

Book Review

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Europe's Constitutional Mosaic by Neil Walker, Jo Shaw and Stephen Tierney
Hart Publishing (2011), ISBN: 9781841139791 (hb)

The interaction of the EU and national legal orders has been long debated by those who focus on the EU and its sui generis legal order. At the heart of this discussion lies constitutional law, not only because the constitution is the founding document of numerous Member States, but also because it is a reminder of an endeavour in which the EU did not succeed: the short-lived Draft Constitutional Treaty of 2003.

Europe's Constitutional Mosaic emerged as a compilation of papers presented during a series of seminars organised by the Edinburgh Law School and is constituted of six parts. The first part examines the constitutional paradigm of the EU itself and its relationship with national Constitutional orders. The European Convention on Human Rights is discussed in part two, while the following part reviews the Constitutional realities in the states in the outer sphere of the Union. Parts four and five give different perspectives on the constitutional tensions, covering Europe's roles in the sub-state and international arenas, respectively. Finally, the book closes with an examination of the Criminal and Labour law functions in the EU.

The introduction explains the *raison d'être* of the book, and provides the reader with the necessary fundamental knowledge needed, namely what one means by 'constitutional' and to what the titular 'mosaic' refers. It is made clear early in this first chapter that the EU's constitutional powers are fundamentally different from their constitutional equivalents at state level as they are based on plurality and heterarchy and are more diverse and fluid. Within this discussion too, the authors also explain key issues such as legitimacy, identity, and the boundaries of the EU's constitutional expansion, revealing how the discussion of said boundaries has resulted in judicial disputes initiated by Member States, such as the famous reaction of the German Constitutional Court to the Treaty of Maastricht.

This relationship is at the heart of Part 1 which is one of the strengths of the book. The first contribution, by Cormac Amhlaigh, focuses more on the sovereign character of EU's powers, while the second contribution, by Cruz, more explicitly deals with the different approaches to EU-Member States relationship. Amhlaigh's article rightly commences with references to the case-law of the Court which established the quasi-constitutional elements of the EU during its early stages, before examining various means to explain the EU's constitutional nature. The first is, rather fittingly, the Court of Justice of the European Union (CJEU), to which the chapter returns later; the second is a more federation-like paradigm based on the multiple levels of governance and legal compliance in the EU; and the third strand concerns constitutionalism as a forum of debate and discussion. It is this discussion on the means one needs in order to explore the EU's legal and constitutional reality upon which the second essay is based; it then

examines different strands varying from the state-centric ones to constitutional pluralism (the more EU-friendly one) via examples of integration beyond the state paradigm (which tries to bridge the other two conceptions). Its conclusion is insightful, if not entirely optimistic. None of these conceptions can effectively explain the EU's constitutional evolution owing to their strict boundaries and constructs, and, thus, EU constitutional reality may still be a terra incognita.

Part 2 focuses on the human rights regime in the EU, and more specifically on the ECHR, a mosaic within a wider mosaic. The first contribution, by Andrew Williams, is based on the premise of a failed structure which explains the ECtHR's shortcomings and proposes five challenges to the established view which does not see any failures in the regime's structure. These suggestions range from the intriguing (that the current regime has failed human rights entirely) to the expected (that recent judgments aptly demonstrate this failure). However, the idea that the system is fundamentally and severely flawed is a common thread in the fabric of these suggestions. Douglas-Scott's contribution, which concludes the part, operates along the same lines of a fragmented human rights regime. Its premise is very well thought-through; it opens with a very poignant question on what Europe is, approached from a geographical but also a legal perspective; and then it explores the meaning of constitutionality in the context of the Charter. The cyclical character of the part is more evident when the essay focuses on the Charter's place in the wider mosaic before reiterating the point about a multi-faceted regime, arguing, however, that it might give rise to a new basis for EU law, as supremacy and direct effect did in the early years of European integration.

An amalgamation of said integration is the citizenship of the Union with which Jo Shaw's essay is preoccupied in Part 3. The premise of the piece is consistent with the rest of the essays as it endeavours to examine citizenship from the assumption that it operates in a multi-level framework. Therefore, the essay starts with an examination of the relationship between the national and supranational citizenships and the character of the latter. Its later focus on the citizenship experience of the Eastern European states and the international dimension of the titular mosaic, through the examination of five ways in which externally-generated norms infiltrate states' domestic laws, concludes the chapter. It is a testament to the book's well-thought-out structure that the second contribution of Part 3, by Gwendolyn Sasse, is preoccupied with the Council of Europe as 'a reservoir of norms'. In this contribution, the author considers other ways norms can affect national laws, this time through the Council of Europe and, more specifically, its structure, its remit, its coherence, and the interaction with other organisations.

Part 4 offers a very interesting insight into another aspect of constitutionalism which is very relevant in the case of Europe: it concerns the extent to which a constitution can be combined with effective diversity in the cases of culturally diverse communities, such as those which comprise the Union. The essay, by Hans Lindahl, uses the example of the famous case which was brought before the Canadian Supreme Court and referred to Quebec's right to secede to explore how unity and diversity can both be safeguarded while keeping the constitution intact. It is argued that constitutionalism is used as a means to achieve stability and a brief reference is made to the new right to withdraw from the Union. The remainder of Part 4, by Ferran Requejo, is the more philosophical contribution to the book and is preoccupied with the difficulties in attaining pluralism in federal structures. It is less focused on the EU than other contributions, but its relevance

to said Union and the book itself is manifested by the essay's examination of institutional solutions to the problem of maintaining a degree of unity in diverse societies.

The penultimate part examines the EU's constitutionality in the international context, and, more specifically, it focuses on the constitutional character of international organisations and on the EU's role in the global mosaic. The former element, in an essay written by Anne Peters, covers issues such as the autonomy of international organisations, their democratisation process, the judicial element, and their accountability, whereas the second contribution, by Jan Klabbers, complements the first by focusing on the rules stipulating the conflict of laws in the international environment, while it also focuses on the EU's hierarchy of legal norms and on ways in which the tension between the two may be resolved.

This leaves the final part with the task of exploring other case studies which demonstrate the EU's advancing constitutionalism. Kimmo Nuotio's essay focuses on EU criminal law and its relevance to the premise of the book; it examines the law itself, but also its legitimacy problems, which suggest a sort of constitutionalism, and it closes with the challenges the EU faces in its efforts to create a coherent criminal law regime. Ruth Dukes focuses on a rather different area, that of labour law. Using the suggestion that a constitutionalised labour law would safeguard working rights, the author examines the evolution of labour law, the impact of the Charters, and the constitutional framework in which a social dialogue between labour rights and the market could operate.

Overall, this is a well edited book, covering a wide variety of issues from political philosophy to law, including constitutional law, the law of international organisations, criminal, and labour law. All these areas are explored in the context of the book's wider premise, which is always evident in the various contributions. The contributions are well-researched and the writing style approachable, regardless of one's academic discipline. That said, some background knowledge is needed; the issues tackled are multiple and may not be equally accessible to all. However, the topics are finely chosen and this selection of essays is coherent and a very good tool for anyone with an interest in the EU and the future of its constitutional character.

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