
JOHN HART ELY



On

Constitutional

Ground

On Constitutional Ground 1996

Cheryl Saunders



On Constitutional Ground 1996:

Minority Protection in Post-Apartheid South Africa Kristin Henrard, 2002-08-30 Accommodation of population diversity is a vital issue for any multinational society The legacy of Apartheid in South Africa complicates this effort considerably Henrard introduces a theoretical framework regarding how to accommodate minority protection in the most appropriate way and analyzes the respective contributions of individual rights minority rights and the right to self determination Subsequent chapters examine the case study of post apartheid South Africa and attempt to investigate its constitutional development Henrard finds that provisions within the 1996 Constitution do acknowledge an interrelation between these three important factors however implementation of minority protection policy is often quite a different matter In seeking appropriate means of minority protection this study stresses inclusionism integration and the essential right to identity and real equality While Henrard reviews and discusses the entire democratic transformation process in South Africa she cautions that because current developments are characterized by their unsettled nature major transformation and flux analysis of the implementation phase can be only indicative The apartheid history does not in itself inhibit progressive stances on this important issue Still despite the promising nature of the 1996 Constitution the picture that emerges in terms of policy development aimed at minority protection is ambivalent

A New Constitution for Australia Bede Harris, 2013-03-04 First published in 2002 Routledge is an imprint of Taylor Francis an informa company *Terrorism and the Constitution* David Cole, James Dempsey, 2006-03-01 Tracing the history of government intrusions on Constitutional rights in response to threats from abroad Cole and Dempsey warn that a society in which civil liberties are sacrificed in the name of national security is in fact less secure than one in which they are upheld A new chapter includes a discussion of domestic spying preventive detention the many court challenges to post 9 11 abuses implementation of the PATRIOT ACT and efforts to reestablish the checks and balances left behind in the rush to strengthen governmental powers

An Introduction to Namibian Law Amor, S.K., 2019-04-15 The author of this book Prof S K Amor is Acting Director of the Justice Training Centre and lecturer at the University of Namibia The writing of this book was inspired mainly by the fact that despite Namibia's independence in 1990 Namibian legal practitioners academics and students lecturing and studying law at the University of Namibia UNAM still do not have a truly Namibian reference book Instead they rely heavily on legal literature from South Africa and other countries An Introduction to Namibian Law is an attempt to bridge this gap by introducing law academics lecturers and students to the most important aspects of Namibian law It explains the origin of the country's law and looks at the various influences over the years The book contains material covered in various UNAM courses such as Jurisprudence Introduction to Cases Comparative Law Constitutional and Administrative Law Interpretation of Statutes and Civil and Criminal Procedure It also contains various extracts in support of legal arguments in which legal concepts are illustrated and thoroughly explained as well as sample legal forms Full accounts of certain cases are included to give students of Namibian

law a depth of understanding of how Namibian law has been applied over the years

The Oxford Handbook of Comparative Constitutional Law Michel Rosenfeld, András Sajó, 2012-05-17 The field of comparative constitutional law has grown immensely over the past couple of decades Once a minor and obscure adjunct to the field of domestic constitutional law comparative constitutional law has now moved front and centre Driven by the global spread of democratic government and the expansion of international human rights law the prominence and visibility of the field among judges politicians and scholars has grown exponentially Even in the United States where domestic constitutional exclusivism has traditionally held a firm grip use of comparative constitutional materials has become the subject of a lively and much publicized controversy among various justices of the U S Supreme Court The trend towards harmonization and international borrowing has been controversial Whereas it seems fair to assume that there ought to be great convergence among industrialized democracies over the uses and functions of commercial contracts that seems far from the case in constitutional law Can a parliamentary democracy be compared to a presidential one A federal republic to a unitary one Moreover what about differences in ideology or national identity Can constitutional rights deployed in a libertarian context be profitably compared to those at work in a social welfare context Is it perilous to compare minority rights in a multi ethnic state to those in its ethnically homogeneous counterparts These controversies form the background to the field of comparative constitutional law challenging not only legal scholars but also those in other fields such as philosophy and political theory Providing the first single volume comprehensive reference resource the Oxford Handbook of Comparative Constitutional Law will be an essential road map to the field for all those working within it or encountering it for the first time Leading experts in the field examine the history and methodology of the discipline the central concepts of constitutional law constitutional processes and institutions from legislative reform to judicial interpretation rights and emerging trends

An Unamendable Constitution? Richard Albert, Bertil Emrah Oder, 2018-09-03 This book examines the subject of constitutional unamendability from comparative doctrinal empirical historical political and theoretical perspectives It explores and evaluates the legitimacy of unamendability in the various forms that exist in constitutional democracies Modern constitutionalism has given rise to a paradox can a constitutional amendment be unconstitutional Today it is normatively contested but descriptively undeniable that a constitutional amendment one that respects the formal procedures of textual alteration laid down in the constitutional text may be invalidated for violating either a written or unwritten constitutional norm This phenomenon of an unconstitutional constitutional amendment traces its political foundations to France and the United States its doctrinal origins to Germany and it has migrated in some form to all corners of the democratic world One can trace this paradox to the concept of constitutional unamendability Constitutional unamendability can be understood as a formally entrenched provision s or an informally entrenched norm that prohibits an alteration or violation of that provision or norm An unamendable constitutional provision is impervious to formal amendment even with supermajority or even

unanimous agreement from the political actors whose consent is required to alter the constitutional text Whether or not it is enforced and also by whom this prohibition raises fundamental questions implicating sovereignty legitimacy democracy and the rule of law

Victim Policies and Criminal Justice on the Road to Restorative Justice Tony Peters, 2001 This edited volume contains 22 papers organized into three sections under the following headings part I is entitled On Promoting Victim Policies Part II On Reforming Criminal Justice and Part III On Restorative Justice All three areas are ones to which Tony Peters former Professor of Criminology in Leuven has made a significant contribution and for which he is known as an international authority During his long and productive academic career Tony Peters led many struggles for criminal justice reform He was a leading figure in the movement to recognize crime victims plight and to reaffirm their rights In Belgium he spearheaded the early initiatives in restorative justice and became one of its outspoken proponents nationally and internationally There is no doubt that these three major topics and the various developments and reforms that are addressed in the papers will dominate the thinking about and the practice of criminal justice in the years to come Thus in addition to paying homage to a congenial friend and an illustrious colleague it is hoped that this book will appeal and prove useful to all those who have an interest in victims issues in criminal justice reform and last but not least in the promising paradigm of restorative justice

Law and Religion in Africa Pieter Coertzen, M Christiaan Green, Len Hansen, 2015-05-01 In our time the study of law and religion is emerging as a wide ranging and vital academic discipline with increasingly urgent implications for society at large Lying at the intersection of a variety of other disciplines law theology religious studies political science sociology and anthropology to name only the most obvious the field of law and religion is generating a burgeoning volume of interdisciplinary and trans disciplinary research and study The current volume is proof of this The discussion of the relationship between law and religion as seen from a variety of perspectives in Africa underscores the critical importance of the issues involved in the everyday life of all citizens It is accordingly vital for governments to take note of the scholarly results that are produced We hope that this volume will contribute to this aim

The Washington State Constitution Robert F. Utter, Hugh D. Spitzer, 2013-04-11 The Washington State Constitution provides an outstanding constitutional and historical account of the state s governing charter In addition to an overview of Washington s constitutional history that focuses on the document s 19th century populist roots it provides an in depth section by section analysis of the entire constitution detailing the many significant changes made since its initial drafting This treatment along with a table of cases index and bibliography provides an unsurpassed reference guide for lawyers judges scholars and members of the general public The second edition of The Washington State Constitution has been significantly expanded to detail the impact of the late nineteenth century Populist movement on both the structure and content of Washington s 1889 constitution The book includes current and important developments in the theory of state constitutional interpretation in Washington State describes the significant expansion over the past decade in the Washington Supreme Court s independent

reliance on the state's constitution rather than the federal constitution in many constitutional doctrines particularly those related to individual rights. The title also includes up to date analysis of significant developments in a number of areas including the rights of criminal defendants, personal freedoms of speech, religion and privacy, powers and constraints on the state legislature and the governor, the initiative, referendum and recall and the application of Washington's unique public education clause. The Oxford Commentaries on the State Constitutions of the United States is an important series that reflects a renewed international interest in constitutional history and provides expert insight into each of the 50 state constitutions. Each volume in this innovative series contains a historical overview of the state's constitutional development, a section by section analysis of its current constitution and a comprehensive guide to further research. Under the expert editorship of Professor G Alan Tarr, Director of the Center on State Constitutional Studies at Rutgers University, this series provides essential reference tools for understanding state constitutional law. Books in the series can be purchased individually or as part of a complete set giving readers unmatched access to these important political documents.

Separation of Powers in African Constitutionalism Charles M. Fombad, 2016-03-03. The new series Stellenbosch Handbooks in African Constitutional Law will engage with contemporary issues of constitutionalism in Africa, filling a notable gap in African comparative constitutional law. *Separation of Powers in African Constitutionalism* is the first in the series examining one of the critical measures introduced by African constitutional designers in their attempts to entrench an ethos of constitutionalism on the continent. Taking a critical look at the different ways in which attempts have been made to separate the different branches of government, the Handbook examines the impact this is having on transparent and accountable governance. Beginning with an overview of constitutionalism in Africa and the different influences on modern African constitutional developments, it looks at the relationship between the legislature and the executive as well as the relationship between the judiciary and the political branches. Despite differences in approaches between the different constitutional cultures that have influenced developments in Africa, there remain common problems. One of these problems is the constant friction in the relationship between the three branches and the resurgent threats of authoritarianism which clearly suggest that there remain serious problems in both constitutional design and implementation. The book also studies the increasing role being played by independent constitutional institutions and how they complement the checks and balances associated with the traditional three branches of government.

The Constitution of Australia Cheryl Saunders, 2010-11-30. Consistently with the aims of the series, the book canvasses the Australian constitutional system in a way that explains its form and operation, provides a critical evaluation of it and conveys a sense of the contemporary national debate. The chapters deal with the foundations of Australian constitutionalism, its history from the time of European settlement, the nature of the Australian Constitution, the framework for judicial review, the legislative, executive and judicial branches of government, federalism and multi-level government and rights protection. Running through all chapters is the

story of the gradual evolution of Australian constitutionalism within the lean but almost unchanging framework of the formal written national Constitution. A second theme traces the way in which the present distinctive constitutional arrangements in Australia emerged from creative tension between the British and United States constitutional traditions on which the Australian Constitution originally drew and which continues to manifest itself in various ways. One of these which is likely to be of particular interest is Australian reliance on institutional arrangements for the purpose of the protection of rights. The book is written in a clear and accessible style for readers in both Australia and countries around the world. Each chapter is followed by additional references to enable particular issues to be pursued further by readers who seek to do so. The Constitution of Australia has already been cited in a High Court of Australia case *Momcilovic v The Queen* 2011 HCA 34 8 September 2011.

Diversity and Unity in Federal Countries John Kincaid, César Colino, 2010. In *Diversity and Unity in Federal Countries* leading scholars and practitioners analyse the current political socio economic spatial and cultural diversity in the countries under consideration before delving into the role that social historical and political factors have had in shaping the balance of diversity and unity. The authors assess the value placed on diversity by examining whether present institutional arrangements and public policies restrict or enhance diversity and address the future challenges of balancing diversity and unity in an increasingly populated and mobile world.

There is no Supreme Constitution Koos Malan, 2019-10-04. None of the articles of faith of the South African Constitution is plausible. The Constitution is not supreme and entrenched. Subject to potent socio political forces it changes continuously and often profoundly regardless of stringent amendment requirements. The trite threefold separation of powers is more metaphorical than real and therefore unable to secure effective checks and balances. Though institutionally separated with their own personnel and functions the three powers are ordinarily integrated in a single dominant political leadership committed to achieving the same ideological goals. The bill of individual rights cannot guarantee justice because rights are subject to the ideologically driven exercise of judicial interpretation often with damaging consequences for those relying on the bill of rights. This situation does not only apply to South Africa but to all Constitutions premised on the same articles of faith in this book described as the doctrine of statist individualist constitutionalism. An improved mode of constitutionalism is called for one which is equipped with a sounder system of checks and balances and better endowed towards the achievement of justice through a balanced constitution.

Postcolonial Legality: Law, Power and Politics in Zambia Jeremy Gould, 2023-03-24. This book interrogates the ideology and practices of liberal constitutionalism in the Zambian postcolony. The analysis focuses on the residual political and governmental effects of an imperial form of power embodied in the person of the republican president termed here prerogativism. Through systematic long term ethnographic engagement with Zambian constitutionalist activists lawyers judges and civic leaders the study examines how prerogativism has shaped the postcolonial political landscape and limited the possibilities of constitutional liberalism. This is revealed in the ways that repeated efforts to reform the constitution have

sidelined popular participation and thus failed to address the deep divide between a small elite stratum from which the constitutional activists are drawn and the marginalized masses of the population. Along the way the study documents the intimate interpenetration of political and legal action and examines how prerogativism delimits the political engagements of elite actors. Special attention is given to the reluctance of legal activists to engage with popular politics and to the conservative ethos that undermines efforts to pursue a jurisprudence of transformational constitutionalism in the findings of the Constitutional Court. The work contributes to the rising interest in applying socio legal analysis to the statutory domain in postcolonial jurisdictions. It offers a pioneering attempt to deconstruct the amorphous and ambivalent assemblage of ideas and practices related to constitutionalism through detailed ethnographic interrogation. It will appeal to scholars, students and practitioners with an interest in theorizing challenges to political liberalism in postcolonial contexts as well as in rethinking the methodological toolbox of socio legal analysis.

State Expansion of Federal Constitutional Liberties James A.

Gardner, 1999. First published in 2000. Routledge is an imprint of Taylor Francis, an informal company. **Socio-Economic Rights in South Africa** Malcolm Langford, Ben Cousins, Jackie Dugard, Tshepo Madlingozi, 2014. This book sets out to assess the role and impact of socio economic strategies used by civil society actors in South Africa. Focusing on a range of socio economic rights and national trends in law and political economy, the book's authors show how socio economic rights have influenced the development of civil society discourse and action.

Women, Gays, and the Constitution David A. J. Richards, 1998-07-20. In this remarkable study David A. J. Richards combines an interpretive history of culture and law, political philosophy and constitutional analysis to explain the background, development and growing impact of two of the most important and challenging human rights movements of our time: feminism and gay rights. Richards argues that both movements are extensions of rights based dissent rooted in antebellum abolitionist feminism that condemned both American racism and sexism. He sees the progressive role of such radical dissent as an emancipated moral voice in the American constitutional tradition. He examines the role of dissident African Americans, Jews, women and homosexuals in forging alternative visions of rights based democracy. He also draws special attention to Walt Whitman's visionary poetry showing how it made space for the silenced and subjugated voices of homosexuals in public and private culture. According to Richards, contemporary feminism rediscovers and elaborates this earlier tradition. And similarly, the movement for gay rights builds upon an interpretation of abolitionist feminism developed by Whitman in his defense, both in poetry and prose, of love between men. Richards explores Whitman's impact on pro gay advocates including John Addington Symonds, Havelock Ellis, Edward Carpenter, Oscar Wilde and Andr  Gide. He also discusses other diverse writers and reformers such as Margaret Sanger, Franz Boas, Elizabeth Stanton, W. E. B. DuBois and Adrienne Rich. Richards addresses current controversies such as the exclusion of homosexuals from the military and from the right to marriage and concludes with a powerful defense of the struggle for such constitutional rights in terms of the principles of rights based feminism.

The Constitution of South

Australia Bradley Selway, 1997 Selway Solicitor General for SA analyses his State's Constitution in the first new work on State Constitutions for a generation. His book covers all the traditional subject matter and a variety of related topics that are usually treated separately. Thus considered in their constitutional context is the recognition of Aboriginal customary law, the role of the monarchy, the activities of statutory bodies and judicial review. The Constitution of South Australia is essential reading for lawyers and other dealing with State constitutional problems in Australia. While focussed on South Australia, the similarity between the State Constitutions means it has general application elsewhere. *African Yearbook of International Law*, 1997 A. A. Yusuf, 1998-07-30 The African Yearbook of International Law offers systematic analyses and scientific dissection of international law issues as they apply to Africa and Africa's contribution to the progressive development of international law. It contributes to the promotion and acceptance of and respect for the principles of international law and encourages the teaching, study, dissemination and wider appreciations of international law in Africa. Each volume of the African Yearbook of International Law contains general articles, articles that center on a special theme, notes and commentaries, book reviews, basic documents and a comprehensive index. The African Yearbook of International Law addresses the tension and interrelationships among issues such as territorial integrity, self-determination, ethnic diversity and nation building. Development, human rights and democratization in Africa also receive thorough attention and examination. The African Yearbook of International Law sheds light on the causes of the fragility of African State institutions so as to facilitate the identification of appropriate remedies. The Special Theme of this volume is Civil Conflicts in Africa. Part II: Les conflits internes en Afrique 2eme Partie. **The Struggle for Constitutional Justice in Post-Communist Europe** Herman Schwartz, 2000 In the former Eastern Bloc countries, one of the most difficult and important aspects of the transition to democracy has been the establishment of constitutional justice and the rule of law. Herman Schwartz's wide-ranging book, backed with rich historical detail and a massive array of research, is the first to chronicle and analyze the rise and troubles of constitutional courts in this changing region. Those who are interested in understanding the behavior of constitutional courts in transitional regimes cannot afford to ignore this important book. It is fecund with hypotheses of interest to political scientists and we are indebted to Professor Schwartz for his comprehensive analysis. James L. Gibson, *Law and Politics* Book Review.

Unveiling the Power of Verbal Artistry: An Mental Sojourn through **On Constitutional Ground 1996**

In some sort of inundated with screens and the cacophony of immediate transmission, the profound energy and mental resonance of verbal artistry usually fade into obscurity, eclipsed by the continuous assault of sound and distractions. However, nestled within the lyrical pages of **On Constitutional Ground 1996**, a charming work of fictional beauty that impulses with natural emotions, lies an wonderful journey waiting to be embarked upon. Published by way of a virtuoso wordsmith, this exciting opus instructions viewers on a psychological odyssey, gently revealing the latent possible and profound influence embedded within the complex web of language. Within the heart-wrenching expanse of this evocative examination, we shall embark upon an introspective exploration of the book is central subjects, dissect its captivating publishing model, and immerse ourselves in the indelible impact it leaves upon the depths of readers souls.

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