

Comparative Constitutional Law and Policy

Comparative Constitutional Design

EDITED BY TOM GINSBURG



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Comparative Constitutional Design Comparative Constitutional Law And Policy

Tom Ginsburg



Comparative Constitutional Design Comparative Constitutional Law And Policy:

Comparative Constitutional Design Tom Ginsburg, 2012-02-27 This volume brings together essays by leading scholars of comparative constitutional design from myriad disciplinary perspectives The authors collectively assess what we know and don't know about the design process as well as particular institutional choices concerning executive power constitutional amendment processes and many other issues Bringing together positive and normative analysis it provides the state of the art in a field of growing theoretical and practical importance

Comparative Constitutional Design Tom Ginsburg, 2012 Assesses what we know and do not know about comparative constitutional design and particular institutional choices concerning executive power and other issues

Comparative Matters Ran Hirschl, 2014-08-14 Comparative study has emerged as the new frontier of constitutional law scholarship as well as an important aspect of constitutional adjudication Increasingly jurists scholars and constitution drafters worldwide are accepting that we are all comparativists now And yet despite this tremendous renaissance the comparative aspect of the enterprise as a method and a project remains under theorized and blurry Fundamental questions concerning the very meaning and purpose of comparative constitutional inquiry and how it is to be undertaken are seldom asked let alone answered In this path breaking book Ran Hirschl addresses this gap by charting the intellectual history and analytical underpinnings of comparative constitutional inquiry probing the various types aims and methodologies of engagement with the constitutive laws of others through the ages and exploring how and why comparative constitutional inquiry has been and ought to be pursued by academics and jurists worldwide Through an extensive exploration of comparative constitutional endeavours past and present near and far Hirschl shows how attitudes towards engagement with the constitutive laws of others reflect tensions between particularism and universalism as well as competing visions of who we are as a political community Drawing on insights from social theory religion history political science and public law Hirschl argues for an interdisciplinary approach to comparative constitutionalism that is methodologically and substantively preferable to merely doctrinal accounts The future of comparative constitutional studies he contends lies in relaxing the sharp divide between constitutional law and the social sciences *Comparative Matters* makes a unique and welcome contribution to the comparative study of constitutions and constitutionalism sharpening our understanding of the historical development political parameters epistemology and methodologies of one of the most intellectually vibrant areas in contemporary legal scholarship

Order from Transfer Günter Frankenberg, 2013-01-01 A fascinating collection of essays commenting on and developing Frankenberg's IKEA theory of legal transfer With valuable theoretical analyses comparative studies attention to gender issues post colonial contexts imposed law and legal history this book is essential reading for anyone thinking about the circulation of legal models especially but not only in the area of constitutional law David Nelken University of Cardiff UK Frankenberg's work gives a new insight of what comparative law can be in the context of globalization representing an outstanding achievement His theory of transfer supersedes the

metaphors of mainstream scholarship displaying that constitutions are not mere commodities or items to be assembled. The real matter is rather which meanings are generated through transfer. In this way, beyond any usual flat version, we may perceive that any constitutional relocation exhibits a reappraisal of the whole world we live in. Pier Giuseppe Monateri, University of Turin, Italy. Constitutional orders and legal regimes are established and changed through the importing and exporting of ideas and ideologies, norms, institutions, and arguments. The contributions in this book discuss this assumption and address theoretical questions, methodological problems, and political projects connected with the transfer of constitutions and law. Some of the chapters focus on the pathways, risks, and side effects of legal constitutional transfers in specific situations such as postcolonial societies and occupied territories. Others follow law beyond the official arenas into systems of legal pluralism, while others analyze how experimentalism generates hybrid constitutional orders. This interdisciplinary, multi-jurisdictional study will appeal to researchers, academics, and advanced students in the fields of comparative constitutional law, comparative law, and legal theory.

Comparative Constitutional Law Tom Ginsburg, Rosalind Dixon, 2011-01-01. This landmark volume of specially commissioned original contributions by top international scholars organizes the issues and controversies of the rich and rapidly maturing field of comparative constitutional law. Divided into sections on constitutional design and redesign, identity, structure, individual rights and state duties, courts, and constitutional interpretation, this comprehensive volume covers over 100 countries as well as a range of approaches to the boundaries of constitutional law. While some chapters reference the text of legal instruments expressly labeled constitutional, others focus on the idea of entrenchment or take a more functional approach. Challenging the current boundaries of the field, the contributors offer diverse perspectives, cultural, historical, and institutional, as well as suggestions for future research. A unique and enlightening volume. *Comparative Constitutional Law* is an essential resource for students and scholars of the subject.

The Invisible Constitution in Comparative Perspective Rosalind Dixon, Adrienne Stone, 2018-11-08. Constitutions worldwide inevitably have invisible features; they have silences and lacunae, unwritten or conventional underpinnings, and social and political dimensions not apparent to certain observers. *The Invisible Constitution in Comparative Perspective* helps us understand these dimensions to contemporary constitutions and their role in the interpretation, legitimacy, and stability of different constitutional systems. This volume provides a nuanced theoretical discussion of the idea of invisibility in a constitutional context and its relationship to more traditional understandings of written versus unwritten constitutionalism. Containing a rich array of case studies, including discussions of constitutional practice in Australia, Canada, China, Germany, Hong Kong, Israel, Italy, Indonesia, Ireland, and Malaysia, this book will look at how this aspect of invisible constitutions is manifested across different jurisdictions.

From Parchment to Practice Tom Ginsburg, Aziz Z. Huq, 2020-04-30. *From Parchment to Practice* explores the set of problems that arise when a new constitution has been adopted. All new constitutions must manage a balance or tension between two forces: aspirations for social and political transformation on the one hand, and

demands for preservation of old interests and institutions on the other The period following the initial adoption of a new constitution is the conceptual temporal and institutional bridge between the past and future It is the moment when the transformative and the preservative forces in constitutional design can come into the sharpest conflict Through a series of case studies this volume analyzes the variable nature of these type of conflicts and the diverse means through which they are mediated whether successfully or not Constitutionalism in Context David S. Law,2022-02-09 With its emphasis on emerging and cutting edge debates in the study of comparative constitutional law and politics its suitability for both research and teaching use and its distinguished and diverse cast of contributors this handbook is a must have for scholars and instructors alike This versatile volume combines the depth and rigor of a scholarly reference work with features for teaching in law and social science courses Its interdisciplinary case study approach provides political and historical as well as legal context each modular chapter offers an overview of a topic and a jurisdiction followed by a case study that simultaneously contextualizes both Its forward looking and highly diverse selection of topics and jurisdictions fills gaps in the literature on the Global South as well as the West A timely section on challenges to liberal constitutional democracy addresses pressing concerns about democratic backsliding and illiberal and or authoritarian regimes *The Entrenchment of Democracy* Tom Ginsburg,Aziz Z. Huq,Tarunabh Khaitan,2024-12-31 This volume of essays brings together a group of leading political scientists legal scholars and political theorists to describe and analyze the body of constitutional law and practice within and upon democratic institutions in particular examining how constitutional law shapes electoral democracy Constitutional law and practice on this question are complex and varied This volume therefore takes a thematic and regional approach it selects a range of key theoretical questions related to democratic constitutional design and offers a series of chapters featuring a diverse range of voices as well as a blend of theory qualitative studies and quantitative methods Readers will gain a multifaceted understanding of a phenomenon of growing importance The volume will also be useful to students of comparative constitutionalism who will gain a rich array of empirical evidence to stimulate further work This title is also available as Open Access on Cambridge Core Constituents Before Assembly Todd A. Eisenstadt,A. Carl LeVan,Tofiq Maboudi,2017-07-03 When building democracy through new constitutions the level of participation matters more than the content of the constitution itself This book examines this theory *Comparative Constitution Making* David Landau,Hanna Lerner,2019 Recent years have witnessed an explosion of new research on constitution making Comparative Constitution Making provides an up to date overview of this rapidly expanding field

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Constitutions and Gender Helen Irving,2017-06-30 Constitutions and gender is a new and exciting field attracting scholarly attention and influencing practice around the world This timely handbook features contributions from leading pioneers and younger scholars applying a gendered lens to constitution making and design constitutional practice and citizenship and constitutional challenges to gender equality rights and values It offers a gendered perspective on the

constitutional text and record of multiple jurisdictions from the long established to the world's newly emerging democracies
Constitutions and Gender portrays a profound shift in our understanding of what constitutions stand for and what they do

An Unamendable Constitution? Richard Albert, Bertil Emrah Oder, 2018-09-03 This book examines the subject of constitutional unamendability from comparative doctrinal empirical historical political and theoretical perspectives It explores and evaluates the legitimacy of unamendability in the various forms that exist in constitutional democracies Modern constitutionalism has given rise to a paradox can a constitutional amendment be unconstitutional Today it is normatively contested but descriptively undeniable that a constitutional amendment one that respects the formal procedures of textual alteration laid down in the constitutional text may be invalidated for violating either a written or unwritten constitutional norm This phenomenon of an unconstitutional constitutional amendment traces its political foundations to France and the United States its doctrinal origins to Germany and it has migrated in some form to all corners of the democratic world One can trace this paradox to the concept of constitutional unamendability Constitutional unamendability can be understood as a formally entrenched provision or an informally entrenched norm that prohibits an alteration or violation of that provision or norm An unamendable constitutional provision is impervious to formal amendment even with supermajority or even unanimous agreement from the political actors whose consent is required to alter the constitutional text Whether or not it is enforced and also by whom this prohibition raises fundamental questions implicating sovereignty legitimacy democracy and the rule of law

Constitutionalism and the Politics of Accommodation in Multinational Democracies Jaime Lluich, 2014-09-25 This collection argues that although constitutionalism has traditionally been the primary mechanism for facilitating the mutual accommodation of sub state and state national societies in plurinational states

Democratic Constitutional Design and Public Policy Roger D. Congleton, Birgitta Swedenborg, 2006 Papers originally presented at a conference sponsored by the Center for Business and Policy Studies Acknowledgments

Gender, Constitutions, and Equality Priscilla A. Lambert, Druscilla L. Scribner, 2023-06-15 This book addresses whether the gendering of constitutions promotes women's equality The authors use a mixed methods approach to explore how constitutional gender rights affect political processes and strategies legislative and judicial outcomes and ultimately women's equality They employ a cross national study by constructing a unique database of gender provisions in over 100 countries at three points in time 1995 2005 and 2015 Four in depth comparative case studies on Argentina Chile South Africa and Botswana trace the complex relationship between constitutional law strategies and policy change in four policy areas family law gender based violence reproductive rights and employment rights They argue that where egalitarian constitutional provisions are present women's rights advocates can use them as a tool to fight gender discrimination and pursue policy changes that address gender based power disparities At a time when gender equality provisions are increasingly common in constitutional design this book clarifies the mechanisms that link constitutional provisions to changes in process and outcomes while also systematically

describing and analyzing the effect of gender provisions across countries and over time Gender Constitutions and Equality will inform theoretical debates on gender and politics law and social change feminist institutionalism and constitutional design and its effect on legislation and political strategies Handbook on Gender, Diversity and Federalism Jill Vickers,Joan Grace,Cheryl N. Collier,2020-06-26 This insightful Handbook offers a comprehensive exploration of the third generation of gender and federalism studies In this timely and authoritative examination feminist scholars in both the West and the global south debate the impact of state architectures on women s movements partisan organizations and policy advocacy using innovative discursive institutional and intersectional approaches *Journal of Transnational Law & Policy* ,2012 **Comparative Constitutional Studies** Günter Frankenberg,2018-03-30 Comparative Constitutional Studies takes a rich area of research and teaching and makes it attractive for the classroom setting and beyond Every constitution has an interesting story to tell and for this book Günter Frankenberg has selected vibrant examples that encourage readers to practice realism demonstrate critical spirit and examine the dark side of framers reports and normative theories Pluralist Constitutions in Southeast Asia Jaclyn L Neo,Ngoc Son Bui,2019-04-04 This book examines the presence of ethnic religious political and ideational pluralities in Southeast Asian societies and how their respective constitutions respond to these pluralities Countries covered in this book are Brunei Cambodia Indonesia Laos Malaysia Myanmar the Philippines Singapore Thailand and Vietnam The chapters examine first the range of pluralist constitutional values and ideas embodied in the constitutions secondly the pluralist sources of constitutional norms thirdly the design of constitutional structures responding to various pluralities and fourthly the construction and interpretation of bills of rights in response to existing pluralities The pluralist constitution is thus one that recognises internal pluralities within society and makes arrangements to accommodate rather than eliminate these pluralities

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