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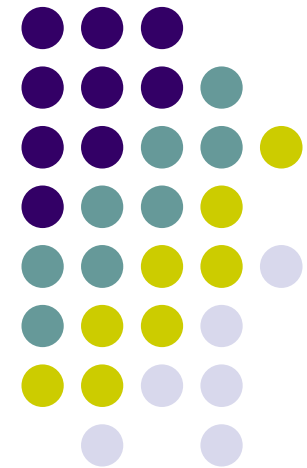
EUROPEAN CONSTITUTIONAL LAW



SUNICOP

European Constitutional Law

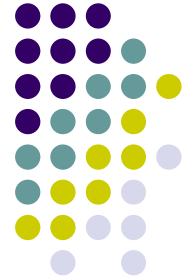
Global constitutionalism





Introduction

- Universal practice: formal constitutions
- Global constitutional trends
 - Rights creep
 - Growth of generic rights
 - Judicial review
- Variables
 - Comprehensiveness of constitution
 - Ideological character
 - Libertarian
 - Statist



Functions of a constitution

- Normative sense
 - Integrate society
 - Stabilization
 - Legitimize
 - Limit public power
- Sociological sense
 - Satisfy and influence the audience
 - Audience
 - Domestic constituencies
 - Foreign investors
 - Other states and international community



Constitutional convergence

- Constitutional learning
 - in the course of attempting to learn from one another, countries are likely to imitate one another
- Constitutional competition
 - the need to attract and retain capital and skilled labor gives countries an incentive to offer similarly generous constitutional guarantees of personal and economic freedom
- Constitutional networks
 - reward countries for adopting the same type of constitutional regime that others have already adopted
- Constitutional conformity
 - countries face pressures to conform to global constitutional norms in order to win acceptance and support

Rights creep



- In 1946, the average constitution contained 19 out of the 56 rights provisions
- By 2006, that fraction had increased to 33 out of 56, an increase of more than 70%

Judicial review



- In 1946, only 25% of all countries had some form of judicial review explicitly entrenched in their respective constitutions
- by 2006, that proportion had increased to 82%

The World's Most Popular Rights



- Freedom of religion, Freedom of the press and/or expression, Equality guarantees, Right to private property, Right to privacy
- Prohibition of arbitrary arrest and detention, Right of assembly, Right of association, Women's rights
- Freedom of movement, Right of access to court, Prohibition of torture, Right to vote, Right to work, Positive right to education at state expense, Judicial review, Prohibition of ex post facto laws