



UK Public Law and European Law

**The Dynamics of
Legal Integration**

Gordon Anthony

B L O O M S B U R Y

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Patrick J. Birkinshaw



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UK Public Law and European Law Gordon Anthony, 2002-05-11 Academic attention has in recent years increasingly focused upon the Europeanization of national legal orders. The interaction of domestic and supranational standards while often presented as problematic, enables national courts to use European law as a reference point against which to develop domestic principle and practice. The effects of such borrowing can be far reaching. Courts may assume an enhanced institutional role relative to other branches of the State and individuals may benefit from the introduction of new remedies and principles of judicial review. This book examines the dynamics of the process whereby UK courts borrow principle and practice from European law. It argues that recent internal developments in UK law, notably the passage of the Human Rights Act, present new possibilities for legal integration. Although UK courts have already demonstrated a willingness to use European law creatively, the book suggests that integration has been unduly constrained by the previously unincorporated status of the ECHR and by the courts' justification for the reception of EU law. Focusing in particular on the principles of administrative law applied by courts in judicial review proceedings, the book highlights how the emergence of new principles of review has been frustrated by the courts' inability to view EU law and the ECHR as part of an interlocking whole. The book's central argument therefore is that the Human Rights Act, coupled with the more general programme of constitutional reform introduced by New Labour, now offers the courts the opportunity to reassess the nature of the interactive relationship that domestic law has with European law.

UK Public Law and European Law: The Dynamics of Legal Integration will be of interest to public lawyers, European lawyers and political scientists alike. It offers a comprehensive overview of existing jurisprudence dealing with the reception of European law into the domestic order. More significantly, it places that jurisprudence within the wider context of legal and political change ongoing within and without the United Kingdom.

UK Public Law and European Law Gordon Anthony, 2002-05-11 This book examines the dynamics of the process whereby UK courts borrow principle and practice from European law.

European Public Law Patrick J. Birkinshaw, 2020-01-23 The sphere of public law is ill defined and controversial. Taking the broad view that it comprises aspects of, for instance, constitutional principles, good and humane administration, judicial review, based on the rule of law, human rights, liability for wrongdoing, public procurement, provision of public services, transparency, social media and protection of privacy, areas that link legal control to broad governmental purposes, the third edition of this established and much praised work expands its examination of the emergence of European public law from European Union (EU) law and its European Community and European Economic Community antecedents, the European Convention on Human Rights and the interface of these systems with Member State systems to include the currently all important challenge of Brexit. The book explains in detail what European public law is and the context in which laws interact in European societies. Masterfully summarising the debate surrounding the influence of EU and European Convention law on Member State law, particularly that of the United Kingdom.

UK in a thematic and analytical manner the author covers the following topics and much more as they persist in the shadow of Brexit constitutional law and administrative law in the EU and France Germany and the UK subsidiarity in the EU and UK devolution openness transparency and access to information national parliaments and scrutiny of EU law influence of EU law on UK judicial review access to justice in the light of austerity and government cuts in public expenditure the future of the UK Human Rights Act European influence on the law of liability EU ombudsmen and internal grievance procedures future relationship between EU and UK domestic law citizenship and protection of human rights competition regulation public service and the market the impact of Brexit the legal consequences of UK withdrawal legislation and European Public Law the EU UK written agreements on separation and the political statement s prospects for a post Brexit trade deal Detailed analyses of major cases and legal provisions are featured throughout the book Given that the effects of Brexit will take decades to unfold and not only in the UK this new edition of a classic text will prove to be an invaluable guide to the ever developing European context of domestic public law The indelible marks of European integration must be fully understood if we are to understand public law and its future direction The book will be of enormous assistance to political theorists and scientists and commentators and of immeasurable practical and academic importance in monitoring the future of Europe and its legal relationship with the UK Academics and students will be rewarded by the detailed analysis of the context in which national laws and European laws interact Practitioners in the UK Europe and globally will gain invaluable insight into the laws they use to resolve practical questions of legal interpretation

UK Public Law and European Law Gordon Anthony (LLB.),2002 Public Law Andrew Le Sueur,Andrew P. Le Sueur,Maurice Sunkin,Jo Eric Murkens,2019 Public Law Text Cases and Materials explores how the law works in practice The key institutions legal principles and conventions that underpin the public law of the UK are brought to life through the inclusion of extracts from key sources which are explained and critiqued by the authors

Public Law in a Troubled Era Katarzyna Gromek-Broc,2023-07-14 Public law which examines relations between governments and institutions and individuals has in recent years become deeply disturbed by an erosion of the rule of law notably in some of the world s most professedly democratic nations In this book of edited essays many of the world s leading public lawyers draw on examples from the United Kingdom European States and the European Union EU to explore the alarming tensions unleashed as Europe is rocked by Brexit the war between nations on the EU border and the worldwide phenomenon of populist resistance to globalised forces and liberal democratic aspirations The book is dedicated to Professor Patrick Birkinshaw who until his retirement was Director of the Institute of European Public Law and Professor of Public Law at the University of Hull and widely respected as a leading authority on public law With a focus on public law and European public law jurisprudence with hugely important global ramifications the contributions continue his work and crucially deal with the new and troubling shape of the law politics relationship The essays examine these developments under four headings Law in a World Turned Upside Down with essays on e g Brexit the denial of human

rights and the rule of law in Hungary climate change governance Law and Politics A Shifting Boundary showing how advances in the courts have prompted reaction to curtail judicial review and human rights protection especially evident in the fading mirage of fair trial rights and administration on the EU periphery Law s Promise specifying real achievements in the way of reform and higher levels of security for individuals and New Bearings exploring initiatives and emerging problems including reform of judicial review the European Banking Law digitalization of public administration and institutional interactions with the Chinese 1982 Constitution The book brings together leading university professors public officials and judges all experts in their respective fields All are concerned with a central role for law in the process of governance This unrivalled volume penetrates the contradictions uncertainties and insecurities that plague this topic of worldwide interest and debate and will prove invaluable to practitioners public administrators jurists judges and legal academics everywhere It will also be of interest to political scientists and politicians In its completely original and innovative discussions of the changes taking place at the interface of law and politics and of how law can enhance certainty and reliability in governance this book provides a most detailed and insightful analysis of the new bearings in public law in Europe and worldwide *The Foundations and Future of Public Law* Elizabeth Fisher, Jeff King, Alison Young, 2020-01-30 Public law in the UK and EU has undergone seismic changes over the last forty years development and membership of the EU the Human Rights Act devolution the fostering of public law expertise within the judiciary the globalization of public law and the increased interaction between the academy judiciary barristers public interest groups and legislatures have transformed the public law landscape Commentators spend much time at the frontiers of the subject responding rapidly to new developments and providing guidance to scholars legislators and judges for future directions In these circumstances there is rarely a chance to reflect upon the implications of these changes for the fundamentals of public law and how those fundamentals relate to one another In this collection leading figures in UK and EU public law address this lacuna Inspired by the depth scope and ambition of the work of Paul Craig Professor of English Law at Oxford University the focus of this collection is upon exploring and reflecting upon six fundamentals of public law and the interrelationship between them legislation case law theory institutions process and constitutions **European Public Law** Patrick Birkinshaw, 2003-02 European integration has been most successful at a legal level and European influences have left an indelible mark on English Public Law These influences must be understood by students and practitioners if they are to understand our public law and its continuing development This new book aims to cover the debate surrounding the influence of Community law on the public law of the United Kingdom in a thematic and analytical manner **English Public Law** David Feldman, 2009 First published in 2004 English Public Law has become the key point of reference on English public law for lawyers in the UK and throughout the world Now in its second edition the book acts as an accessible first point of reference for practitioners approaching a public law issue for the first time while simultaneously providing a lucid concise and authoritative overview of all the key areas of public law

constitutional administrative human rights and criminal law within one single portable volume The second edition has been completely updated to take account of all key legislative and procedural changes since 2004 including BLThe Constitutional Reform Act 2005 BLrecent higher courts decisions concerning public law and human rights BLthe Criminal Procedure Rules 2005 Written and edited by a team of acknowledged experts on English law the book offers proven reliability and as part of the Oxford Principles of English Law Series is the companion volume to the second edition of English Private Law edited by Professor Andrew Burrows FBA The book is an ideal quick reference for practitioners to fall back on when a client raises a point outside their normal area of expertise as well as for academics overseas libraries and practitioners overseas who want a one stop resource on English public law A supplement published between editions will ensure that the book is kept up to date

Convergence and Divergence in European Public Law Paul Beaumont, Carole Lyons, Neil Walker, 2002-06-07 This book grew out of a symposium held in the University of Aberdeen in May 2000 It examines the extent to which the European Union has brought about and should bring about convergence of law in Europe in particular but not exclusively public law in Europe Rather than focusing narrowly on the Intergovernmental Conference process the book engages those who wish a detached and at times theoretical examination of the politics of institutional reform in the EU Michael Keating and Joanne Scott of the legal techniques for accommodating diversity within the Union and the process of treaty making or constitution building in the EU Deirdre Curtin Ige Dekker Bruno de Witte and Carole Lyons the cross fertilisation of administrative law concepts between the EU level and the national level Chris Himsworth Ton Heukels and Jamila Tib the need for and legitimacy of a European Union competence on human rights Gr inne de B rca Paul Beaumont and Niamh NicShuibhne and whether private law and public law differ in the extent to which they go to the heart of reflect national culture and therefore in the extent to which they are amenable to convergence Carol Harlow Pierre Legrand and Neil Walker

A Critical Introduction to European Law Ian Ward, 2003-04 This book discusses the history and institutional framework of the EU without becoming mired in the minutiae of black letter law It provides an accessible introduction for students to current critical academic commentary on European law

Law and Administration in Europe Paul P. Craig, Richard Rawlings, 2003 The contributions to this volume address central issues in public law There are chapters dealing with the general theoretical foundations of public law including the relationship of theory and values and discussion of the central idea of representation The nature of the public private divide continues to be of importance as a result of changes in the nature of government and as a consequence of the passage of the Human Rights Act 1998 HRA Closely related to this is the contractualisation of government The relationship between the courts Parliament and the executive has always been a central concern for public lawyers It has been brought to the fore by the passage of the HRA leading to discussions about the extent to which the courts should show deference to executive and legislative choices when engaging in judicial review This vexed issue is especially apparent when it comes to deciding how Parliament the executive and the courts should treat non

citizens or those who might threaten the security of the state It is of course impossible to discuss public law without considering European Union law There is discussion of core issues relating to the legitimacy of the EU and its constitutional foundations The role of courts in the process of integration is analysed and the desirability of judicial review over rule making is considered The relationship between public and private modes of enforcing EU law is reviewed In addition there is a discussion of the way in which different levels of government inter relate viewed through the lens of devolution in the UK

Devolution, Law Making and the Constitution Robert Hazell, Richard Rawlings, 2005 Law making is a primary function of government and how well the three devolved UK legislatures exercise this function will be a crucial test of the whole devolution project This book provides the first systematic study and authoritative data to start that assessment It represents the fruits of a four year collaboration between top constitutional lawyers from Scotland Wales and Northern Ireland and leading researchers in UCL's Constitution Unit The book opens with detailed studies of law making in the period 1999-2004 in the Scottish Parliament and the Assemblies in Wales and Northern Ireland and how they interact with Westminster Later contributions look at aspects of legislative partnership in the light of the UK's strongly asymmetric devolutionary development and also explain the unexpected impact of devolution on the courts Individual chapters focus on various constitutional aspects of law making examining the interplay of continuity and change in political legal and administrative practice and the competing pressures for convergence and divergence between the different parliaments and assemblies This book is essential reading for academics and students in law and in politics and for anyone interested in the constitutional and legal aspects of UK devolution not least the practitioners and policymakers in London Edinburgh Cardiff and Belfast

Towards a European Public Law Bernard Stirn, 2017-04-28 A European public law is under construction but how has this occurred and what is its character Stirn proposes that this European public law is being constructed by the convergence of three circles the law of the European Union the law of the European Convention on Human Rights and the different domestic legal orders The mutually influential relationship of these constituents has allowed them to develop most considerably in the jurisprudence of the Court of Justice of the European Union and the European Court of Human Rights The book begins by reflecting on the different phases of the development of the European project from the end of the First World War It outlines the transition from the European Coal and Steel Community to the European Union as well as the other institutions contributing to these developments The discussion then moves to the European legal order which consists of the law of the European Union and the European Convention on Human Rights Stirn explores how in spite of occasional false starts and frictions their relationship is becoming ever closer and how their characteristics in law are becoming increasingly similar Furthermore Stirn analyses the relationship between European law and national legal systems The differing approach to domestic incorporation of international law whether it be monist or dualist is considered as well as the recognition that European law is superior to domestic law The character specifically of EU law and how it compares to international and

domestic law is also discussed in particular its unique features but also the principles it shares with domestic law In addition the book examines the existence or not in member states of constitutional courts the level or jurisdictional orders and the recruitment and status of judges Similar trends across Europe in public administration are also accounted for and subjected to analysis Stirn concludes that a European model of public administration is becoming apparent

Public Law: Text, Cases, and Materials 2e Andrew Le Sueur, Maurice Sunkin, Jo Murkens, 2013-03-21 This dynamic text cases materials book provides a thought provoking guide to the public law of the UK It sets out key institutions legal principles and conventions and its clear commentary draws on case studies and extracts from a range of sources to provide a full understanding of the law and the major theoretical and political debates

The Oxford Handbook of Legal Studies Peter Cane, Mark V. Tushnet, 2003 This volume in the prestigious series of Oxford Handbooks provides a widely accessible overview of legal scholarship at the start of the 21st century Through 43 essays by leading legal scholars based in the USA the UK Australia New Zealand Canada and Germany it offers original and interpretative accounts of the nature themes and trends of research and writing about all areas of the law

European Union Public Law Damian Chalmers, Adam Tomkins, 2007-09-24 Since its publication in 2006 European Union Law has quickly established itself as one of the leading textbooks in the field providing the student with both a comprehensive text and collection of materials European Union Public Law brings together those sections of the title which look at the constitutional and institutional law of the EU making it ideal for students undertaking a more focused study of the Union Its proven successful combination of a highly accessible style a law in context approach which looks at the law in its wider political and social context and collection of interdisciplinary materials make this an essential text for those students concerned with the institutional and political workings of the Union European public law students European studies students and politics students will find this text invaluable at both undergraduate and postgraduate level

UK, EU and Global Administrative Law Paul Craig, 2015-10-29 Paul Craig s analysis of UK EU and global administrative law examines the challenges facing each system and reveals the commonalities in and differences between their foundational assumptions The challenges which they face may be particular to that legal order endemic to any legal system of administrative law or the result of interaction between the three systems The inter relationship between the three levels is important The legal and practical reality is that developments at one level can have an impact on the other two Legal doctrine fashioned at the national level may therefore inform developments in EU and global administrative law The doctrine thus created may then function symbiotically shaping developments within a domestic legal order The inter relationship is equally marked from the regulatory perspective since many such provisions originate at the global or EU level

The Evolution of EU Law Paul P. Craig, Gráinne De Búrca, 1999 The European Community has been in existence for 40 years This period has seen considerable change and development in both the institutional and the substantive law of the EC and more recently the EU This work seeks to stand back from the ever growing detail of Community law and examine this

jurisprudence from an evolutionary and interdisciplinary perspective Every important area of institutional and substantive European law is covered leading lawyers analyze the evolution of their area of expertise across time bringing out the major thematic changes which have occurred These changes are then viewed against the broader political and economic background of the community as a whole

The EU and National Constitutional Law Peter M. Huber, 2014-06-27 Die Reihe Münchener Reden zur Europäischen Integration widmet sich einzelnen Vorträgen und Tagungen die sich mit den verfassungsrechtlichen Grundlagen der Europäischen Integration in den Mitgliedstaaten den Strukturen des Unionsrechts und der Europäisierung des nationalen öffentlichen Rechts befassen In dieser Reihe erscheinen auch die Dokumentationen der seit 2007 regelmäßig stattfindenden Münchener Kolloquien zum öffentlichen Wirtschaftsrecht die ebenso wie eine Vortragsreihe von der Forschungsstelle für das Recht der Europäischen Integration an der Juristischen Fakultät der Ludwig Maximilians Universität München veranstaltet werden

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