



La guerra de los jueces: Tribunal Supremo vs. Tribunal Constitucional (Spanish Edition)

Rafael de Mendizábal Allende

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Desde que una Sentencia del Constitucional en 1994 provocó la “rebelión de los jueces” del Supremo, pidiendo la intervención del Rey, se han sucedido los desencuentros y los encontronazos de ambos, a veces en asuntos nimios como el caso “Preysler” y otros en temas trascendentales: la excarcelación de la Mesa de Herri Batasuna, sobre la cual se desvela en este libro la opinión de S.M., la condena de once magistrados del TC por “prevaricación civil”, la doctrina Parot, los casos Troitiño y Bildu o el Estatuto de Cataluña. Un análisis de la maquinaria judicial en su conjunto con el máximo nivel intelectual pero con una perspectiva realista, desde dentro, nada habitual, pone de manifiesto que tales conflictos no tienen remedio por ser producto del sistema, no de las personas. El modelo kelseniano de dos tribunales supremos introducido por el art. 123 CE está agotado. La solución es clara, suprimir el TC, pero conservando la jurisdicción constitucional, joya del Estado de Derecho, que se encomendaría a un nuevo TS. No obstante el rigor jurídico con que está construido, este libro adquiere en sus últimas cien páginas por la misma presión de los acontecimientos un cierto dinamismo periodístico. Escritas a pie de noticia no sólo se contagia de la prensa y de su estilo, sino que utiliza docenas de artículos de columnistas o colaboradores, más de uno también eminente jurista. Nada de extraño tiene tal característica si se recuerda que Rafael de Mendizábal obtuvo en su día el Premio Nacional de Periodismo “África” del IEA y hace un año el Premio “Miguel Moya” de la Asociación de la Prensa de Madrid por su contribución jurisprudencial y académica a la libertad de expresión. “Juez hasta la médula” como se autodefinió en su discurso de ingreso en la Real Academia de Jurisprudencia, conoce a fondo el mundo judicial. Magistrado del Tribunal Constitucional, Presidente de Sala del Supremo y de la Audiencia Nacional, Juez ad hoc del Tribunal Europeo de Derechos Humanos, ha sido también Vocal Permanente de la Comisión General de Codificación, Director General y Subsecretario de Justicia.

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