

Constitutional Politics

Essays on
Constitution
Making,
Maintenance,
and Change

Edited by
Sotirios A. Barber
&
Robert P. George

Constitutional Politics Essays On Constitution Making Main

Walter F. Murphy



Constitutional Politics Essays On Constitution Making Main:

Constitutional Politics Sotirios A. Barber, Robert P. George, 2021-03-09 What does it mean to have a constitution Scholars and students associated with Walter Murphy at Princeton University have long asked this question in their exploration of constitutional politics and judicial behavior These scholars concerned with the making maintenance and deliberate change of the Constitution have made unique and significant contributions to our understanding of American constitutional law by going against the norm of court centered and litigation minded research Beginning in the late 1970s this new wave of academics explored questions ranging from the nature of creating the U S Constitution to the philosophy behind amending it In this collection Sotirios A Barber and Robert P George bring together fourteen essays by members of this Princeton group some of the most distinguished scholars in the field These works consider the meaning of having a constitution the implications of particular choices in the design of constitutions and the meaning of judicial supremacy in the interpretation of the Constitution The overarching ambition of this collection is to awaken a constitutionalist consciousness in its readers to view themselves as potential makers and changers of constitutions as opposed to mere subjects of existing arrangements In addition to the editors the contributors are Walter F Murphy John E Finn Christopher L Eisgruber James E Fleming Jeffrey K Tulis Suzette Hemberger Stephen Macedo Sanford Levinson H N Hirsch Wayne D Moore Keith E Whittington and Mark E Brandon

The Limits of Constitutional Democracy Jeffrey K. Tulis, 2010-11-14 Constitutional democracy is at once a flourishing idea filled with optimism and promise and an enterprise fraught with limitations Uncovering the reasons for this ambivalence this book looks at the difficulties of constitutional democracy and reexamines fundamental questions What is constitutional democracy When does it succeed or fail Can constitutional democracies conduct war Can they preserve their values and institutions while addressing new forms of global interdependence The authors gathered here interrogate constitutional democracy s meaning in order to illuminate its future The book examines key themes the issues of constitutional failure the problem of emergency power and whether constitutions should be suspended when emergencies arise the dilemmas faced when constitutions provide and restrict executive power during wartime and whether constitutions can adapt to such globalization challenges as immigration religious resurgence and nuclear arms proliferation In addition to the editors the contributors are Sotirios Barber Joseph Bessette Mark Brandon Daniel Deudney Christopher Eisgruber James Fleming William Harris II Ran Hirschl Gary Jacobsohn Benjamin Kleinerman Jan Werner Müller Kim Scheppele Rogers Smith Adrian Vermeule and Mariah Zeisberg

Peopling the Constitution John E. Finn, 2014-03-24 The U S Constitution begins with the soaring words We the People but we the people have little to do with the document as most of us have come to know it When most people think of the constitution they think of it as a legal instrument the province of judges and lawyers who alone possess the expertise and knowledge necessary to discern its elusive and complex meaning This book outlines a very different view of the Constitution as a moral and philosophical statement about who we are as a nation This Civic

Constitution constitutes us as a civic body politic transforming the people into a singular political entity Juxtaposing this view with the legal model the Juridic Constitution John E Finn offers a comprehensive account of the Civic Constitution as a public affirmation of the shared principles of national self identity and as a particular vision of political community in which we the people play a significant and ongoing role in achieving a constitutional way of life The Civic Constitution is the constitution of dialogical engagement of contested meanings of political principles of education of conversation Peopling the Constitution seeks nothing less than a new interpretation of the American constitutional project in an effort to revive a robust understanding of citizenship It considers the entire constitutional project from its founding and maintenance to its failure with insights into topics ranging from the practice of deliberative democracy and the meaning of citizenship to constitutional fidelity civic virtue the separation of powers federalism and constitutional interpretation The Civic Constitution in Finn s telling is primarily a political project requiring an active engaged and most importantly constitutionally educated citizenry committed to the civic virtues of civility and tending When we as citizens are unwilling or unable to tend to and sustain the Constitution and when constitutional questions reduce to legal questions and obscure civic interests constitutional rot results And in post 9 11 America Finn argues constitutional rot has begun to set in With its multi dimensional vision of constitutional governance Finn s book stands as a corrective to accounts that locate the Constitution in and conceive it essentially as a legal instrument making a powerful and impassioned argument for restoring the people to their rightful place in the politics and practice of the Constitution

Constitutionalism and Political Reconstruction Saïd Amir Arjomand, 2007-08-31 The themes of nation building post colonial modernization and constitution making post communist return to the rule of law and constitutional reconstruction the global expansion of judicial power and judicial activism by the constitutional courts are usually studied by different specialists with somewhat narrow foci This book is a unique and ambitious interdisciplinary attempt at the integration of these related fields and offers a timely theoretical synthesis of the most important global constitutional trends in the last half century These essays by prominent authorities on different subjects and geographical areas offer a comprehensive comparative view of the most important constitutional developments of two eras bringing together the transplantation of the constitutional pattern of the nation state and the current wave of globalization of constitutionalism and the rule of law Contributors are S A Arjomand Nathan J Brown Ruth Gavison Julian Go Keyvan Tabari Heinz Klug Jill Cottrell Yash Ghai L szl S lyom Jacek Kurczewski Anders Fogelklou Gra yna Sk pska Dieter Grimm Kim Lane Scheppele Ruth Rubio Mar n and Dicle Kogacio lu

Natural Law and the Antislavery Constitutional Tradition Justin Buckley Dyer, 2012-02-13 *Natural Law and the Antislavery Constitutional Tradition* is a succinct account of the development of American antislavery constitutionalism in the years preceding the Civil War In a series of case studies Dyer reconstructs the arguments of prominent antislavery thinkers such as John Quincy Adams John McLean Abraham Lincoln and Frederick Douglass What emerges is a convoluted understanding of American constitutional development that emphasizes the

centrality of natural law to America's greatest constitutional crisis

Foundations of Public Law Martin

Loughlin, 2012-09-27 *Foundations of Public Law* offers an account of the formation of the discipline of public law with a view to identifying its essential character explaining its particular modes of operation and specifying its unique task. Building on the framework first outlined in *The Idea of Public Law* OUP 2003 the book conceives public law broadly as a type of law that comes into existence as a consequence of the secularization, rationalization and positivization of the medieval idea of fundamental law. Formed as a result of the changes that give birth to the modern state, public law establishes the authority and legitimacy of modern governmental ordering. Public law today is a universal phenomenon but its origins are European. Part I of the book examines the conditions of its formation showing how much the concept borrowed from the refined debates of medieval jurists. Part II then examines the nature of public law. Drawing on a line of juristic inquiry that developed from the late sixteenth to the early nineteenth centuries extending from Bodin, Althusius, Lipsius, Grotius, Hobbes, Spinoza, Locke and Pufendorf to the later works of Montesquieu, Rousseau, Kant, Fichte, Smith and Hegel, it presents an account of public law as a special type of political reason. The remaining three Parts unpack the core elements of this concept: state, constitution and government. By taking this broad approach to the subject, Professor Loughlin shows how, rather than being viewed as a limitation on power, law is better conceived as a means by which public power is generated. And by explaining the way that these core elements of state, constitution and government were shaped respectively by the technological, bourgeois and disciplinary revolutions of the sixteenth century through to the nineteenth century, he reveals a concept of public law of considerable ambiguity, complexity and resilience.

The Political Education of Democratus Brian W. Dotts, 2012-01-01 The radical Democratic Republican Societies that emerged during the 1790s not only challenged conventional interpretations of the civic republican tradition; they also adopted Enlightenment principles in their advocacy for universal public education. Brian W. Dotts' *The Political Education of Democratus: Negotiating Civic Virtue during the Early Republic* shows that, unlike mainstream educational philosophy of the period, radical democrats supported universal political education as essential in protecting liberty and political equality.

The Language of Liberal Constitutionalism Howard Schweber, 2007-02-26 This book explores two basic questions regarding constitutional theory. First, in view of a commitment to democratic self-rule and widespread disagreement on questions of value, how is the creation of a legitimate constitutional regime possible? Second, what must be true about a constitution if the regime that it supports is to retain its claim to legitimacy? Howard Schweber shows that the answers to these questions appear in a theory of constitutional language that combines democratic theory with constitutional philosophy. The creation of a legitimate constitutional regime depends on a shared commitment to a particular and specialized form of language. Out of this simple observation, Schweber develops arguments about the characteristics of constitutional language, the necessary differences between constitutional language and the language of ordinary law or morality, as well as the authority of officials such as judges to engage in constitutional review of laws. *The*

Supreme Court and the Idea of Constitutionalism Steven J. Kautz, Arthur Melzer, Jerry Weinberger, 2011-10-03 In this volume distinguished constitutional scholars aim to move debate over the Supreme Court beyond the soundbites that divide us to fundamental questions about the nature of constitutionalism

Post Sovereign Constitution Making Andrew Arato, 2016 Constitutional politics has become a major terrain of contemporary struggles Contestation around designing replacing revising and dramatically re interpreting constitutions is proliferating worldwide Starting with Southern Europe in post Franco Spain then in the ex Communist countries in Central Europe post apartheid South Africa and now in the Arab world constitution making has become a project not only of radical political movements but of liberals and conservatives as well Wherever new states or new regimes will emerge in the future whether through negotiations revolutionary process federation secession or partition the making of new constitutions will be a key item on the political agenda Combining historical comparison constitutional theory and political analysis this volume links together theory and comparative analysis in order to orient actors engaged in constitution making processes all over the world The book examines two core phenomena the development of a new democratic paradigm of constitution making and the resulting change in the normative discussions of constitutions their creation and the source of their legitimacy After setting out a theoretical framework for understanding these developments Andrew Arato examines recent constitutional politics in South Africa Hungary Turkey and Latin America and discusses the political stakes in constitution making The book concludes by offering a systematic critique of the alternative to the new paradigm populism and populist constituent politics

Welfare and the Constitution Sotirios A. Barber, 2009-01-10 Welfare and the Constitution defends a largely forgotten understanding of the U S Constitution the positive or welfarist view of Abraham Lincoln and the Federalist Papers Sotirios Barber challenges conventional scholarship by arguing that the government has a constitutional duty to pursue the well being of all the people He shows that James Madison was right in saying that the real welfare of the people must be the supreme object of constitutional government With conceptual rigor set in fluid prose Barber opposes the shared view of America s Right and Left that the federal constitutional duties of public officials are limited to respecting negative liberties and maintaining processes of democratic choice Barber contends that no historical scientific moral or metaethical argument can favor today s negative constitutionalism over Madison s positive understanding He urges scholars to develop a substantive account of constitutional ends for use in critiquing Supreme Court decisions the policies of elected officials and the attitudes of the larger public He defends the philosophical possibility of such theories while also offering a theory of his own as a starting point for the discussion the book will provoke This theory holds for example that voucher schemes which drain resources from secular public schools to schools that would train citizens to submit to religious authority are unconstitutional First Amendment issues aside such schemes defeat what is undeniably an element of the real welfare of the people individually and collectively the capacity to think critically for oneself

A New Introduction to American Constitutionalism Mark A. Graber, 2015 A

New Introduction to American Constitutionalism is the first truly interdisciplinary study of the American constitutional regime Mark A Graber explores the fundamental elements of the American constitutional order with particular emphasis on how constitutionalism in the United States is a form of politics and not a means of subordinating politics to law

American Constitutional Interpretation Walter F. Murphy, 2008 This undergraduate text uses original essays cases and materials to study the very enterprise by which a constitution is interpreted and a constitutional government created It explores the American polity as both a constitutional and democratic entity This volume is organized around a set of basic interrogatives What is the constitution that is to be interpreted Who are its authoritative interpreters How do they go about their interpretive tasks

Law and Politics of the Taiwan Sunflower and Hong Kong Umbrella Movements Brian Christopher Jones, 2017-03-27 Rarely do acts of civil disobedience come in such grand fashion as Taiwan s Sunflower Movement and Hong Kong s Umbrella Movement The two protests came in regions and jurisdictions that many have underestimated as regards furthering notions of political speech democratisation and testing the limits of authority This book breaks down these two movements and explores their complex legal and political significance The collection brings together some of Asia s and especially Taiwan and Hong Kong s most prolific writers many of whom are internationally recognised experts in their respective fields to address the legal and political significance of both movements including the complex questions they posed as regards democracy rule of law authority and freedom of speech Given that occupational type protests have become a prominent method for protesters to make their cases to both citizens and governments exploring the legalities of these significant protests and establishing best practices will be important to future movements wherever they may transpire With this in mind the book does not stop at implications for Taiwan and Hong Kong but talks about its subject matter from a comparative international perspective

Social and Political Foundations of Constitutions Denis J. Galligan, 2013-10-14 This volume analyses the social and political forces that influence constitutions and the process of constitution making It combines theoretical perspectives on the social and political foundations of constitutions with a range of detailed case studies from nineteen countries In the first part leading scholars analyse and develop a range of theoretical perspectives including constitutions as coordination devices mission statements contracts products of domestic power play transnational documents and as reflection of the will of the people In the second part these theories are examined through in depth case studies of the social and political foundations of constitutions in countries such as Egypt Nigeria Japan Romania Bulgaria New Zealand Israel Argentina and others The result is a multidimensional study of constitutions as social phenomena and their interaction with other social phenomena

General Hindi, Essay & General Studies YCT Expert Team, 2022-23 UPPCS Mains General Hindi Essay General Studies

The Supreme Court and American Political Development Ronald Kahn, Ken I. Kersch, 2006-05-15 This innovative volume explores the evolution of constitutional doctrine as elaborated by the Supreme Court Moving beyond the traditional law versus politics perspective the authors draw

extensively on recent studies in American Political Development APD to present a much more complex and sophisticated view of the Court as both a legal and political entity The contributors including Pam Brandwein Howard Gillman Mark Graber Ronald Kahn Tom Keck Ken Kersch Wayne Moore Carol Nackenoff Julie Novkov and Mark Tushnet share an appreciation that the process of constitutional development involves a complex interplay between factors internal and external to the Court They underscore the developmental nature of the Court revealing how its decision making and legal authority evolve in response to a variety of influences not only laws and legal precedents but also social and political movements election returns and regime changes advocacy group litigation and the interpretive community of scholars journalists and lawyers Initial chapters reexamine standard approaches to the question of causation in judicial decision making and the relationship between the Court and the ambient political order Next a selection of historical case studies exemplifies how the Court constructs its own authority as it defines individual rights and the powers of government They show how interpretations of the Reconstruction amendments inform our understanding of racial discrimination explain the undermining of affirmative action after Bakke and consider why Roe v Wade has yet to be overturned They also tell how the Court has collaborated with political coalitions to produce the New Deal Great Society and Reagan Revolution and why Native Americans have different citizenship rights than other Americans These contributions encourage further debate about the nature and processes of constitutional change and invite APD scholars to think about law and the Court in more sophisticated ways 2024-25

UPPSC Mains Descriptive Solved Papers General Hindi, Essay and General Studies YCT Expert Team, 2024 25 UPPSC Mains Descriptive Solved Papers General Hindi Essay and General Studies 352 695 E This book contains previous years solved papers from 2018 to 2023

Constitutionalism and Emerging Democracies , Deciphering the Genome of Constitutionalism Ran Hirschl, Yaniv Roznai, 2024-03-21 Offers an extensive theoretical comparative normative and empirical account of the concept of constitutional identity

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