

Constitutional Politics

**Essays on
Constitution
Making,
Maintenance,
and Change**

Edited by
Sotirios A. Barber
&
Robert P. George

Constitutional Politics Essays On Constitution Making Main

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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 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 *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 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 **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 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

National Courts and the International Rule of Law André Nollkaemper, 2012-10-11 This book explores the way domestic courts contribute to the maintenance of the international of law by providing judicial control over the exercises of public powers that may conflict with international law The main focus of the book will be on judicial control of exercise of public powers by states Key cases that will be reviewed in this book and that will provide empirical material for the main propositions include Hamdan in which the US Supreme Court reviewed detention by the United States of suspected terrorists against the 1949 Geneva Conventions Adalah in which the Supreme Court of Israel held that the use of local residents by Israeli soldiers in arresting a wanted terrorist is unlawful under international law and the Narmada case in which the Indian Supreme Court reviewed the legality of displacement of people in connection with the building of a dam in the river Narmada under the ILO Indigenous and Tribal Populations Convention 1957 nr 107 This book explores what it is that international law requires expects or aspires that domestic courts do Against this backdrop it maps patterns of domestic practice in the actual or possible application of international law and determines what such patterns mean for the protection of the international rule of law

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