

## **The Administrization of Constitutional Law**

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This Article suggests a new perspective on the radical changes in recent decades in the constitutional law of many countries, including Israel; it suggests viewing them as an adoption of the logic of administrative law into constitutional law – the administrization of constitutional law. These changes, which began in Europe after WWII and spread to many other countries worldwide, not including the U.S., include the blurring of the distinction between rights and interests, a reduction in the importance of the constitutional text, and an increase in the importance of "justification" tests, in particular balancing and proportionality. These features are also among the distinctive traits of administrative law, for which the distinction between rights and interests is insignificant, text is inessential, and balancing and proportionality tests for the justification of administrative action are central.

The Article also suggests a historical explanation for this process, according to which it is the result of the fact that in Europe (but not in the U.S.) the rights discourse was first developed in administrative law, which imprinted its own logic upon it. The Article also applies this thesis to Israel in which not only the logic but also the institutional apparatus of administrative law was incorporated into constitutional law, as Israel has morphed from an administrative to a constitutional model without any change in its legal institutions.