

CONSTITUTIONALISM

Philosophical Foundations

Edited by
LARRY ALEXANDER

CAMBRIDGE STUDIES IN
PHILOSOPHY AND LAW

Constitutionalism Philosophical Foundations

Dr Sarah Murray



Constitutionalism Philosophical Foundations:

Constitutionalism Larry Alexander, 2001-02-26 A distinguished international team of legal theorists examine the issue of constitutionalism and pose such foundational questions as Why have a constitution How do we know what the constitution of a country really is How should a constitution be interpreted Why should one generation feel bound by the constitution of an earlier one The volume will be of particular importance to those in philosophy law political science and international relations interested in whether and what kinds of constitutions should be adopted in countries without them and involved in debates about constitutional interpretation *Philosophical Foundations of Constitutional Law* David Dyzenhaus, Malcolm Thorburn, 2016-02-05 Constitutional law has been and remains an area of intense philosophical interest and yet the debate has taken place in a variety of different fields with very little to connect them In a collection of essays bringing together scholars from several constitutional systems and disciplines *Philosophical Foundations of Constitutional Law* unites the debate in a study of the philosophical issues at the very foundations of the idea of a constitution why one might be necessary what problems it must address what problems constitutions usually address and some of the issues raised by the administration of a constitutional regime Although these issues of institutional design are of abiding importance many of them have taken on new significance in the last few years as law makers have been forced to return to first principles in order to justify novel practices and arrangements in their constitutional orders Thus questions of constitutional revolutions challenges to the demands of the rule of law and the separation of powers have taken on new and pressing importance The essays in this volume address these questions filling the gap in the philosophical analysis of constitutional law The volume will provoke specialists in philosophy politics and law to develop new philosophically grounded analyses of constitutional law and will be a valuable resource for graduate students in law politics and philosophy *The Blackwell Guide to the Philosophy of Law and Legal Theory* Martin P. Golding, William A. Edmundson, 2008-04-15 The Blackwell Guide to the Philosophy of Law and Legal Theory is a handy guide to the state of play in contemporary philosophy of law and legal theory Comprises 23 essays critical essays on the central themes and issues of the philosophy of law today written by an international assembly of distinguished philosophers and legal theorists Each essay incorporates essential background material on the history and logic of the topic as well as advancing the arguments Represents a wide variety of perspectives on current legal theory The Philosophical Foundations of the American Constitutionalism Guillermo Lousteau Heguy, 2010 **The Remaking of the Courts** Dr Sarah Murray, 2014-03-21 The Remaking of the Courts Less Adversarial Practice and the Constitutional Role of the Judiciary in Australia centres on the changing nature of courts within the Australian constitutional context In essence the monograph explores the degree to which less adversarial innovations and the remodelling of the judicial role can be accommodated within Australia's constitutional framework The work draws upon comparative principles separation of powers jurisprudence and the theoretical perspectives of constitutionalism and neo

institutionalism By examining Chapter III of the Commonwealth Constitution and applying Chapter III approaches to less adversarial case studies traversing state and federal fields the book argues that less adversarial judicial practices can be broadly accommodated by the Australian constitutional framework However the book asserts that the clarity and suitability of the Chapter III constitutional approaches employed would be significantly improved by the adoption of a contextual incompatibility methodology which would protect the constitutional role of the courts while not forestalling constitutionally compatible reform Routledge Handbook of Constitutional Law Mark Tushnet, Thomas Fleiner, Cheryl

Saunders, 2013-06-26 The Routledge Handbook of Constitutional Law is an advanced level reference work which surveys the current state of constitutional law Featuring new specially commissioned papers by a range of leading scholars from around the world it offers a comprehensive overview of the field as well as identifying promising avenues for future research The book presents the key issues in constitutional law thematically allowing for a truly comparative approach to the subject It also pays particular attention to constitutional design identifying and evaluating various solutions to the challenges involved in constitutional architecture The book is split into four parts for ease of reference Part One General issues sets issues of constitutional law firmly in context including topics such as the making of constitutions the impact of religion and culture on constitutions and the relationship between international law and domestic constitutions Part Two Structures presents different approaches in regard to institutions or state organization and structural concepts such as emergency powers and electoral systems Part Three Rights covers the key rights often enshrined in constitutions Part Four New Challenges explores issues of importance such as migration and refugees sovereignty under pressure from globalization Supranational Organizations and their role in creating post conflict constitutions and new technological challenges Providing up to date and authoritative articles covering all the key aspects of constitutional law this reference work is essential reading for advanced students scholars and practitioners in the field Higher Education Law Klinton W. Alexander, Kern Alexander, 2010-12-14 Higher Education Law is a comprehensive and accessible guide to the law of higher education Drawing from real life cases on United States campuses the authors equip readers with the tools and knowledge to effectively respond in an environment of increasing litigation This textbook clearly explains the higher education law emanating from federal and state constitutions as well as the common law flowing from appellate courts throughout the US Addressing a clear gap in the literature currently available this text provides an explanation of the point of law case examples rules of law case notes context setting This innovative approach weaves law into its historical political and sociological context and is designed to help students and professors better understand the law as it applies to colleges and universities It also provides higher education administrators in student affairs development philanthropy and financial affairs with clear guidance on the legal responsibilities of their respective offices Higher Education Law Klinton Alexander, Kern Alexander, 2016-10-04 This fully revised and updated textbook weaves law into its historical political and sociological context while providing clear

explanation of the law as it applies to American colleges and universities This text draws exclusively on federal and state cases emerging from campuses and includes helpful pedagogical elements such as chapter outlines questions for discussion side bars text boxes research aids and summation of law to equip readers with the tools and knowledge to effectively respond in an environment of increasing litigation Addressing a gap in the literature this new edition provides a comprehensive and accessible understanding of the latest laws relevant to higher education and student affairs administrators New In This Edition Explanation and streamlining of old case law New cases throughout covering recent developments in student loan debt student safety Internet speech affirmative action discrimination Greek life issues relating to new technology non faculty employees campus police and athletics Revised explanation on student and college costs Expanded examination of the idea of academic freedom

The Rule of Law Guiguo WANG,Fan YANG,2013-10-01 This Festschrift has attracted contributions from not only his colleagues but also a number of world renowned scholars who wished to convey through their contributions their enormous respect for his scholarship leadership and gentlemanly bearing The Rule of Law a Comparative Perspective has been chosen the theme of this Festschrift because it is one of the most important topics in the area of constitutional and administrative law about which Professor COORAY has researched and written extensively Published by City University of Hong Kong Press

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

Legitimacy Gap Vincent Depaigne,2017-08-25 This book provides an account and explanation of a fundamental dilemma facing secular states the legitimacy gap left by the withdrawal of religion as a source of legitimacy Legitimacy represents a particular problem for the secular state The secular in all its manifestations is very much linked to the historical rise of the modern state It should not be seen as a category that separates culture and religion from politics but rather as one that links these different dimensions In the first part of the book Depaigne explains how modern constitutional law has moved away from a substantive legitimacy based in particular on natural law towards a procedural legitimacy based on popular sovereignty and human rights Depaigne examines three case studies of constitutional responses to legitimacy challenges which articulate the three main sources of procedural legitimacy people rights and culture in different ways the neutral model constitutions based on the displacement of culture the multicultural model constitutions based on diversity and pluralism and the asymmetric model constitutions based on tradition Even if secularization can be considered European in its origin it is best seen today as a global phenomenon which needs to be approached by taking into account the particular cultural dimension in which it is rooted Depaigne s detailed study shows how secularization has moved either towards

nationalization linked to a particular national identity as in France and to some extent in India or towards de secularization whereby secularism is displaced by particular cultural norms as in Malaysia

Political Theory Jeremy Waldron, 2016-03-07 Political theorists focus on the nature of justice liberty and equality while ignoring the institutions through which these ideals are achieved Political scientists keep institutions in view but deploy a meager set of value conceptions in analyzing them A more political political theory is needed to address this gap Jeremy Waldron argues

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

Join, or Die - Philosophical Foundations of Federalism Dietmar Heidemann, Katja Stoppenbrink, 2016-08-08 Research on federalism is rarely concerned with its philosophical foundations However arguments on why and how best to organise a plurality of states in a multilevel political order have first been discussed by philosophers and continue to inspire contemporary reasoning on international and supranational relations not only in political philosophy This book offers a unique overview of the philosophical foundations of federalism from both a historical and a systematic perspective The analyses proposed by renowned scholars from the US and from several European countries cover classic writers such as Hobbes and the authors of the Federalist Papers Kant and Rawls and range from anthropological justifications of federal orders to contemporary problems of EU constitutionalism the principle of subsidiarity and the jurisdiction of the European Court of Human Rights ECHR The book is of relevance to anyone interested in philosophical justifications of federalism

Proceedings and Addresses of the American Philosophical Association American Philosophical Association, 1998 List of members in v 1

Constitutional Theory Wojciech Sadurski, 2005 In this volume key contributors consider various elements of constitutional theory creating a work of immense interest to legal scholars and political scientists alike

The Fundamentals of EU Law Revisited Catherine Barnard, 2007 How far should the fundamental principles that shape the EU be reassessed in the light of the Constitutional Treaty's rejection The essays in this volume examine the impact of the debate surrounding the future of the European Constitution on the development of core areas of EU law and policy

Transformations in American Legal History Daniel W. Hamilton, Alfred L. Brophy, 2009 During his career at Harvard Morton Horowitz changed the questions legal historians ask In this book Horwitz s

students re examine legal history from America s colonial era to the late twentieth century The essays are like Horwitz provocative and original as they continue his transformation of American legal history

A Treatise of Legal Philosophy and General Jurisprudence Enrico Pattaro, 2005-05-25 A Treatise of Legal Philosophy and General Jurisprudence is the first ever multivolume treatment of the issues in legal philosophy and general jurisprudence from both a theoretical and a historical perspective The work is aimed at jurists as well as legal and practical philosophers Edited by the renowned theorist Enrico Pattaro and his team this book is a classical reference work that would be of great interest to legal and practical philosophers as well as to jurists and legal scholar at all levels The work is divided The theoretical part published in 2005 consisting of five volumes covers the main topics of the contemporary debate the historical part consisting of six volumes Volumes 6 8 published in 2007 Volumes 9 and 10 published in 2009 Volume 11 published in 2011 and volume 12 forthcoming in 2012 2013 accounts for the development of legal thought from ancient Greek times through the twentieth century The entire set will be completed with an index Volume 1 The Law and the Right a Reappraisal of the Reality that ought to be by Enrico Pattaro This work brings out and recovers the normative dimension of law called the reality that ought to be placing within this reality the idea of what is right Part I reconstructs the current as well as the traditional civil law conception of the reality that ought to be and raises some critical theoretical issues Part II introduces some basic concepts on language and behaviour and presents a conception of norms as beliefs Part III aims to find explanations for the idea of a reality that ought to be Part IV consists of inquiries focussed on Homeric epic the natural law school and the normativistic view of positive law

Philippine Law Journal ,2001

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