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Principles Of Human Rights Adjudication

**Mads Andenas, Malgosia
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Criminal Evidence and Human Rights Paul Roberts, Jill Hunter, 2012-05-18 Criminal procedure in the common law world is being recast in the image of human rights The cumulative impact of human rights laws both international and domestic presages a revolution in common law procedural traditions Comprising 16 essays plus the editors thematic introduction this volume explores various aspects of the human rights revolution in criminal evidence and procedure in Australia Canada England and Wales Hong Kong Malaysia New Zealand Northern Ireland the Republic of Ireland Singapore Scotland South Africa and the USA The contributors provide expert evaluations of their own domestic law and practice with frequent reference to comparative experiences in other jurisdictions Some essays focus on specific topics such as evidence obtained by torture the presumption of innocence hearsay the privilege against self incrimination and rape shield laws Others seek to draw more general lessons about the context of law reform the epistemic demands of the right to a fair trial the domestic impact of supra national legal standards especially the ECHR and the scope for reimagining common law procedures through the medium of human rights This edited collection showcases the latest theoretically informed methodologically astute and doctrinally rigorous scholarship in criminal procedure and evidence human rights and comparative law and will be a major addition to the literature in all of these fields **Accountability in the Contemporary Constitution** Nicholas Bamforth, Peter Leyland, 2013-09 Accountability in the context of constitutional and administrative law is a complex concept This book examines the legal framework of public institutions in light of contemporary accountability debates the role of human rights in public accountability accountability in regulation and the operation of accountability in multi layered government **General Principles and the Coherence of International Law** Mads Andenas, Malgosia Fitzmaurice, Attila Tanzi, Jan Wouters, 2019-05-20 General Principles and the Coherence of International

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the European Convention on Human Rights Janneke Gerards, 2023-07-13. The European Convention on Human Rights is one of the world's most important and influential human rights documents. It owes its value mainly to the European Court of Human Rights, which applies the Convention rights in individual cases. This book offers insight into the concepts and principles that are key to understanding the European Convention and the Court's case law. It explains how the Court approaches its cases and its decision-making process, illustrated by numerous examples taken from the Court's judgments. Core issues discussed include types of Convention rights, such as absolute rights, the structure of the Court's Convention rights review, principles and methods of interpretation, such as common ground interpretation and the use of precedent, positive and negative obligations, vertical and horizontal effect, the margin of appreciation doctrine and the requirements for the restriction of Convention rights. **A Constitutionalist Approach to the European Convention on Human Rights**

Lisa Sonnleitner, 2022-04-21. This book presents a new constitutional argument for the legitimacy of evolutive interpretation of the ECHR. It constructs a model in which evolutive and static constitutional principles are balanced with each other. The author argues that there are three possible interpretive approaches in time-sensitive interpretations of the ECHR, but that only one of them is justifiable by reference to the constitutional principles of the ECHR in every single case. The ECHR's constitutional principles either require an evolutive or static interpretation or they do not establish a preference relation at all, which leads to a margin of appreciation of the member states in the interpretation of the Convention. The balancing model requires the determination of the weights of the competing evolutive and static constitutional principles. For this purpose, the author defines weighting factors for determining the importance of evolutive or static interpretation in a concrete case.

Blasphemy and Freedom of Expression Jeroen Temperman, András Koltay, 2017-11-16. This book details the legal ramifications of existing anti-blasphemy laws and debates the legitimacy of such laws in Western liberal democracies.

Research Handbook on Human Rights and Intellectual Property Christophe Geiger, 2015-02-27. Research Handbook on Human Rights and Intellectual Property is a comprehensive reference work on the intersection of human rights and intellectual property law. Resulting from a field-specific expertise of over 40 scholars and professionals of world re *The Cambridge Handbook of Natural Law and Human Rights* Tom Angier, Iain T. Benson, Mark D. Retter, 2022-11-17. This Handbook provides an intellectually rigorous and accessible overview of the relationship between natural law and human

rights It fills a crucial gap in the literature with leading scholarship on the importance of natural law as a philosophical foundation for human rights and its significance for contemporary debates The themes covered include the role of natural law thought in the history of human rights human rights scepticism the different notions of subjective right the various foundations for human rights within natural law ethics the relationship between natural law and human rights in religious traditions the idea of human dignity the relation between human rights political community and law human rights interpretation and tensions between human rights law and natural law ethics This Handbook is an ideal introduction to natural law perspectives on human rights while also offering a concise summary of scholarly developments in the field

Public Law after the Human Rights Act Tom Hickman, 2010-05-20 It is remarkable that 10 years after the Human Rights Act came into effect and with further reform possible there are still no clear answers to basic questions about the relationship between the Human Rights Act human rights principles and the common law Such basic questions include what is the Human Rights Act What is the relationship between human rights principles and common law doctrines in public law Do traditional public law principles need to be replaced How has the Human Rights Act altered the constitutional relationship between the courts government and Parliament in the UK *Public Law After the Human Rights Act* proposes answers to these questions Unlike other books on the Human Rights Act the book looks beyond the Human Rights Act itself to its effect on public law as a whole The book articulates in novel ways the relationship between the Act and administrative and constitutional law It suggests that the Human Rights Act has built on the common law constitution The discussion focuses on core topics in modern public law including the constitutional status of the Human Rights Act the relationship between human rights and the common law the Human Rights Act's effect on central doctrines of public law such as reasonableness proportionality and process review the structure of public law in the human rights era derogation and emergencies and the right of access to a court Winner of the Inner Temple Young Author Book Prize 2011

Constitutional Adjudication in Africa Charles M Fombad, 2017-09-01 Since the 1990 wave of constitutional reforms in Africa the role of constitutional courts or courts exercising the power to interpret and apply constitutions have become a critical aspect to the on going process of constitutional construction reconstruction and maintenance These developments appear at least from the texts of the revised or new constitutions to have resulted in fundamental changes in the nature and role of courts exercising jurisdiction in constitutional matters The chapters in this second volume of the Stellenbosch Handbooks in African Constitutional Law series are the first to undertake a critical and comparative examination of the interplay of the diverse forms of constitutional review models on the continent Comparative analysis is particularly important given the fact that over the last two decades constitutional courts in Africa have been asked to decide a litany of hotly contested and often sensitive disputes of a social political and economic nature As the list of areas in which these courts have intervened has grown so too have their powers actual or potential By identifying and examining the different models of

constitutional review adopted these chapters consider the extent to which these courts are contributing to enhancing constitutionalism and respect for the rule of law on the continent The chapters show how the long standing negative image of African courts is slowly changing The courts have in responded in different ways to the variety of constraints incentives and opportunities that have been provided by the constitutional reforms of the last two decades to act as the bulwark against authoritarianism and this provides a rich field for analysis filling an important gap in the literature of contemporary comparative constitutional adjudication 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

Legal Perspectives on State Power Chris Ashford, Alan Reed, 2016-12-14 The issue of consent and criminal law commonly focuses on consent in sports sexual activity and medical treatment The notion of consent and the influence of state control in this context however are pervasive throughout the criminal justice process from the pre trial stage to rehabilitation This edited collection charts an important and original pathway to understanding these important issues pre during and post trial from a range of perspectives including doctrinal socio legal intersectional medico legal feminist critical legal and queer theoretical viewpoints The collection addresses the complex inter relationship between consent and state control in relation to private authorisation and public censure sexual behaviour the age of consent queering consent Pro LGBTI Refugee cases rape by fraud male rape undercover policing prisons and consent compulsory treatment for sex offenders sex offenders with high functioning autism and the suitability of sex offender treatment programmes and the criminalisation of HIV transmission This multi disciplinary approach draws together a variety of experts from legal and medical academia and practice in order to confront the issues raised by these subjects which are likely to remain controversial and in need of reform for years to come

Modern Administrative Law in Australia Matthew Groves, 2014-06-02 Modern Administrative Law in Australia provides an authoritative overview of administrative law in Australia It clarifies and enlivens this crucial but complex area of law with erudite analysis and modern perspectives The contributors including highly respected academics from eleven Australian law schools as well as eminent practitioners including Chief Justice Robert French AC and Justice Stephen Gageler of the High Court of Australia are at the forefront of current research debate and decision making and infuse the book with unique insight The book examines the structure and themes of administrative law the theory and practice of judicial review and the workings of administrative law beyond the courts Administrative law affects innumerable aspects of political commercial and private life and yet is often considered difficult to understand Modern Administrative Law unravels the intricacies and reveals how they are applied in real cases It is an essential reference for students and practitioners of administrative law

Vigilance and Restraint in the Common Law of Judicial Review Dean R. Knight, 2018-04-19 Explores how courts vary the depth of scrutiny in judicial review and the virtues of different approaches

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Philosophy of Law and Social Philosophy (IVR) Internationale Vereinigung für Rechts- und Sozialphilosophie, 2004

International Economic Law in the 21st Century Ernst-Ulrich Petersmann, 2012-07-24 The state centred Westphalian model of international law has failed to protect human rights and other international public goods effectively Most international trade financial and environmental agreements do not even refer to human rights consumer welfare democratic citizen participation and transnational rule of law for the benefit of citizens This book argues that these multilevel governance failures are largely due to inadequate regulation of the collective action problems in the supply of international public goods such as inadequate legal judicial and democratic accountability of governments vis a vis citizens Rather than treating citizens as mere objects of intergovernmental economic and environmental regulation and leaving multilevel governance of international public goods to discretionary foreign policy human rights and constitutional democracy call for civilizing and constitutionalizing international economic and environmental cooperation by stronger legal and judicial protection of citizens and their constitutional rights in international economic law Moreover intergovernmental regulation of transnational cooperation among citizens must be justified by principles of justice and multilevel constitutional restraints protecting rights of citizens and their public reason The reality of constitutional pluralism requires respecting legitimately diverse conceptions of human rights and democratic constitutionalism The obvious failures in the governance of interrelated trading financial and environmental systems must be restrained by cosmopolitan constitutional conceptions of international law protecting the transnational rule of law and participatory democracy for the benefit of citizens *Understanding the U.S. Wars in Iraq and Afghanistan* Beth Bailey, Richard H. Immerman, 2015-12-18 Choice Outstanding Academic Title of 2016 Investigates the causes conduct and consequences of the recent American wars in Iraq and Afghanistan Understanding the United States wars in Iraq and Afghanistan is essential to understanding the United States in the first decade of the new millennium and beyond These wars were pivotal to American foreign policy and international relations They were expensive in lives in treasure and in reputation They raised critical ethical and legal questions they provoked debates over policy strategy and war planning they helped to shape American domestic politics And they highlighted a profound division among the American people While more than two million Americans served in Iraq and Afghanistan many in multiple deployments the vast majority of Americans and their families remained untouched by and frequently barely aware of the wars conducted in their name far from American shores in regions about which they know little Understanding the U S Wars in Iraq and Afghanistan gives us the first book length expert historical analysis of these wars It shows us how they began what they teach us about the limits of the American military and diplomacy and who fought them It examines the lessons and legacies of wars whose outcomes may not be clear for decades In 1945 few Americans could imagine that the country would be locked in a Cold War with the Soviet Union for decades fewer could imagine how history would paint the era Understanding the U S Wars in Iraq and Afghanistan begins to come to grips with the period when America became enmeshed in a succession of low

intensity conflicts in the Middle East *Research Handbook on General Principles in EU Law* Ziegler, Katja S.,Neuvonen, Päivi J.,Moreno-Lax, Violeta,2022-04-22 This Research Handbook offers a comprehensive study of existing and emerging general principles of EU law by scholars from a wide range of expertise in EU law international law legal theory and different areas of substantive law It explores the theory content role and function of general principles in EU law to better understand general principles as a mechanism for the substantive openness of the EU legal order as well as for cross fertilization and coherence of legal orders Their potential as a tool to manage the interaction of legal regimes and orders is a particular focal point and will make this Handbook a must read for scholars of EU Law *The Legal Reasoning of the Court of Justice of the EU* Gunnar Beck,2013-01-21 The Court of Justice of the European Union has often been characterised both as a motor of integration and a judicial law maker To what extent is this a fair description of the Court s jurisprudence over more than half a century The book is divided into two parts Part one develops a new heuristic theory of legal reasoning which argues that legal uncertainty is a pervasive and inescapable feature of primary legal material and judicial reasoning alike which has its origin in a combination of linguistic vagueness value pluralism and rule instability associated with precedent Part two examines the jurisprudence of the Court of Justice of the EU against this theoretical framework The author demonstrates that the ECJ s interpretative reasoning is best understood in terms of a tripartite approach whereby the Court justifies its decisions in terms of the cumulative weight of purposive systemic and literal arguments That approach is more in line with orthodox legal reasoning in other legal systems than is commonly acknowledged and differs from the approach of other higher especially constitutional courts more in degree than in kind It nevertheless leaves the Court considerable discretion in determining the relative weight and ranking of the various interpretative criteria from one case to another The Court s exercise of its discretion is best understood in terms of the constraints imposed by the accepted justificatory discourse and certain extra legal steadying factors of legal reasoning which include a range of political factors such as sensitivity to Member States interests political fashion and deference to the EU legislator In conclusion the Court of Justice of the EU has used the flexibility inherent in its interpretative approach and the choice it usually enjoys in determining the relative weight and order of the interpretative criteria at its disposal to resolve legal uncertainty in the EU primary legal materials in a broadly communautaire fashion subject however to i regard to the political constitutional and budgetary sensitivities of Member States ii depending on the constraints and extent of interpretative manoeuvre afforded by the degree of linguistic vagueness of the provisions in question the relative status of and degree of potential conflict between the applicable norms and the range and clarity of the interpretative topoi available to resolve first order legal uncertainty and finally iii bearing in mind the largely unpredictable personal element in all adjudication Only in exceptional cases which the Court perceives to go to the heart of the integration process and threaten its *acquis communautaire* is the Court of Justice likely not to feel constrained by either the wording of the norms in issue or by the ordinary conventions of interpretative argumentation and to

adopt a strongly communautaire position if need be in disregard of what the written laws says but subject to the proviso that the Court is assured of the express or tacit approval or acquiescence of national governments and courts

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