

Constitutionalism

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Constitutionalism And Rights

John Olusegun Adenitire, Raffael Fasel

Constitutionalism And Rights:

Constitutionalism and Rights Gary C. Bryner, Noel B. Reynolds, 1987-01-01 Constitutionalism and Rights explores the ambivalent relationship between the American tradition of constitutionalism and the notions of rights that have emerged over the last three centuries. The six essays focus systematically on selected tensions between these two fundamental strands in the American tradition of liberty and self government. Discussed are ideas of rights and constitutionalism generally, mechanisms and procedures necessary to assure rights in a large bureaucratic state, rights as expressed in public welfare programs, innovations employed by the eighteenth century Framers to achieve limited government as a means to securing fair and equal individual freedom, the dependence of rights on institutional devices and the rule of law, the need for public virtue, balancing individual rights with self sacrifice for the common good, if the American constitutional system is to survive, and the dangers of individualism and individual rights posed by modern liberalism. The essayists are prominent scholars representing the disciplines of political science, government and law. They all state their confidence in the American constitutional system, but they also voice doubts about the future if problems are not redressed. The editors conclude their introduction by expressing hope that this volume will clarify some important issues and help us remember essential lessons of the past as we continue in this great public conversation. Constitutionalism and Rights is the first of a three volume series examining significant features of the Constitution. The series, inspired by the bicentennial of that great achievement, consists of essays presented by scholars at three conferences on the Constitution held at Brigham Young University in 1985, 1986, and 1987, and several additional essays written especially for these volumes.

The Constitution of Freedom András Sajó, Renáta Uitz, 2017-11-04 Constitutional democracy is more fragile and less natural than autocracy. While this may sound surprising to complacent democrats, more and more people find autocracy attractive because they were never forced to understand or imagine what despotism is. Generations who have lived in stable democracies with the promise that their enviable world will become the global normal find government rule without constitutionalism difficult to conceive. It is difficult but never too late to see one's own constitutional system as something that is fragile or up for grabs and in need of constant attention and care. In this book, András Sajó and Renáta Uitz explore how constitutionalism protects us and how it might be undone by its own means. Sajó and Uitz's intellectual history of the constitutional ideal is rich in contextual detail and informed by case studies that give an overview of both the theory and practice of constitutionalism worldwide. Classic constitutions are contrasted with twentieth century and contemporary endeavours and experimentations in checks and balances. Their endeavour is neither apologetic and certainly not celebratory, nor purely defensive. This book demonstrates why constitutionalism should continue to matter. Between the rise of populist anti constitutional sentiment and the normalization of the apparatus of counter terrorism, it is imperative that the political communities who seek to sustain democracy as freedom understand the importance of constitutionalism. This book is essential reading for students of law and

general readers without prior knowledge of the field as well as those in politics who believe they know how government works It shows what is at stake in the debate on constitutionalism

How Constitutional Rights Matter Adam Chilton,Mila Versteeg,2020-06-19 Does constitutionalizing rights improve respect for those rights in practice Drawing on statistical analyses survey experiments and case studies from around the world this book argues that enforcing constitutional rights is not easy but that some rights are harder to repress than others First enshrining rights in constitutions does not automatically ensure that those rights will be respected For rights to matter rights violations need to be politically costly But this is difficult to accomplish for unconnected groups of citizens Second some rights are easier to enforce than others especially those with natural constituencies that can mobilize for their enforcement This is the case for rights that are practiced by and within organizations such as the rights to religious freedom to unionize and to form political parties Because religious groups trade unions and parties are highly organized they are well equipped to use the constitution to resist rights violations As a result these rights are systematically associated with better practices By contrast rights that are practiced on an individual basis such as free speech or the prohibition of torture often lack natural constituencies to enforce them which makes it easier for governments to violate these rights Third even highly organized groups armed with the constitution may not be able to stop governments dedicated to rights repression When constitutional rights are enforced by dedicated organizations they are thus best understood as speed bumps that slow down attempts at repression An important contribution to comparative constitutional law this book provides a comprehensive picture of the spread of constitutional rights and their enforcement around the world

Constitutionalism and American Culture Sandra F. VanBurkleo,Kermit L. Hall,Robert J. Kaczorowski,2002 Cultural history and themendment New York Times v Sullivan and its times Kermit L Hall New directions in American constitutional history Words as hard as cannon balls women s rights agitation And liberty of speech in nineteenth century America Sandra F VanBurkleo Race state market and civil society in constitutional history Mark Tushnet Constitutional history and the cultural turn cross Examining the legal reelist narratives of Henry Fonda Norman L Rosenberg Contributors

How Constitutional Rights Matter Adam S. Chilton,Mila Versteeg,2020 Do countries that add rights to their constitutions actually do better at protecting those rights This study draws on global statistical analyses and survey experiments to answer this question It explores whether constitutionalizing rights improves respect for those rights in practice

Prospects for Constitutionalism in Post-Communist Countries Levent Gönenç,2002-06-01 The last decade of the 20th century saw radical changes in Eastern Europe and the former USSR Most of these countries made a transition from totalitarianism or authoritarianism to democracy and from central planning to a market economy Adding to the latter a number of national entities gained their independence after the disintegration of the federative states of the USSR Yugoslavia and Czechoslovakia Many recent studies have focused on these double in some cases triple transitions and scholars from different fields analyzed the so called 1989 Revolution from different perspectives Rather less scholarly

attention has been paid to the future of post communist constitutions and prospects for constitutionalism in these countries The main questions dealt with throughout this study can be formulated as follows Will liberal democratic constitutionalism take root in these countries Will new constitutions in Eastern Europe and the former USSR perish or survive This study also aims at contributing to the construction of a general constitutional theory by studying the causes and dynamics of constitutional change in general Such constitutional change is not only on the East European but also on the West European agenda The purpose of this study is not to introduce a general theory about constitutional in stability but studying post communist constitutions will help us to understand the causes and dynamics of constitutional change from a broader perspective

Constitutionalism Joakim Nergelius,2008 This book has its roots in a conference on recent developments in Nordic and German constitutional law that took place in Berlin in 2002 at the Nordic Cultural Centre That conference was organised within the project Konstitutionalism demokrati och den nordiska valfardsstaten Constitutionalism Democracy and the Nordic Welfare State financed by the Joint Committee for Nordic Research Councils for the Humanities and the Social Sciences NOS HS The volume contains the edited and updated papers which emerged from this meeting of minds They offer insight into some of the new exciting strands of constitutional thought that are currently present in the Nordic doctrine where many new paths have been opened in recent years The contrast with the situation two decades ago is indeed striking As far as German and European law are concerned some of the most important theoretical issues in the doctrine are analysed in a number of particularly rewarding and inspiring contributions

Common Law Constitutional Rights Mark Elliott,Kirsty Hughes,2020-04-16 There is a developing body of legal reasoning in the United Kingdom Supreme Court in which members of the senior judiciary have asserted the primary role of common law constitutional rights and critiqued legal arguments based first and foremost on the Human Rights Act 1998 Their calls for a shift in legal reasoning have created a sense amongst both scholars and the judiciary that something significant is happening Yet despite renewed academic and judicial interest we have limited insight into what common law constitutional rights we have how they work and what they offer This book is the first collection of its kind to systematically explore both the content and role of individual common law constitutional rights alongside the constitutional significance and broader implications of these developments It therefore contributes not only to our understanding of what the common law might be capable of offering in terms of the protection of rights but also to our understanding of the nature of the constitutional order of which such rights are an integral part

A Theory of African Constitutionalism Berihun Adugna Gebeye,2021 Utilizing detailed case studies from Nigeria Ethiopia and South Africa this title traces African constitutionalism from precolonial times to the present The volume offers a new framework for understanding African constitutionalism and a range of practical proposals for its future development

Rights and Constitutionalism Dawid Hercules Van Wyk,1994 An introduction to the constitutional order in South Africa drawing on the constitutional experience in countries such as Canada India Germany and the US which influenced the

drafting of Chapter 3 of the 1993 Constitution *Constitutional Rights -What They Are and What They Ought to Be* Carl Wellman,2016-05-12 This work explains the nature of constitutional rights It does so by means of an analysis of the nature of law in general the nature of constitutions and the nature of rights It looks in detail at several aspects of constitutional law rights and institutions as well as aspects related to public officials private persons and associations In addition the book critically examines a considerable number of debates about whether some actual or proposed constitutional rights ought to be established and maintained in the United States constitution It then identifies the kinds of reasons that justify or fail to justify constitutional rights The book advances the debate and makes a contribution to the theory and the practice of constitutional rights *Constitutionalism and a Right to Effective Government?* Vicki C. Jackson,Yasmin Dawood,2022-10-27 Nations around the world are facing various crises of ineffective government Basic governmental functions protecting rights preventing violence and promoting material well being are compromised leading to declines in general welfare in the enjoyment of rights and even in democracy itself This innovative collection featuring analyses by leaders in the fields of constitutional law and politics highlights the essential role of effective government in sustaining democratic constitutionalism The book explores effective government as a right principle duty and interest situating questions of governance in debates about negative and positive constitutionalism In addition to providing new conceptual approaches to the connections between rights and governance the volume also provides novel insights into government institutions including courts legislatures executives and administrative bodies as well as the media and political parties This is an essential volume for anyone interested in constitutionalism comparative law governance democracy the rule of law and rights **Constitutional Rights and Powers of the People** Wayne D. Moore,2017-03-14 American constitutionalism rests on premises of popular sovereignty but serious questions remain about how the people and their rights and powers fit into the constitutional design In a book that will radically reorient thinking about the Constitution and its place in the polity Wayne Moore moves away from an exclusive focus on courts and judges and considers the following queries Who is included among the people How are the people politically configured How may the people act And how do the people relate to government and other representative structures Going beyond though not excluding relevant discussions of specific constitutional texts such as the preamble articles V and VII and the ninth tenth and fourteenth amendments Moore examines historical material from the antebellum period such as the opinions of U S Supreme Court justices in the notorious Dred Scott case and significantly different perspectives from the writings and speeches of Frederick Douglass He also looks at influential thinking from the founding period and examines precedents set during prominent controversies involving the establishment of a national bank regulations of the economy and efforts to limit sexual and reproductive choices The penultimate chapter explores issues raised by claims of state interpretive autonomy and the conclusion models various dimensions of the constitutional order as a whole The book offers fresh insights into central problems of constitutional history theory and law Originally published in

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The Global Model of Constitutional Rights Kai Möller, 2012-10-25 Since the end of the Second World War and the subsequent success of constitutional judicial review one particular model of constitutional rights has had remarkable success first in Europe and now globally This global model of constitutional rights is characterized by an extremely broad approach to the scope of rights sometimes referred to as rights inflation the acceptance of horizontal effect of rights positive obligations and increasingly also socio economic rights and the use of the doctrines of balancing and proportionality to determine the permissible limitations of rights Drawing on analyses of a broad range of cases from the UK the European Court of Human Rights Germany Canada the US and South Africa this book provides the first substantive moral reconstructive theory of the global model It shows that it is based on a coherent conception of constitutional rights which connects to attractive accounts of judicial review democracy and the separation of powers The first part of the book develops a theory of the scope of rights under the global model It defends the idea of a general right to personal autonomy a right to everything which according to the agent's self conception is in his or her interest The function of this right is to acknowledge that every act by a public authority which places a burden on a person's autonomy requires justification The second part of the book proposes a theory of the structure of this justification which offers original and useful accounts of the important doctrines of balancing and proportionality

Constitutional Rights After Globalization Gavin Anderson, 2005-05-18 Constitutional Rights after Globalization juxtaposes the globalization of the economy and the worldwide spread of constitutional charters of rights The shift of political authority to powerful economic actors entailed by neo liberal globalization challenges the traditional state centred focus of constitutional law Contemporary debate has responded to this challenge in normative terms whether by reinterpreting rights or redirecting their ends e g to reach private actors However globalization undermines the liberal legalist epistemology on which these approaches rest by positing the existence of multiple sites of legal production e g multinational corporations beyond the state This dynamic between globalization and legal pluralism on one side and rights constitutionalism on the other provides the context for addressing the question of rights constitutionalism's counterhegemonic potential This shows first that the interpretive and instrumental assumptions underlying constitutional adjudication are empirically suspect constitutional law tends more to disorder than coherence and frequently is an ineffective tool for social change Instead legal pluralism contends that constitutionalism's importance lies in symbolic terms as a legitimating discourse The competing liberal and new politics of definition the latter highlighting how neoliberal values and institutions constrain political action are contrasted to show how each advances

different agenda A comparative survey of constitutionalism's engagement with private power shows that conceiving of constitutions in the predominant liberal legalist mode has broadly favoured hegemonic interests It is concluded that counterhegemonic forms of constitutional discourse cannot be effected within but only by unthinking the dominant liberal legalist paradigm in a manner that takes seriously all exercises of political power **The Nature of Constitutional Rights** Richard H. Fallon Jr., 2019-03-14 Explains constitutional rights how courts must identify them and why their protections are more limited than most people think *Constitutionalism and Human Rights* Kenneth W. Thompson, Rett R. Ludwikowski, 1991 A bicentennial colloquium at the Miller Center T p **Comparative Constitutional Law** Tom Ginsburg, Rosalind Dixon, 2011-01-01 This landmark volume of specially commissioned original contributions by top international scholars organizes the issues and controversies of the rich and rapidly maturing field of comparative constitutional law Divided into sections on constitutional design and redesign identity structure individual rights and state duties courts and constitutional interpretation this comprehensive volume covers over 100 countries as well as a range of approaches to the boundaries of constitutional law While some chapters reference the text of legal instruments expressly labeled constitutional others focus on the idea of entrenchment or take a more functional approach Challenging the current boundaries of the field the contributors offer diverse perspectives cultural historical and institutional as well as suggestions for future research A unique and enlightening volume Comparative Constitutional Law is an essential resource for students and scholars of the subject *Constitutional Change in the Contemporary Socialist World* Ngoc Son Bui, 2020 Comparative constitutional law has a long and distinguished history in intellectual thought and in the construction of public law As political actors and the people who create or modify their constitutional orders they often wish to learn from the experience and learning of others This cross fertilization and mutual interaction has only accelerated with the onset of globalization which has transformed the world into an interconnected web that facilitates dialogue and linkages across international and regional structures Oxford Comparative Constitutionalism seeks to publish scholarship of the highest quality in constitutional law that deepens our knowledge of local national regional and global phenomena through the lens of comparative public law Book jacket **Animals and the Constitution** John Olusegun Adenitire, Raffael Fasel, 2025-03-23 Constitutionalism the idea that constitutions should limit and direct government power has emerged as the global standard for the exercise of public authority Its appeal lies in the simple idea that constitutions should secure governance in the interests of the governed Yet its popularity has obscured a significant problem constitutions are centred on the interests of rational human beings neglecting those who lack such capacities most notably non human animals Animals and the Constitution breaks new ground by challenging the human centredness of current constitutional theory and practices It pioneers a more capacious account of constitutionalism sentience based constitutionalism which is grounded in respect for the interests of all governed sentient beings The book demonstrates how this account can be implemented in modern constitutions by rethinking four key

principles of constitutionalism fundamental rights proportionality rule of law and democracy To illustrate how these principles can be reimagined to protect the interests of both humans and animals the book draws on and examines numerous real world examples ranging from judicial recognitions of wild animal rights in Ecuador to direct democratic votes on primate rights in Switzerland to entire proposed bills of rights for animals in Finland A unique combination of constitutional theory animal ethics and comparative constitutional law this book offers a practical blueprint for constitutions to address the moral and legal status of sentient beings

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Table of Contents Constitutionalism And Rights

1. Understanding the eBook Constitutionalism And Rights
 - The Rise of Digital Reading Constitutionalism And Rights
 - Advantages of eBooks Over Traditional Books
2. Identifying Constitutionalism And Rights
 - Exploring Different Genres
 - Considering Fiction vs. Non-Fiction
 - Determining Your Reading Goals
3. Choosing the Right eBook Platform
 - Popular eBook Platforms
 - Features to Look for in an Constitutionalism And Rights
 - User-Friendly Interface
4. Exploring eBook Recommendations from Constitutionalism And Rights
 - Personalized Recommendations
 - Constitutionalism And Rights User Reviews and Ratings
 - Constitutionalism And Rights and Bestseller Lists
5. Accessing Constitutionalism And Rights Free and Paid eBooks

- Constitutionalism And Rights Public Domain eBooks
- Constitutionalism And Rights eBook Subscription Services
- Constitutionalism And Rights Budget-Friendly Options
- 6. Navigating Constitutionalism And Rights eBook Formats
 - ePub, PDF, MOBI, and More
 - Constitutionalism And Rights Compatibility with Devices
 - Constitutionalism And Rights Enhanced eBook Features
- 7. Enhancing Your Reading Experience
 - Adjustable Fonts and Text Sizes of Constitutionalism And Rights
 - Highlighting and Note-Taking Constitutionalism And Rights
 - Interactive Elements Constitutionalism And Rights
- 8. Staying Engaged with Constitutionalism And Rights
 - Joining Online Reading Communities
 - Participating in Virtual Book Clubs
 - Following Authors and Publishers Constitutionalism And Rights
- 9. Balancing eBooks and Physical Books Constitutionalism And Rights
 - Benefits of a Digital Library
 - Creating a Diverse Reading Collection Constitutionalism And Rights
- 10. Overcoming Reading Challenges
 - Dealing with Digital Eye Strain
 - Minimizing Distractions
 - Managing Screen Time
- 11. Cultivating a Reading Routine Constitutionalism And Rights
 - Setting Reading Goals Constitutionalism And Rights
 - Carving Out Dedicated Reading Time
- 12. Sourcing Reliable Information of Constitutionalism And Rights
 - Fact-Checking eBook Content of Constitutionalism And Rights
 - Distinguishing Credible Sources
- 13. Promoting Lifelong Learning
 - Utilizing eBooks for Skill Development

- Exploring Educational eBooks

14. Embracing eBook Trends

- Integration of Multimedia Elements
- Interactive and Gamified eBooks

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