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The Law/Politics Distinction in Contemporary Public Law Adjudication

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Law/Politics Distinction in Contemporary Public Law Adjudication:

The contributions in this book address various issues pertaining to the judicialization of politics and the politicization of justice. This theme lends itself to a number of approaches that are of the highest interest to contemporary public law (e.g., the appropriateness of judicial deference to political and administrative discretion in constitutional adjudication; and judicial review of administrative action, theories, and methodologies of constitutional and statutory interpretation; and legal theory debates ranging from Hans Kelsen to Carl Schmitt, from Antonin Scalia to Ronald Dworkin; etc.). The context of transitional constitutionalism presents a number of compounded complications and interesting contradictions related to the topic. In conceptual terms, the contributions do not assume a unitary definition of the phenomenon of politicization/judicialization, instead starting from the premise that such definitions are by necessity grossly oversimplifying and therefore of limited epistemological use. The contributors build an understanding of the general phenomenon by exploring the law/politics distinction along distinct relevant dimensions (the private/public distinction, "political questions" doctrines, the disciplining effect of interpretive methodology, the limits of interpretation, the special problematic of individual vs. collective rights, etc.). Due to its unique approach, this work is a distinctive and unique product compared to the existing literature on the subject.