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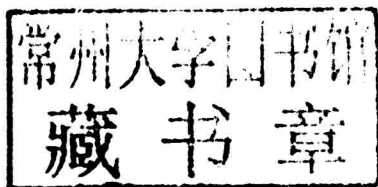
THE CONCEPT OF THE RULE OF LAW AND THE EUROPEAN COURT OF HUMAN RIGHTS

Geranne Lautenbach



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

GERANNE LAUTENBACH



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*When the student is ready,
the master appears.
Buddhist proverb*

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List of Abbreviations

CCJE	Consultative Council of European Judges
CEPEJ	European Commission for the Efficiency of Justice
CoE	Council of Europe
Convention	European Convention on Human Rights
EComHR	European Commission of Human Rights
ECHR	Reports of Judgments and Decisions of the European Court of Human Rights
ECtHR	European Court of Human Rights
EU	European Union
FCC	German Federal Constitutional Court
GC	Grand Chamber of the European Court of Human Rights
ICJ	International Court of Justice
ICTY	International Criminal Tribunal for the former Yugoslavia
Pl	Plenary Court of the European Court of Human Rights
UN	United Nations
UNGA	United Nations General Assembly
UNSC	United Nations Security Council

La construction de la théorie de l'État de droit n'est pas le fait du hasard ou le produit d'une logique purement interne au champ juridique: la théorie s'est épanouie sur un certain terreau idéologique, enracinée dans une certaine réalité sociale et politique; privée de ce substrat, coupée de ces références, elle n'apparaît plus que comme une coquille vide, un cadre formel et devient à proprement parler 'insignifiante'.¹

Über die Wichtigkeit grundlegender politischer Wertvorstellungen sind wir uns im Streite einig.²

Anders als der einzelne Mensch sind politische Ordnungsformen in ihrer konkreten Bestimmtheit nicht 'Zweck an sich selbst', sondern Einrichtungen woraufhin.³

¹ Jacques Chevallier, *L'État de droit*, 4th edn (Paris: Montchrestien, 2003) at 52.

² Neil MacCormick, 'Der Rechtsstaat und die Rule of Law' (1984) *Juristenzeitung* 39 at 70.

³ Ernst-Wolfgang Böckenförde, 'Ist Demokratie eine Notwendige Forderung der Menschenrechte?' in Stefan Gosepath and Georg Lohmann (eds), *Philosophie der Menschenrechte* (Frankfurt am Main: Suhrkamp, 1998) at 240.