



# COMPARATIVE MATTERS

*The Renaissance of Comparative  
Constitutional Law*

Ran Hirschl

OXFORD

# Comparative Matters Comparative Matters

**Charles M. Fombad**



## **Comparative Matters Comparative Matters:**

**Comparative Matters** Ran Hirschl, 2014 Charting the history and analytical underpinnings of comparative constitutional inquiry this book probes the various types aims and methodologies of engagement with the constitutive laws of others through the ages It explores how and why comparative constitutional inquiry has been and ought to be pursued by academics and jurists worldwide

**On What Matters in Comparative Constitutional Law** Katharine Young, 2017 The field of comparative constitutional law has developed in interesting and exciting directions in recent years This essay provides a comment on Ran Hirschl's *Comparative Matters* The Renaissance of Comparative Constitutional Law a path breaking example of the new methodologies that have become possible in the field Its new boundaries described not as comparative constitutional law but as comparative constitutional studies include comparative politics political economy and the broader social sciences By contrast this essay suggests that the field must remain anchored in law in all of its complexity This may at times suggest different answers and indeed different questions from those that Hirschl provides Moreover I argue that the difficult questions that the social practice of law raises such as the demand for justification and the reliance on interpretation cannot be abandoned in this new moment of social scientific possibility

**How Constitutional Rights Matter** Adam S. Chilton, Mila Versteeg, 2020 Do countries that add rights to their constitutions actually do better at protecting those rights This study draws on global statistical analyses and survey experiments to answer this question It explores whether constitutionalizing rights improves respect for those rights in practice

The Cambridge Companion to Comparative Constitutional Law Roger Masterman, Robert Schütze, 2019-10-03 Comparing constitutions allows us to consider the similarities and differences in forms of government as well as the normative philosophies behind constitutional choices The objective behind this Companion is to present the reader with a succinct yet wide ranging companion to a modern comparative constitutional law course

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

Redefining Comparative Constitutional Law, 2024-11-20 Over the past two decades the field of comparative constitutional law has emerged as a major domain of scholarly inquiry It has also been a notable feature in judicial practice Many of the world's leading courts are now composed

of at least some members who engage with comparative materials and thinking comparatively has developed into one of the most significant ways of engaging in constitutional analyses

**Redefining Comparative Constitutional Law Essays for Mark Tushnet** reflects upon the field of comparative constitutional law Among the most prominent figures in the development of the field in its ongoing renaissance has been Mark Tushnet This book uses the occasion of Professor Tushnet's recent retirement from Harvard Law School to think critically about the field Each essay takes up one of Professor Tushnet's major recent themes which focuses on variations within liberal constitutionalism and the possibility of other forms of constitutionalism that find articulation under other political regimes In this book leading scholars contribute to the debate over the nature of the field including the role of empiricism and language discussions of democracy and entrenchment analyses of rights and courts consideration of constitutional design and explorations of the extent to which there are varieties of constitutionalism At a moment of renewed stress and political debate over the relationship between democracy and constitutionalism **Redefining Comparative Constitutional Law Essays for Mark Tushnet** offers timely insights into comparative analyses of constitutional rights Academics and students alike will benefit from the essays that range across both methodological questions and substantive analysis in the development of constitutions throughout the globe

**Courts and LGBTQ+ Rights in an Age of Judicial Retrenchment** Rehan Abeyratne, 2025-03-19 Over the past two decades liberal constitutionalism has been in decline Yet some courts including the U S Supreme Court the Supreme Court of India and the Hong Kong Court of Final Appeal have continued to progressively realize the rights of lesbian gay bisexual transgender and queer LGBTQ persons How can the seeming paradox of LGBTQ rights advancement amid liberal constitutional regression be understood And what in turn does that tell us about the state of liberal constitutionalism and rights adjudication **Courts and LGBTQ Rights in an Age of Judicial Retrenchment** addresses these questions by exploring rights adjudication within the broader context of declining liberal constitutionalism within the U S India and Hong Kong By analysing landmark LGBTQ rights judgments and topical case studies in increasingly challenging political and institutional contexts this book provides detailed qualitative accounts of constitutionalism in these jurisdictions over the past two decades Progressive and original this book explores how courts often use LGBTQ rights to demonstrate their rhetorical commitment to liberal and global constitutionalism even as their judgments may fall short of or even undermine those ideals

**Handbook on Global Constitutionalism** Anthony F. Lang, Jr., Antje Wiener, 2017-10-27 This Handbook introduces scholars and students to the history philosophy and evidence of global constitutionalism Contributors provide their insights from law politics international relations philosophy and history drawing on diverse frameworks and empirical data sets Across them all however is a recognition that the international order cannot be understood without an understanding of constitutional theory The Handbook will define this field of inquiry for the next generation by bringing together some of the leading contemporary scholars

**Constitutional Change in the Contemporary Socialist World** Ngoc Son Bui, 2020 Comparative

constitutional law has a long and distinguished history in intellectual thought and in the construction of public law As political actors and the people who create or modify their constitutional orders they often wish to learn from the experience and learning of others This cross fertilization and mutual interaction has only accelerated with the onset of globalization which has transformed the world into an interconnected web that facilitates dialogue and linkages across international and regional structures Oxford Comparative Constitutionalism seeks to publish scholarship of the highest quality in constitutional law that deepens our knowledge of local national regional and global phenomena through the lens of comparative public law

**Book jacket** *Constitutional Triumphs, Constitutional Disappointments* Rosalind Dixon, Theunis Roux, 2018-04-19 The 1996 South African Constitution was promulgated on 18th December 1996 and came into effect on 4th February 1997 Its aspirational provisions promised to transform South Africa s economy and society along non racial and egalitarian lines Following the twentieth anniversary of its enactment this book co edited by Rosalind Dixon and Theunis Roux examines the triumphs and disappointments of the Constitution It explains the arguments in favor of the Constitution being replaced with a more authentically African document untainted by the necessity to compromise with ruling interests predominant at the end of apartheid Others believe it remains a landmark attempt to create a society based on social economic and political rights for all citizens and that its true implementation has yet to be achieved This volume considers whether the problems South Africa now faces are of constitutional design or implementation and analyses the Constitution s external influence on constitutionalism in other parts of the world

**Societal Agents in Law** Larry D. Barnett, 2018-12-28 In this two volume set Larry D Barnett delves into the macrosociological sources of law concerned with society important social activities in a structurally complex democratically governed nation Barnett explores why when and where particular proscriptions and prescriptions of law on key social activities arise persist and change The first volume *Societal Agents in Law A Macrosociological Approach* puts relevant doctrines of law into a macrosociological framework uses the findings of quantitative research to formulate theorems that identify the impact of several society level agents on doctrines of law and takes the reader through a number of case analyses The second volume *Societal Agents in Law Quantitative Research* reports original multivariate statistical studies of sociological determinants of law on specific types of key social activities Taken together the two volumes offer an alternative to the almost total monopoly of theory and descriptive scholarship in the macrosociology of law comparative law and history of law and underscore the value of a mixed empirical theoretical approach

**Negative Comparative Law** Pierre Legrand, 2022-06-09 Written under the sign of Beckett this book addresses comparative law s commitment to the deterritorialization of the legal and its attendant claim for the normative relevance of foreign law locally in the fabrication of statutory determinations judicial opinions or academic reflections Wanting to withstand the law s persistent tendency towards nationalist retrenchment and counter comparative law s institutional marginalization the fifteen essays at hand impart radical and discerning intellectual equipment in order to foster the

valorization of the legally foreign and the comparative motion In particular the critique informing this manifesto examines pre eminent topics like culture and difference understanding and translatability objectivity and truth invention and tracing Harnessing insights from a range of disciplinary discourses this book contends that comparatists must boldly desist from their field s dominant epistemology and embrace a practice much better attuned to the study of foreignness *Judicial Review of Administrative Action Across the Common Law World* Swati Jhaveri, Michael Ramsden, 2021-03-18 Research on comparative administrative law in contrast to comparative constitutional law remains largely underdeveloped This book plugs that gap It considers how a wide range of common law systems have received and adapted English common law to the needs of their own socio political context Readers will be given complex insights into a wide range of common law systems of administrative law which they may not otherwise have access to given how difficult it would be to research all of the systems covered in the volume single handedly The book covers Scotland Ireland the USA Canada Israel South Africa Kenya Malaysia Singapore Hong Kong SAR India Bangladesh Australia and New Zealand Comparative public lawyers will have a much greater range of common law models of administrative law either to pursue conversations about their own common law system or to sophisticate their comparison of their system civil law or otherwise with common law systems **National Security Constitutionalism in the Commonwealth Five Eyes States** Paul F Scott, 2025-03-06 This book examines the constitutional treatment of national security in the UK Canada Australia and New Zealand These four states share their Commonwealth heritage and are members alongside the USA of the Five Eyes intelligence sharing alliance The book takes a comparative approach to the institutions through which and tools with which these four states seek to protect their national security against the threats of both terrorism and hostile state activity and how they have evolved over time It identifies and examines the various specialised institutions inside and outside of legislatures which have grown up to oversee the exercise of public power for national security purposes while maintaining the required secrecy It argues that the extent of the borrowing and sharing between these jurisdictions in the domain of national security now and in the past permits us to talk about a Commonwealth model of national security constitutionalism **Constitutionalism in Context** David S. Law, 2022-02-17 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**

**Oxford Handbook of Constitutional Law in Latin America** Conrado Hübner Mendes, Roberto Gargarella, Sebastián Guidi, 2022 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

**Constitutionalism and a Right to Effective Government?** Vicki C. Jackson, Yasmin Dawood, 2022-10-27 This interdisciplinary volume highlights the crucial role of effective government in sustaining democratic constitutionalism In each chapter leaders in the fields of constitutional law and politics provide innovative analyses of the relationships between effective government and democratic constitutionalism its principles and its institutions

**Judicial Cosmopolitanism** Giuseppe Franco Ferrari, 2019-09-24 Judicial Cosmopolitanism The Use of Foreign Law in Contemporary Constitutional Systems offers a detailed account of the use of foreign law by supreme and constitutional Courts of Europe America and East Asia The individual contributions highlight the ways in which the use of foreign law is carried out by the individual courts and the path that led the various Courts to recognize the relevance for the purpose of the decision to foreign law The authors try to highlight reasons and types of the more and more frequent circulation of foreign precedents in the case law of most high courts At the same time they show the importance of this practice in the so called neo constitutionalism

*Separation of Powers in African Constitutionalism* Charles M. Fombad, 2016-03-03 The new series Stellenbosch Handbooks in African Constitutional Law will engage with contemporary issues of constitutionalism in Africa filling a notable gap in African comparative constitutional law Separation of Powers in African Constitutionalism is the first in the series examining one of the critical measures introduced by African constitutional designers in their attempts to entrench an ethos of constitutionalism on the continent Taking a critical look at the different ways in which attempts have been made to separate the different branches of government the Handbook examines the impact this is having on transparent and accountable governance Beginning with an overview of constitutionalism in Africa and the different influences on modern African constitutional developments it looks at the relationship between the legislature and the executive as well as the relationship between the judiciary and the political branches Despite differences in approaches between the different constitutional cultures that have influenced developments in Africa there remain common problems One of these problems is the constant friction in the relationship between the three branches and the resurgent threats of authoritarianism which clearly suggest that there remain serious problems in both constitutional design and implementation The book also studies the increasing role being played by independent constitutional institutions and how they complement the checks and balances associated with the traditional three branches of government

*Philosophical Foundations of the Law of Torts* John Oberdiek, 2014-03-20 Contemporary philosophy and tort law have long enjoyed a happy union Tort theory today is an exceptionally active and wide ranging field within legal philosophy This volume brings together established and emerging scholars from around the world and from varying disciplines that bring their distinct perspective to the philosophical problems of tort law These ground breaking essays

advance longstanding debates and open up new avenues of enquiry thus deepening and broadening the field Contributions cover the major problematic areas of tort law such as the relations between responsibility fault and strict liability the morality of harm compensation and repair and the relationship of tort with criminal and property law among many others



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