



The Concept of the Rule of Law and the European Court of Human Rights

Geranne Lautenbach



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This book analyses the concept of the rule of law in the context of international law, through the case law of the European Court of Human Rights. It investigates how the court has defined and interpreted the notion of the rule of law in its jurisprudence. It places this analysis against a background of more theoretical accounts of the idea of the rule of law, drawing in ideas of political philosophy. It also provides a comparative assessment, demonstrating how the idea of the rule of law has evolved in the UK, France, and Germany.

The book argues that at the core of the concept of the rule of law are the notions of legality and judicial safeguards. It states that the Court has developed the requirements of legality, which the work analyses in detail, based on that concept. It assesses the independence of the judiciary as an aspect of the rule of law in the context of the European Convention on Human Rights, and the relationship between the rule of law and the substantive contents of law. The book posits that the rule of law as seen at the Court is not mainly utilised with regard to 'freedom' rights, but is more concerned with procedural rights. It discusses the relationship between the rule of law and the view of the Convention as a constitutional instrument of the European public order, and shows that the rule of law and democracy are inextricably linked in the case law of the Court. Ultimately, the book demonstrates in its analysis of the Court's jurisprudence that the notion of the rule of law is a crucial part of the international legal order.



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