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DEMOCRACY'S GUARDIANS

A History of the German
Federal Constitutional Court 1951-2001

Justin Collings

Democracys Guardians A History Of The German Federal Constitutional Court 1951 2001

**Matthias Jestaedt, Oliver
Lepsius, Christoph Möllers, Christoph
Schönberger**

Democracys Guardians A History Of The German Federal Constitutional Court 1951 2001:

Democracy's Guardians Justin Collings, 2015 In its six decade history the German Federal Constitutional Court has become one of the most powerful and influential constitutional tribunals in the world It has played a central role in the establishment of liberalism democracy and the rule of law in post war West Germany and it has been a model for constitutional tribunals in many other nations The Court stands virtually unchallenged as the most trusted institution of the German state Written as a complete history of the German Federal Constitutional Court from its founding in 1951 up into the twenty first century this book explores how the court became so powerful and why so few can resist its strength Founded in 1951 the Court took root in a pre democratic political culture The Court s earliest contributions were to help establish liberal values and fundamental rights protection in the young Federal Republic The early Court also helped democratize West German politics by reinforcing rights of speech and information affirming the legitimacy of parliamentary opposition and checking executive power In time as democratic values took hold in the country at large the Court s early role in nurturing liberalism and democracy led many West Germans to view the Court not as a constraint on democracy but as a bulwark of democracy s preconditions In later decades the Court played a stabilizing role mediating political conflicts and integrating societal forces Citizens disenchanted with partisan politics looked to the Court as a guardian of enduring values and a source of moral legitimacy Through a comprehensive narrative of the Court s remarkable rise and careful analysis of its periodic crises the work carefully dissects the success of the Court presenting not only a traditional work of legal history but a public history both political and societal as well as a doctrinal and jurisprudential account Structured around the Court s major decisions from 1951 to 2001 the book examines popular and political reactions to those decisions drawing heavily on newspaper accounts of major judgments and material from the archives of individual politicians and judges The result is an impressive case study of the global phenomenon of constitutional justice

The German Federal Constitutional Court Matthias Jestaedt, Oliver Lepsius, Christoph Möllers, Christoph Schönberger, 2020 Offers a potted history of the German Federal Constitutional Court one of the most influential constitutional courts in recent years It examines the development of the court and its interaction with the German basic law its approach to judicial reasoning and its significance for contemporary constitutional theory

Democracy, the Courts, and the Liberal State David Miles, 2020-10-26 Reformulating a problem of both constitutionalism and liberalism discussed in the works of Ernst Wolfgang Bckenf rde Hannah Arendt and Alexis de Tocqueville the book examines one generally overlooked manifestation of constitutionalism the role of the courts in shaping democratic politics and the inter relationship between citizens and state Drawing on constitutional history law and political theory David Miles argues that constitutionalism cannot be seen merely as an institutional mechanism to limit government as it also has a crucial civic dimension upon which the liberal state depends Utilising the works of Bckenf rde Arendt and Tocqueville constitutionalism is conceived in the book as part of a broader

system of communal norms which sustains representative democracy and liberalism Through an analysis of judicial interventions in the electoral processes of the United States and Germany Miles explores the role of civil society actors in transforming constitutionalism through legal challenges to oligarchical or exclusionary practices He assesses how in adjudicating these cases the US Supreme Court and the German Constitutional Court have mediated the tension between threats to stability and the imperative of democratic renewal Democracy the Courts and the Liberal State will be of interest to scholars students and practitioners interested in comparative politics political theory and constitutional law and history

Germany Since 1945 Peter C. Caldwell, Karrin Hanshew, 2024-12-12 This text provides an unparalleled social political and cultural history of Germany from the end of the Second World War to the contemporary moment As well as carefully balancing the histories of East and West Germany Peter C Caldwell and Karrin Hanshew convincingly make the case for analysing the Berlin Republic as a serious and distinct historical period in its own right Offering international context throughout Caldwell and Hanshew navigate students through the catastrophe of war genocide and the country's division to the new challenges facing the reunified Germany in the 21st century There are key primary source excerpts integrated throughout the text as well as 50 images 10 maps several charts and tables and a detailed bibliography to further aid study The book is also supported by an updated online Instructor's Guide which focuses on how to use the book in teaching where to find the best collections of documents and images for teaching and models for the many different kinds of courses that might be taught using the book New content and features for the 2nd edition include A chapter on recent German history and expanded coverage of the post 1990 era Enhanced material on topics including far right sympathies through the decades and West German foreign policy beyond Europe Additional images and maps An updated introduction online Instructor's Guide conclusion and historiographical updates throughout The History and Growth of Judicial Review Steven G.

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Populism on Trial Inigo Bing, 2020-08-27 In a Britain that is becoming increasingly fractious and intolerant the responsibility for upholding the values of broadmindedness pluralism and individual freedom is passing from the politicians to the judges But the bonds of trust that bind people to their institutions are breaking down and the values underpinning

judicial law making are now under threat from a new populism Using vivid examples from the fall out from Brexit the threat to parliamentary democracy the impact of terrorism and austerity and the actions of politicians trying to prevent judicial oversight of ministerial power this book warns that the rule of law is a fragile ingredient of democracy which may too easily become side lined unless it is vigorously upheld Inigo Bing has spent his life in the law first as a barrister and then as a judge and has observed first hand how values once regarded as sacred are now at risk from a new form of anger driven and distrustful politics

Dialogues on Italian Constitutional Justice Vittoria Barsotti, Paolo Carozza, Marta Cartabia, Andrea Simoncini, 2021-04-26 This collection adopts a distinctive method and structure to introduce the work of Italian constitutional law scholars into the Anglophone dialogue while also bringing a number of prominent non Italian constitutional law scholars to study and write about constitutional justice in a global context The work presents six distinct areas of particular interest from a comparative constitutional perspective first the role of legal scholarship in the work of constitutional courts second structures and processes that contribute to more open or closed styles of constitutional adjudication third pros and cons of collegiality in the work of constitutional courts fourth forms of access by individuals to constitutional justice fifth methods of constitutional interpretation and sixth the relationship between national constitutional adjudication and the transnational context In each of these six areas the volume sets up a new and genuine constitutional dialogue between an Italian scholar presenting a discussion and critical assessment of the specific topic and a non Italian scholar who responds elaborating the issue as seen from constitutional law beyond the Italian system The resulting six such dialogues thus provide a dynamic in depth multidimensional national and transnational comparative examination of these areas in which the Italian style of constitutional adjudication has a distinctive contribution to make to comparative constitutional law in general Fostering a deeper knowledge of the Italian Constitutional Court within the comparative global space and advancing a creative and fruitful methodological approach the book will be fascinating reading for academics and researchers in comparative constitutional law

Traditions and Transformations Michaela Hailbronner, 2015-10-29 German constitutionalism has gained a central place in the global comparative debate but what underpins it remains imperfectly understood Its distinctive conception of the rule of law and the widespread support for its powerful Constitutional Court are typically explained in one of two ways as a story of change in reaction to National Socialism or as the continuation of an older nineteenth century line of constitutional thought that emphasizes the function of constitutional law as a constraint on state power But while both narratives account for some important features their explanatory value is ultimately overrated This book adopts a broader comparative perspective to understand the rise of the German Constitutional Court It interprets the particular features of German constitutional jurisprudence and the Court's strength as a reconciliation of two different legal paradigms first a hierarchical legal culture as described by Mirjan Damaska building on Max Weber as opposed to a more coordinate understanding of legal authority such as prevails in the United States and secondly the turn towards a transformative

understanding of constitutionalism as it is today most often associated with countries such as South Africa and India Using post war legal history and sociological and empirical research in addition to case law this book demonstrates how German constitutionalism has harmonized the frequently conflicting demands of these two legal paradigms resulting in a distinctive type of constitutional reasoning at once open pragmatic formalist and technical which this book labels Value Formalism Value Formalism however also comes with serious drawbacks such as a lack of institutional self reflection in the Court s jurisprudence and a closure of constitutional discourse to laymen whom it excludes from the realm of legitimate interpreters

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