

The background of the book cover is a close-up photograph of a red, textured fabric, likely a judicial robe. A white, pleated collar or cuff is visible in the upper right. In the lower left, a hand holds a white, folded piece of paper. The overall composition suggests a formal, legal setting.

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DEMOCRACY'S GUARDIANS

A History of the German
Federal Constitutional Court 1951-2001

Justin Collings

Democracys Guardians A History Of The German Federal Constitutional Court 1951 2001

Steven Gow Calabresi



Democracys Guardians A History Of The German Federal Constitutional Court 1951 2001:

Democracy's Guardians Justin Collings, 2015-09-17 In its six decade history the German Federal Constitutional Court has become one of the most powerful and influential constitutional tribunals in the world It has played a central role in the establishment of liberalism democracy and the rule of law in post war West Germany and it has been a model for constitutional tribunals in many other nations The Court stands virtually unchallenged as the most trusted institution of the German state Written as a complete history of the German Federal Constitutional Court from its founding in 1951 up into the twenty first century this book explores how the court became so powerful and why so few can resist its strength Founded in 1951 the Court took root in a pre democratic political culture The Court s earliest contributions were to help establish liberal values and fundamental rights protection in the young Federal Republic The early Court also helped democratize West German politics by reinforcing rights of speech and information affirming the legitimacy of parliamentary opposition and checking executive power In time as democratic values took hold in the country at large the Court s early role in nurturing liberalism and democracy led many West Germans to view the Court not as a constraint on democracy but as a bulwark of democracy s preconditions In later decades the Court played a stabilizing role mediating political conflicts and integrating societal forces Citizens disenchanted with partisan politics looked to the Court as a guardian of enduring values and a source of moral legitimacy Through a comprehensive narrative of the Court s remarkable rise and careful analysis of its periodic crises the work carefully dissects the success of the Court presenting not only a traditional work of legal history but a public history both political and societal as well as a doctrinal and jurisprudential account Structured around the Court s major decisions from 1951 to 2001 the book examines popular and political reactions to those decisions drawing heavily on newspaper accounts of major judgments and material from the archives of individual politicians and judges The result is an impressive case study of the global phenomenon of constitutional justice

The German Federal Constitutional Court Matthias Jestaedt, Oliver Lepsius, Christoph Möllers, Christoph Schönberger, 2020-03-05 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

Democracy's Guardians Justin Collings, 2015 In its six decade history the German Federal Constitutional Court has become one of the most powerful and influential constitutional tribunals in the world It has played a central role in the establishment of liberalism democracy and the rule of law in post war West Germany and it has been a model for constitutional tribunals in many other nations The Court stands virtually unchallenged as the most trusted institution of the German state Written as a complete history of the German Federal Constitutional Court from its founding in 1951 up into the

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Traditions and Transformations Michaela Hailbrunner, 2015 German constitutionalism has gained a central place in the global comparative debate but what underpins it remains imperfectly understood Its distinctive understanding of the rule of law and the widespread support for its powerful Constitutional Court are typically explained in one of two ways either as a story of change in a reaction to National Socialism or as the continuation of an older nineteenth century line of constitutional thought that emphasizes the function of constitutional law as a constraint on state power But while both narratives account for some important features their explanatory value is ultimately overrated This book adopts a broader comparative perspective to understand the rise of the German Constitutional Court It interprets the particular features of German constitutional jurisprudence and the Court s strength as a reconciliation of two different legal paradigms first a hierarchical legal culture as described by Mirjan Damaska building on Max Weber as opposed to a more co coordinated understanding of legal authority such as prevails in the United States and secondly a more recent paradigm of transformative constitutionalism which is most often associated with countries like South Africa and India Using post war legal history and sociological and empirical research in addition to case law this book demonstrates how German developments reflect the frequently conflicting demands of these two legal paradigms yielding an idiosyncratic synthesis in Value Formalism a specific type of constitutional reasoning at once pragmatic open formalist and technical Value Formalism however also comes with serious problems such as a lack of self reflection in the Court s jurisprudence and the closure of constitutional discourse towards laymen

Germany Since 1945 Peter C. Caldwell, Karrin Hanshew, 2024-12-12 This text provides an unparalleled social political and cultural history of

Germany from the end of the Second World War to the contemporary moment As well as carefully balancing the histories of East and West Germany Peter C Caldwell and Karrin Hanshew convincingly make the case for analysing the Berlin Republic as a serious and distinct historical period in its own right Offering international context throughout Caldwell and Hanshew navigate students through the catastrophe of war genocide and the country's division to the new challenges facing the reunified Germany in the 21st century There are key primary source excerpts integrated throughout the text as well as 50 images 10 maps several charts and tables and a detailed bibliography to further aid study The book is also supported by an updated online Instructor's Guide which focuses on how to use the book in teaching where to find the best collections of documents and images for teaching and models for the many different kinds of courses that might be taught using the book New content and features for the 2nd edition include A chapter on recent German history and expanded coverage of the post 1990 era Enhanced material on topics including far right sympathies through the decades and West German foreign policy beyond Europe Additional images and maps An updated introduction online Instructor's Guide conclusion and historiographical updates throughout

The History and Growth of Judicial Review Steven G. Calabresi, 2021 This two volume set gives an account of the origins and growth of judicial review in the democratic countries of the G 20 from its beginnings in the United States to its expansion after World War II Volume 2 covers the civil law jurisdictions

The History and Growth of Judicial Review, Volume 2 Steven G. Calabresi, 2021-04-13 This two volume set examines the origins and growth of judicial review in the key G 20 constitutional democracies which include the United States the United Kingdom France Germany Japan Italy India Canada Australia South Korea Brazil South Africa Indonesia Mexico and the European Union as well as Israel The volumes consider five different theories which help to explain the origins of judicial review and identify which theories apply best in the various countries discussed They consider not only what gives rise to judicial review originally but also what causes of judicial review lead it to become more powerful and prominent over time Volume Two discusses the G 20 civil law countries

Radical Proceduralism Dannica Fleuß, 2021-06-30 Radical Proceduralism bridges the gap between political philosophy and practical institutional experimentation asking us to bring citizens back in and to engage them in a dialogue about the rules of the democratic game and proposing institutional devices that figure as conversation starters and facilitate such dialogues

Populism on Trial Inigo Bing, 2020-08-27 In a Britain that is becoming increasingly fractious and intolerant the responsibility for upholding the values of broadmindedness pluralism and individual freedom is passing from the politicians to the judges But the bonds of trust that bind people to their institutions are breaking down and the values underpinning judicial law making are now under threat from a new populism Using vivid examples from the fall out from Brexit the threat to parliamentary democracy the impact of terrorism and austerity and the actions of politicians trying to prevent judicial oversight of ministerial power this book warns that the rule of law is a fragile ingredient of democracy which may too easily become side lined unless it is vigorously upheld Inigo Bing has spent his life in

the law first as a barrister and then as a judge and has observed first hand how values once regarded as sacred are now at risk from a new form of anger driven and distrustful politics

Dialogues on Italian Constitutional Justice Vittoria Barsotti, Paolo Carozza, Marta Cartabia, Andrea Simoncini, 2021-04-26 This collection adopts a distinctive method and structure to introduce the work of Italian constitutional law scholars into the Anglophone dialogue while also bringing a number of prominent non Italian constitutional law scholars to study and write about constitutional justice in a global context The work presents six distinct areas of particular interest from a comparative constitutional perspective first the role of legal scholarship in the work of constitutional courts second structures and processes that contribute to more open or closed styles of constitutional adjudication third pros and cons of collegiality in the work of constitutional courts fourth forms of access by individuals to constitutional justice fifth methods of constitutional interpretation and sixth the relationship between national constitutional adjudication and the transnational context In each of these six areas the volume sets up a new and genuine constitutional dialogue between an Italian scholar presenting a discussion and critical assessment of the specific topic and a non Italian scholar who responds elaborating the issue as seen from constitutional law beyond the Italian system The resulting six such dialogues thus provide a dynamic in depth multidimensional national and transnational comparative examination of these areas in which the Italian style of constitutional adjudication has a distinctive contribution to make to comparative constitutional law in general Fostering a deeper knowledge of the Italian Constitutional Court within the comparative global space and advancing a creative and fruitful methodological approach the book will be fascinating reading for academics and researchers in comparative constitutional law

European Constitutional Imaginaries Jan Komárek, 2023-02-07 This is an open access title available under the terms of a CC BY NC ND 4 0 International licence It is free to read on the Oxford Academic platform and offered as a free PDF download from OUP and selected open access locations How can the EU be made legitimate and sustainable through constitutional law and what is the role of constitutional lawyers and their ideas in creating this sense of legitimacy This book seeks to answer these questions through the concept of the constitutional imaginary sets of ideas and beliefs that motivate and justify the practice of government and collective self rule Constitutional imaginaries are as important as institutions and office holders as they provide political action with an overarching sense and purpose recognized as legitimate by those governed Constitutional imaginaries are necessary fictions that make political rule possible and at the same time they are ideologies which hide from view various forms of domination European Constitutional Imaginaries deals with a variety of questions and is split into four parts to address the first part explores in more detail various meanings of European constitutional imaginary as seen by different disciplines legal sociology political and constitutional theory and philosophy The second part revisits the contribution of some key authors to the creation of European constitutional imaginaries and the third part offers various new ways of thinking about European constitutionalism The fourth and final part examines political economy behind various constitutional

imaginaries Written by a balanced mix of well established authors and newer talent European Constitutional Imaginaries promises to open debates on European constitutionalism that are necessary to understanding Europe s present predicament and its various crises all navigated through the medium of law

Embracing Democracy in Modern Germany Michael L. Hughes,2021-01-14 Across the modern era the traditional stereotype of Germans as authoritarian and subservient has faded as they have become mostly model democrats This book for the first time examines 130 years of history to comprehensively address the central questions of German democratization How and why did this process occur What has democracy meant to various Germans And how stable is their or indeed anyone s democracy Looking at six German regimes across thirteen decades this study enables you to see how and why some Germans have always chosen to be politically active even under dictatorships the enormous range of conceptions of political culture and democracy they have held and how interactions among various factors undercut or facilitated democracy at different times Michael L Hughes also makes clear that recent surges of support for populism and authoritarianism have not come out of nowhere but are inherent in long standing contestations about democracy and political citizenship Hughes argues that democracy in Germany or elsewhere cannot be a story of adversity overcome which culminates in a happy ending it is an ongoing open ended process whose ultimate outcome remains uncertain

Reinventing Protestant Germany Brandon Bloch,2025-08-05 Brandon Bloch examines the remarkable transformation of German Protestantism after WWII As avid nationalists and militarists Protestant leaders had largely backed the Nazi regime Yet after 1945 they reinvented themselves as champions of constitutional democracy and human rights while also seeking to whitewash the Church s past

The Max Planck Handbooks in European Public Law Armin von Bogdandy,Peter M. Huber,Sabrina Ragone,2023-02-27 The Max Planck Handbooks in European Public Law describe and analyze public law of the European legal space an area that encompasses not only the law of the European Union but also the European Convention on Human Rights and importantly the domestic public laws of European states Recognizing that the ongoing vertical and horizontal processes of European integration make legal comparison the task of our time for both scholars and practitioners the series aims to foster the development of a specifically European legal pluralism and to contribute to the legitimacy and efficiency of European public law The first volume of the series began this enterprise with an appraisal of the evolution of the state and its administration offering both cross cutting contributions and specific country reports This second volume continues this approach with an in depth appraisal of the foundations of the constitutional order in various and diverse European countries Fourteen country reports investigate the antecedents foundations organization basic principles and challenges to European constitutions They include countries with long lasting and recently amended constitutions decentralized or unitary with different political systems and institutional settings In keeping with the focus on a diverse but unified legal space each report also details how the constitutional identity of each country has been elaborated and what it entails Together the chapters of this volume provide a strong and diverse foundation for a continuing European

constitutional dialogue Constitutional Foundings in Southeast Asia Kevin YL Tan, Ngoc Son Bui, 2019-05-30 This volume focuses on the making nature and role of the first modern constitutions at the founding of the modern nation states in Southeast Asia These historical essays add richly to our understanding and appreciation of the founding moments and to the theory and practice of constitutionalism in these states This volume makes three significant contributions First it helps plug the wide knowledge gap in comparative constitutional history in Southeast Asia Second it furthers our understanding of contemporary constitutional practice and also anticipates possible developmental trajectories in light of the foundational values embedded in and manifested through these constitutions Third through the comparative historical study of these early constitutions plausible theoretical insights may be gained to further our understanding of Southeast Asia's constitutional history The book is essential reading for those wishing to obtain a deeper understanding of the constitutional foundations of Southeast Asia

EMU Integration and Member States' Constitutions Stefan Griller, Elisabeth Lentsch, 2021-02-25 In this book legal scholars from the EU Member States with the addition of the UK analyse the development of the EU Member States attitudes to economic fiscal and monetary integration since the Treaty of Maastricht The Eurozone crisis corroborated the warnings of economists that weak economic policy coordination and loose fiscal oversight would be insufficient to stabilise the monetary union The country studies in this book investigate the legal and in particular the constitutional pre conditions for deeper fiscal and monetary integration that influenced the past and might impact on the future positions in the now 27 EU Member States The individual country studies address the following issues Main characteristics of the national constitutional system and constitutional culture Constitutional foundations of Economic and Monetary Union EMU membership and related instruments Constitutional obstacles to EMU integration Constitutional rules and or practice on implementing EMU related law and The resulting relationship between EMU related law and national law Offering a comprehensive and detailed assessment of the legal and constitutional developments concerning the Economic and Monetary Union since the Treaty of Maastricht this book provides not only a study of legal EMU related measures and reforms at the EU level but most importantly sheds light on their perception in the EU Member States

Democracy of Expression

Andrew T. Kenyon, 2021-06-17 Free speech has positive dimensions of enablement and negative dimensions of non restraint both of which require protection for democracy to have substantial communicative legitimacy In Democracy of Expression Andrew Kenyon explores this need for sustained plural public speech linked with positive communicative freedom Drawing on sources from media studies human rights political theory free speech theory and case law Kenyon shows how positive dimensions of free speech could be imagined and pursued While recognising that democratic governments face challenges of public communication and free speech that cannot be easily solved Kenyon argues that understanding the nature of these challenges including the value of positive free speech at least makes possible a democracy of expression in which society has a voice formulates judgments and makes effective claims of government In this groundbreaking work Kenyon not only

reframes how we conceptualize free speech but also provides a roadmap for reform *The Oxford Handbook of German Politics* Klaus Larres, Holger Moroff, Ruth Wittlinger, 2022-07-18 Few countries have caused or experienced more calamities in the 20th century than Germany The country emerged from the Cold War as a newly united and sovereign state eventually becoming Europe's indispensable partner for all major domestic and foreign policy initiatives This handbook provides a comprehensive overview of some of the major issues of German domestic politics economics foreign policy and culture by leading experts in their respective fields This book serves primarily as a reference work on Germany for scholars and an interested public but through this broader lens it also provides a magnifying glass of global developments which are challenging and transforming the modern state The growing importance of Germany as a political actor and economic partner makes this endeavor all the more timely and pertinent from a German European and global perspective The Alchemists Tom Gerald Daly, 2017-11-02 Can courts really build democracy in a state emerging from authoritarian rule This book presents a searching critique of the contemporary global model of democracy building for post authoritarian states arguing that it places excessive reliance on courts Since 1945 both constitutional courts and international human rights courts have been increasingly perceived as alchemists capable of transmuting the base materials of a nascent democracy into the gold of a functioning democratic system By charting the development of this model and critically analysing the evidence and claims for courts as democracy builders this book argues that the decades long trend toward ever greater reliance on courts is based as much on faith as fact and can often be counter productive Offering a sustained corrective to unrealistic perceptions of courts as democracy builders the book points the way toward a much needed rethinking of democracy building models and a re evaluation of how we employ courts in this role **The Constitution of Italy** Marta Cartabia, Nicola Lupo, 2022-02-10 This book introduces the reader to the Italian Constitution which entered into force on 1 January 1948 and examines whether it has successfully managed the political and legal challenges that have occurred since its inception and fulfilled the three main functions of a Constitution maintaining a community protecting the fundamental rights of citizens and ensuring the separation of powers

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