



# European Constitutionalism Beyond the State

Edited by  
J. H. H. Weiler and  
Marlene Wind

CAMBRIDGE

# European Constitutionalism Beyond The State European Constitutionalism Beyond The State

**Matej Avbelj, Jan Komárek**



## **European Constitutionalism Beyond The State European Constitutionalism Beyond The State:**

**European Constitutionalism Beyond the State** J. H. H. Weiler, Marlene Wind, 2003-09-04 Some of the most innovative scholars in the field of European constitutionalism come together in this book to highlight different facets of the new constitutional discussion Provoking deep analysis of the different ideas of constitution and constitutionalism it delineates new ways of thinking about the future of Europe In particular it aims to challenge the idea of the European Union as an evolving federal polity This book will appeal to anyone interested in the timely subject of constitutionalism including student and practitioners of law politics and philosophy *Europe's Functional Constitution* Turkuler Isiksel, 2016 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 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 *Constituent Power Beyond the State* Geneviève Nootens, 2021-12-30 The concept of constituent power plays a major part in modern political and legal theory in how we think about the political This book tackles the twofold issue of public authority and public autonomy in the modern conception of the political by analysing the notion of constituent power its function in the modern political apparatus and debates about its meaning and function in our own context Focusing on contemporary debates on constitutionalism beyond the state Geneviève Nootens assesses the prospects for recasting the notion of constituent power in a polycentric setting that challenges state sovereignty as embodying the autonomy of the political She argues that constituent power belongs with the conceptual apparatus of a theory of government peculiar to a statist way of knowing and being into the world and that it is too much dependent upon the statist framework for it to have critical purchase on the new mappings of public authority Nootens stresses the critical need to frame public authority appropriately if we are to conceptualize a conception of collective political agency that can sustain public autonomy in the current era *Constituent Power Beyond the State* will be of interest to students and scholars of political theory democratic theory law and constitutionalism **Constitutional Pluralism in the European Union and Beyond** Matej Avbel, Jan Komárek, 2012-02-29 Constitutional pluralism has become immensely popular among scholars who study European

integration and issues of global governance Some of them believe that constitutionalism traditionally thought to be bound to a nation state can emerge beyond state borders most importantly in the process of European integration but also beyond that for example in international regulatory regimes such as the WTO or international systems of fundamental rights protection such as the European Convention At the same time the idea of constitutional pluralism has not gone unchallenged Some have questioned its compatibility with the very nature of law and the values which law brings to constitutionalism The critiques have come from both sides from those who believe in the traditional European constitutionalism based on a hierarchically superior authority of the European Union as well as from scholars focusing on constitutions of particular states The book collects contributions taking opposing perspectives on constitutional pluralism some defending and promoting the concept of constitutional pluralism some criticising and opposing it While some authors can be called the founding fathers of constitutional pluralism others are young academics who have recently entered the field Together they offer fresh perspectives on both theoretical and practical aspects of constitutional pluralism enriching our existing understanding of the concept in current scholarship

*The Constitutional Theory of the Federation and the European Union* Signe Rehling Larsen, 2021-02-04 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

Europe's Functional Constitution Turkuler Isiksel, 2016 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

*Lincoln's Inn Lectures on European Law and Human Rights* Edite Ligere, 2010 The Lincoln's Inn annual European Law Conference is the largest public educational event in the

Inn s calendar Over the past ten years the Conference and the Sir Thomas More Lecture which is its centrepiece have brought to the Inn some of the most illustrious figures in the world of European Law and Human Rights This volume reproduces the text of the annual Sir Thomas More Lecture together with other lectures and talks given in conjunction with it or throughout the year as part of the Inn s extensive programme of teaching and training in European Law and Human Rights

New York University Journal of International Law & Politics New York University. International Law Society,2003

*International Journal of Constitutional Law* ,2008      *Journal of International and Area Studies* ,2005      *Symposium on Religion, Religious Pluralism, and the Rule of Law* ,2007      Constitutionalism and Democracy Richard Paul Bellamy,2006

The contributions in this volume cover five main themes centring on constitutionalism and democracy substantive views procedural views reconciling substance procedures populist constitutionalism and constitutional democracy beyond the nation state

The Idea of Constitutional Pluralism Neil Walker,2002      **European Union--the Second Founding** Ludger Kühnhardt,2008 The author is presenting a broadly structured study about the first fifty years of European integration its geopolitical context and academic reflection His study is based on the two fold thesis that since a few years the European Union is going through a process of its Second Founding while simultaneously changing its rationale

*The Chartering of Europe* Erik Oddvar Eriksen,2003 This book stems from a concern with the role of the Charter in fostering a constitutional moment in Europe It addresses the question of the nature and character of the Charter why it is needed and what is its contribution to the constitution making process in the EU The book is divided in three sections The first section deals with why a charter of fundamental rights is needed The section includes a chapter comparing the European and the Canadian Charters In the second section the processes and deliberations leading to the formation of the Charter are discussed The last section deals with the legal and normative coherence of the Charter and includes a chapter on the need for a European constitution This book is composed of 12 essays from specialists in the field of European Integration Processes and Constitutionalism among others Neil MacCormick and Jurgen Habermas

The President's Annual Report European University Institute,2004      **American Law in the 21st Century** John C. Reitz,David Scott Clark,2006 The International Congress of Comparative Law is held under the auspices of the International Academy of Comparative Law Preface

EUI Review ,2001      **Rethinking Europe's Constitution** A. A. M. Kinneging,2007      Constitution Drafting in Post-conflict States Symposium ,2008

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