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Stephen Tierney

Documents Council of Europe: Parliamentary Assembly,2003-07-28

Beyond Constitutionalism Nico Krisch,2012-09-06 Under pressure from globalisation, the classical distinction between domestic and international law has become increasingly blurred, spurring demand for new paradigms to construe the emerging postnational legal order. The typical response of constitutional and international lawyers as well as political theorists has been to extend domestic concepts - especially constitutionalism - beyond the state. Yet as this book argues, proposals for postnational constitutionalism not only fail to provide a plausible account of the changing shape of postnational law but also fall short as a normative vision. They either dilute constitutionalism's origins and appeal to 'fit' the postnational space; or they create tensions with the radical diversity of postnational society. This book explores an alternative, pluralist vision of postnational law. Pluralism does not rely on an overarching legal framework but is characterised by the heterarchical interaction of various suborders of different levels - an interaction that is governed by a multiplicity of conflict rules whose mutual relationship remains legally open. A pluralist model can account for the fragmented structure of the European and global legal orders and it reflects the competing (and often equally legitimate) claims for control of postnational politics. However, it typically provokes concerns about stability, power and the rule of law. This book analyses the promise and problems of pluralism through a theoretical enquiry and empirical research on major global governance regimes, including the European human rights regime, the contestation around UN sanctions and human rights, and the structure of global risk regulation. The empirical research reveals how prevalent pluralist structures are in postnational law and what advantages they possess over constitutionalist models. Despite the problems it also reveals, the analysis suggests cautious optimism about the possibility of stable and fair cooperation in pluralist settings.

Constitutional Referendums Stephen Tierney,2012-04-05 The constitutional referendum has become a vital feature of modern constitution-making and reform. This book provides the first full-length analysis of the theoretical foundations of constitutional referendums, assessing their democratic credentials and the design decisions that affect the value and legitimacy of the referendum process.

Minorities, Minority Rights and Internal Self-Determination Ulrike Barten,2014-09-23 The book questions the classic idea of self-determination - the right to self-determination is a right of peoples, not of minorities - by examining the content of the

right to self-determination and the content of minority rights. Self-determination has four dimensions: the political, the economic, the social and the cultural dimensions. Minorities have minority rights that touch on most aspects of life as a member of a minority. If there is an overlap between minority rights and the different dimensions of self-determination, the concept that the right to self-determination is only applicable to peoples loses credibility. No global and general conclusion is envisaged; there are restrictions in place. The work is limited to the European framework and is further restricted to classic minorities. The argument is based on a legitimacy and justice approach. The analysis in this book shows that some minority rights overlap with the different dimensions of internal self-determination. In short, classic minorities in Europe have a right to internal self-determination.

Documents, Working Papers - Council of Europe, Parliamentary Assembly Council of Europe. Parliamentary Assembly, 2002-06-24

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Table of Contents DOCcdl Test Study Guide

-
- | | | |
|--|---|---|
| <p>1. Understanding the eBook DOCcdl Test Study Guide</p> <ul style="list-style-type: none"> ◦ The Rise of Digital Reading DOCcdl Test Study Guide ◦ Advantages of eBooks Over Traditional Books <p>2. Identifying DOCcdl Test Study Guide</p> <ul style="list-style-type: none"> ◦ Exploring Different Genres ◦ Considering Fiction vs. Non-Fiction ◦ Determining Your Reading Goals <p>3. Choosing the Right eBook Platform</p> <ul style="list-style-type: none"> ◦ Popular eBook Platforms ◦ Features to Look for in an DOCcdl Test Study Guide ◦ User-Friendly Interface <p>4. Exploring eBook Recommendations from DOCcdl Test Study Guide</p> <ul style="list-style-type: none"> ◦ Personalized Recommendations ◦ DOCcdl Test Study Guide User Reviews and Ratings ◦ DOCcdl Test Study Guide | <p>and Bestseller Lists</p> <p>5. Accessing DOCcdl Test Study Guide Free and Paid eBooks</p> <ul style="list-style-type: none"> ◦ DOCcdl Test Study Guide Public Domain eBooks ◦ DOCcdl Test Study Guide eBook Subscription Services ◦ DOCcdl Test Study Guide Budget-Friendly Options <p>6. Navigating DOCcdl Test Study Guide eBook Formats</p> <ul style="list-style-type: none"> ◦ ePub, PDF, MOBI, and More ◦ DOCcdl Test Study Guide Compatibility with Devices ◦ DOCcdl Test Study Guide Enhanced eBook Features <p>7. Enhancing Your Reading Experience</p> <ul style="list-style-type: none"> ◦ Adjustable Fonts and Text Sizes of DOCcdl Test Study Guide ◦ Highlighting and Note-Taking DOCcdl Test Study Guide ◦ Interactive Elements DOCcdl Test Study Guide <p>8. Staying Engaged with DOCcdl Test Study Guide</p> | <ul style="list-style-type: none"> ◦ Joining Online Reading Communities ◦ Participating in Virtual Book Clubs ◦ Following Authors and Publishers DOCcdl Test Study Guide <p>9. Balancing eBooks and Physical Books DOCcdl Test Study Guide</p> <ul style="list-style-type: none"> ◦ Benefits of a Digital Library ◦ Creating a Diverse Reading Collection DOCcdl Test Study Guide <p>10. Overcoming Reading Challenges</p> <ul style="list-style-type: none"> ◦ Dealing with Digital Eye Strain ◦ Minimizing Distractions ◦ Managing Screen Time <p>11. Cultivating a Reading Routine DOCcdl Test Study Guide</p> <ul style="list-style-type: none"> ◦ Setting Reading Goals DOCcdl Test Study Guide ◦ Carving Out Dedicated Reading Time <p>12. Sourcing Reliable Information of DOCcdl Test Study Guide</p> <ul style="list-style-type: none"> ◦ Fact-Checking eBook Content of DOCcdl Test Study Guide ◦ Distinguishing Credible |
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