

The Past and Future of the European Constitution



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The rejection by Dutch and French voters to the idea of a European Constitution in 2005 and the decision of the European Council to remove the language of constitutionalism from its Treaty reform project have created a strong impression that the idea of a European constitution is dead and buried or, at least, that it must be left to another day and age. This book argues that the constitutional question cannot and should not so easily disappear from the EU's legal and political horizon. The European Union cannot deny either its own unique constitutional past or the continuing relevance of the broader history of the project of state constitutionalism. The EU's own constitutional past is inscribed in its mature legal order and in its specialized institutional framework which bestow on the Union its distinctive legal and institutional identity. This identity notwithstanding, the book argues that the EU suffers from excluding core elements of state constitutionalism: A framework of popular self-rule, a well-nurtured sense of a distinctive 'society' as the setting of the constitution, and a self-styled constitutional discourse as the common vernacular of fundamental political debate. The book argues that the EU's modest constitutional inheritance will continue to be inadequate to resolve its problems of legitimacy as the world's first post-state polity. It explores whether, building on that modest inheritance, the EU can still find its own distinctive route to constitutional maturity.

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