

# CONSTITUTING DEMOCRACY

Law, Globalism and South Africa's  
Political Reconstruction



Heinz Klug

# Constituting Democracy Law Globalism And South Africas Political Reconstruction

**Olaf Zenker,Cherryl Walker,Zsa-Zsa  
Boggenpoel**



## **Constituting Democracy Law Globalism And South Africa's Political Reconstruction:**

**Constituting Democracy** Heinz Klug, 2000 This book explores the role of constitutionalism in facilitating political change in South Africa

Conflictual Democracy and the South African Constitution Henk Botha, 2025-04-02 Human dignity equality and freedom are central to the South African Constitution This book examines these values through a conflictual democratic lens which views conflict power and disagreement as constitutive of democracy The book explores the capacity of value based constitutional interpretation to create openings for democratic dialogue and emancipatory social struggles Conversely it also assesses the ability of constitutional interpretation to normalise and depoliticise domination inequality and exclusion The book uses a conflictual frame to shed light on the interplay between the universality of dignity equality and freedom and the particularity of the discourses and conventions that mediate their interpretation and enforcement It argues that such a frame could enable realistic assessments of the ability of the constitutional order to safeguard spaces for emancipatory struggles and respond to radical demands for the reconstitution of society Drawing on the text of the Constitution case law academic commentary and constitutional political and critical legal theory this book will be an important read for researchers of constitutional law and critical legal theory both within South Africa and beyond Henk Botha is a Professor in the Faculty of Law Stellenbosch University South Africa

**Research Handbook on Modern Legal Realism** Shauhin Tatesh, Elizabeth Mertz, Heinz Klug, 2021-03-26 This insightful Research Handbook provides a definitive overview of the New Legal Realism NLR movement reaching beyond historical and national boundaries to form new conversations Drawing on deep roots within the law and society tradition it demonstrates the powerful virtues of new legal realist research and its attention to the challenges of translation between social science and law It explores an impressive range of contemporary issues including immigration policing globalization legal education and access to justice concluding with an examination of how different social science disciplines intersect with NLR

Prophecy and Politics in South African Pentecostalism Mookgo Solomon Kgatle, 2023-12-28 This book is an interdisciplinary study of the relationship between prophecy and politics in South African Pentecostalism The role and the power of prophecy in enhancing the presence of politicians in the church square are unpacked through historical examples as well as case studies of contemporary prophets Solomon Kgatle argues that the influence of prophecy in politics has the potential to weaken the prophetic voice of the church in general and the Pentecostal movement in particular He proposes a Pentecostal political theology of prophecy This theology is developed by taking into cognizance the theoretical and theological frameworks of prophetic imagination and pneumatological imagination In addition this theology seeks a balance between prophecy and power and prophecy and sovereignty

*Reconciliation in Divided Societies* Erin Daly, Jeremy Sarkin, 2007 As nations struggling to heal wounds of civil war and atrocity turn toward the model of reconciliation *Reconciliation in Divided Societies* takes a systematic look at the political dimensions of this international phenomenon The book shows us how this

transformation happens so that we can all gain a better understanding of how and why reconciliation really works It is an almost indispensable tool for those who want to engage in reconciliation from the foreword by Archbishop Emeritus Desmond Tutu As societies emerge from oppression war or genocide their most important task is to create a civil society strong and stable enough to support democratic governance More and more conflict torn countries throughout the world are promoting reconciliation as central to their new social order as they move toward peace and stability Scores of truth and reconciliation commissions are helping bring people together and heal the wounds of deeply divided societies Since the South African transition countries as diverse as Timor Leste Sierra Leone Fiji Morocco and Peru have placed reconciliation at the center of their reconstruction and development programs Other efforts to promote reconciliation including trials and governmental programs are also becoming more prominent in transitional times But until now there has been no real effort to understand exactly what reconciliation could mean in these different situations What does true reconciliation entail How can it be achieved How can its achievement be assessed This book digs beneath the surface to answer these questions and explain what the concepts of truth justice forgiveness and reconciliation really involve in societies that are recovering from internecine strife Looking to the future as much as to the past Erin Daly and Jeremy Sarkin maintain that reconciliation requires fundamental political and economic reform along with personal healing if it is to be effective in establishing lasting peace and stability Reconciliation they argue is best thought of as a means for transformation It is the engine that enables victims to become survivors and divided societies to transform themselves into communities where people work together to raise children and live productive hopeful lives Reconciliation in Divided Societies shows us how this transformation happens so that we can all gain a better understanding of how and why reconciliation is actually accomplished     Constitutional Revolution Gary Jeffrey Jacobsohn,Yaniv Roznai,2020-05-19 Few terms in political theory are as overused and yet as under theorized as constitutional revolution In this book Gary Jacobsohn and Yaniv Roznai argue that the most widely accepted accounts of constitutional transformation such as those found in the work of Hans Kelsen Hannah Arendt and Bruce Ackerman fail adequately to explain radical change For example a constitutional moment may or may not accompany the onset of a constitutional revolution The consolidation of revolutionary aspirations may take place over an extended period The moment may have been under way for decades or there may be no such moment at all On the other hand seemingly radical breaks in a constitutional regime actually may bring very little change in constitutional practice and identity Constructing a clarifying lens for comprehending the many ways in which constitutional revolutions occur the authors seek to capture the essence of what happens when constitutional paradigms change     *Introduction to the Law of South Africa* C. G. Van der Merwe,J. E. Du Plessis,2004-01-01 This title is part of an established Series which introduces various legal systems of the world It provides an authoritative and accessible overview of the main branches of South African public private and commercial law Offering insight into the rich system of South African law this title will be of particular interest to the

international legal community The South African legal system has not only developed fascinating mixtures of civil law and common law rules over more than a century but has also experienced a post apartheid South Africa Of particular interest is the way in which so many branches of law have been infused by basic constitutional values Many of the contributors have published work in their own fields and have considerable experience of presenting their subject matter in a broader comparative perspective The succinct and balanced nature of the contributions makes this title attractive to a wide audience of academics students and practitioners with an interest in this remarkable legal system      Constitutional Populism Martin Krygier,Adam Czarnota,Wojciech Sadurski,2022-03-31 Explores a range of anti constitutionalist populist regimes identifying and analysing their causes characteristics and consequences      *Invitation to Law and Society* Kitty Calavita,2010-05-15 Law and Society is a rapidly growing interdisciplinary field that turns on its head the conventional idealized view of the Law as a magisterial abstraction Kitty Calavita s *Invitation to Law and Society* brilliantly brings to life the ways in which law shapes and manifests itself in the institutions and interactions of human society while inviting the reader into conversations that introduce the field s dominant themes and most lively disagreements Deftly interweaving scholarship with familiar personal examples Calavita shows how scholars in the discipline are collectively engaged in a subversive expos of law s public mythology While surveying prominent issues and distinctive approaches to the use of the law in everyday life as well as its potential as a tool for social change this volume provides a view of law that is more real but just as compelling as its mythic counterpart In a field of inquiry that has long lacked a sophisticated yet accessible introduction to its ways of thinking *Invitation to Law and Society* will serve as an engaging and indispensable guide      **Beyond Expropriation Without Compensation** Olaf Zenker,Cherryl Walker,Zsa-Zsa Boggendoel,2024-04-04 Experts on property law land reform and social justice debate constitutional change and future of redistributive justice in South Africa      Researching Public Law in Common Law Systems Paul Daly,Joe Tomlinson,2023-09-06 This original book fills a significant gap in legal literature by providing an exploration of research methodologies in public law a field of research in which research methods are becoming increasingly prominent and sophisticated Featuring thoughtful chapters written by leading scholars in the field this book provides a thorough explanation of the key features characteristics and challenges of distinct methodological approaches to public law research      Privacy Revisited Ronald J. Krotoszynski,2016 *Privacy Revisited* articulates the legal meanings of privacy and dignity through the lens of comparative law and argues that the concept of privacy requires a more systematic approach if it is to be useful in framing and protecting certain fundamental autonomy interests      Landmarked Cherryl Walker,2008      **Domains of Freedom** Thembele Kepe,Melissa Levin,Bettina von Lieres,2016-09-12 After more than 20 years of freedom in South Africa we have to ask ourselves difficult questions are we willing to perpetuate a lie search for facts or think wishfully Freedom has been enabled by apartheid s end but at the same time some of apartheid s key institutions and social relations are reproduced under the guise of democracy This collection of essays acknowledges the

enormous expectations placed on the shoulders of the South African revolution to produce an alternative political regime in response to apartheid and global neo liberalism It does not lament the inability of South Africa s democracy to provide deeper freedoms or suggest that since it hasn t this is some form of betrayal Freedom is made possible and or limited by local political choices contemporary global conditions and the complexities of social change This book explores the multiplicity of spaces within which the dynamics of social change unfold and the complex ways in which power is produced and reproduced In this way it seeks to understand the often non linear practices through which alternative possibilities emerge the lengthy and often indirect ways in which new communities are imagined and new solidarities are built In this sense this book is not a collection of hope or despair Nor is it a book that seeks to situate itself between these two poles Instead it aims to read the present historically critically and politically and to offer insights into the ongoing iterative and often messy struggles for freedom

Interpreting Constitutions Jeffrey Goldsworthy, 2006-02-09 This book describes the constitutions of six major federations and how they have been interpreted by their highest courts compares the interpretive methods and underlying principles that have guided the courts and explores the reasons for major differences between these methods and principles Among the interpretive methods discussed are textualism purposivism structuralism and originalism Each of the six federations is the subject of a separate chapter written by a leading authority in the field Jeffrey Goldsworthy Australia Peter Hogg Canada Donald Kommers Germany S P Sathe India Heinz Klug South Africa and Mark Tushnet United States Each chapter describes not only the interpretive methodology currently used by the courts but the evolution of that methodology since the constitution was first enacted The book also includes a concluding chapter which compares these methodologies and attempts to explain variations by reference to different social historical institutional and political circumstances

*Constitutional Adjudication in Africa* Charles Manga Fombad, 2017 Providing the first comparative analysis of African attempts to promote respect for rule of law and constitutional justice this book examines the diverse and distinctive approaches to constitutional adjudication taken It captures positive and negative developments and future prospects for the different models of constitutional review

*The Critical Analysis of Religious Diversity* Lene Kühle, Jørn Borup, William Hoverd, 2018-06-19 Drawing on international and thematic case studies The Critical Analysis of Religious Diversity asks its readers to pay attention to the assumptions and processes by which scholars religious practitioners and states construct religious diversity The study has three foci theoretical and methodological issues religious diversity in non Western contexts and religious diversity in social contexts Together these trans contextual studies are utilised to develop a critical analysis exploring how agency power and language construct understandings of religious diversity As a result the book argues that reflexive scholarship needs to consider that the dynamics of diversification and homogenisation are fundamental to understanding social and religious life that religious diversity is a Western concept and that definitions of religious diversity are often entangled by and within dynamic empirical realities Contributors are Martin Baumann Peter Beyer Jørn Borup Paul

Bramadat Marian Burchardt Henrik Reintoft Christensen Andrew Dawson Mar Grier Anna Halafoff William Hoverd Lene K hle Mar Marcos Stefania Travagnin and Andreas Tunger Zanetti      **The Government of Disasters** Lydie

Cabane,2023-09-22 This book examines the history of disaster management in South Africa showing how experts professionals and policymakers have crafted and implemented disaster policies from the mid twentieth century to the present day It assesses the ways in which states become concerned with disasters the extent to which disaster management contributes toward state formation and who and what disaster management protects It also considers the ways in which the politics of protection continuously shift as political regimes change In telling the story of how policies surrounding disaster protection have evolved in South Africa the book demonstrates how the security apparatus that shaped disaster management was re oriented in the twenty first century towards development alongside bureaucratic reforms that aimed to democratize the state By examining the wider context of the globalization of disaster management it also highlights the often unrecognised role of experts from Africa Latin America and Asia in shaping global disaster policies The book will appeal to scholars and students of disaster governance public policy state formation and African politics      *Comparative Government*

Dragoljub Popović,2019 Concise and clear in expression Comparative Government covers contemporary systems of government as well as relics of the past in an excellent introduction to the profound study of comparative constitutional law Dragoljub Popovi has undertaken this task to display the subject in its current stage of development concentrating on several focal points      **Constitutional Rights After Globalization** Gavin Anderson,2005-05-18 Constitutional Rights after

Globalization juxtaposes the globalization of the economy and the worldwide spread of constitutional charters of rights The shift of political authority to powerful economic actors entailed by neo liberal globalization challenges the traditional state centred focus of constitutional law Contemporary debate has responded to this challenge in normative terms whether by reinterpreting rights or redirecting their ends e g to reach private actors However globalization undermines the liberal legalist epistemology on which these approaches rest by positing the existence of multiple sites of legal production e g multinational corporations beyond the state This dynamic between globalization and legal pluralism on one side and rights constitutionalism on the other provides the context for addressing the question of rights constitutionalism s counterhegemonic potential This shows first that the interpretive and instrumental assumptions underlying constitutional adjudication are empirically suspect constitutional law tends more to disorder than coherence and frequently is an ineffective tool for social change Instead legal pluralism contends that constitutionalism s importance lies in symbolic terms as a legitimating discourse The competing liberal and new politics of definition the latter highlighting how neoliberal values and institutions constrain political action are contrasted to show how each advances different agenda A comparative survey of constitutionalism s engagement with private power shows that conceiving of constitutions in the predominant liberal legalist mode has broadly favoured hegemonic interests It is concluded that counterhegemonic forms of constitutional discourse

cannot be effected within but only by unthinking the dominant liberal legalist paradigm in a manner that takes seriously all exercises of political power



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