

**SAVING
THE
CONSTITUTION
FROM
THE COURTS**

BY WILLIAM GANGI

Saving The Constitution From The Courts

Laurent Coutron



Saving The Constitution From The Courts:

Saving the Constitution from the Courts William Gangi, 1995 In Roosevelt's New Deal days the threat from the Court was the judges attempt to run the nation's economy Now as the limits of individual freedoms are increasingly unrestrained Gangi sees a parallel but perhaps more fundamental peril He challenges the reader to pick up any newspaper and find in it judges telling lawmakers what to do and how to do it Gangi does not doubt the good will of the reformers in the short term recent expansions of rights are beneficial But he argues abuse of judicial power is eroding a more basic American freedom the people's right to self government Gangi is concerned that present justices no longer understand American structures as set up by the framers of the Constitution and he gives an exhaustive summary of The Federalist Papers a classic defense of the original document written by Hamilton Jay and Madison under the pen name Publius Conservatives and liberals alike are guilty he says Recent Supreme Courts are an embarrassment to the American political tradition Troubled by the shadow of a new tyranny the author does not pull his punches Where he sees bias masquerading in legal garb he names it and he urges activists to stop the unseemly scurrying to the courts every time a public policy battle is lost Gangi concludes that if Americans are to regain control of their government they must first rediscover their faith in democracy Not everyone will agree with the views espoused in this provocative book but all who read it will understand a great deal better the critical issues with which it deals BOOK JACKET Title Summary field provided by Blackwell North America Inc All Rights Reserved

How to Save a Constitutional Democracy Tom Ginsburg, Aziz Z. Huq, 2018-10-05 We can't afford to be complacent any more A formidable book extremely rich in historical examples case studies and quantitative data International Journal of Constitutional Law Democracies are in danger Around the world a wave of populist leaders threatens to erode the core structures of democratic self rule In the United States the tenure of Donald Trump marks a decisive turning point for many What kind of president intimidates jurors calls the news media the enemy of the American people and seeks foreign assistance investigating domestic political rivals Many think the Constitution will safeguard us from lasting damage But is that assumption justified Drawing on an array of other countries experiences Tom Ginsburg and Aziz Z Huq show how constitutional rules can both hinder and hasten the decline of democratic institutions The checks and balances of the federal government a robust civil society and media and individual rights such as those enshrined in the First Amendment often fail as bulwarks against democratic decline The sobering reality they contend is that the US Constitution's design makes democratic erosion more not less likely Its structural rigidity has had unforeseen consequence leaving the presidency weakly regulated and empowering the Supreme Court to conjure up doctrines that ultimately facilitate rather than inhibit rights violations Even the bright spots in the Constitution the First Amendment for example may have perverse consequences in the hands of a deft communicator who can degrade the public sphere by wielding hateful language banned in many other democracies We and the rest of the world can do better and the authors conclude by laying out practical steps for how laws

and constitutional design can play a more positive role in managing the risk This book makes a huge contribution to our understanding of how democracies erode and what institutional reforms would make it harder for authoritarian populists to entrench their power Yascha Mounk author of *The People vs Democracy* Whereas other recent books on the crisis of American democracy focus on what has gone wrong Ginsburg and Huq provide us with clear eyed proposals including some bold constitutional reforms for how to fix it Steven Levitsky New York Times bestselling coauthor of *How Democracies Die*

Constitutionality of Law without a Constitutional Court Mirosław Granat, 2023-09-01 This book analyses the problem of the possibility of guaranteeing the constitutionality of law in cases when a constitutional court either has been weakened or does not exist A starting point of the research is the emergence of the so called illiberal constitutionalism in several states namely Poland Hungary and Turkey as this phenomenon gravely affects the functioning of constitutional courts The work is divided into three parts The first contains contributions of a theoretical nature dedicated to the current shape of constitutional review in particular in the light of the emergence of illiberal constitutionalism This part of the book also deals with the collapse of the centralised constitutional review in Poland and the attempts to resolve the constitutional crisis The second is focused on discussing specific current problems with constitutional review on the basis of states such as Hungary Romania Turkey and Poland The third relates to other forms of constitutional review that is the so called dispersed model and the parliamentary one executed in the course of the legislative process The contributions discuss such forms of constitutional review in the Netherlands and Finland The book will be a valuable resource for students academics and policy makers working in the areas of constitutional law and politics

L'obligation de renvoi préjudiciel à la Cour de justice Laurent Coutron, 2014-05-27 Amorç par l'arrêt Kbler un mouvement jurisprudentiel recent a conduit la Cour de justice concevoir divers mécanismes qui permettent aux justiciables de sanctionner directement ou indirectement une juridiction nationale qui a manqué son obligation de renvoi préjudiciel C'est ainsi que les justiciables pourront solliciter la remise en cause de la chose décidée voire de la chose jugée ou encore chercher engager la responsabilité judiciaire de l'état On pressent pourtant que les solutions très restrictives forgées par la Cour de justice sont supplantées par les dispositifs nationaux Ceux-ci paraissent en effet plus aisés à actionner voire plus performants qu'il s'agisse de la violation du droit au juge légal comme en Allemagne ou en Espagne ou encore de l'introduction du dispositif législatif suédois La présentation sans gal ce jour de près de vingt rapports nationaux permettra de mieux apprécier l'effectivité de la protection juridictionnelle dont disposent les justiciables via le renvoi préjudiciel L'intérêt de cet ouvrage est d'autant plus vif que l'adhésion prochaine de l'Union européenne la Convention européenne des droits de l'homme se traduira vraisemblablement par une revitalisation des dispositions permettant de sanctionner une violation de l'obligation de renvoi préjudiciel Cet ouvrage s'adresse principalement aux magistrats et aux avocats ainsi qu'aux universitaires spécialisés dans l'étude du droit processuel

Supermajority Voting in Constitutional Courts Cristóbal Caviedes, 2024-08-02 This book challenges the wide use of majority rule in many constitutional courts for

declaring statutes unconstitutional and argues that these courts should rather perform constitutional review by using supermajority rules. Considering that constitutional courts often tackle hard moral issues, it is questionable whether a bare majority of judges should suffice for settling them, especially considering these courts' counter-majoritarian nature. Further, the wide use of majority rule for checking the constitutionality of legislation may increasingly risk their reputation. Such a concern is developing in the United States following a series of Supreme Court decisions. This book argues that majority rule is unjustified in constitutional review. This means that in constitutional review, considering majority rule's traits, there are no decisive reasons for using this voting rule over other voting rules. Additionally, the book argues that when checking the constitutionality of legislation, constitutional courts should replace majority rule with supermajority rules. Thus, for declaring statutes unconstitutional, it is argued that more than 50% of the judges present plus one judge present should be needed. This book will be of interest to academics, researchers, and policy makers working in the areas of Constitutional Law and Politics.

Constitutional Courts and Democratic Values Víctor Ferreres Comella, 2009-12-01. Víctor Ferreres Comella contrasts the European centralised constitutional court model in which one court system is used to adjudicate constitutional questions with a decentralised model such as that of the United States in which courts deal with both constitutional and non-

constitutional questions. **Constitutional Change and Constitutionalism in Africa**, 2025-05-16. The new generation of African constitutions crafted in the 1990s marked the beginning of a trend that promised a radical transformation of the continent's governance landscape. This movement aimed to eliminate the risks of coups and political instability that had plagued Africa since the 1960s by embedding democracy and constitutionalism. However, the wave of constitutional reforms post 1990s seems to have sparked a contagious fever of making, unmaking, and remaking constitutions. The nature and frequency of these changes threaten to undermine the progress made in entrenching a culture of constitutionalism, good governance, and respect for the rule of law. It is therefore no surprise that there is almost universal agreement that Africa is now facing a profound crisis of democracy and constitutionalism. **Constitutional Change and Constitutionalism in Africa** examines the nature and extent of these changes which have been occurring more frequently and sometimes more arbitrarily than anticipated. Among the main questions investigated are the constitution-making process and the roles of various internal actors such as the legislature, executive, and judiciary, as well as external actors like the African Union and Regional Economic Communities in the different processes of constitutional change. Ultimately, the discussions aim to explore how the processes of constitutional change, whether inevitable and unavoidable or contrived, can be conducted in a manner that does not undermine or threaten the efforts to entrench democracy, constitutionalism, good governance, and respect for the rule of law on the African continent. European Yearbook of Constitutional Law 2022 Jürgen de Poorter, Gerhard van der

Schyff, Maarten Stremmer, Maartje De Visser, Ingrid Leijten, Charlotte van Oirsouw, 2023-07-25. The European Yearbook of Constitutional Law (EYCL) is an annual publication devoted to the study of constitutional law. It aims to provide a forum for in-

depth analysis and discussion of new developments in the field both in Europe and beyond This fourth volume of the EYCL addresses the underexplored and contentious topic of whether the EU possesses a constitutional identity of its own To date the main focus of scholarship and case law concerns the constitutional identities of the Member States of the EU This is because the EU has to respect such identities according to article 4 2 TEU The attention for Member States constitutional identities stands in stark contrast to the notion of an EU constitutional identity Such an identity features very little in the literature and debate on constitutional identity and the legal architecture of the EU Consequently this edition of the EYCL addresses the gap in legal research by studying constitutional identity with a focus on the EU itself The book explores various views on whether the EU possesses such an identity and what any possible identity might entail In this way a fuller and more inclusive picture can be formed of constitutional identity as it relates to the multilevel constitutional order inhabited by the EU and its Member States This volume will be of special interest to constitutional and legal scholars who are interested in EU and national constitutional law as well as to political scientists In addition the book is relevant for judges government officials judges and policy makers who work with EU constitutional law and its relationship with national constitutional law

Jurgen de Poorter is State Councillor at the Dutch Council of State and professor at Tilburg Law School Department of Public Law and Governance Gerhard van der Schyff is associate professor at Tilburg Law School Department of Public Law and Governance Maarten Stremmer is assistant professor at Maastricht University Faculty of Law Department of Public Law Maartje De Visser is associate professor at SMU School of Law Singapore Ingrid Leijten is professor at Tilburg Law School Department of Public Law and Governance Charlotte van Oirsouw is PhD researcher at Utrecht University Department of Constitutional and Administrative Law

Corpus Juris William Mack, William Benjamin Hale, 1917 **Cases Argued and Decided in the Supreme Court of the United States** United States. Supreme Court, 1917

Saving The Constitution From The Courts Book Review: Unveiling the Magic of Language

In an electronic digital era where connections and knowledge reign supreme, the enchanting power of language has become more apparent than ever. Its capability to stir emotions, provoke thought, and instigate transformation is actually remarkable. This extraordinary book, aptly titled "**Saving The Constitution From The Courts**," written by a highly acclaimed author, immerses readers in a captivating exploration of the significance of language and its profound effect on our existence. Throughout this critique, we shall delve into the book's central themes, evaluate its unique writing style, and assess its overall influence on its readership.

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