

1. Record Nr.	UNINA9910962766403321
Autore	Boughey Janina
Titolo	Human rights and judicial review in Australia and Canada : the newest despotism? / / Janina Boughey
Pubbl/distr/stampa	Oxford [UK] ; ; Portland, Oregon : , : Hart Publishing, , 2017
ISBN	9781509907892 1509907890 9781509907885 1509907882 9781509907878 1509907874
Descrizione fisica	1 online resource (288 pages)
Collana	Hart studies in comparative public law ; ; v. 16
Disciplina	347.71/012
Soggetti	Administrative law - Australia Civil rights - Australia Civil rights - Canada Judicial discretion - Australia Judicial discretion - Canada Judicial review of administrative acts - Australia Judicial review of administrative acts - Canada
Lingua di pubblicazione	Inglese
Formato	Materiale a stampa
Livello bibliografico	Monografia
Note generali	Includes index.
Nota di bibliografia	Includes bibliographical references and index.
Nota di contenuto	The framework for judicial review of administrative action in Australia -- The framework for judicial review of administrative action in Canada -- Procedural fairness -- Controlling discretion -- Intensity of review.
Sommario/riassunto	It is commonly asserted that bills of rights have had a 'righting' effect on the principles of judicial review of administrative action and have been a key driver of the modern expansion in judicial oversight of the executive arm of government. A number of commentators have pointed to Australian administrative law as evidence for this 'righting' hypothesis. They have suggested that the fact that Australia is an outlier among common law jurisdictions in having neither a statutory nor a constitutional framework to expressly protect human rights

explains why Australia alone continues to take an apparently 'formalist', 'legalist' and 'conservative' approach to administrative law. Other commentators and judges, including a number in Canada, have argued the opposite: that bills of rights have the effect of stifling the development of the common law. However, for the most part, all these claims remain just that - there has been limited detailed analysis of the issue, and no detailed comparative analysis of the veracity of the claims. This book analyses in detail the interaction between administrative and human rights law in Australia and Canada, arguing that both jurisdictions have reached remarkably similar positions regarding the balance between judicial and executive power, and between broader fundamental principles including the rule of law, parliamentary sovereignty and the separation of powers. It will provide valuable reading for all those researching judicial review and human rights
