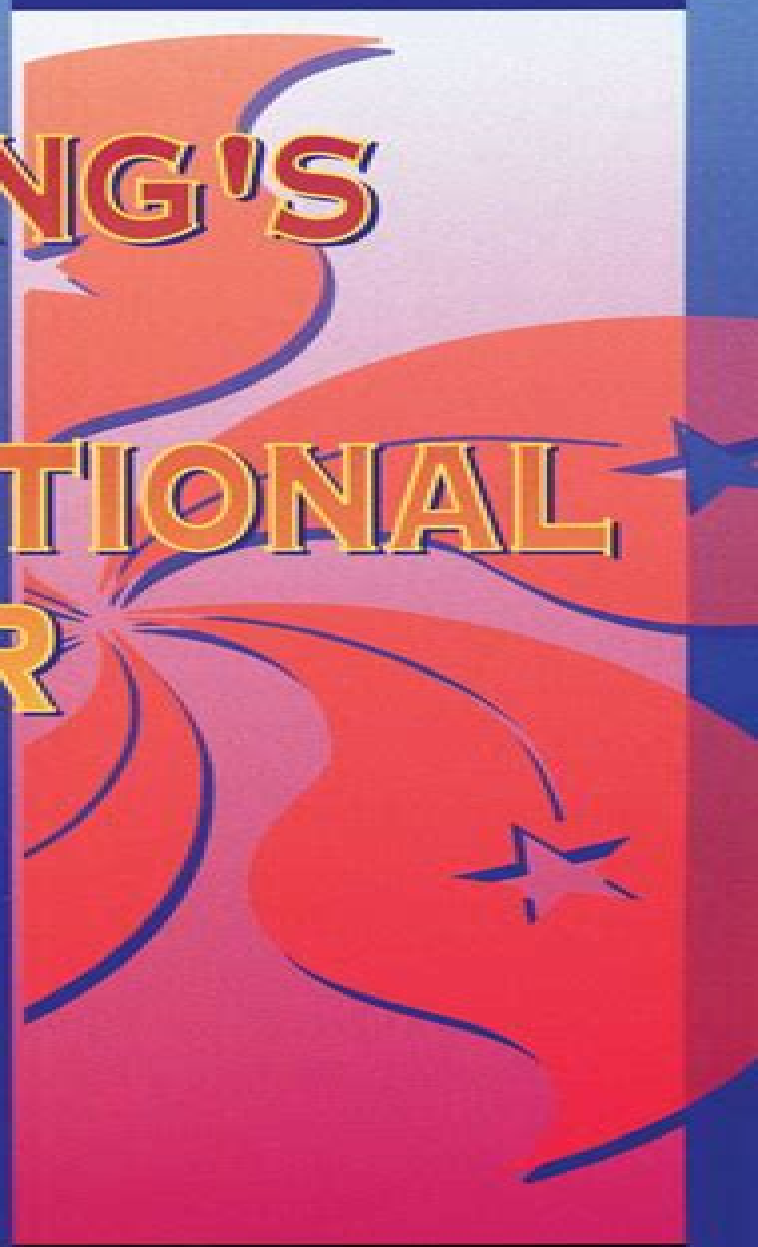


HONG KONG'S NEW CONSTITUTIONAL ORDER

Second Edition

**The Resumption of
Chinese Sovereignty
and the Basic Law**

Yash Ghai



New Constitutional Order

D Siedentop



New Constitutional Order:

The New Constitutional Order Mark Tushnet, 2009-02-09 In his 1996 State of the Union Address President Bill Clinton announced that the age of big government is over Some Republicans accused him of cynically appropriating their themes while many Democrats thought he was betraying the principles of the New Deal and the Great Society Mark Tushnet argues that Clinton was stating an observed fact the emergence of a new constitutional order in which the aspiration to achieve justice directly through law has been substantially chastened Tushnet argues that the constitutional arrangements that prevailed in the United States from the 1930s to the 1990s have ended We are now in a new constitutional order one characterized by divided government ideologically organized parties and subdued constitutional ambition Contrary to arguments that describe a threatened return to a pre New Deal constitutional order however this book presents evidence that our current regime's animating principle is not the old belief that government cannot solve any problems but rather that government cannot solve any more problems Tushnet examines the institutional arrangements that support the new constitutional order as well as Supreme Court decisions that reflect it He also considers recent developments in constitutional scholarship focusing on the idea of minimalism as appropriate to a regime with chastened ambitions Tushnet discusses what we know so far about the impact of globalization on domestic constitutional law particularly in the areas of international human rights and federalism He concludes with predictions about the type of regulation we can expect from the new order This is a major new analysis of the constitutional arrangements in the United States Though it will not be received without controversy it offers real explanatory and predictive power and provides important insights to both legal theorists and political scientists

Hong Kong's New Constitutional Order Yash P. Ghai, 1997 This is the first systematic analysis of the constitutional legal economic social and political systems of Hong Kong as a special administrative region of China It examines the Basic Law against its historical and socio economic contexts including its international and domestic foundations and the loss and the resumption of sovereignty by China The author offers a conceptualization of the Basic Law and locates it within China's constitutional political and legal systems The book explores the balance as well as the tensions between the autonomy of Hong Kong and the sovereignty of China which are aggravated by the necessity to accommodate contrasting economic and political systems It also identifies key legal and political problems that are likely to arise in implementing the Basic Law and suggests an approach to its interpretation The Basic Law provides a fascinating example of the interaction of widely different traditions of law politics and economy and a novel system of autonomy Its study is therefore of great interest to scholars of comparative law and politics

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Constituent Power and Constitutional Order M. Spång, 2014-06-25 Constituent power of the people is a core concept of modern politics but what does this concept actually mean This book addresses this question sketching how constituent power of the people has been conceived since the early modern

revolutions **Revolutionary Overthrow of Constitutional Orders in Africa** Carlson Anyangwe, 2012 The subject of revolutionary overthrow of constitutional orders in Africa is at the intersection of three disciplines jurisprudence and legal philosophy constitutional law and power politics and civil military relations that is military security policy which is one aspect of national security policy The subject is of interest in at least four ways It problematizes the inescapable question of governance in the African continent It challenges the democratization agenda in Africa how does one democratize not only political governance but also the instruments of violence in the state It also challenges African constitutional lawyers and policy makers to seek a constitutional model that addresses the enduring menace of the power of the gun in African affairs and the changing role of the military in African politics Finally it underscores concerns about sovereignty and national security This book contributes to a fuller understanding of the coup syndrome in African To this end it vigorously interrogates the place of coups in the governance of Africa and explores the relevance of Kelsen s theory of revolutionary legality in the context of coup d tats in Africa It is a major contribution by a leading thinker in the field *Kenya National Assembly Official Record (Hansard)* , 2001-07-11 The official records of the proceedings of the Legislative Council of the Colony and Protectorate of Kenya the House of Representatives of the Government of Kenya and the National Assembly of the Republic of Kenya **The Legitimacy of European Constitutional Orders** Marco Dani, Marco Goldoni, Agustín J. Menéndez, 2023-09-06 The Legitimacy of European Constitutional Orders is a systematic and comparative study of European constitutional orders which takes into consideration the national constitutional trajectories of European countries as well as the defining power of EU law Drawing on a wealth of case studies this book explores the conceptual tools needed to undertake comparative reconstruction and assessment of national and supranational constitutional developments in the European context **Constitutional Revolution** Gary Jeffrey Jacobsohn, Yaniv Roznai, 2020-05-19 Few terms in political theory are as overused and yet as under theorized as constitutional revolution In this book Gary Jacobsohn and Yaniv Roznai argue that the most widely accepted accounts of constitutional transformation such as those found in the work of Hans Kelsen Hannah Arendt and Bruce Ackerman fail adequately to explain radical change For example a constitutional moment may or may not accompany the onset of a constitutional revolution The consolidation of revolutionary aspirations may take place over an extended period The moment may have been under way for decades or there may be no such moment at all On the other hand seemingly radical breaks in a constitutional regime actually may bring very little change in constitutional practice and identity Constructing a clarifying lens for comprehending the many ways in which constitutional revolutions occur the authors seek to capture the essence of what happens when constitutional paradigms change **The Oxford Handbook of Kenyan Politics** Nic Cheeseman, Karuti Kanyinga, Gabrielle Lynch, 2020-02-14 Kenya is one of the most politically dynamic and influential countries in sub Saharan Africa Today it is known in equal measure as a country that has experienced great highs and tragic lows In the 1960s and 1970s Kenya was seen as a success story of development in the

periphery and also led the way in terms of democratic breakthroughs in 2010 when a new constitution devolved power and placed new constraints on the president. However, the country has also made international headlines for the kind of political instability that occurs when electoral violence is expressed along ethnic lines such as during the Kenya crisis of 2007-08 when over 1 000 people lost their lives and almost 700 000 were displaced. The Oxford Handbook of Kenyan Politics explains these developments and many more drawing together 50 specially commissioned chapters by leading researchers. The chapters they have contributed address a range of essential topics including the legacy of colonial rule, ethnicity, land politics, devolution, the constitution, elections, democracy, foreign aid, the informal economy, civil society, human rights, the International Criminal Court, the growing influence of China, economic policy, electoral violence and the impact of mobile phone technology. In addition to covering some of the most important debates about Kenyan politics, the volume provides an insightful overview of Kenyan history from 1930 to the present day and features a set of chapters that review the impact of devolution on regional politics in every part of the country.

The Constitution's Gift John Erik Fossum, Agustín José Menéndez, 2011-01-16

This authoritative study considers all aspects of the European Union's distinctive constitution since its inception. A unique political animal, the EU has given rise to important constitutional conundrums and paradoxes that John Erik Fossum and Agustín José Menéndez explore in detail. The authors consider the process of forging the EU's constitution and the set of fundamental norms that define the institutional structure, the decision-making procedures and the foundations of the Union's democratic legitimacy. Their analysis illuminates the distinctive features of the EU's pluralist constitutional construct but also the interesting parallels to the Canadian constitutional experience and provides the tools to understand the Union's development especially during the Laeken 2001-2005 and Lisbon 2007-2009 processes of constitutional reform. The authors' original theory of constitutional synthesis captures the distinctive traits of the European Union as a polity. It explains why and how the European Communities were established as the first constitutional union of constitutional states wherein integration would be steered by law, not power, politics or imperialism. Similarly, it presents the European Union as one of the few examples of a polity that has transcended the paradigm of the nation-state and perhaps even that of the state. Locating the substance and process of Lisbon in its proper constitutional context, Fossum and Menéndez explain why this should be seen as a new beginning of the Union's constitutional season, not its end. Offering the first history of European constitutional law that is both theoretically informed and normatively grounded, their book will be essential reading for all readers interested in the process and theory of European integration.

A Nation of Villages Michael T. Ducey, 2022-08-23

During the period 1769-1850, republican national institutions slowly replaced colonial and monarchical rule. This was a turbulent time in rural Mexico. It was a period of political instability marked by violent peasant rebellions that were longer, more violent and involved more people than those that occurred in the colonial era. Mexican villagers became skilled insurrectionists. In this book, Michael Ducey analyzes the peasant rebellions in Mexico's Huasteca region over that time, beginning with short-lived colonial riots.

progressing through a long and brutal insurrection associated with the war of independence and several region wide uprisings and culminating in the Caste War of the Huasteca of the 1840s He asks not just why villagers revolted but how their discontent fit into the political drama of early national Mexico Ducey shows how the war offered opportunities for villagers to settle scores with members of the local elite as peasants discovered new ways of imagining the state They were far from being the isolated traditionalists who occasionally rebelled against political or economic change described in older scholarship At least until the 1848 1850 Caste War political disputes were more important than land This region's peasants were both remarkably diverse and politically astute Villagers adapted colonial political culture and later republican ideas to fashion local institutions that fit their own needs Over the course of a hundred years peasant tactics and political discourse evolved in a constant dialogue with the changing political climate shifting from rhetorical statements of loyalty to the king to proclamations of federalism and their rights as citizens A Nation of Villages ably demonstrates that rural villagers were more aware of elite ideologies than urban rulers were of the villagers political ideas This long term analysis of one region illuminates how rural people helped shape the republican state

Constitutional Sovereignty and Social Solidarity in Europe Jeffrey Ellsworth, Johan van der Walt, 2015-05-21 The essays in this book respond in different ways to questions regarding sovereignty constitutionality and social solidarity in the European Union A common theme in the book is a perception that the people and peoples of the European Union have drifted into a quagmire of political paralysis within which essential features of the paralysis lack of constitutionality lack of sovereignty and lack of social solidarity feed off one another Some of the essays put forward a more positive view They associate the demise of sovereignty in Member States of the European Union with an emergence of new forms of democracy or new formations of political legitimacy in the complex structures of multi level governance in the European Union Between them the essays provide the reader with a comprehensive study of the key issues of European politics and law today

The Foundations and Traditions of Constitutional Amendment Richard Albert, Xenophon Contiades, Alkmene Fotiadou, 2017-07-13 There is growing interest in constitutional amendment from a comparative perspective Comparative constitutional amendment is the study of how constitutions change through formal and informal means including alteration revision evolution interpretation replacement and revolution The field invites scholars to draw insights about constitutional change across borders and cultures to uncover the motivations behind constitutional change to theorise best practices and to identify the theoretical underpinnings of constitutional change This volume is designed to guide the emergence of comparative constitutional amendment as a distinct field of study in public law Much of the recent scholarship in the field has been written by the scholars assembled in this volume This book like the field it hopes to shape is not comparative alone it is also doctrinal historical and theoretical and therefore offers a multiplicity of perspectives on a subject about which much remains to be written This book aspires to be the first to address comprehensively the new dimensions of the study of constitutional amendment and will become a

reference point for all scholars working on the subject The volume covers all of the topics where innovative work is being done such as the notion of the people the trend of empirical quantitative approaches to constitutional change unamendability sunrise clauses constitutional referenda the conventional divide between constituent and constituted powers among other important subjects It creates a dialogue that cuts through these innovative conceptualisations and highlights scholarly disagreement and in so doing puts ideas to the test The volume therefore captures the fierce ongoing debates on the relevant topics it reveals the current trends and contested issues and it offers a variety of arguments elaborated by prominent experts in the field It will open the way for further dialogue

Countering Terrorism and WMD Peter Katona, Michael D.

Intriligator, John P. Sullivan, 2007-01-24 This volume shows us that in order to deal with today's Fourth Generation asymmetric warfare by terrorist groups using conventional arms and weapons of mass destruction we need a new global networked approach The contributors examine the various attempts that have been made to counter the latest wave of terrorism including the US strikes against Afghanistan and Iraq President George W Bush's declaration of a war against terrorism the creation of the US Department of Homeland Security and the 9 11 Commission Drawing from our experience with Terrorism Early Warning and the co production of counter terrorism intelligence this book explains the need for such a network and shows how it could be formed It compiles the opinions of experts from clinical medicine public policy law enforcement and the military These expert contributors identify the nature of a global counter terrorism network show how it could be created and provide clear guidelines for gauging its future effectiveness This book will be of great interest to all students of terrorism studies US national security international relations and political science in general

Constitutional Law in Romania Irina Moroianu Zlătescu, 2023-07-20 Derived from the renowned multi volume International Encyclopaedia of Laws this very useful analysis of constitutional law in Romania provides essential information on the country's sources of constitutional law its form of government and its administrative structure Lawyers who handle transnational matters will appreciate the clarifications of particular terminology and its application Throughout the book the treatment emphasizes the specific points at which constitutional law affects the interpretation of legal rules and procedure Thorough coverage by a local expert fully describes the political system the historical background the role of treaties legislation jurisprudence and administrative regulations The discussion of the form and structure of government outlines its legal status the jurisdiction and workings of the central state organs the subdivisions of the state its decentralized authorities and concepts of citizenship Special issues include the legal position of aliens foreign relations taxing and spending powers emergency laws the power of the military and the constitutional relationship between church and state Details are presented in such a way that readers who are unfamiliar with specific terms and concepts in varying contexts will fully grasp their meaning and significance Its succinct yet scholarly nature as well as the practical quality of the information it provides make this book a valuable time saving tool for both practising and academic jurists Lawyers representing parties with interests in Romania will welcome this

guide and academics and researchers will appreciate its value in the study of comparative constitutional law **Taking Back the Constitution** Mark Tushnet, 2020-07-14 How the Supreme Court's move to the right has distorted both logic and the Constitution What Supreme Court justices do is far more than just calling balls and strikes The Court has never simply evaluated laws and arguments in light of permanent and immutable constitutional meanings Social moral and yes political ideas have always played into the justices' impressions of how they think a case should be decided Mark Tushnet traces the ways constitutional thought has evolved from the liberalism of the New Deal and the Great Society to the Reagan conservatism that has been dominant since the 1980s Looking at the current crossroads in the constitutional order Tushnet explores the possibilities of either a Trumpian entrenchment of the most extreme ideas of the Reagan philosophy or a dramatic and destabilizing move to the left Wary of either outcome he offers a passionate and informed argument for replacing judicial supremacy with popular constitutionalism a move that would restore to the other branches of government a role in deciding constitutional questions

The Impact of European Institutions on the Rule of Law and Democracy Matej Avbelj, Jernej Letnar Cernic, 2020-04-30 Since 2010 the European Union has been plagued by crises of democracy and the rule of law which have been spreading from Central and Eastern Europe CEE catching many by surprise This book argues that the professed success of the 2004 big bang enlargement mirrored the Potemkin villages erected in the new Member States on their accession to Europe Slovenia is a prime example Since its independence and throughout the accession process Slovenia has been portrayed as the poster child of the New Europe This book claims that the widely shared narrative of the Slovenian EU dream is a myth In many ways Slovenia has fared even worse than its contemporary constitutionally backsliding CEE counterparts The book's discussion of the depth and breadth of the democratic crises in Slovenia should contribute to a critical intellectual awakening and better comprehension of the real causes of the present crises across the other CEE Member States which threaten the viability of the EU and Council of Europe projects It is only on the basis of this improved understanding that the crises can be appropriately addressed at national transnational and supranational levels

Understanding Jurisprudence Raymond Wacks, 2005 Rethinking the Rhetorical Presidency Jeffrey Friedman, Shterna Friedman, 2013-09-13 In *The Rhetorical Presidency* Jeffrey Tulis argues that the president's relationship to the public has changed dramatically since the Constitution was enacted while previously the president avoided any discussions of public policy so as to avoid demagoguery the president is now expected to go directly to the public using all the tools of rhetoric to influence public policy This has effectively created a second Constitution that has been layered over and in part contradicts the original one In our volume scholars from different subfields of political science extend Tulis's perspective to the judiciary and Congress locate the origins of the constitutional change in the Progressive Era highlight the role of Theodore Roosevelt Woodrow Wilson and the mass media in transforming the presidency discuss the nature of demagoguery and whether in fact rhetoric is undesirable and relate the rhetorical presidency to the public's ignorance of the workings of a government more

complex than the Founders imagined This book was originally published as a special issue of Critical Review A Journal of Politics and Society **Westminster and the World** Bulmer, W.,2020-10-23 Constitutional scholar Elliot Bulmer considers what Britain might learn from Westminster derived constitutions around the world Exploring the principles of Westminster Model constitutions and their impact on democracy human rights and good government this book builds to a bold reimagining of the United Kingdom s future written framework *Founding Moments in Constitutionalism* Richard Albert,Menaka Guruswamy,Nishchal Basnyat,2019-10-17 Founding moments are landmark events that break ties with the ancien r gime and lay the foundation for the establishment of a new constitutional order They are often radically disruptive episodes in the life of a state They reshape national law reset political relationships establish future power structures and influence happenings in neighbouring countries This edited collection brings together leading and emerging scholars to theorise the phenomenon of a founding moment What is a founding moment When does the founding process begin and when does it end Is a founding moment possible without yielding a new constitution Can a founding moment lead to a partial or incomplete transformation And should the state be guided by the intentions of those who orchestrated these momentous breaks from the past Drawing from constitutions around the world the authors ask these and other fundamental questions about making and remaking constitutions

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