarity of expression throughout the book. Rosenfeld's description and criticism of the recent work of leading thinkers distinguishes his work within the legal theory genre. Furthermore, his own theory is quite original and provocative."--Aviam Soifer, author of *Law and the Company We Keep*

With a focus on how national identity impacts the decision-making of the European Court of Justice, Elke

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Clouts provides an innovative adjudication scheme that purports to assist the ECJ in its search for a proper balance between respect for national identity and European integration.

In *Constitutional Identity*, Gary Jeffrey Jacobsohn argues that a constitution acquires an identity through experience—from a mix of the political aspirations and commitments that express a nation's past and the desire to transcend that past. It is changeable but resistant to its own destruction, and manifests itself in various ways, as Jacobsohn shows in examples as far flung as India, Ireland, Israel, and the United States. Jacobsohn argues that the presence of disharmony—both the tensions within a constitutional order and those that exist between a constitutional document and the society it seeks to regulate—is critical to understanding the theory and dynamics of constitutional identity. He explores constitutional identity's great practical importance for some of constitutionalism's most vexing questions: Is an unconstitutional constitution possible? Is the judicial practice of using foreign sources to resolve domestic legal disputes a threat to vital constitutional interests? How are the competing demands of transformation and preservation in constitutional evolution to be balanced? *Political Ideologies* provides a broad-ranging introduction to both the classical and contemporary political ideologies. Adopting a global outlook, it introduces readers to ideologies' increasingly global reach and the different national versions of these ideologies. Importantly, ideologies are presented as frameworks of interpretation and political commitment, encouraging

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readers to evaluate how ideologies work in practice, the problematic links between ideas and political action, and the impact of ideologies. Regular learning features encourage readers to think critically about ideologies, and view them as competing and contestable ways of interpreting the world. A unique "stop and think" feature calls for readers to reflect on their own ideological beliefs. Online Resources: Political Ideologies is accompanied by comprehensive online resources, to support political ideology courses. For students: * Further reading and resources for each chapter to help students to undertake further research and deepen their understanding and critical thinking; * Regular updates help students to keep up to date with ideologies as frameworks of understanding and political action in the real world. For lecturers: * Indicative answers to questions in the book provide a framework for approaching these; * Powerpoint slides to support each chapter, providing an overview and key points to help with planning; * Further discussion and debate ideas, for use in seminars, encourage big picture thinking about the relationships between ideologies.

This book shows the rise and morphology of a self-identified 'illiberal democracy', the first 21st century illiberal political regime arising in the European Union. Since 2010, Viktor Orbán's governments in Hungary have convincingly offered an anti-modernist and anti-cosmopolitan/anti-European Unionist rhetoric, discourse and constitutional identity to challenge neo-liberal democracy. The Hungarian case provides unique observation points for students of transitology, especially

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those who are interested in states which are to abandon pathways of liberal democracy. The author demonstrates how illiberalism is present both in 'how' and 'what' is being done: the style, format and procedure of legislation; as well as the substance: the dismantling of institutional rule of law guarantees and the weakening of checks and balances. The book also discusses the ideological commitments and constitutionally framed and cemented value preferences, and a reconstituted and re-conceptualized relationship between the state and its citizens, which is not evidently supported by Hungarians' value system and life-style choices. d re-conceptualized relationship between the state and its citizens, which is not evidently supported by Hungarians' value system and life-style choices.

This book examines a selection of themes that have become salient in contemporary debates on constitutional democracies. It focuses in particular on the experiences of India and Germany as examples of post-war and post-colonial constitutional democracies whose trajectories illustrate democratic transitions and transformative constitutionalism. While transformative constitutionalism has come to be associated specifically with the post-apartheid experience in South Africa, this book uses the transformative as an analytical framework to transcend the dichotomy of west and east and explore how temporally coincident constitutions have sought to install constitutional democracies by breaking with the past. While the constitution-making processes in the two countries were specific to their political contexts, the constitutional promises and futures converged. In this

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context, the book explores the themes of Constitutionalism, Nationalism, Secularism, Sovereignty and Rule of Law, Freedoms and Rights, to investigate how the contestations over democratic transitions and democratic futures have unfolded in the two democracies. It offers readers valuable insights into how the normative frameworks of constitutional democracy take concrete form at specific sites of democratic and constitutional imagination in Dalit and Islamic writings, as well as the relationship between state and religion in the writings of public intellectuals, political and legal philosophers. The book also focuses on specific sites of contestation in democracies including the relationship between sovereignty and citizenship in post-colonial India, free speech and sedition in liberal democracies, questions of land rights in connection with economic and political changes in contemporary contexts, and the rights of indigenous communities with regard to international conventions and domestic law. Given its scope, it will be of interest to students and scholars of political theory, political philosophy, comparative constitutionalism, law and human rights.

Despite nearly sixty years of European integration, neither nations nor national loyalties have withered away. On the contrary, national identity rhetoric seems on the rise, not only in politics but also in legal discourse. Lately we have seen a rise in the number of Member States invoking their national identity in an attempt to justify a derogation from a requirement imposed on them by a Treaty article or an EU legislative act, or to legitimize a particular national reading of such an EU

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norm. Despite this, the European Court of Justice (ECJ) has yet to develop a coherent approach to such arguments, or express a vision of the role national identity should play in EU law. Elke Cloots undertakes this task by providing a principled and coherent scheme for the adjudication of disputes involving claims based on the national identity of a Member State. Should arguments involving national identity be legally relevant? If yes, how should the ECJ approach such identity-related interests? Cloots crafts a normative framework to assist the ECJ in striking the right balance between European integration and respect for the identity concerns at issue. The book combines rigorous theoretical inquiry with thorough analysis of the European Treaties and case law, with particular attention paid to litigation involving domestic measures concerning the national system of government, constitutional rights protections, and language policy. Clarifying the issues at stake and presenting a solution to these problems, this book will be an invaluable resource for the academics, lawyers, and policy makers in the field.

This insightful book assesses the theory of constitutional pluralism in light of the events of the Eurozone crisis of the past decade. Based on an analysis of how national courts reviewed the crisis response mechanisms and participated in the European-level political process, Tomi Tuominen argues that constitutional pluralism is not a valid normative theory of European constitutionalism. Constitutional Idolatry and Democracy investigates

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the increasingly important subject of constitutional idolatry and its effects on democracy. Focussed around whether the UK should draft a single written constitution, it suggests that constitutions have been drastically and persistently over-sold throughout the years, and that their wider importance and effects are not nearly as significant as constitutional advocates maintain. Chapters analyse whether written constitutions can educate the citizenry, invigorate voter turnout, or deliver 'We the People' sovereignty.

Few terms in political theory are as overused, and yet as under-theorized, as constitutional revolution. In this book, Gary Jacobsohn and Yaniv Roznai argue that the most widely accepted accounts of constitutional transformation, such as those found in the work of Hans Kelsen, Hannah Arendt, and Bruce Ackerman, fail adequately to explain radical change. For example, a "constitutional moment" may or may not accompany the onset of a constitutional revolution. The consolidation of revolutionary aspirations may take place over an extended period. The "moment" may have been under way for decades—or there may be no such moment at all. On the other hand, seemingly radical breaks in a constitutional regime actually may bring very little change in constitutional practice and identity. Constructing a clarifying lens for comprehending the many ways in which constitutional revolutions occur,

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the authors seek to capture the essence of what happens when constitutional paradigms change. *Free Speech and the Politics of Identity* challenges the scholarly view as well as the dominant legal view outside the United States that the right of free speech may reasonably be traded off in pursuit of justice to stigmatized minorities. These views appeal to an alleged reasonable balance between two basic human rights: the right of free speech and the right against unjust discrimination. Compelling arguments of normative political theory and interpretative history show, however, that these rights are structurally linked: the abridgement of one compromises the other. To make this case, David Richards offers an original political theory of toleration and of structural injustice that addresses the nature and scope of the right of free speech and the right against unjust discrimination; its analytic focus is on the role played by members of subordinated groups in the protest of the terms of structural injustice (the politics of identity), advancing constitutional justice under law. While the argument is developed on the basis of American constitutional experience from the antebellum period forward, its normative force is brought to bear both in defending and criticizing some aspects of American law and in challenging the continuing legitimacy of laws against group libel, obscenity, and blasphemy under national legal systems (including Germany, France, Britain,

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Canada, Israel, India, South Africa, and others), regional systems (the jurisprudence of the European Court of Human Rights), and public international law. The book's innovative normative and interpretative methodology calls for a new departure in comparative public law, in which all states responsibly address their common problems not only of inadequate protection of free speech but correlative failure to take seriously the continuing political power of such evils as anti-Semitism, racism, sexism, and homophobia.

In this innovative and stimulating volume, Francis Deng outlines a new relationship between governments and societies--a relationship informed by Western concepts but based on traditional African values such as respect for human dignity, equality, and self-rule.

Sudan and South Sudan have suffered from repeated cycles of conflict and authoritarianism resulting in serious human rights and humanitarian law violations. Several efforts, such as the 2005 Comprehensive Peace Agreement and transitional justice initiatives have recognized that the failure to develop a stable political and legal order is at the heart of Sudan's governance problems. Following South Sudan's independence in 2011, parallel constitutional review processes are under way that have prompted intense debates about core issues of Sudan's identity, governance and rule of law,

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human rights protection and the relationship between religion and the State. This book provides an in-depth study of Sudan's constitutional history and current debates with a view to identifying critical factors that would enable Sudan and South Sudan to overcome the apparent failure to agree on and implement a stable order conducive to sustainable peace and human rights protection. It examines relevant processes against the broader (constitutional) history of Sudan and identifies the building blocks for constitutional reforms through a detailed analysis of Sudanese law and politics. The book addresses constitutionalism and constitutional rights protection in their political, legal and institutional context in Sudan and South Sudan, and the repercussions of the relationship between state and religion for the right to freedom of religion, minority rights and women's rights.

After the collapse of the Soviet bloc, there are only five socialist or communist countries left in the world - China, Cuba, Laos, North Korea, and Vietnam - which constitute about one-quarter of the world's population. Yet, there is little scholarship on their constitutions. These countries have seen varying socioeconomic changes in the decades since 1991, which have led in turn to constitutional changes. This book will investigate, from a comparative and interdisciplinary perspective, how and why the constitutional systems in these five countries have

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changed in the last three decades. The book then breaks the constitutional changes down into four questions: what are the substantive contents of constitutional change, what are the functions, what are the mechanisms, and what are the driving forces? These questions form a framework to process the changes the five countries have gone through, such as making new constitutions, amending current ones, introducing more rights, allowing citizens to engage in changes, enacting legislation, and defining the constitutional authority of the three state branches and their relationship with the Communist Party. While all five countries have adapted their constitutional systems, the degree, mechanisms, and influential factors are not identical and present considerable variations. This book examines and explores these differences and how they developed. *Constitutional Change in the Contemporary Socialist World* offers a comprehensive and holistic view of an understudied and overlooked area of constitutional law, essential for anyone studying or working in law, politics, or policy.

Presents a critical outline and comparison of selected EU Member State constitutional identities in the context of EU multilevel constitutionalism.

The field of comparative constitutional law has grown immensely over the past couple of decades. Once a minor and obscure adjunct to the field of domestic

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constitutional law, comparative constitutional law has now moved front and centre. Driven by the global spread of democratic government and the expansion of international human rights law, the prominence and visibility of the field, among judges, politicians, and scholars has grown exponentially. Even in the United States, where domestic constitutional exclusivism has traditionally held a firm grip, use of comparative constitutional materials has become the subject of a lively and much publicized controversy among various justices of the U.S. Supreme Court. The trend towards harmonization and international borrowing has been controversial. Whereas it seems fair to assume that there ought to be great convergence among industrialized democracies over the uses and functions of commercial contracts, that seems far from the case in constitutional law. Can a parliamentary democracy be compared to a presidential one? A federal republic to a unitary one? Moreover, what about differences in ideology or national identity? Can constitutional rights deployed in a libertarian context be profitably compared to those at work in a social welfare context? Is it perilous to compare minority rights in a multi-ethnic state to those in its ethnically homogeneous counterparts? These controversies form the background to the field of comparative constitutional law, challenging not only legal scholars, but also those in other fields, such as philosophy and political

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theory. Providing the first single-volume, comprehensive reference resource, the 'Oxford Handbook of Comparative Constitutional Law' will be an essential road map to the field for all those working within it, or encountering it for the first time. Leading experts in the field examine the history and methodology of the discipline, the central concepts of constitutional law, constitutional processes, and institutions - from legislative reform to judicial interpretation, rights, and emerging trends.

This translation into English of the leading German-language work on the Federal Constitutional Court gives an overview of the court's history and role as one of the most influential constitutional courts in recent years. The book consists of four extended, free-standing essays written by each of the authors. The essays cover the historical development and political context of the Court; the Court and the constitution; the Court's approach to judicial reasoning; and the Court in contemporary constitutional theory.

This monograph examines unamendable provisions of constitutions, known as eternity clauses, and the challenges they present to democratic constitutionalism. The book explores the role of eternity clauses in constitution-making, constitutional adjudication, and constitutional reform and posits an ambiguous legacy for eternity clauses.

This groundbreaking book develops a new theory of

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constitutional democracy. Leading political philosopher Russell Hardin shows how social coordination rather than mutual advantage lies at the heart of liberal constitutionalism.

Canada is caught between two empires and between two constitutional systems. However, neither the British model of a "single sovereign" nor the American people's "sacred fire of liberty" matched the pluralistic identity of Canada, so Canadians engaged in constitutional experimentation. In *Canada and the Ethics of Constitutionalism* Samuel LaSelva argues that, in order to understand the old Canada of Confederation and the new one that followed the Charter of Rights and Freedoms, it is necessary to see how distinctive Canadian constitutionalism is and how that distinctiveness does not depend on borrowings from the British or American constitutional models.

LaSelva supports his argument by exploring different aspects of Canada's contribution to the ethics of constitutionalism including the limits of free expression, the Charter's notwithstanding clause, the origins and functions of judicial review, the Quebec secession debate, Aboriginal self-government, and the conception of Canada as a multicultural and multinational mosaic. Through a careful consideration of how Canadian constitutional pluralism with its focus on the rights of others differs from American and British ideas, Canada and the

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Ethics of Constitutionalism provides engaging answers to contested questions about how Canada was founded and what it has become.

Not so long ago, being aggressively "pro-free speech" was as closely associated with American political liberalism as being pro-choice, pro-affirmative action, or pro-gun control. With little notice, this political dynamic has been shaken to the core. The Right's First Amendment examines how conservatives came to adopt and co-opt constitutional free speech rights. In the 1960s, free speech on college campuses was seen as a guarantee for social agitators, hippies, and peaceniks. Today, for many conservatives, it represents instead a crucial shield that protects traditionalists from a perceived scourge of political correctness and liberal oversensitivity. Over a similar period, free market conservatives have risen up to embrace a once unknown, but now cherished, liberty: freedom of commercial expression. What do these changes mean for the future of First Amendment interpretation? Wayne Batchis offers a fresh entry point into these issues by grounding his study in both political and legal scholarship. Surveying six decades of writings from the preeminent conservative publication National Review alongside the evolving constitutional law and ideological predispositions of Supreme Court justices deciding these issues, Batchis asks the conservative

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political movement to answer to its judicial logic, revealing how this keystone of our civic American beliefs now carries a much more complex and nuanced political identity.

The essays in this collection were first presented at an October 1991 conference on comparative constitutionalism under the auspices of the Jacob Burns Institute for Advanced Legal Studies, and the Cardozo-New School Project on Constitutionalism. Essays are organized in sections on the rebirth of constitutionalism, the legitimation of constitution making, the identity of the constitutional subject, the struggle between identity and difference, and the role of property rights. Annotation copyright by Book News, Inc., Portland, OR

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