

Contemporary Perspectives on Constitutional Interpretation

**edited by
Susan J. Brison and
Walter Sinnott-Armstrong**

Contemporary Perspectives On Constitutional Interpretation

András Jakab



Contemporary Perspectives On Constitutional Interpretation:

Contemporary Perspectives On Constitutional Interpretation Susan J Brison, 2018-03-08 Current controversies over abortion affirmative action school prayer hate speech and other issues have sparked considerable public debate about how the U S Constitution should be interpreted Such controversies along with the changing composition of an often deeply divided Supreme Court have led to a resurgence of interest in theories of constitutional interpretation This anthology edited by Susan J Brison and Walter Sinnott Armstrong presents some of the most exciting and influential contemporary work in this area Written by ten of the country's most prominent legal scholars the selections represent a wide variety of interpretive approaches reflecting different political orientations from the far right to the far left These theorists have drawn on a variety of other disciplines including literature economics history philosophy and politics and have in turn influenced these fields The selections were chosen for their accessibility originality variety and importance Together they provide an excellent introduction to constitutional interpretation as well as a valuable collection for experienced scholars in the field

Contemporary Perspectives on Constitutional Interpretation Susan J. Brison, Walter Sinnott-Armstrong, 1993 Brings together ten of the nation's finest and most provocative legal scholars to present their views on constitutional interpretation All of these papers are very recent and four were written especially for this volume

The Oxford Handbook of Freedom of Speech Adrienne Stone, Frederick F. Schauer, 2021 Explores the key rationales and principles that underpin our understanding of free speech Provides a comprehensive overview of freedom of speech as a legal principle in national and supranational settings This volume is divided into three parts with part one outlining the history of the idea of the freedom of speech Part two discusses freedom of speech as a legal principle and part three surveys the key controversies in its application Book jacket

CONTOURS OF CONTEMPORARY LEGAL RESEARCH: A MULTIDISCIPLINARY PERSPECTIVE: Volume 1: FOUNDATIONS AND FRONTIERS OF PUBLIC LAW Adarsh Pandey, Garima Dixit, Jyoti Priya, Mr. Sourabh Batar, 2025-07-12 This study delves into the multifaceted evolution of constitutionalism examining its global trajectory and specific manifestations within the Indian context Constitutionalism as a doctrine and practice embodies the principles of limited government the rule of law and the protection of individual rights evolving dynamically in response to socio political transformations and philosophical shifts By analyzing historical developments theoretical underpinnings and comparative case studies this paper elucidates the complex interplay between global constitutional norms and indigenous interpretations particularly focusing on the adaptation and innovation of constitutional principles in India

The Constitution in the Year 2000 United States. Department of Justice. Office of Legal Policy, 1988

Fundamentalism in American Religion and Law David A. J. Richards, 2010-03-15 Why from Reagan to George Bush have fundamentalists in religion and in law originalists exercised such political power and influence in the United States Why has the Republican Party forged an ideology of judicial appointments originalism hostile to abortion and gay rights Why and how did Barack

Obama distinguish himself among Democratic candidates not only by his opposition to the Iraq war but by his opposition to originalism This book argues that fundamentalism in both religion and law threatens democratic values and draws its appeal from a patriarchal psychology still alive in our personal and political lives and at threat from the constitutional developments since the 1960s The argument analyzes this psychology based on traumatic loss in intimate life and resistance to it based on the love of equals Obama s resistance to originalism arises from his developmental history as a democratic as opposed to patriarchal man who resists the patriarchal demands on men and women that originalism enforces in particular the patriarchal love laws that tell people who and how and how much they may love *Contemporary Perspectives on the Enduring Constitution* ,1991 The 17 essays included in this book are designed to provide educators and other interested readers with contemporary perspectives on a broad range of themes and topics concerning the U S Constitution The authors are a distinguished group of historians political scientists legal scholars and jurists The essays include The Achievement of the Constitution as Viewed by the Leading Federalists Thomas L Pangle The Contributions of the States to American Constitutionalism George Dargo The Drafting of the Constitution Margaret Pace Duckett The Senate the Framers Created and Its Legacy Today Richard A Baker The First Federal Congress Charlene N Bickford The Confirmation Process and the Separation of Powers Hon Patti B Saris The Article III Judiciary The Ideal and the Reality Hon Kenneth F Ripple Focal Themes and Issues for Teaching about the Federal Judiciary Kent Newmyer The Work of the Supreme Court and Sources of Information about It Jeffrey Morris The Institution of the Presidency under Article II Thomas E Cronin The Constitution and the Conduct of Foreign Affairs David G Adler Does the Constitution Matter to the Presidency Today Nancy Kassop Ratifying the Constitution The State Context John P Kaminski The Debate over Ratification in Virginia Richard R Beerman The Debate over Ratification in New York Stephen L Schechter The Constitution A Political Document with an Ambitious Legacy James A Henretta and Women and the Constitution The Equal Rights Amendment Winifred Wandersee DB Purposive Interpretation in Law Aharon Barak,2011-10-16 This book presents a comprehensive theory of legal interpretation by a leading judge and legal theorist Currently legal philosophers and jurists apply different theories of interpretation to constitutions statutes rules wills and contracts Aharon Barak argues that an alternative approach purposive interpretation allows jurists and scholars to approach all legal texts in a similar manner while remaining sensitive to the important differences Moreover regardless of whether purposive interpretation amounts to a unifying theory it would still be superior to other methods of interpretation in tackling each kind of text separately Barak explains purposive interpretation as follows All legal interpretation must start by establishing a range of semantic meanings for a given text from which the legal meaning is then drawn In purposive interpretation the text s purpose is the criterion for establishing which of the semantic meanings yields the legal meaning Establishing the ultimate purpose and thus the legal meaning depends on the relationship between the subjective and objective purposes that is between the original intent of the text s author and the intent of a

reasonable author and of the legal system at the time of interpretation This is easy to establish when the subjective and objective purposes coincide But when they don't the relative weight given to each purpose depends on the nature of the text For example subjective purpose is given substantial weight in interpreting a will objective purpose in interpreting a constitution Barak develops this theory with masterful scholarship and close attention to its practical application Throughout he contrasts his approach with that of textualists and neotextualists such as Antonin Scalia pragmatists such as Richard Posner and legal philosophers such as Ronald Dworkin This book represents a profoundly important contribution to legal scholarship and a major alternative to interpretive approaches advanced by other leading figures in the judicial world

European Constitutional Language András Jakab, 2016-04-15 Provides a systematic analysis of both the historical development and current interpretation of constitutional law discourse in Europe Constitutionalization of Politics in Comparative Perspective Paweł Laidler, Dariusz Stoliczka, Łukasz Jakubiak, Jacek Sokołowski, 2024-11-25 Scholars from political science and law examine the latest research on the constitutionalization of politics in comparative perspective The scope includes both inter country and intra country perspectives institutional and systemic analyses common and civil law systems focusing on historical and contemporary case studies There are chapters limited to a concrete legal and political system analyzing the tools and processes guarding constitutionalization of politics in such countries as the United States Germany France Italy Poland Finland and Bulgaria as well as studies offering comparative analysis of various institutions representing different countries and different legal and political systems Taken together this book uncovers a wide variety of legal and political cultures systems of governments and forms of territorial organization Once uncovered this approach makes it easier to determine repetitive patterns which may be observed in constitutional review and constitutional interpretation or significant differences occurring in the models of constitutionalization of politics around the world Constitutionalization of Politics in Comparative Perspective tackles important debates among academics interested in the theoretical and practical aspects of constitutions and constitutionalism and will appeal to social scientists including sociologists philosophers security studies and international relations experts but also cultural studies scholars The publication is a result of a research project Constitutionalization of Politics as an Element of Checks and Balances System in Comparative Perspective funded by the Polish National Science Center NCN 2018 31 B HS5 02637 LSAT Reading Comprehension Made Easy Merrill Edgar Rotich, The Max Planck Handbooks in European Public Law Armin von Bogdandy, Huber Peter M., Christoph Grabenwarter, 2023-04-13 The Max Planck Handbooks in European Public Law series describes and analyzes the public law of the European legal space an area that encompasses not only the law of the European Union but also the European Convention on Human Rights and importantly the domestic public laws of European states Recognizing that the ongoing vertical and horizontal processes of European integration render legal comparison the task of our time for both scholars and practitioners the project aims to foster a better understanding of the specific European legal pluralism and ultimately to

contribute to the legitimacy and efficiency of European public law The first volume of the series began this endeavour with an appraisal of the evolution of the state and its administration offering both cross cutting contributions and specific country reports The third volume the second in chronological terms continues this approach with an in depth appraisal of constitutional adjudication in various and diverse European countries Fourteen country reports and two cross cutting contributions investigate the antecedents foundations organization procedure and specific approach to constitutional issues throughout the Continent The fourth volume now compares European constitutional jurisdiction in the European legal space It examines the structures of the organization the appointment of judges the procedures and the methods of argumentation and interpretation their impact on state and society their legitimacy as well as their role in the division of powers and thus completes the picture following the country reports in Volume III This comparative perspective is supplemented by an examination that illustrates the relationship with the ECJ the ECtHR and the Venice Commission as well as their constitutional function Finally Constitutional Adjudication Common Themes and Challenges is devoted to the challenges constitutional jurisdiction in the European judicial area is currently facing The historical political and theoretical foundations as well as the basic dogmatic features of constitutional jurisdiction are presented in such a way that the discussion about its role and further development in this legal space is sustainably stimulated

European Yearbook of Constitutional Law 2019 Ernst Hirsch Ballin, Gerhard van der Schyff, Maarten Stremler, 2019-12-02 The European Yearbook of Constitutional Law EYCL is an annual publication initiated by the Department of Public Law and Governance at Tilburg University and devoted to the study of constitutional law It aims to provide a forum for in depth analysis and discussion of new developments in the field both in Europe and beyond This inaugural volume examines the safeguards and limits of judicial power in a variety of constitutional systems both at the national and supranational level The book approaches the judiciary as part of the constitutional system operating within a legal order that connects the citizens and institutions of the state to each other Looking at the judiciary from this broader perspective the traditional doctrine of the separation of powers would appear no longer to adequately represent the diversity and complexity of constitutional systems and their democratic legitimacy Judicial independence does not mean isolation but should better be understood as institutionalizing relationships that legitimize the power of the courts The notions of safeguards and limits indicate the reciprocally enabling and protecting nature of these relationships In recognition of this the contributions to this volume analyse these safeguards and limits as relations existing within a complex constitutional architecture State institutions today are involved in a fundamental transformation of their selfunderstanding as a result of changes in political culture Several contributions to this volume provide examples of political criticism and pressure on the judiciary against which the usual guarantees are unable to provide adequate protection A convincing and effective response to threats to the judiciary s independence requires a detailed and precise analysis of the judiciary s constitutional safeguards and limits This book offers a step in that direction

Modern Constitutional Theory

John H. Garvey, Thomas Alexander Aleinikoff, 1999 *The Community of Rights* Alan Gewirth, 1996 *The Community of Rights* provides a detailed explication of the fundamental rights of agency as derived from a single rationally justified principle of morality and develops the contents of economic and social rights as a basic part of human rights A critical alternative to both liberal and communitarian views this authoritative work will command the attention of anyone engaged in the debate over social and economic justice Sovereignty, the WTO, and Changing Fundamentals of International Law John H.

Jackson, 2006-03-27 The last decade of the twentieth century and the first decade of the twenty first century has been one of the most challenging periods for the generally accepted assumptions of international law This book first published in 2006 grapples with these long held assumptions such as the consent basis of international law norms equality of nations restrictive or text based treaty interpretations and applications the monopoly of internal national power and non interference and how they are being fundamentally altered by the forces of globalization It also examines the challenges facing the WTO as a component of international economic law and how that field is inextricably linked to general international law *Do Great*

Cases Make Bad Law? Lackland H. Bloom (Jr.), 2014 Justice Holmes proclaimed that great cases like hard cases make bad law He explained that this was so because the hydraulic pressures of the great case tend to distort the judgements of the justices The purpose of this book is to examine 25 great cases that arose throughout the history of the Supreme Court and to attempt to determine whether Holmes was correct More particularly the book discusses the impact that the greatness of the case may have had on its presentation to the Court the Court's deliberations the decision the opinion and the law that was created

Transitional Justice Ruti G. Teitel, 2002-03-28 At the century's end societies all over the world are throwing off the yoke of authoritarian rule and beginning to build democracies At any such time of radical change the question arises should a society punish its ancien regime or let bygones be bygones Transitional Justice takes this question to a new level with an interdisciplinary approach that challenges the very terms of the contemporary debate Ruti Teitel explores the recurring dilemma of how regimes should respond to evil rule arguing against the prevailing view favoring punishment yet contending that the law nevertheless plays a profound role in periods of radical change Pursuing a comparative and historical approach she presents a compelling analysis of constitutional legislative and administrative responses to injustice following political upheaval She proposes a new normative conception of justice one that is highly politicized offering glimmerings of the rule of law that in her view have become symbols of liberal transition Its challenge to the prevailing assumptions about transitional periods makes this timely and provocative book essential reading for policymakers and scholars of revolution and new democracies

Theory and Practice Ian Shapiro, Judith Wagner Decew, 1996-10 What are the relations between philosophical theories and everyday life This question as old as it is profound is the central focus of *Theory and Practice* The authors include some of the most influential thinkers of our generation among them Cass Sunstein Jean Bethke Elshtain Martha Nussbaum Jeremy Waldron and Kent Greenawalt In sixteen chapters all published here for the first time the authors

examine major attempts to reconcile theory with practice in the Western tradition from Herodotus Plato and Aristotle to Kant and Heidegger and examine contemporary efforts to grapple with this problem The Cambridge Companion to Simone de Beauvoir Claudia Card, 2003-03-10 Table of contents

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