

Index

- accountability
 - constitutionalisation 279
 - dynamic accountability 96–101
 - re-evaluation 99
 - rule of law 95–6
- administrative law 93
- AGE 186–7, 193
- agency
 - law as agent 1–2
 - object/agent 1–2
 - regulation 94
- agricultural policy 33
- Armstrong, Kenneth 194
- ATD Fourth World 181, 194, 197
- Azoulay, Loic 62

- Bechmann, G. 149
- Belgium, OMC SPSI 181, 200
- Bernhard, Stefan 176
- Broad Economic Policy Guidelines (BEPG)
 - 53, 84
- Buchkremer, Jenny 190
- Büchs, Milena 179, 201

- CEMR 201, 202, 226, 230
- Charter of Fundamental Rights *see*
 - fundamental rights
- Charter on the Fundamental Social Rights of Workers (1989) 34
- collective agreements, ECJ decisions 61, 250–1
- colonisation
 - functional 55, 215–22
 - integration 215–22
 - Lisbon Strategy 54, 150
 - Open Method of Coordination (OMC)
 - 26–7, 51–66
- comitology
 - codification 74
 - constitutionalisation 92
 - European Parliament 284
 - governance and law 74–6
 - implementation 33
 - inadequacies 78
 - information 298
- Commission of the European Union *see*
 - European Commission
- Community Action Programme on Social Solidarity (Progress) 5, 86, 174, 195, 196
- Community Action Programmes 35, 46, 47
- Community method 75, 76
- competition policy, social policy 40
- constitution, economic *see* economic
 - constitution
- Constitution for Europe (2003)
 - elements 1
 - enlargement 214
 - European Employment Strategy (EES)
 - compared 72–4
 - unity in diversity 3
- constitutionalisation
 - accountability 279
 - background 235–8
 - comitology 92
 - conclusions 307–10
 - functional reflexivity 300–7
 - meaning 235–8
 - new governance 235–10
 - republican constitutionalism 277–80
 - rule of law 92
 - societal constitutionalism 21–3
- continuity thesis, Open Method of
 - Coordination (OMC) 45–7
- Convention for the Future of Europe,
 - juridification 238–44
- coordination, OMC *see* Open Method of
 - Coordination
- Court of Justice (ECJ) *see* European Court of
 - Justice

- Daly, Mary 19
 De Búrca and Scott 86
 de la Porte, Caroline 197
 Deakin and de Schutter 118, 120
 deliberative polyarchy
 directly-deliberative polyarchy (DPP) 24, 121–8
 executive governance 207–8
 Delors, Jacques 47
 democratic experimentalism 12–13, 24
 Denmark, national actions plans (NAPs) 187, 204
 Diamandouros, Nikiforos 292
 directly-deliberative polyarchy (DPP), theories 24, 121–8
 diversity
 challenge 184–7
- ECJ decisions *see* European Court of Justice
- economic constitution
 agenda setting 35–6
 capacity deficit 32–4
 division of powers 31–2
 future prospects 32–41, 67–8
 horizontal axis eroded 37–41, 51
 internal market 37–41
 multi-level governance 32–4
 Open Method of Coordination (OMC) 26
 proceduralisation 34–7
 social deficit 27–32
 Social Europe 42
 vertical axis eroded 32–4, 41
 vertical/horizontal powers 31–2, 36
- economic growth
 Keynesian model 37
 social development 29–30
- economic integration, benefits 29
- Economic and Monetary Union (EMU)
 Broad Economic Policy Guidelines (BEPG) 53, 84
 social deficit 42
 Stability and Growth Pact 52, 53
- economic policies
 Broad Economic Policy Guidelines (BEPG) 53, 84
 integrated with social policies 49–51
 Lisbon strategy 49–51
- economic rights, ECJ decisions 38–41
- EES *see* European Employment Strategy
- embedded liberalism
 social deficit 29–32
 virtuous circle 29–30
- employment
 collective agreements 61, 250–1
 EES *see* European Employment Strategy
 trade union rights 61–6
- ETHOS 181
- ETUC 225
- Eurocities 202, 214
- European Anti-Poverty Network (EAPN) 35, 193, 197, 198, 219, 226
- European Commission
 autonomy 80
 capacity deficit 32
 Governance White Paper 72, 75, 76, 79, 92
 Jacques Delors 47
 Jacques Santer 4
 non-binding measures 90
 poverty reduction 57
 social exclusion 35–6
- European Council
 Barcelona, 2002 49
 Lisbon, 2000 172
 Luxembourg, 1997 43
 Nice, 2000 172, 197
 see also Lisbon strategy
- European Court of Justice (ECJ)
 access to documents 264–6
 access to justice 268–72
 capacity deficit 33–4
 collective agreements 61, 250–1
 comitology 75
 decision-making 259–62
 economic rights 38–41, 50
 environment 271
 free movement 38, 60, 171
 freedom of establishment 39
 good court 254–66
 information basis 259–62
 juridification 238–44
 market barriers 39
 participation
 political participation 272–7
 rights 257–9
 pensions 39, 40
 posted workers 60, 64
 public/economic undertakings 40, 246
 reasoned decisions 263–4
 reflexivity 41, 60–6
 social inclusion 170–1
 social objectives 50, 62
 social security 38, 171
 standing
 access to justice 268–72
 political participation 272–7
 trade union rights 61–6
 transparency 264–6
- European Employment Strategy (EES)
 activation discourse 178
 Constitution for Europe (2003) compared 72–4
 convergence 43

- decentralisation 46
- discrimination strategies 86
- economic coordination 50
- guidelines 48
- participation 190
- reform 48
- risk 147
- social democracy 48
- social inclusion 172
- strategic objectives 43
- European Social Fund (ESF) 86
- European Union (EU)
 - experimentalist architecture 128–32
 - proceduralisation 114–18
 - reflexivity 144–8
 - treaties *see* treaties
- experimentalism
 - architecture 128–32
 - democratic experimentalism 9–10, 24
 - directly-deliberative polyarchy (DPP) 24, 121–8
 - European Union (EU) 128–32
 - governance 121–38
 - hierarchy 134–5
 - OMC SPSI 186
 - power 132–4
 - pragmatist challenge 121–8
 - rule of law 132–8
 - stability 135–8
- FEANTSA 181, 227
- Ferrera, Maurizio 29
- flexibility
 - OMC SPSI 187–8
 - rule-making 184–90
- free movement
 - ECJ decisions 38, 60, 171
 - labour markets 28
- freedom of establishment, ECJ decisions 39
- Friedrich, David 179, 201
- fundamental rights
 - charterisation paradoxes 247–54
 - EU Charter (2000) 244–54
 - social rights 34, 244–6
 - solidarity 244–54
- Germany, OMC SPSI 179
- Giscard d'Estaing, Valéry 74
- governance
 - Commission White Paper 72, 75, 76, 79, 92
 - deliberative polyarchy 207–8
 - executive 207–8
 - executive governance 207–8
 - experimentalism 121–38
 - Kennedy's theories 13–16
 - multi-level 25, 32–4
 - new *see* new governance
 - paradigms of law 105–9
 - politics 159–63, 231–4
 - proceduralisation 18, 103–63
- governance and law
 - background 69–102
 - comitology 74–6
 - congruence 87–92
 - inside view 18, 92
 - integration 84–7
 - outside theories
 - complementarity/agonism 77–83
 - governance external to law 72–7
 - meaning 77–83
 - problem areas 83–92
 - reflexivity 8, 18, 57–66, 138–53
 - relationship 17, 69–102
 - theories 72–102
 - see also* rule of law
- Habermas, Jürgen 105, 107, 109, 111, 113–14, 119, 139, 176, 209, 241, 242, 293
- Harlow, Carol 96, 97, 279
- Heretier, Adrienne 226
- hierarchy
 - experimentalism 134–5
 - proceduralisation 159–63
 - rule of law 134–5
- Hobbes, Thomas 235
- Hungary
 - OMC SPSI 178
 - social exclusion 194
- implementation
 - comitology 33
 - gap 54, 225–7
 - Lisbon strategy 54
 - proceduralisation 225–7
- information
 - access to documents 264–6
 - comitology 298
 - ECJ decisions 259–62
 - knowledge destabilised 182–4
 - reporting 173–4, 182–4
 - retrieval 175–84
- Integrated Guidelines for Jobs and Growth 50, 218
- integration
 - colonisation 215–22
 - economic integration benefits 29
 - economic/social policies 49–51
 - feeding-in/feeding-out 215–22
 - governance and law 84–7
 - parliaments 280–92
 - states 211–15
 - territorial/functional discourses 209–22
 - varieties 209–11

348 INDEX

- integration through law
 competing discourses 209–22
 national rights 3
 new governance 1–6
 object/agent 1–2
 reflexivity 209–22
 internal market, economic constitution
 37–41
- Jacobsson, Kerstin 98, 193, 198, 211, 214
 Joerges and Neyer 98, 142, 143, 213
 Joerges and Zürn 89
 juridification, Convention for the Future of
 Europe 238–44
- Kennedy, David 13–16, 161, 162
 Kilpatrick, Claire 86, 88
 King, Michael 150
 Kok, Wim 21, 54, 56, 200, 225, 314, 315
 Koskenniemi, Martti 211
- labour markets, free movement 28
laissez-faire, market economy 30
 Latvia, OMC SPSI 177
 law
 adaptive law 156–7, 184–90
 agency 1–2
 cognitive law 156, 175–84
 directives 34–5
 flexibility 184–90
 governance *see* governance and law
 governance external to law 72–7
 integration *see* integration through law
 materialisation 153–5
 non self-delineating 184–90
 paradigms of law 105–9
 participative law 157, 190–208
 politics 159–63
 procedural law 158, 222–31
 proceduralisation 34–7, 60, 222–5
 reflexive law 138–44, 157–8, 209–22
 rule *see* rule of law
 soft *see* soft law
 supra-national order 30–1
see also reflexivity
 legal integration *see* integration through
 law
 Lenoble, J. 116, 119
 Lisbon strategy
 colonisation 51–66, 150
 implementation gap 54
 mid-term review 21, 54, 167
 OMC SPSI 219
 open coordination 51–66
 reflexivity 51–66, 147
 rule of law 17
 social/economic policies integrated 49–51
 stability/growth 26
 synchronisation 26–7
 Locke, John 235
 Luhmann, N. 139, 150, 152
- McCormick, John 203
 Maher, Imelda 85
 Majone, G. 81, 93, 283, 287
 markets
 free movement 28
 internal *see* internal market
laissez-faire economy 30
 politicisation 31
 Marx, Karl H. 185
 materialisation, law 153–5
 Michelman, Frank 119
- national actions plans (NAPs)
 Denmark 187, 204
 format 166
 mini-NAPs 197
 parliaments 204, 205
 Social Protection Committee (SPC) 189
 Spain 192
 United Kingdom 194
 national reform programmes (NRPs) 219
 The Netherlands
 OMC SPSI 205
 peer review 212, 213
 new governance
 background 1–23
 constitutionalisation 235–10
 deductive approach 9
 democratic experimentalism 10–11
 example 44–5
 experimentalism *see* experimentalism
 first wave 7–8, 18
 form of rule 2
 indicators 15
 law
 as agent 1–2
 integration through law 1–7
 as object 2
 soft law 5
See also governance and law
 law's shadow 266–77
 legality 10
 mapping 13–14
 ombudsman 292–300
 OMC *see* Open Method of
 Coordination
 participation 10–11, 46
 second wave 8–11
 soft law 5
 third wave 12–16
 two waves 5–11
 New Labour 48

- Offe, Claus 55, 57
ombudsman, new governance 292–300
OMC SPSI
 adaptive law 184–90
 agenda setting 179–80
 ambiguities/paradoxes 6, 21
 background 164–75
 Belgium 181, 200
 cognitive gaps 180–2
 cognitive law 175–84
 Community Action Programme on
 Social Solidarity (Progress) 86, 174,
 195, 196
 depoliticisation 3
 dialectical OMC 188–90
 diversity challenge 184–7
 evolution 169–75
 excluded groups 199–207
 experimentalism 186
 flexibility 187–8
 Germany 179
 goals 173
 Hungary 178
 information retrieval 175–84
 knowledge destabilised 182–4
 Latvia 177
 Lisbon strategy 219
 local level 199–203
 methodology 166–9
 the Netherlands 205
 parliaments 203–7
 participants 196–9
 participation 187–8, 192–5
 pensions 186–7
 proceduralisation 164
 reflexive law 209–22
 reporting 173–4, 182–4
 social deprivation 59
 social inclusion
 Europeanisation 169–75
 paradigm 175–8
 source documents 167–9
 structural entry 192–5
 structure 169–75
open coordination
 judicial supervision lacking 3–4
 Lisbon strategy 51–66
Open Method of Coordination
 (OMC)
 advantage 43
 background 24–7
 colonisation 17, 26–7, 51–66
 committees 98–9
 common standards 44
 constitutional compromise 47
 continuity thesis 45–7
 critical approach 12
 development 44–5
 dialectical OMC 188–90
 economic constitution 26
 future prospects 311–16
 historical repetition 45
 legislative alternative 2–3
 managerialism 279
 multi-level 9
 origins 17–18, 24–68
 paper tiger 51–3
 parliaments 280–92
 participation 8, 46, 190–208
 reflexivity 8, 18, 27, 51–3
 social concerns 24–7
 social deficit 17, 25, 26, 42–4
 Social Europe 47–51
 social inclusion and social protection
 55, 56
 soft law 5–6
 SPSI *see* OMC SPSI
 subordination 17
 Trojan horse 53–7
Parental Leave Directive, social
 partners 35
parliaments
 national actions plans (NAPs) 204, 205
 OMC SPSI 203–7
 Open Method of Coordination (OMC)
 280–92
 re-integration 280–92
participation
 ECJ decisions 257–9, 272–7
 European Employment Strategy
 (EES) 190
 excluded groups 199–207
 local level 199–203
 new governance 9–10, 46
 OMC SPSI 187–8, 192–5
 Open Method of Coordination
 (OMC) 9, 46
 parliaments 203–7
 participants 196–9
 participative law 157, 190–208
 politics 272–7
 rights expanded 257–9
 Spain 192
 structural entry 192–5
peer review
 integration of states 211–15
 the Netherlands 212, 213
 Social Protection Committee (SPC)
 175, 190

350 INDEX

- pensions
 - ECJ decisions 39, 40
 - OMC SPSI 186–7
- Polanyi, Karl 30
- politics
 - authoritarianism 30
 - depoliticisation 3
 - governance 159–63, 231–4
 - law 159–63
 - market politicisation 31
 - parliaments re-integrated 280–92
 - participation 272–7
 - procedure
 - paradigm 231–4
 - politicised 227–31
 - republican constitutionalism 277–80
- polyarchy
 - deliberative polyarchy 207–8
 - directly-deliberative polyarchy (DPP) 24, 121–8
 - executive governance 207–8
 - experimentalism 24, 121–8
- poverty
 - European Anti-Poverty Network (EAPN) 35, 193, 197, 198, 219, 226
 - reduction 57
- power
 - conferred powers 31
 - division of powers 31–2
 - experimentalism 132–4
 - vertical/horizontal powers 31–2, 36
- proceduralisation
 - adaptive law 156–7, 184–90
 - background 103–5
 - cognitive law 156, 175–84
 - common approaches 153–63
 - diversity challenge 184–7
 - economic constitution 34–7
 - European Union (EU) 114–18
 - features 155–8
 - flexibility 184–90
 - governance 18, 103–63
 - hierarchy 159–63
 - idea 109–14
 - implementation gap 225–7
 - law 34–7, 60, 222–5
 - OMC SPSI 164
 - paradigms
 - assessment 164–234
 - law 105–9
 - problematised 118–21
 - participative law 157
 - politicisation 227–31
 - procedural law 158
 - procedural turn 155–8
 - reflexive law 157–8
 - solutions 155–8
 - tensions 159–63
 - theories 105–21
- Prodi, Romano 80
- public opinion, globalisation 42
- public undertakings
 - economic undertakings compared 40
 - solidarity 40
- reflexivity
 - ECJ decisions 41, 60–6
 - European Union (EU) 144–8
 - functional 209–22, 300–7
 - governance and law 8, 57–66, 138–53
 - integration through law 209–22
 - Lisbon strategy 51–3, 147
 - Open Method of Coordination (OMC) 8, 17, 27, 51–3
 - problems 149–53
 - reflexive law 138–44, 157–8, 209–22
 - territorial 209–22
- regulatory state, depoliticisation 7
- Rödl and Joerges 251
- rule of law
 - accountability 95–6
 - constitutionalisation 92
 - experimentalism 132–8
 - hierarchy 134–5
 - Lisbon strategy 17
 - power 132–4
 - remodelling 92–6
- Sabel, Charles 82, 95, 96, 97, 98, 100, 126, 131, 135, 203, 211
- Scharpf, Fritz 52, 53, 85, 226, 277, 314
- Scheuerman, William 111, 135, 136
- Simon, Bill 122, 123, 132, 203, 211
- Smismans, Stijn 208
- Snyder, Francis 90
- Social Action Programme (1974) 35
- social deficit
 - economic constitution 27–32
 - Economic and Monetary Union (EMU) 42
 - embedded liberalism 29–32
 - Open Method of Coordination (OMC) 17, 25, 26, 42–4
 - subordination 27–9
- social development, economic growth 29–30
- social dialogue 35, 47, 80
- Social Europe
 - ambiguous nature 47–51
 - economic constitution 42
 - Open Method of Coordination (OMC) 47–51
- social exclusion
 - European Commission 35–6

- Hungary 194
- Roundtable 189–90
- social impact assessment 300–7
- social inclusion
 - agenda 3
 - ECJ decisions 170–1
 - Europeanisation 169–75
 - OMC *see* OMC SPSI
 - paradigm 175–8
- social partners 35, 36, 47, 87
- social policy
 - competition policy 40
 - solidarity 40
- Social Protection Committee (SPC)
 - experts 15
 - national actions plans (NAPs) 189
 - peer review 175, 190
- social rights, fundamental rights 34, 244–6
- social subordination *see* subordination
- soft law
 - new governance 5
 - Open Method of Coordination (OMC) 5
- solidarity
 - Community Action Programme on Social Solidarity (Progress) 86, 174, 195, 196
 - fundamental rights 244–54
 - public undertakings 40
 - social policy 40
- Spain
 - national actions plans (NAPs) 192
 - participation 192
- stability
 - experimentalism 8, 135–8
 - growth 26, 52, 53
 - Stability and Growth Pact 52, 53
- states
 - depoliticisation 7
 - integration 211–15
- Streeck, Wolfgang 28
- structural entry, OMC SPSI 192–5
- subordination
 - Open Method of Coordination (OMC) 17
 - social deficit 27–9
 - thesis 27–9
- Teubner, Günther 8, 139, 140, 141, 143, 144, 147, 150, 151, 152, 301
- Treaties
 - competencies 27, 73, 75, 172
 - conferred powers 31
 - constraints 170
 - market politicisation 31
 - national welfare 28
 - vertical/horizontal powers 31–2
- Treaty of Amsterdam (1997) 49, 172
- Treaty of Maastricht (1992)
 - Social Chapter 43
 - social dialogue 35
 - social/industrial policy 34
- Treaty of Nice (2001) 172
- Trubek, Cotterrell and Nance 84, 85
- UEAPME 257–8
- United Kingdom
 - devolution 194
 - national actions plans (NAPs) 194
 - New Labour 48
- Visser, Jelle 205
- Walker, Neil 164, 209
- Washington consensus 13
- Weber, Max 105, 107, 109
- Weiler, Joseph 76
- Wiethölter, R. 113, 119
- Willke, H. 141, 143, 147, 151, 152
- Zeitlin, Jonathan 56, 127, 131, 135, 162, 207, 218, 307