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978-0-521-87204-1 - Transnational Constitutionalism: International and European Models

Edited by Nicholas Tsagourias

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## TRANSNATIONAL CONSTITUTIONALISM

An interdisciplinary perspective is adopted to examine international and European models of constitutionalism. In particular, the book reflects critically on a number of constitutional themes, such as the nature of European and international constitutional models and their underlying principles; the *telos* behind international and European constitutionalism; the role of the state and of central courts; and the relationships between composite orders. *Transnational Constitutionalism* brings together a group of European and international law scholars, whose contributions provide the necessary intellectual insight that will assist the reader in understanding the political and legal phenomena that take place beyond the state. This edited collection represents an original and pioneering contribution to the international and European constitutional discourse.

NICHOLAS TSAGOURIAS is a Lecturer in Law at the School of Law, University of Bristol.

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## FOREWORD

This book is a product of the seventh EU/International Law Forum hosted by the School of Law at Bristol University. The origins of the Forum series lie in the recognition of a need to ensure that scholarship in European Law and in International Law remain in contact with each other, something that has become more difficult over time as the speciality of each has increased. The Forum offers an opportunity to reflect upon developments of common interest and to explore the contribution that those steeped in the thinking of the one corpus of law can make to the thinking of the other. These Fora also seek to bring together leading academics and policy-makers, again encouraging a sharing of perspectives enriching not only the debate at the Fora themselves but also the wider work of all participants.

The theme of the most recent Forum was inspired by the debates surrounding the moves to adopt a new European Constitution. The first volume in the Forum Series was published ten years ago and explored ‘Aspects of Statehood and Institutionalism in Contemporary Europe’.<sup>1</sup> It was inspired by the observation that in the post-Soviet era new states were emerging which sought to express themselves as independent sovereign states through participation in international organisations and, in doing so, they created something of a tension between statehood on the one hand and the expanding role of international institutions on the other. In a sense, this volume continues with elements of that theme, exploring from the perspective of constitutionalism the locus of the state as an entity within the broader system of communities of states. Rather than reflect on the contours of that debate itself, the Forum sought to consider the broader issues which underpin the move towards constitutionalism – the impulse towards constitutionalism – and whether, and how, that is rooted in, and finds reflection

<sup>1</sup> M. D. Evans (ed.), *Aspects of Statehood and Institutionalism in Contemporary Europe* (Aldershot: Dartmouth, 1996).

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FOREWORD

through, existing and nascent legal structures and debates. Naturally, the outcome revealed disparities of approaches, not only between those approaching the subject from the perspective of European and International Law, but also between those approaching it from within these subject perspectives. It quickly became apparent that the core issues were not 'subject specific' but reflected different approaches to legal and conceptual understandings of the nature of constitutions and constitutionalism themselves and the points of contact between the seemingly divergent perspectives became apparent.

The essays in this volume provided the material for that journey and it is to be hoped that the reader will find them equally stimulating and thought-provoking.

Malcolm D. Evans



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## ABBREVIATIONS

<i>AJIL</i>	<i>American Journal of International Law</i>
<i>BYIL</i>	<i>British Yearbook of International Law</i>
CFI	Court of First Instance of the European Communities
CFSP	Common Foreign and Security Policy
<i>CLJ</i>	<i>Cambridge Law Journal</i>
<i>CMLR</i>	<i>Common Market Law Reports</i>
<i>CML Rev</i>	<i>Common Market Law Review</i>
<i>Col. JTL</i>	<i>Columbia Journal of Transnational Law</i>
EC	European Community
ECHR	European Convention for the Protection of Human Rights and Fundamental Freedoms
<i>ECR</i>	European Court Reports
ECtHR	European Court of Human Rights
<i>EHRLR</i>	<i>European Human Rights Law Review</i>
<i>EHRR</i>	<i>European Human Rights Reports</i>
<i>EJIL</i>	<i>European Journal of International Law</i>
<i>ELJ</i>	<i>European Law Journal</i>
<i>ELRev</i>	<i>European Law Review</i>
<i>ESDP</i>	<i>European Security and Defence Policy</i>
EU	European Union
GA	General Assembly
GATT	General Agreement on Tariffs and Trade
<i>GYIL</i>	<i>German Yearbook of International Law</i>
HRC	Human Rights Committee
<i>HRLJ</i>	<i>Human Rights Law Journal</i>
<i>I.CON</i>	<i>International Journal of Constitutional Law</i>
ICJ	International Court of Justice
<i>ICLQ</i>	<i>International and Comparatively Law Quarterly</i>
ICTY	International Criminal Court for the Former Yugoslavia

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<i>ILM</i>	<i>International Legal Materials</i>
ILO	International Labour Organization
<i>ILR</i>	<i>International Law Reports</i>
IMF	International Monetary Fund
<i>IOL Rev</i>	<i>International Organizations Law Review</i>
JCMS	<i>Journal of Common Market Studies</i>
<i>Max Planck UNYB</i>	<i>Max Planck Yearbook of United Nations Law</i>
NGO	Non-governmental organisation
NIEO	New International Economic Order
<i>OJ</i>	<i>Official Journal of the European Union</i>
PCIJ	Permanent Court of International Justice
RC	<i>Recueil des cours de l'Académie de droit international</i>
<i>RGDIP</i>	<i>Revue général de droit international</i>
RIAA	<i>United Nations Reports of International Arbitral Awards</i>
SC	Security Council
TECE	Treaty Establishing a Constitution for Europe
TEU	Treaty on European Union
UN	United Nations
<i>VaJIL</i>	<i>Virginia Journal of International Law</i>
WTO	World Trade Organization
<i>YEL</i>	<i>Yearbook of European Law</i>
ZaöRV	<i>Zeitschrift für ausländisches öffentliches Recht und Völkerrecht</i>