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QUESTIONING SOVEREIGNTY

LAW, STATE, AND PRACTICAL REASON

Questioning Sovereignty Law State And Nation In The European Commonwealth

Loïc Azoulay



Questioning Sovereignty Law State And Nation In The European Commonwealth:

Questioning Sovereignty Neil MacCormick, 1999 This is a controversial work of applied legal theory addressing urgent contemporary questions about law and the state about the character of the UK as a state and about the juridical character of the European Union

Questioning Sovereignty Neil MacCormick, 1999 **Questioning Sovereignty** Neil MacCormick, 1999

National Sovereignty in the European Union Ondrej Hamulák, 2016-09-08 This volume assesses the implications of membership in the European Union for countries understanding of the concept of sovereignty based on the perspective of the Czech Republic The starting point of this work is acceptance of the Czech Republic's membership in the European Union as a basic fact The goal of the analysis presented here is to offer a theoretical approach to reconciling state sovereignty with the participation of the Czech Republic in the European integration project To do so the book pursues an in depth analysis of the reactions of the Constitutional Court of the Czech Republic to the challenges associated with membership in the EU Above all it addresses the following two basic research questions 1 Is membership of the state in the European Union associated with a loss of sovereignty a sharing of sovereignty or does it have no real consequences for the scope or understanding of the concept of state sovereignty such that the phenomenon remains a classical static and defining element of the state 2 How does the Czech Constitutional Court deal with the specific characteristics of European Union law and what is its stance on the nature of the relationship between supranational and national law

Sovereignty and the Law Richard Rawlings, Peter Leyland, Alison Young, 2013-11 Grounded firmly in the disciplines of law this collection explores the twin elements of continuity and change in conceptions of sovereignty in recent times The collection as a whole illuminates the enduring strength of sovereignty as a foundational concept and the continuing widespread appeal of sovereignty as an idea

Law and Democracy in Neil MacCormick's Legal and Political Theory Agustín José Menéndez, John Erik Fossum, 2011-03-29 This volume offers a collection of articles by leading legal and political theorists Originally intended as a celebration of MacCormick's work on the occasion of the completion of the four volume series on Law State and Practical Reason it has turned into a homage and salute after MacCormick's passing Cast in MacCormick's reflexive spirit the book presents a critical reconstruction of the Scottish philosopher's work with the aim of revealing the connections between law and democracy in his writings and furthering his insights in each specific field Neil MacCormick made outstanding contributions to the understanding of law and democracy under conditions of pluralism His institutional theory of law has elucidated the close connection between the normative character of law as a means of social integration and legal social practices This has produced a synthesis of the key insights of the legal and political theories of Kelsen Hart Alexy and Dworkin and has broken new ground by undermining the monolithic and nation state centered character of standard legal theories

MacCormick's Scotland Neil Walker, 2012-03-26 This book analyses in depth the distinctively Scottish themes in the work of Sir Neil MacCormick the world renowned legal philosopher and prominent Scottish public intellectual who

died in 2009 after holding the Regius Chair in Public Law and the Law of Nature and Nations at Edinburgh University for 36 years MacCormick's work and works about MacCormick attract both a domestic and an international audience Readers will gain an understanding of how MacCormick's Scottish roots interests and commitments coloured his work both his distinctively Scottish writings and the overall intellectual outlook that informed his broader legal and philosophical writings The book provides a well rounded appreciation of the Scottish dimension in MacCormick's thinking and writing It focuses on a number of prominent Scottish themes in MacCormick's work and life and is structured around four key themes 1 the nature and identity of a legal system 2 sovereignty European integration and Scottish independence 3 the legacy of the legal and political thought of the Scottish enlightenment and 4 the role of the academic in the Scottish public sphere **The**

Question of Competence in the European Union Loïc Azoulay, 2014-02-20 The classic debate surrounding the prolific role of the European Union in defining spheres of competence and power relationships has long divided scholarly opinion However in recent years the long standing acquiescence to the broad powers of the Union has given way to the emerging perception of a competence problem in Europe For a long period it was taken for granted that the European Community could act whenever its action was justified on the basis of the widely interpreted objectives of the Treaties However this context has since changed There is a widespread perception of a competence problem in Europe and the overabundance of provisions limiting the Union's competences is one of the most obvious marks left by the Lisbon Treaty This book discusses the extent to which the parameters of power throughout the Union and its Member States have been recast by the recent implementation of the Lisbon Treaty and doctrines developed by the European Court of Justice Comprised of contributions from a vast array of leading practitioners and academics in the field of EU Law this volume assesses the debate surrounding the political identity of the European Union and further illustrates the relevance of the Federal theory of sharing competences for the development of EU Law Finally the question of new potential limits to Union's competence is addressed If anything this broad reflection on the notion of competence in the EU law context is a way of opening up the question of the nature and contours of the political identity of the European Union Law and Administration in Europe Paul P.

Craig, Richard Rawlings, 2003 The contributions to this volume address central issues in public law There are chapters dealing with the general theoretical foundations of public law including the relationship of theory and values and discussion of the central idea of representation The nature of the public private divide continues to be of importance as a result of changes in the nature of government and as a consequence of the passage of the Human Rights Act 1998 HRA Closely related to this is the contractualisation of government The relationship between the courts Parliament and the executive has always been a central concern for public lawyers It has been brought to the fore by the passage of the HRA leading to discussions about the extent to which the courts should show deference to executive and legislative choices when engaging in judicial review This vexed issue is especially apparent when it comes to deciding how Parliament the executive and the

courts should treat non citizens or those who might threaten the security of the state It is of course impossible to discuss public law without considering European Union law There is discussion of core issues relating to the legitimacy of the EU and its constitutional foundations The role of courts in the process of integration is analysed and the desirability of judicial review over rule making is considered The relationship between public and private modes of enforcing EU law is reviewed In addition there is a discussion of the way in which different levels of government inter relate viewed through the lens of devolution in the UK European Ways of Law Volkmar Gessner, David Nelken, 2007-10-30 Can there be such a thing as a European sociology of law The uncertainties which arise when attempting to answer that straightforward question are the subject of this book which also overlaps into comparative law legal history and legal philosophy The richness of approaches reflected in the essays including comparisons with the US makes this volume a courageous attempt to show the present state of socio legal studies in Europe and map directions for its future development Certainly we already know something about the existence of differences in the use and meaning of law within and between the nation states and groups that make up the European Union They concern the role of judges and lawyers the use of courts patterns of delay contrasts in penal sensibilities or the meanings of underlying legal and social concepts Still similarities in legal culture are at least as remarkable in societies at roughly similar levels of political and economic development The volume should serve as a needed stimulus to a research agenda aimed at uncovering commonalities and divergences in European ways of approaching the law

Popular Sovereignty in the West Geneviève Nootens, 2013-04-12 This book is an inquiry into the history of the idea of popular sovereignty as it has been shaped by the struggles between rulers and ruled It builds on the notion that a thorough analysis of how the idea of popular sovereignty emerges from and interacts with a political history of contention within changing polities can help us to draw similarities and differences with our own age Providing a historical perspective to the present day Nootens pays strong attention to the role of democratization processes and to the relationship between meanings conveyed by the idea of popular sovereignty political contention and changing representations of the governing relationship The latter has been undergoing significant transformations in the last decades and these transformations impact significantly upon people's rights interests wealth and capacity to decide for themselves In order to understand popular sovereignty in an era of globalization this book argues that focus should be put on current struggles between rulers and ruled as well as on current transformations of the relationship between public and private spheres Understanding the claims involved in current processes of contention over decision making processes is key to understanding popular sovereignty in an era of globalization Making an important contribution to debates on sovereignty Popular Sovereignty in the West will be of interest to students and scholars of modern political theory sovereignty and democratization studies **Authoritarian Liberalism and the Transformation of Modern Europe** Michael A. Wilkinson, 2021-06-10 This title recounts the transformation of Europe from the post war era until the Euro crisis using the tools of constitutional analysis and critical theory The central

claim is twofold Europe has been gradually reconstituted in a manner that combines political authoritarianism with economic liberalism and that this order is now in a critical condition Authoritarian liberalism is constructed supranationally through a taming of inter state relations in the project of European integration at the domestic level through the depoliticization of state society relations and socially through the emergence of a new constitutional imaginary based on liberal individualism In the language of constitutional theory this transformation can be captured by the substitution of supranationalism for internationalism technocracy for democracy and economic for political freedom Sovereignty is restrained democracy curtailed and class struggle repressed This constitutional trajectory takes time to unfold and develop and it presents continuities and discontinuities On the one hand authoritarian liberalism is deepened by the neoliberalism of the Maastricht era and the creation of Economic and Monetary Union On the other hand counter movements then also begin to emerge geopolitically in the return of the German question domestically in the challenges to the EU presented by constitutional courts and informally in the rise of anti systemic political parties and movements Sovereignty democracy and political freedom resurface but are then more actively suppressed through the harsher authoritarian liberalism of the Euro crisis phase This leads now to an impasse Anti systemic politics return but remain uneasily within the EU suggesting authoritarian liberalism has reached its limits if just about managing to maintain constitutional order As yet there has been no definitive rupture with the possible exception of Brexit

Relocating Sovereignty Neil Walker, 2018-02-06 This volume brings together a collection of classic and contemporary texts which engage with the core problem of sovereignty from the perspective of various legal and law related sub disciplines legal history and theory constitutional law international law and relations and EU law Many of the highlights from the intense debates about the continuing relevance or otherwise of the internal sovereignty of national legal orders and the external sovereignty of states in a rapidly globalizing world are reproduced here c

Northern Europe and the Future of the EU Helge Hoibraaten, Jochen Hille, 2012-01-01
Hauptbeschreibung The current relationship between the Nordic countries and the European Union appears complex and confusing Although Denmark in 1973 and Sweden and Finland in 1995 joined the European Union the entry of Norway into the Union was rejected in the plebiscites of 1972 and 1994 Furthermore Nordic EU members enjoy permanent exceptions to their integration into the EU Denmark and Sweden like the U K have declined to become part of the monetary union Finland is essentially the only Nordic country that entered the EU without substantial exceptions A membership bid from Iceland was unthinkable after the financial crisis which is not the topic of this book Iceland applied for membership in 2010 and has been in discussions with the European Commission ever since In other words the European Union divides Nordic societies which has resulted in a series of national exceptions to the integration process Taken together these exceptions have created an integration process whose overall geometry is contradictory and paradoxical Considering this melange this book will discuss the actual state of Nordic integration into the EU from many different perspectives and illuminate future developments in the

field of integration Where is the North relative to Europe today How can the geometry of Northern Europe's integration developed over a long time be characterised What are the challenges that threaten further development of Nordic European relationships

Constitutional Imaginaries Jiří Přibáň, 2021-09-30 This book offers a social theoretical analysis of imaginaries as constituent social forces of positive law and politics Constitutional imaginaries invite constitutional and political theorists philosophers and sociologists to rethink the concept of constitution as the normative legal limitation and control of political power They show that political constitutions include societal forces impossible to contain by legal norms and political institutions The constitution of society as one polity defined by the unity of topos ethnos nomos that is the unity of territory people and their laws informed the rise of modern nations and nationalisms as much as constitutional democratic statehood and its liberal and republican regimes However the imaginary of polity as one nation living on a given territory under the constitutional rule of law is challenged by the process of European integration and its imaginaries informed by transnational legal and societal pluralism administrative governance economic performativity and democratically mobilised polity This book discusses the sociology of imagined communities and the philosophy of modern social imaginaries in the context of transnational European constitutionalism and its recent theories most notably the theory of societal constitutions It offers a new approach to the legal constitutions as societal power formations evolving at national European and global levels The book will be of interest to scholars and students interested in constitutional and European law theory and philosophy as much as interdisciplinary and socio legal studies of transnational law and society

Unstable Constitutionalism Mark Tushnet, Madhav Khosla, 2015-09-17 Although the field of constitutional law has become increasingly comparative in recent years its geographic focus has remained limited South Asia despite being the site of the world's largest democracy and a vibrant if turbulent constitutionalism is one of the important neglected regions within the field This book remedies this lack of attention by providing a detailed examination of constitutional law and practice in five South Asian countries India Pakistan Sri Lanka Nepal and Bangladesh Identifying a common theme of volatile change it develops the concept of unstable constitutionalism studying the sources of instability alongside reactions and responses to it By highlighting unique theoretical and practical questions in an underrepresented region *Unstable Constitutionalism* constitutes an important step toward truly global constitutional scholarship

Constitutional Pluralism in the European Union and Beyond Matej Avbelj, Jan Komárek, 2012-02-29 Constitutional pluralism has become immensely popular among scholars who study European integration and issues of global governance Some of them believe that constitutionalism traditionally thought to be bound to a nation state can emerge beyond state borders most importantly in the process of European integration but also beyond that for example in international regulatory regimes such as the WTO or international systems of fundamental rights protection such as the European Convention At the same time the idea of constitutional pluralism has not gone unchallenged Some have questioned its compatibility with the very nature of law and the values which law brings to

constitutionalism The critiques have come from both sides from those who believe in the traditional European constitutionalism based on a hierarchically superior authority of the European Union as well as from scholars focusing on constitutions of particular states The book collects contributions taking opposing perspectives on constitutional pluralism some defending and promoting the concept of constitutional pluralism some criticising and opposing it While some authors can be called the founding fathers of constitutional pluralism others are young academics who have recently entered the field Together they offer fresh perspectives on both theoretical and practical aspects of constitutional pluralism enriching our existing understanding of the concept in current scholarship

The Human Rights Challenge to Immunity in

International Law Selman Özdan, 2022-02-12 This book focuses on the tension between the protection of human rights recognised as *jus cogens* peremptory norms on the one hand and the bestowal of immunity on the state and its representatives on the other to ascertain how these immunities can be eroded if not fully abolished to maintain full protection of *jus cogens* human rights under international law The book argues that immunity should not equate to impunity when violations of *jus cogens* human rights are committed by States Heads of State or diplomatic agents To make the case the organic structures of the concepts of sovereignty and fundamental human rights are examined Then the human rights based challenge to immunity is presented with respect to State Head of State and diplomatic immunity and the transition from a state centric system to a human centric system is explored *Jus cogens* norms are at the centre of the impunity versus immunity debate

Central Bank Independence Jan Kleineman, 2021-10-18 In December 1999 prior to the forming of a Stockholm Centre for Commercial Law an international symposium entitled Central Bank Independence was held at the Department of Law at Stockholm University in co operation with the Swedish Central Bank The Riksbank and Queen Mary and Westfield College London University The participants were principally political economic and legal specialists in the field all with considerable international experience This led to the topic being examined in detail from many different perspectives This publication includes contributions by the participants and contains many important facts for those readers who wish to study and understand the different consequences of the yielding of control over financial policymaking by the traditional political organisations to a body of experts For readers in some countries who realise that the subject will revolutionise traditional Constitutional and Administrative Law the topic and therefore this publication cannot be ignored

The Law & Politics of Brexit: Volume IV Federico Fabbrini, 2022-05-02 This book examines the law and politics of the Protocol on Ireland Northern Ireland attached to the Withdrawal Agreement which regulates the terms of Brexit The Protocol on Ireland Northern Ireland deals with the most complex issue which emerged during the withdrawal negotiations between the United Kingdom UK and the European Union EU namely how to avoid a hard border in the island of Ireland and preserve the peace process started in Northern Ireland with the 1998 Belfast Good Friday Agreement To this end the Protocol which was agreed in its final form in October 2019 establishes a bespoke solution notably by keeping Northern Ireland aligned to EU customs

and internal market rules Nevertheless the operation of the Protocol which has formally entered into force in January 2021 has stirred political controversies in the Unionist community in Northern Ireland and caused diplomatic confrontation between the EU and the UK The purpose of this book is therefore to provide the first interdisciplinary overview of the Protocol shedding light on its context content and challenges This book which brings together contributions by leading legal scholars political scientists sociologists and trade experts from Northern Ireland Ireland Great Britain Europe and the United States provides a comprehensive and contextual assessment of the Protocol It examines its setting including constitutional trends in the UK and Ireland focuses on its substantive clauses dealing with human rights and cross border cooperation as well as on those related to trade and analyses its governance mechanisms including democratic consent and safeguards

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Questioning Sovereignty Law State And Nation In The European Commonwealth Introduction

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