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Mark Tushnet excels in updating the Advanced Introduction to Comparative Constitutional Law. In this second edition Tushnet includes new material based on developments in practice and scholarship since the original editions publication back in 2014. Topics which are given substantial additional attention include abusive constitutionalism, the idea of the constituent power, eternity clauses and unconstitutional amendments, recent developments in weak- and strong-form constitutional review, and expanded consideration of third generation rights. This title will appeal to those who fell in love with the first edition and those who are interested in learning more about Comparative Constitutional Law. Ask the publishers to restore access to 500,000+ books. Help out the community by reporting the quality of this file! 0) A file MD5 is a hash that gets computed from the file contents, and is reasonably unique based on that content. All shadow libraries that we have indexed on here primarily use MD5s to identify files. A file might appear in multiple shadow libraries. For information about the various datasets that we have compiled, see the Datasets page. For information about this particular file, check out its JSON file. Live/debug JSON version. Live/debug page. Vol. 25 No. 1 (January 2015) pp. 14-16 ADVANCED INTRODUCTION TO COMPARATIVE CONSTITUTIONAL LAW by Mark Tushnet. Northampton, MA: Edward Elgar, 2014. 133 pp. Paper \$23.75. ISBN: 9781783473519. Reviewed by Miguel Schor, Professor of Law, Drake University School of Law. Email: miguel.schor@drake.edu. The field of comparative constitutional law began its modern renaissance with the publication of the American Constitution. Shortly after its publication, Edmund Burke and Thomas Paine engaged in a famous transatlantic contretemps over the virtues and vices of the new political practice of writing constitutions. The worldwide success of the American innovation of writing constitutions meant that debates over how best to design institutions would continue to have important theoretical and practical implications around the globe (Billias 2009). Scholarly interest in comparative constitutionalism grew sharply, though, in the wake of the global spread of democracy in the 1980s as old questions over institutional design gained new currency. The field of comparative constitutional law has become sufficiently mature that a survey of the scholarship is sorely needed. Mark Tushnets ADVANCED INTRODUCTION TO COMPARATIVE CONSTITUTIONAL LAW does an admirable job of filling this gap in the literature by critically reviewing the scholarship in the field and signaling areas of inquiry that the author believes have not been adequately addressed. The book addresses three principal themes: (1) chapter 2 discusses the constituent power; (2) chapters 3 and 4 discuss the role of constitutional courts; and (3) chapter 5 discusses the structure of government. These themes do not simply reflect contemporary intellectual concerns. The path undertaken by the American revolutionaries in writing and adopting a constitution that purposefully instituted a government and inadvertently empowered courts to construe constitutions continues to deeply color how scholars conceptualize the problematic of constitutionalism. Tushnet (pp. 39, 13) addresses some of the dragons that inhabit the case of constitution-making by examining why a people might come to believe that they are bound by a collectively imagined project that no one holds. The framers were preoccupied by the problem of how political actors became bound by parchment barriers (Levinson 2011), as are contemporary constitutional theorists who face the problem of constitutions drafted for polities whose democratic institutions may have shallow roots. The process followed by the American revolutionaries that ignored the people in drafting the Constitution is unacceptable in the contemporary world (Coln-Ros 2012). The Icelandic experiment (p. 20), which crowd sourced the writing process, shows promise as a means of facilitating citizen attachment to a constitution even though the task of integrating these recommendations into a coherent document requires a fair degree of technical skill. Language provides another means to deepen citizen attachment to constitutions. The project of a constitution is typically captured in preambles and other precatory language. Tushnet provocatively argues (pp. 116-119) that the very length of modern constitutions might undermine their sociological effectiveness and that short or thin constitutions are needed that lay out broad statements of principles that citizens can read and adhere to. Courts loom large in the work of contemporary comparative theorists and Tushnet reprises this scholarship in Chapters 3 and 4 by examining (a) why judicial review became established around the globe, (b) the institutional forms that judicial review takes, and (c) how courts go about the business of construing rights. (a) Constitutional judicial review underwent a striking expansion in the 1980s as polities around the globe democratized. The now [\*14] classic argument (Hirschl 2004, Ginsburg 2003) for the spread of judicial review is that elites found it in their self-interest to establish limited democratic rule. Elites calculated that while they had no choice but to relinquish authoritarian rule, they could limit their losses by simultaneously empowering constitutional judicial review. Whether courts systematically protect elite interests, though, is quite obviously debatable (Thompson 1975). Once power is ceded to non-elected officials, for example, ordinary citizens around the globe can and do mobilize to pursue their disparate goals (Epp 1998). The independence enjoyed by national high courts means that it is difficult to determine who judicial review favors over the long haul. (b) Whether there is pay-off to how judicial review is institutionalized has been a salient issue for over half a century. After the Second World War when judicial review spread throughout Europe, scholars focused on the respective merits of the American model of judicial review, which empowers all courts to interpret a constitution, and then new European or Kelsenian model, which concentrates judicial review in one constitutional court. Scholars have largely moved beyond this issue as both systems work tolerably well (Ferrerres 2009) and now gravitate towards a cluster of issues that deal with whether national high courts are able to etch their policy preferences onto the text of the constitution without taking into account the views of other political actors. Both the American and European models largely ignore the role that political actors play in construing constitutions. When the United Kingdom, Canada, and New Zealand constitutionalized rights in the late twentieth century, these polities sought to afford elected officials a prominent place at the constitutional table. The Commonwealth model of judicial review requires that elected officials vet the constitutionality of proposed legislation and provides them with potent tools with which to check constitutional judicial decisions (Gardbaum 2013). Tushnet is skeptical (pp. 57-58) that the dialogic or weak form of review exercised in these polities resolves the long-standing issue of the democratic deficit engendered by judicial review. He also points out that dialogic review may not be that different from existing models since all courts are subject to political check via the appointment process. (c) Perhaps not surprisingly, the core issue of much contemporary theorizing is how courts should go about the business of construing rights. Here Tushnet provides a fine descriptive analysis of the three principal approaches employed by courts, proportionality, balancing, and categorical rules. Categorical rules have been employed at times by the United States Supreme Court as a means of counteracting the latent possibility of political backlash. Balancing, on the other hand, (p. 71) is a technique in which the court describes all the considerations at stake. Balancing is closely related to proportionality analysis, which, unlike balancing, (p. 72) provides a structured form of analysis as courts must work their way through a fairly formalized set of questions before (p. 73) determining whether the governments goals are important enough and are advanced enough by the statute so as to justify the actual impairment of liberty. Tushnet argues that the pay-offs to these principal approaches to construing rights differ. Proportionality analysis (pp. 78-79) may do the best job of minimizing judicial error by requiring courts to explicitly work their way through the factors that impact their decision making whereas the use of categorical rules may lead to lower rates of error by non-judicial decision makers as they are easier to employ. Lastly, Tushnet addresses structural issues in Chapter 5. Here he turns his attention to gaps in the literature. In particular, Tushnet notes that the classical paradigm of three branches of government obscures the complexities of how government operates. Modern constitutions, for example, pay surprising little attention to the complexities [\*15] of the administrative state. Executives and legislatures, moreover, do not do a good job of checking each other, as the calculus of re-election tends to trump institutional concerns. Tushnet persuasively argues that a fifth branch of government is needed to deal with government corruption and electoral disputes since these are areas where elected officials are likely to engage in self-dealing. Tushnets ADVANCED INTRODUCTION TO COMPARATIVE CONSTITUTIONAL LAW is a first rate analysis of comparative constitutional scholarship that will be of interest both to law professors and social scientists. Its brevity will make it of greater utility to advanced than to beginning students. In the introduction, Tushnet (p. 9) announces that he will deal with the questions raised by comparative scholars but the emphases are my own. Tushnet does a superb job of addressing normative, comparative constitutional issues but pays less attention to empirical ones. The book, in short, reflects the authors background as a professor of law as well as his deep knowledge of American and comparative constitutional theory. REFERENCES Billias, George Athan. 2009. 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The Advanced Introduction to Comparative Constitutional Law: Second Edition is available for purchase as an audiobook from the below vendor:\*This title is not available as an audiobook directly from Edward Elgar PublishingMark Tushnet excels in updating theAdvanced Introduction to Comparative Constitutional Law. In this second edition Tushnet includes new material based on developments in practice and scholarship since the original editions publication back in 2014. Topics which are given substantial additional attention include abusive constitutionalism, the idea of the constituent power, eternity clauses and unconstitutional amendments, recent developments in weak- and strong-form constitutional review, and expanded consideration of third generation rights. 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