

Constitutionalism And Rights

Kai Möller

Constitutionalism 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 1996 The Princeton Legacy Library uses the latest print on demand technology to again make available previously out of print books from the distinguished backlist of Princeton University Press These editions preserve the original texts of these important books while presenting them in durable paperback and hardcover editions The goal of the Princeton Legacy Library is to vastly increase access to the rich scholarly heritage found in the thousands of books published by Princeton University Press since its founding in 1905 **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 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 Andras Sajo and Renata Uitz explore how constitutionalism protects us and how it might be undone by its own means Sajo 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 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

Chilton, Mila Versteeg, 2020-06-19 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 **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.

The Constitution in Private Relations András Sajó, Renáta Uitz, 2005 The contributors of this volume address various issues pertaining to Third Party Effect It provides an in depth analysis of jurisprudence placing problems in a comparative legal and theoretical perspective According to a classical tenet of constitutionalism the constitution and constitutional law deal with state actors In the 20th century the concept of third party effect emerged which has seen constitutional rights and principles apply in private relations as well This raises various questions such as what are the jurisprudential and political reasons of this change Is this concept brought about by the welfare state What are its practical consequences Is individual liberty enhanced when the state claims to promote a right How do such understandings influence the role of constitutional and supreme courts Are there equivalent doctrines to the third party effect How does the trend influence government spending and redistribution How does the US state action doctrine compare with the third party horizontal effect doctrine Constitutionalism and Human Rights Kenneth W. familiar in other domestic and international jurisdictions Thompson, Rett R. Ludwikowski, 1991 A bicentennial colloquium at the Miller Center T p 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 The Police Power, Public Policy and Constitutional Rights Ernst Freund, 1904 **Universal Rights**

and the Constitution Stephen A. Simon, 2014-03-11 Are constitutional rights based exclusively in uniquely American considerations or are they based at least in part on principles that transcend the boundaries of any particular country such as the requirements of freedom or dignity By viewing constitutional law through the prism of this fundamental question Universal Rights and the Constitution exposes an overlooked difficulty with opinions rendered by the Supreme Court namely an inherent ambiguity about the kinds of arguments that count in constitutional interpretation which weakens the foundations of our most cherished rights Rejecting current debates over constitutional interpretation as flawed Stephen A Simon offers an innovative framework designed to provide clearer foundations for rights interpretations while preserving a meaningful but limited role for universal arguments He reveals the vital connections among contemporary debates over such matters as the right to privacy the constitutionality of the death penalty and the role of foreign law in constitutional Constitutional Law, Religion and Equal Liberty Azin Tadjdini,2019-09-19 During the 20th century many countries embarked on a process of constitutional secularization by which the role of religion gradually became limited Yet by the late 20th century and increasingly following the end of the Cold War this development began to be challenged This book examines the return of religion in constitutions through the concept of constitutional de secularization It places this phenomenon in the context of the constitutional memory of the countries in which it has taken place and critically examines it against the development and standards of constitutionalism as the prevailing constitutional legal and political theory Central to this analysis is the impact of constitutional de secularization on the regulation of equality in liberty that is both the regulation of constitutional rights and the scope for equality of those who are granted such rights The book argues that equal liberty forms an essential part of constitutionalism as a theory and that constitutionalism therefore entails a continuous development towards expanding it The first and second part of the book presents a conceptual framework for the study of constitutional de secularization The third part presents and analyses three cases of constitutional de secularization in Afghanistan Iran and Iraq The book will be of interest to researchers and policy makers interested in constitutional history and theory and the role of religion in law and its compatibility with human rights George Washington and American Constitutionalism Glenn A. Phelps, 1993 Known as the Father of His Country George Washington is sometimes viewed as a demi god for what he was and did rather than for what he thought In addition to being a popular icon for the forces of American nationalism he served as commander in chief of the victorious Continental Army That he played a key role in securing the adoption of the Constitution is well known but few credit him with a political philosophy that actively shaped the The Nature of Constitutional Rights Richard H. Fallon Jr., 2019-03-14 Explains constitutional constitutional tradition rights how courts must identify them and why their protections are more limited than most people think Constitutional Rights United States. Congress. Senate. Committee on the Judiciary. Subcommittee on Constitutional Rights, 1966

Children's Constitutional Rights in the Nordic Countries Trude Haugli, Anna Nylund, Randi Sigurdsen, Lena R.L.

Bendiksen, 2019-12-02 The book presents a comparative study of children's constitutional rights in Denmark Finland Iceland Norway and Sweden The authors discuss the value of enshrining children's rights in national constitutions in addition to implementing the Convention on the Rights of the Child CRC Central issues are whether enshrining children's rights in the Constitution improves implementation and enforcement of those rights by providing advocacy tools and by mandating courts legislators policy makers and practitioners to take children's rights seriously. The study assesses whether the Nordic constitutions are in line with the child rights approach of the CRC both on a general level and in detail in three domains the best interests of the child participation rights and the right to respect for family life Constitutionalism, Identity, **Difference, and Legitimacy** Michel Rosenfeld, 1994 Interest in constitutionalism and in the relationship among constitutions national identity and ethnic religious and cultural diversity has soared since the collapse of socialist regimes in Eastern Europe and the former Soviet Union Since World War II there has also been a proliferation of new constitutions that differ in several essential respects from the American constitution These two developments raise many important questions concerning the nature and scope of constitutionalism The essays in this volume written by an international group of prominent legal scholars philosophers political scientists and social theorists investigate the theoretical implications of recent constitutional developments and bring useful new perspectives to bear on some of the longest enduring questions confronting constitutionalism and constitutional theory Sharing a common focus on the interplay between constitutional identity and individual or group diversity these essays offer challenging new insights on subjects ranging from universal constitutional norms and whether constitutional norms can be successfully transplanted between cultures to a consideration of whether constitutionalism affords the means to reconcile a diverse society squest for identity with its need to properly account for its differences from the relation between constitution making and revolution to that between collective interests and constitutional liberty and equality This collection s broad scope and nontechnical style will engage scholars from the fields of political theory social theory international studies and law Contributors Andrew Arato Aharon Barak Jon Elster George P Fletcher Louis Henkin Arthur J Jacobson Carlos Santiago Nino Ulrich K Preuss David A J Richards Michel Rosenfeld Dominique Rousseau Andr s Saj Frederick Schauer Bernhard Schlink M M Slaughter Cass R Sunstein Ruti G Teitel Robin Constitutional Rights After Globalization Gavin Anderson, 2005-05-18 Constitutional Rights after Globalization West 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 constitutionalisms 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

Constitutionalism and Palestinian Constitutional Development Gregory S. Mahler, 1996

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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
 - o 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
 - o Constitutionalism And Rights and Bestseller Lists
- 5. Accessing Constitutionalism And Rights Free and Paid eBooks
 - o 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
 - o ePub, PDF, MOBI, and More
 - Constitutionalism And Rights Compatibility with Devices
 - Constitutionalism And Rights Enhanced eBook Features
- 7. Enhancing Your Reading Experience
 - o 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

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