
NEW CONSTITUTIONALISM
IN LATIN AMERICA
PROMISES AND PRACTICES

EDITED BY DETLEF NOLTE AND
ALMUT SCHILLING-VACAPLOH



New Constitutionalism In Latin America Promises And Practices

Tom Gerald Daly



New Constitutionalism In Latin America Promises And Practices:

New Constitutionalism in Latin America Almut Schilling-Vacaflor, 2016-04-29 Latin America has a long tradition of constitutional reform. Since the democratic transitions of the 1980s, most countries have amended their constitutions at least once, and some have even undergone constitutional reform several times. The global phenomenon of a new constitutionalism with enhanced rights provisions finds expression in the region, but the new constitutions, such as those of Bolivia, Colombia, Ecuador, and Venezuela, also have some peculiar characteristics which are discussed in this important book. Authors from a number of different disciplines offer a general overview of constitutional reforms in Latin America since 1990. They explore the historical, philosophical, and doctrinal differences between traditional and new constitutionalism in Latin America and examine sources of inspiration. The book also covers sociopolitical settings, which factors and actors are relevant for the reform process, and analyzes the constitutional practices after reform, including the question of whether the recent constitutional reforms created new post-liberal democracies with an enhanced human and social rights record, or whether they primarily serve the ambitions of new political leaders.

New Constitutionalism in Latin America Detlef Nolte, Almut Schilling-Vacaflor, 2012

Re-Imagining Community and Civil Society in Latin America and the Caribbean Roberta Rice, Gordana Yovanovitch, 2016-07-15 Latin American and Caribbean communities and civil societies are undergoing a rapid process of transformation. Instead of pervasive social atomization, political apathy, and hollowed-out democracies, which have become the norm in some parts of the world, this region is witnessing an emerging collaboration between community, civil society, and government that is revitalizing democracy. This book argues that a key explanation lies in the powerful and positive relationship between community and civil society that exists in the region. The ideas of community and civil society tend to be studied separately as analytically distinct concepts; however, this volume seeks to explore their potential to work together. A unique contribution of the work is the space for dialogue it creates between the social sciences and the humanities. Many of the studies included in the volume are based on primary fieldwork and place-based case studies. Others relate literature, music, and film to important theoretical works, providing a new direction in interdisciplinary studies and highlighting the role that the arts play in community revival and broader processes of social change. A truly multi-disciplinary book bridging established notions of civil society and community through an authentically interdisciplinary approach to the topic.

Constitutional Reasoning in Latin America and the Caribbean Johanna Fröhlich, 2024-09-05 This book examines the reasoning practice of 15 constitutional courts and supreme courts, including the Caribbean Commonwealth and the Inter-American Court of Human Rights. Enriched by empirical data, with which it strives to contribute to a constructive and well-informed debate, the volume analyses how Latin American courts justify their decisions. Based on original data and a region-specific methodology, the book provides a systematic analysis utilising more than 600 leading cases. It shows which interpretive methods and concepts are most favoured by Latin American courts and which

courts were the most prolific in their reasoning activities The volume traces the features of judicial dialogue on a regional and sub regional level and enables the evaluation and comparison of each country s reasoning culture in different epochs The collection includes several graphs to visualise the changes and tendencies of the reasoning practices throughout time in the region based on information gathered from the dataset To better understand the current functioning and the future tendencies of courts in Latin America and the Caribbean the volume illuminates how constitutional and supreme courts have actually been making their decisions in the selected landmark cases which could also contribute to future successful litigation strategies for both national constitutional courts and the Inter American Court for Human Rights This project was made possible due to the collaboration and funding provided by the Rule of Law Programme for Latin America of the Konrad Adenauer Foundation and the Law School of the University of San Francisco de Quito

Constitutional Change and Transformation in Latin America Richard Albert, Carlos Bernal, Juliano Zaiden Benvindo, 2019-07-25 Over the past 30 years Latin America has lived through an intense period of constitutional change Some reforms have been limited in their design and impact while others have been far reaching transformations to basic structural features and fundamental rights Scholars interested in the law and politics of constitutional change in Latin America are turning increasingly to comparative methodologies to expose the nature and scope of these changes to uncover the motivations of political actors to theorise how better to execute the procedures of constitutional reform and to assess whether there should be any limitations on the power of constitutional amendment In this collection leading and emerging voices in Latin American constitutionalism explore the complexity of the vast topography of constitutional developments experiments and perspectives in the region This volume offers a deep understanding of modern constitutional change in Latin America and evaluates its implications for constitutionalism democracy human rights and the rule of law

Handbook of South American Governance Pia Riggirozzi, Christopher Wylde, 2017-12-14 Governance in South America is signified by strategies pursued by state and non state actors directed to enhancing some aspect of their capabilities and powers of agency It is about the spaces and the practices available demanded or created to make politics happen This framework lends explanatory power to understand how governance has been defined and practiced in South America P a Riggirozzi and Christopher Wylde bring together leading experts to explore what demands and dilemmas have shaped understanding and practice of governance in South America in and across the region The Handbook suggests that governance dilemmas of inequitable and unfulfilled political economic governance in South America have been constant historical features yet addressed and negotiated in different ways Building from an introduction to key issues defining governance in South America this Handbook proceeds to examine institutions actors and practices in governance focusing on three core processes evolution of socio economic and political justice claims as central to the demands of governance governance frameworks foregrounding particular issues and often privileging particular forms of political practice and iterative and cumulative processes leading to new demands of governance

addressing recognition and identity politics This Handbook will be a key reference for those concerned with the study of South America South American political economy regional governance and the politics of development

Indigenous Collective Rights in Latin America Katherine Becerra Valdivia, 2022-09-23 Latin America is a region with high levels of recognition for Indigenous collective rights Still legal protections differ considerably among countries Why do some countries in Latin America have a strong recognition of collective rights for Indigenous people while others do not What are the factors that help enhance the presence of collective rights The author argues that while Indigenous social movements are crucial to the protection of Indigenous rights they are not enough The recognition of these rights is influenced by organizational factors such as coalitions between Indigenous peoples and non Indigenous allies as well as institutional conditions including constitutional replacement and party systems By employing qualitative comparative analysis QCA and case studies from Bolivia Chile Colombia Ecuador Guatemala Mexico and Peru this book explores the ways various elements combine to create conditions for a variety of collective rights

Legacies of the Left Turn in Latin America Manuel Balán, Françoise Montambeault, 2020-01-31 Legacies of the Left Turn in Latin America The Promise of Inclusive Citizenship contains original essays by a diverse group of leading and emerging scholars from North America Europe and Latin America The book speaks to wide ranging debates on democracy the left and citizenship in Latin America What were the effects of a decade and a half of left and center left governments The central purpose of this book is to evaluate both the positive and negative effects of the Left turn on state society relations and inclusion Promises of social inclusion and the expansion of citizenship rights were paramount to the center left discourses upon the factions arrival to power in the late 1990s and early 2000s This book is a first step in understanding to what extent these initial promises were or were not fulfilled and why In analyzing these issues the authors demonstrate that these years yield both signs of progress in some areas and the deepening of historical problems in others The contributors to this book reveal variation among and within countries and across policy and issue areas such as democratic institution reforms human rights minorities rights environmental questions and violence This focus on issues rather than countries distinguishes the book from other recent volumes on the left in Latin America and the book will speak to a broad and multi dimensional audience both inside and outside the academic world Contributors Manuel Bal n Fran oise Montambeault Philip Oxhorn Maxwell A Cameron Kenneth M Roberts Nathalia Sandoval Rojas Daniel M Brinks Benjamin Goldfrank Roberta Rice Elizabeth Jelin Celina Van Dembroucke Nora Nagels Merike Blofield Jordi D ez Eve Bratman Gabriel Kessler Olivier Dab ne Jared Abbott Steve Levitsky

Gender Parity and Multicultural Feminism Ruth Rubio-Marín, Will Kymlicka, 2018 This volume explores the connection between gender parity and multicultural feminism both at the level of theory and in practice

Reconciling Indigenous Peoples' Individual and Collective Rights Jessika Eichler, 2019-05-09 This book critically assesses categorical divisions between indigenous individual and collective rights regimes embedded in the foundations of international human rights law Both conceptual ambiguities and practice related difficulties arising in

vernacularisation processes point to the need of deeper reflection Internal power struggles vulnerabilities and intra group inequalities go unnoticed in that context leaving persisting forms of neo colonialism neo liberalism and patriarchalism largely untouched This is to the detriment of groups within indigenous communities such as women the elderly or young people alongside intergenerational rights representing considerable intersectional claims and agendas Integrating legal theoretical political socio legal and anthropological perspectives this book disentangles indigenous rights frameworks in the particular case of peremptory norms whenever these reflect both individual and collective rights dimensions Further reaching conclusions are drawn for groups in between different formations of minority groups demanding rights on their own terms Particular absolute norms provide insights into such interplay transcending individual and collective frameworks As one of the founding constitutive elements of indigenous collective frameworks indigenous peoples right to prior consultation exemplifies what we could describe as exerting a cumulative spill over and transcending effect Related debates concerning participation and self determination thereby gain salience in a complex web of players and interests at stake Self determination thereby assumes yet another dimension namely as an umbrella tool of resistance enabling indigenous cosmovisions to materialise in the light of persisting patterns of epistemological oppression Using a theoretical approach to close the supposed gap between indigenous rights frameworks informed by empirical insights from Bolivia the Andes and Latin America the book sheds light on developments in the African and European human rights systems

Redrafting Constitutions in Democratic Regimes Gabriel L. Negretto, 2020-09-17 Growing public discontent with the performance and quality of many contemporary democracies makes them vulnerable to popular pressures to profoundly transform or replace their constitutions However there is little systematic academic discussion on the legal and political challenges that these events pose to democratic principles and practices This book a collaborative effort by legal scholars and political scientists analyzes these challenges from an interdisciplinary and comparative perspective It fills a theoretical vacuum by examining the possibility that constitutions might be replaced within a democratic regime while exploring the conditions under which these processes are more compatible or less compatible with democratic principles It also calls attention to the real world political importance of the phenomenon because recent episodes of constitutional redrafting in countries including Kenya Poland Venezuela and Hungary suggest that some aspects of these processes may be associated with either the improvement or the gradual erosion of democracy

Comparative Human Rights Diplomacy István Lakatos, 2022-04-11 This book provides a comprehensive picture of the human rights diplomacy of the sub Saharan African states Asian states Muslim states the European Union and the Latin American and Caribbean states The book is based on the assumption that the religious and cultural norms of all important civilizations cultures religions can be reconciled within certain limits with the international human rights standards The book explodes the myth that the UN Human Rights Council has become a platform for a clash of civilizations

Social and Economic Rights in Theory and Practice Helena Alviar García, Karl

Klare, Lucy A. Williams, 2014-09-19 Since World War II a growing number of jurisdictions in both the developing and industrialized worlds have adopted progressive constitutions that guarantee social and economic rights SER in addition to political and civil rights Parallel developments have occurred at transnational level with the adoption of treaties that commit signatory states to respect and fulfil SER for their peoples This book is a product of the International Social and Economic Rights Project iSERP a global consortium of judges lawyers human rights advocates and legal academics who critically examine the effectiveness of SER law in promoting real change in people s lives The book addresses a range of practical political and legal questions under these headings with acute sensitivity to the racial cultural and gender implications of SER and the path breaking SER jurisprudence now emerging in the Global South The book brings together internationally renowned experts in the field of social and economic rights to discuss a range of rights controversies from both theoretical and practical perspectives Contributors of the book consider specific issues in the litigation and adjudication of SER cases from the differing standpoints of activists lawyers and adjudicators in order to identify and address the specific challenges facing the SER community This book will be of great use and interest to students and scholars of comparative constitutional law human rights public international law development studies and democratic political theory The Cambridge Handbook of Comparative Law Mathias Siems, Po Jen Yap, 2024-02-01 Comparative law is a common subject matter of research and teaching in many universities around the world and the twenty first century has aptly been termed the era of comparative law This Cambridge Handbook of Comparative Law presents a truly global perspective of comparative law today The contributors are drawn from all parts of the world to provide different perspectives on how we understand the law and how it operates in practice In substance the Handbook contains 36 chapters covering a broad range of topics divided under the following headings Methods of Comparative Law Part I Legal Families and Geographical Comparisons Part II Central Themes in Comparative Law Part III and Comparative Law beyond the State Part IV Constitutional Democracy in Crisis? Mark A. Graber, Sanford Levinson, Mark Tushnet, 2018-08-23 To what extent is the world including the United States facing a serious threat to the protection of constitutional democracies This collection brings together leading scholars to engage critically with the crises facing constitutional democracies today The book is organized in four parts background and how the present situation arose a selection of specific country studies global themes and worldwide forces and conclusions from the above and hypotheses about the future *Handbook of Central American Governance* Diego Sanchez-Ancochea, Salvador Martí i Puig, 2013-12-17 Central America constitutes a fascinating case study of the challenges opportunities and characteristics of the process of transformation in today s global economy Comprised of a politically diverse range of societies this region has long been of interest to students of economic development and political change The Handbook of Central American Governance aims to describe and explain the manifold processes that are taking place in Central America that are altering patterns of social political and economic governance with particular focus on the impact of globalization and democratization

Containing sections on topics such as state and democracy key political and social actors inequality and social policy and international relations in addition to in depth studies on five key countries Costa Rica Nicaragua El Salvador Honduras and Guatemala this text is composed of contributions from some of the leading scholars in the field No other single volume studies the current characteristics of the region from a political economic and social perspective or reviews recent research in such detail As such this handbook is of value to academics students and researchers as well as to policy makers and those with an interest in governance and political processes

National Identity and Social Cohesion Nils Holtug, Eric M Uslaner, 2021-03-24 National identity plays an increasingly important role in Western liberal democracies Thus immigration and diversity are often considered a threat to national identities and restrictions on immigration and nation building policies are being implemented in response Specifically it has been suggested that diversity drives down social cohesion and thus the ties that bind people together in stable democratic welfare states National Identity and Social Cohesion considers the role of national identity in contemporary societies and in particular its significance for social cohesion National identity impacts perceptions of belongingness which again impact considerations of deservingness Perceptions of deservingness in turn play an important role for solidarity within the framework of a welfare state Furthermore immigration and the associated questions of belongingness have been a driver in processes of political polarization In some cases political leaders frame minorities as a threat to the nation state warranting a departure from liberal democratic institutions This book considers questions such as What role does national identity more precisely play for political polarization Do national identities mediate moderate the impact of diversity on social cohesion including trust and solidarity Has identity politics contributed to a politics of resentment and can more inclusive national identities serve to diminish polarization In the book these and other questions about the relation between national identity belonging and social cohesion are considered by a number of prominent scholars in the field

A Companion to Latin American Legal History, 2023-12-04 This comprehensive volume offers fresh insights on Latin American and Caribbean law before European contact during the colonial and early republican eras and up to the present It considers the history of legal education the legal profession Indigenous legal history and the legal history concerning Africans and African Americans other enslaved peoples women immigrants peasants and workers This book also examines the various legal frameworks concerning land and other property commerce and business labor crime marriage family and domestic conflicts the church the welfare state constitutional law and rights and legal pluralism It serves as a current introduction for those new to the field and provides in depth interpretations discussions and bibliographies for those already familiar with the region s legal history Contributors are Diego Acosta Alejandro Ag ero Sarah C Chambers Robert J Cottrol Oscar Cruz Barney Mariana Dias Paes Tamar Herzog Marta Lorente Sari ena M C Mirow Jerome G Offner Brian Owensby Juan Manuel Palacio Agust n Parise Rogelio P rez Perdomo Heikki Pihlajam ki Susan Elizabeth Ram rez Timo H Schaefer William Su rez Potts Victor M Uribe Uran Cristi n Villalonga Alex Wisnoski and Eduardo

Zimmermann *The Alchemists* Tom Gerald Daly, 2017-11-02 Can courts really build democracy in a state emerging from authoritarian rule This book presents a searching critique of the contemporary global model of democracy building for post authoritarian states arguing that it places excessive reliance on courts Since 1945 both constitutional courts and international human rights courts have been increasingly perceived as alchemists capable of transmuting the base materials of a nascent democracy into the gold of a functioning democratic system By charting the development of this model and critically analysing the evidence and claims for courts as democracy builders this book argues that the decades long trend toward ever greater reliance on courts is based as much on faith as fact and can often be counter productive Offering a sustained corrective to unrealistic perceptions of courts as democracy builders the book points the way toward a much needed rethinking of democracy building models and a re evaluation of how we employ courts in this role *The Liberal Script at the Beginning of the 21st Century* Tanja A. Börzel, Johannes Gerschewski, Michael Zürn, 2024-10-10 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 at Oxford Academic and offered as a free PDF download from OUP and selected open access locations 21st century liberalism is being contested on multiple fronts and by a wide range of actors To understand these challengers it is important to have a better grasp of their common target This book introduces the liberal script as an analytical concept that allows us to analyze and problematize liberal thinking as well as its different components and linkages and the tensions that they produce What happens when the pursuit of market efficiency is incompatible with social justice It is these tensions between the different components of the liberal script that are at the heart of the challenges against it Different societies have resolved these tensions in different ways leading to a variety of liberal subscripts and their contestations The volume integrates theoretical and methodological perspectives from different disciplines including political science sociology law history philosophy post colonial studies and educational science In demonstrating the theoretical and empirical added value of using the concept of liberal script the volume presents a multifaceted and nuanced picture of what is at stake in the challenges to liberalism in the early 21st century This volume has emerged from research carried out as part of the Cluster of Excellence Contestations of the Liberal Script SCRIPTS which analyzes the contemporary controversies about liberal ideas institutions and practices on the national and international level from a historical global and comparative perspective It connects academic expertise in the social sciences and area studies and collaborates with research institutions in all world regions Operating since 2019 and funded by the German Research Foundation DFG SCRIPTS unites eight major Berlin based research institutions Freie Universität Berlin the Humboldt Universität zu Berlin the Berlin Social Science Center WZB the Hertie School the German Institute for Economic Research DIW the Berlin branch of the German Institute of Global and Area Studies GIGA the Centre for East European and International Studies ZOiS and the Leibniz Zentrum Moderner Orient ZMO

This book delves into New Constitutionalism In Latin America Promises And Practices. New Constitutionalism In Latin America Promises And Practices is a crucial topic that needs to be grasped by everyone, ranging from students and scholars to the general public. This book will furnish comprehensive and in-depth insights into New Constitutionalism In Latin America Promises And Practices, encompassing both the fundamentals and more intricate discussions.

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 6. In chapter 5, this book will draw a conclusion about New Constitutionalism In Latin America Promises And Practices. The final chapter will summarize the key points that have been discussed throughout the book.
- This book is crafted in an easy-to-understand language and is complemented by engaging illustrations. This book is highly recommended for anyone seeking to gain a comprehensive understanding of New Constitutionalism In Latin America Promises And Practices.

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