Contents

	List of contributors Acknowledgements	
	mparative administrative law: an introduction san Rose-Ackerman and Peter L. Lindseth	1
PA	RT 1 HISTORICAL PERSPECTIVES	
1	<i>Révolution, Rechtsstaat</i> and the Rule of Law: historical reflections on the emergence of administrative law in Europe <i>Bernardo Sordi</i>	23
2	Explaining administrative law: reflections on federal administrative law in nineteenth century America <i>Jerry L. Mashaw</i>	37
3	Testing Weber: compensation for public services, bureaucratization, and the development of positive law in the United States <i>Nicholas Parrillo</i>	47
4	Administrative law and the public regulation of markets in a global age Marco D'Alberti	63
5	Administrative law in East Asia: a comparative-historical analysis John Ohnesorge	78
6	Administrative state socialism and its constitutional aftermath Kim Lane Scheppele	92
PA	RT 2 CONSTITUTIONAL STRUCTURE AND ADMINISTRATIVE LAW	
7	Written constitutions and the administrative state: on the constitutional character of administrative law	117
8	Tom Ginsburg Good-bye, Montesquieu	128
9	Bruce Ackerman Comparative positive political theory M. Elizabeth Magill and Daniel R. Ortiz	134
10	Overseeing the executive: Is the legislature reclaiming lost territory from the courts?	148
11	<i>Tom Zwart</i> 'Creatures of the state': regulatory federalism, local immunities, and EU waste regulation in comparative perspective <i>Fernanda G. Nicola</i>	161

vi Comparative administrative law

PART 3 ADMINISTRATIVE INDEPENDENCE

12	The promise of comparative administrative law: a constitutional perspective on independent agencies <i>Daniel Halberstam</i>	185
13	The puzzle of administrative independence and parliamentary democracy in the common law world: a Canadian perspective <i>Lorne Sossin</i>	205
14	Presidential dominance from a comparative perspective: the relationship between the executive branch and regulatory agencies in Brazil <i>Mariana Mota Prado</i>	225
15	Experimenting with independent commissions in a new democracy with a civil law tradition: the case of Taiwan <i>Jiunn-rong Yeh</i>	246
16	Understanding independent accountability agencies John M. Ackerman	265
17	Independent administrative authorities in France: structural and procedural change at the intersection of Americanization, Europeanization and Gallicization	277
10	Dominique Custos	202
18	A comparison of US and European independent agencies <i>Martin Shapiro</i>	293
PA	RT 4 TRANSPARENCY, PROCEDURE, AND ADMINISTRATIVE POLICY-MAKING	
19	Comparing regulatory oversight bodies across the Atlantic: the Office of Information and Regulatory Affairs in the US and the Impact Assessment Board in the EU	309
20	Jonathan B. Wiener and Alberto Alemanno Towards a third generation of administrative procedure	336
21	<i>Javier Barnes</i> Participation and expertise: judicial attitudes in comparative perspective <i>Catherine Donnelly</i>	357
22	Administrative agencies as creators of administrative law norms: evidence from the UK, France and Sweden Dorit Rubinstein Reiss	373
PA	RT 5 ADMINISTRATIVE LITIGATION AND ADMINISTRATIVE LAW	
23	The origins of American-style judicial review	389
24	Thomas W. Merrill The powers and duties of the French administrative judge Jean Massot	415

	Contents	vii
25	Judicial review and merits review: comparing administrative adjudication by courts and tribunals <i>Peter Cane</i>	426
26	Judicial review of questions of law: a comparative perspective Paul Craig	449
27	Judicial deference to legislative delegation and administrative discretion in new democracies: recent evidence from Poland, Taiwan, and South Africa <i>Cheng-Yi Huang</i>	466
28	Where too little judicial deference can impair the administrative process: the case of Ukraine <i>Howard N. Fenton</i>	482
PA	RT 6 ADMINISTRATIVE LAW AND THE BOUNDARIES OF THE STATE	
<i>A</i> .	The Boundary between Public and Private	
29	Three questions of privatization Daphne Barak-Erez	493
30	Contracting out and 'public values': a theoretical and comparative approach <i>Jean-Bernard Auby</i>	511
31	Organizational structure, institutional culture and norm compliance in an era of privatization: the case of US military contractors <i>Laura A. Dickinson</i>	524
32	Financial crisis and bailout: legal challenges and international lessons from Mexico, Korea and the United States <i>Irma E. Sandoval</i>	543
33	The role of the State in (and after) the financial crisis: new challenges for administrative law <i>Giulio Napolitano</i>	569
В.	Administration Beyond the State: The Case of the European Union	
34	A restatement of European administrative law: problems and prospects <i>George A. Bermann</i>	595
35	Adversarial legalism and administrative law in the European Union <i>R. Daniel Kelemen</i>	606
36	Supranational governance and networked accountability structures: Member State oversight of EU agencies Johannes Saurer	618
37	Individual rights and transnational networks Francesca Bignami	632
Inde	ex	639