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# Sceptical Essays on Human Rights

Edited by Tom Campbell,  
K. D. Ewing, and Adam Tomkins



# Sceptical Essays On Human Rights

**Roger Masterman**



## **Sceptical Essays On Human Rights:**

**Sceptical Essays on Human Rights** Tom Campbell, Keith D. Ewing, Adam Tomkins, 2001 This collection written by an array of international scholars raises serious and profound concerns about the entrenchment of human rights generally and into UK law in particular This is the only book on the market to take a sceptical approach to recent developments in human rights law Written throughout in an engaging and accessible style this book is essential reading for all those with an interest in law or politics

**The Legal Protection of Human Rights** Tom Campbell, Keith D. Ewing, Adam Tomkins, 2011 The value and legitimacy of using courts to limit the powers of governments in the domain of human rights is a significant ongoing debate This book provides a critical review that explores the alternative means for protecting and promoting human rights This group of twenty four leading human rights scholars from around the world present a variety of perspectives on the disappointing human rights outcomes of recent institutional developments and consider the prospects of reviving the moral force and political implications of human rights values

**Security and Human Rights** Benjamin Goold, Liora Lazarus, 2007-06-07 In the wake of the events of September 11th the task of reconciling issues of security with a respect for fundamental human rights has emerged as one of the key challenges facing governments throughout the world Although the issues raised by the rise of security have been the subject of considerable academic interest to date much of the debate surrounding the impact of security on human rights has taken place within particular disciplinary confines In contrast this collection of essays from leading academics and practitioners in the fields of criminal justice public law international law international relations and legal philosophy offers a genuinely multidisciplinary perspective on the relationship between security and human rights In addition to exploring how the demands of security might be reconciled with the desire to protect established rights Security and Human Rights offers a fresh perspective on the broader legal and political challenges that lie ahead as states attempt to control crime prevent terrorism and protect their citizens

**What's Wrong with Rights?** Nigel Biggar, 2020 iWhat s Wrong with Rights i argues that contemporary rights talk obscures the importance civic virtue military effectiveness and the democratic law legitimacy It draws upon legal and moral philosophy moral theology and court judgments It spans discussions from medieval Christendom to contemporary debates about justified killing

**Australia's Human Rights Scrutiny Regime** Adam Fletcher, 2018-09-17 In 2010 the Australian Government decided that it would not propose a Human Rights Act despite the relevant recommendation of the 2008 09 National Human Rights Consultation Instead it introduced a Human Rights Framework comprising several measures to enhance human rights protection including the Human Rights Parliamentary Scrutiny Act 2011 The scrutiny regime under that Act was designed to ensure rights would be given due consideration before Commonwealth legislation was passed The Act created a unique bipartite dialogue system involving a formal interchange on rights compatibility between the executive and Parliament while excluding the courts This set the Commonwealth apart from jurisdictions such as the ACT Victoria New Zealand and the UK

which have statutory rights instruments administered by their courts The book presents a detailed study of all aspects of the scrutiny regime and compares the regime with its closest counterparts overseas In assessing the regime's impact it argues that a system in which the executive and Parliament are responsible both for protecting rights and for remedying rights breaches is neither more legitimate nor more effective than one involving all three branches of government Accordingly it calls for strengthening reforms

Law after Modernity Sionaidh Douglas-Scott, 2014-07-18 How can we characterise law and legal theory in the twenty first century Law After Modernity argues that we live in an age after Modernity and that legal theory must take account of this fact The book presents a dynamic analysis of law which focusses on the richness and pluralism of law on its historical embeddedness its cultural contingencies as well as acknowledging contemporary law's global and transnational dimensions However Law After Modernity also warns that the complexity fragmentation pluralism and globalisation of contemporary law may all too easily perpetuate injustice In this respect the book departs from many postmodern and pluralist accounts of law Indeed it asserts that the quest for justice becomes a crucial issue for law in the era of legal pluralism and it investigates how it may be achieved The approach is fresh contextual and interdisciplinary and unusually for a legal theory work is illustrated throughout with works of art and visual representations which serve to re-enforce the messages of the book

**Business Freedoms and Fundamental Rights in European Union Law** Niall O'Connor, 2024-10-31 Article 16 of the EU Charter of Fundamental Rights recognizing the freedom to conduct a business in accordance with Union law and national laws and practices has been the subject of intense debate over the value of business freedoms within EU law Problematically the Court of Justice of the European Union CJEU relied on this provision in a series of highly deregulatory judgments invoking Article 16 to undermine the effectiveness of employee protective legislation Business Freedoms and Fundamental Rights in European Union Law assesses the value placed on the freedom to conduct a business as a fundamental right within the legal reasoning of the CJEU Arguing that this freedom can only properly be understood in relation to its wider constitutional and social rights functions it uses the employment law context as a case study given the tensions that exist between the economic rights of employers and the social rights of employees Examined holistically the book demonstrates that granting fundamental rights status to business freedoms is not inherently deregulatory with such freedoms also encapsulating social rights values and interests The freedom to conduct a business therefore emerges as a malleable fundamental rights concept dependent on the underlying constitutional context whether that be within national constitutional law the EU Charter of Fundamental Rights general principles of EU law or in the arrangements governing the United Kingdom's departure from the EU This is an open access title available under the terms of a CC BY NC ND 4.0 International licence It is free to read on Oxford Scholarship Online and offered as a free PDF download from OUP and selected open access locations

*Democratic Dialogue and the Constitution* Alison L Young, 2017-02-10 Constitutions divide into those that provide for a constitutionally protected set of rights where courts can

strike down legislation and those where rights are protected predominantly by parliament where courts can interpret legislation to protect rights but cannot strike down legislation The UK's Human Rights Act 1998 is regarded as an example of a commonwealth model of rights protections It is justified as a new form of protection of rights which promotes dialogue between the legislature and the courts dialogue being seen not just as a better means of protecting rights but as a new form of constitutionalism occupying a middle ground between legal and political constitutionalism This book argues that there is no clear middle ground for dialogue to occupy with most theories of legal and political constitutionalism combining legal and political protections as well as providing an account of interactions between the legislature and the judiciary Nevertheless dialogue has a role to play It differs from legal and political constitutionalism in terms of the assumptions on which it is based and the questions it asks It focuses on analysing mechanisms of inter institutional interactions and assessing when these interactions can provide a better protection of rights facilitate deliberation engage citizens and act as an effective check and balance between institutions of the constitution This book evaluates dialogue in the UK constitution assessing the protection of human rights through the Human Rights Act 1998 the common law and EU law It also evaluates court court dialogue between the UK court the European Court of Justice and the European Court of Human Rights The conclusion evaluates the implications of the proposed British Bill of Rights and the referendum decision to leave the European Union

**Critical Reflections on Constitutional Democracy in the European Union** Sacha Garben, Inge Govaere, Paul Nemitz, 2019-11-14 This book takes a wide ranging approach to tackle the complex question of the current state of constitutional democracy in the EU It brings together a broad set of academics and practitioners with legal and political perspectives to focus on both topical and perennial issues concerning constitutional democracy including safeguarding the rule of law and respect for fundamental rights in theory and practice primarily at EU level but also with due regard to national and global developments This approach underlines that rather than a single problematique to be analysed and resolved we are presently facing a kaleidoscopic spectrum of related challenges that influence each other in elusive multifaceted ways Critical Reflections on Constitutional Democracy in the European Union offers a rich analysis of the issues as well as concrete policy recommendations which will appeal to scholars and practitioners students and interested citizens alike It provides a meaningful contribution to the array of existing scholarship and debate by proposing original elements of analysis challenging often made assumptions destabilising settled understandings and proposing fundamental reforms Overall the collection injects a set of fresh critical perspectives on this fundamental issue that is as contemporary as it is eternal

**Economic and Social Rights Under the EU Charter of Fundamental Rights** Tamara Hervey, Jeff Kenner, 2003-09 The Charter of Fundamental Rights of the European Union includes in addition to the traditional civil and political rights a large number of rights of an economic or social nature This collection of essays by leading scholars in this field considers the significance of the inclusion of such rights within the EU Charter in terms of protection of individual and collective social and

economic interests within and between the EU and its Member States What differences might it make to EU law and policy both in terms of its substance and in terms of the processes by which it is formed that certain economic and social rights are proclaimed in the EU Charter

**The Past, Present, and Future of Legislation with Supermajority** Boldizsár Artúr Szentgáli-Tóth, 2025-08-25 This book revisits the main challenges raised by the implementation of supermajority legislation a constitutionally prescribed subcategory of statutory norms that covers at least in principle the most important fields of legislation and which is subject to stricter procedural requirements than the ordinary legislative process The book puts the issue in a broader context yielding valuable comparative insights It lays the theoretical groundwork for the interdisciplinary assessment of supermajority law concepts which are ranked somewhere between the constitutional and statutory level in the legal pyramid To cite the most important example there is still no coherent standard to help constitutional courts decide whether individual statutory provisions should be covered by supermajority legislation or ordinary legislation The three main points of departure are the following Firstly the book posits that supermajority shall be distinguished from ordinary laws as a separate constitutional concept and a category of legal sources with a legal rank falling clearly under the constitution but over ordinary laws The second assumption states that due to several shortcomings the current procedural frameworks of supermajority law could not maximize its efficiency as a constitutional instrument Other tools might better highlight the role of supermajority laws as safeguards vis vis their currently mostly restrictive character Thirdly the book relies on the assumption that the current concept of supermajority law covers an overbroad range of statutes Therefore the volume argues for the necessity of narrowing the supermajority legislation to counterbalance the distortive effects of this framework In light of these three considerations more legitimate alternative directions can be identified to further develop the existing main models the scope of this legal instrument might be diminished mandatory a priori review might be established while the reconsideration of the legislative process or the elaboration of precise contours for the hierarchy of norms might also be necessary This book is intended for policymakers scholars and university students interested in understanding the mechanisms of parliamentary legislation in more depth

*The sociology of sovereignty* Terje Rasmussen, 2023-12-12 The book examines the intellectual history of the concept of sovereignty from a sociological perspective Informed by the sociologists Max Weber and Niklas Luhmann it addresses the concept as the centre of constitutional controversy and as a resource to deal with paradoxes of power in constitutional democracies It discusses the dilemmas of sovereignty that appear in the wake of the emphasis on political representation human rights and European integration The book marks a significant contribution to the scholarly debate on the foundation of constitutional democracy

**Protecting Rights Without a Bill of Rights** Jeffrey Goldsworthy, Tom Campbell, Adrienne Stone, 2017-11-30 Australia is now the only major Anglophone country that has not adopted a Bill of Rights Since 1982 Canada New Zealand and the UK have all adopted either constitutional or statutory bills of rights Australia however continues to rely on common law statutes dealing with specific issues such as

racial and sexual discrimination a generally tolerant society and a vibrant democracy This book focuses on the protection of human rights in Australia and includes international perspectives for the purpose of comparison and it provides an examination of how well Australian institutions governments legislatures courts and tribunals have performed in protecting human rights in the absence of a Bill of Rights

**Philosophical Perspectives on Democracy in the 21st Century** Ann E. Cudd, Sally J. Scholz, 2013-12-03 This work offers a timely philosophical analysis of fundamental principles of democracy and the meaning of democracy today It explores the influence of big money and capitalism on democracy the role of information and the media in democratic elections and constitutional issues that challenge democracy in the wake of increased threats to privacy since 2001 and in light of the Citizens United decision of the US Supreme Court It juxtaposes alternate positions from experts in law and philosophy and examines the question of legitimacy as well as questions about the access to information the quality of information the obligations to attain epistemic competence among the electorate and the power of money Drawing together different political perspectives as well as a variety of disciplines this collection allows readers the opportunity to compare different and opposing moral and political solutions that both defend and transform democratic theory and practice

*Reason of State* Thomas M. Poole, 2015-07-20 An original work on the important idea of reason of state and British and imperial history and constitutional theory

*Reason of State* Thomas Poole, 2015-07-20 This historically embedded treatment of theoretical debates about prerogative and reason of state spans over four centuries of constitutional development Commencing with the English Civil War and the constitutional theories of Hobbes and the Republicans it moves through eighteenth century arguments over jealousy of trade and commercial reason of state to early imperial concerns and the nineteenth century debate on the legislative empire to martial law and twentieth century articulations of the state at the end of empire It concludes with reflections on the contemporary post imperial security state The book synthesises a wealth of theoretical and empirical literature that allows a link to be made between the development of constitutional ideas and global realpolitik It exposes the relationship between internal and external pressures and designs in the making of the modern constitutional polity and explores the relationship between law politics and economics in a way that remains rare in constitutional scholarship

**America and Enlightenment Constitutionalism** G. McDowell, J. O'Neill, 2006-09-18 Please note this is a Palgrave to Order title PTO Stock of this book requires shipment from an overseas supplier It will be delivered to you within 12 weeks This book shows in detail the Enlightenment origin of the US Constitution It provides vivid analysis of how the Enlightenment's basic ideas were reformulated in the context of America

[The Constitution of the United Kingdom](#) Peter Leyland, 2012-01-31 This acclaimed book provides a topical and contextual outline of the principles doctrines and institutions that underpin the United Kingdom constitution The second edition of *The Constitution of the United Kingdom* has been extensively rewritten to take account of recent constitutional developments particularly changes made following the 2010 general election The chapters are written in sufficient detail for anyone coming

to the subject for the first time to develop a clear and informed view of how the constitution is arranged and how it operates. The main themes include discussion of the history, sources and conventions of the constitution. Later chapters deal with constitutional principles, the role of the Crown, Parliament and the electoral system, government and the executive, the constitutional role of courts including the protection of human rights, the territorial distribution of power between central, devolved and local government and the European Union dimension. In addition, the book offers an analytical discussion of the development of the constitution, its strengths and perceived weaknesses and of reforms aimed at its modernisation.

**Legal Anthropology** James M. Donovan, 2007-12-28. *Legal Anthropology: An Introduction* offers an initial overview of the challenging debates surrounding the cross-cultural analysis of legal systems. Equal parts review and criticism, James M. Donovan outlines the historical landmarks in the development of the discipline, identifying both strengths and weaknesses of each stage and contribution. *Legal Anthropology* suggests that future progress can be made by looking at the perceived fairness of social regulation rather than sanction or dispute resolution as the distinguishing feature of law.

*The Separation of Powers in the Contemporary Constitution* Roger Masterman, 2010-12-02. In this 2010 book, Roger Masterman examines the dividing lines between the powers of the judicial branch of government and those of the executive and legislative branches in the light of two of the most significant constitutional reforms of recent years: the Human Rights Act 1998 and the Constitutional Reform Act 2005. Both statutes have implications for the separation of powers within the United Kingdom constitution. The Human Rights Act brings the judges into much closer proximity with the decisions of political actors than previously permitted by the Wednesbury standard of review and the doctrine of parliamentary sovereignty, while the Constitutional Reform Act marks the emergence of an institutionally independent judicial branch. Taken together, the two legislative schemes form the backbone of a more comprehensive system of constitutional checks and balances, policed by a judicial branch underpinned by the legitimacy of institutional independence.



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