



Quest For A Constitution

M Walker



Quest For A Constitution:

The Constitution, the Courts, and the Quest for Justice Robert A. Goldwin, William A. Schambra, 1989 Among the purposes for which we the people did ordain and establish this Constitution according to the Preamble was the intention to establish Justice Although the Constitution nowhere explains just how this is to be done American political tradition associates the establishment of justice with a strong independent judiciary According to one view justice is done when the courts observe and enforce the civil and political rights and procedures spelled out in the Constitution nothing more nothing less another contemporary school of thought suggests that the courts must incorporate new notions of right and morality into their rulings particularly in new circumstances never contemplated by the founders What begins as an inquiry into the role of the courts becomes an inquiry into the fundamental principles of the regime Seven prominent scholars reflect on how the courts should understand and promote justice

The Cosmopolitan Constitution Alexander Somek, 2014-08-01 Originally the constitution was expected to express and channel popular sovereignty It was the work of freedom springing from and facilitating collective self determination After the Second World War this perspective changed the modern constitution owes its authority not only to collective authorship it also must commit itself credibly to human rights Thus people recede into the background and the national constitution becomes embedded into one or other system of peer review among nations This is what Alexander Somek argues is the creation of the cosmopolitan constitution Reconstructing what he considers to be the three stages in the development of constitutionalism he argues that the cosmopolitan constitution is not a blueprint for the constitution beyond the nation state let alone a constitution of the international community rather it stands for constitutional law reaching out beyond its national bounds This cosmopolitan constitution has two faces the first political face reflects the changed circumstances of constitutional authority It conceives itself as constrained by international human rights protection firmly committed to combating discrimination on the grounds of nationality and to embracing strategies for managing its interaction with other sites of authority such as the United Nations The second administrative face of the cosmopolitan constitution reveals the demise of political authority which has been traditionally vested in representative bodies Political processes yield to various and often informal strategies of policy co ordination so long as there are no reasons to fear that the elementary civil rights might be severely interfered with It represents constitutional authority for an administered world

The Making of the Constitution of Kenya Charles O. Oyaya, Nana Poku, 2018-05-11 Kenya like the rest of Africa has gone through three sets of constitutional crises The first related to the trauma of colonialism and struggle for independence The second a period of constitutional dictatorship and the clamor for reform The third most recent crisis being one of identity legitimacy and the inability of the state to discharge its functions which has resulted in civil unrest violent ethnic conflicts poverty social exclusion and inequality The Making of the Constitution of Kenya examines the processes issues and challenges of constitution making governance and legitimacy in that country and the lessons that can be learned for others

on the continent Equipping the reader with a sound historical perspective on constitutional developments and the crisis of constitutional legitimacy in Kenya it gives an invaluable insight into the normative and political complexities involved in evolving a truly democratic and widely acceptable constitutional order in Africa *Fidelity to Our Imperfect Constitution* James E. Fleming, 2015 James E Fleming argues that fidelity in interpreting the US Constitution as written requires a moral reading or philosophic approach and that fidelity commits to honouring aspirational principles not following the relatively specific original meanings or original expected applications of the founders **Restoring the Lost Constitution** Randy E. Barnett, 2013-11-24 The U S Constitution found in school textbooks and under glass in Washington is not the one enforced today by the Supreme Court In *Restoring the Lost Constitution* Randy Barnett argues that since the nation's founding but especially since the 1930s the courts have been cutting holes in the original Constitution and its amendments to eliminate the parts that protect liberty from the power of government From the Commerce Clause to the Necessary and Proper Clause to the Ninth and Tenth Amendments to the Privileges or Immunities Clause of the Fourteenth Amendment the Supreme Court has rendered each of these provisions toothless In the process the written Constitution has been lost Barnett establishes the original meaning of these lost clauses and offers a practical way to restore them to their central role in constraining government adopting a presumption of liberty to give the benefit of the doubt to citizens when laws restrict their rightful exercises of liberty He also provides a new realistic and philosophically rigorous theory of constitutional legitimacy that justifies both interpreting the Constitution according to its original meaning and where that meaning is vague or open ended construing it so as to better protect the rights retained by the people As clearly argued as it is insightful and provocative *Restoring the Lost Constitution* forcefully disputes the conventional wisdom posing a powerful challenge to which others must now respond This updated edition features an afterword with further reflections on individual popular sovereignty originalist interpretation judicial engagement and the gravitational force that original meaning has exerted on the Supreme Court in several recent cases **Interpreting Law and Literature** Sanford Levinson, Steven Mailloux, 1988 From the Preface Contemporary theory has usefully analyzed how alternative modes of interpretation produce different meanings how reading itself is constituted by the variable perspectives of readers and how these perspectives are in turn defined by prejudices ideologies interests and so forth Some theorists have argued persuasively that textual meaning in literature and in literary interpretation is structured by repression and forgetting by what the literary or critical text does not say as much as by what it does All these claims are directly relevant to legal hermeneutics and thus it is no surprise that legal theorists have recently been turning to literary theory for potential insight into the interpretation of law This collection of essays is designed to represent the especially rich interactive that has taken place between legal and literary hermeneutics during the past ten years *The making of the constitution* Hannis Taylor, 1889 **An Intellectual Giant** Marja Hinfelaar, O'Brien Kaaba, Pamela Towela Sambo, 2025-04-13 For several decades this Harvard and Oxford trained legal luminary has had a great

range of achievements as legal scholar law school teacher and international public servant Mumba Malila Chief Justice of Zambia An internationally acclaimed legal scholar Muna Ndulo has made an outstanding contribution to constitution making in several African countries East Timor and Afghanistan and to global governance institution building human rights international trade and legal education Pamela Towela Sambo Lecturer in Law at the University of Zambia and environmental activist An Intellectual Giant Essays in Honour of Muna Ndulo doubles as an account of the exemplary professional life of a globally renowned Zambian legal luminary Muna Ndulo and also as a versatile exposition towards understanding the global demands placed on professionals particularly legal scholars This collection of academically inspired essays demonstrates how Muna Ndulo has contributed towards building global social justice human rights and good governance The essays in this book dissect global and national concerns such as constitutionalism and constitution making women s rights legal education transitional justice and fair international investment law These areas of the law are directly linked to the public scholarship that has earned Muna Ndulo immense international acclaim and continue to inspire upcoming professionals

Internationalised Constitution Making and State Formation Katrin Seidel, 2025-03-31 This book presents an in depth and nuanced interdisciplinary and comparative analysis of post conflict constitution making in South Sudan and Somaliland exploring the ways in which the two emerging states negotiate statehood in a globalised world It critically examines the transfer of international constitution making models as part of international rule of law promotion frameworks Specific emphasis is placed on the socio cultural translation dynamics of these models in conflict settings The comparative study explores the tensions between state sovereignty and international interventions examining whether international constitution making involvement fosters the production of societal consensus or inadvertently impedes efforts to achieve stability and peace By focusing on constitutional law making the book sheds light on how normative ideas are transformed in negotiations and opens up new analytical avenues for re thinking conventional constitution making practices It critically reconsiders the assumption that every emerging state requires a written constitution alongside the state centred notion of sovereignty underpinning this paradigm Additionally the study addresses the power and knowledge hierarchies inherent in international interventions providing empirical data from post conflict African contexts The book will be of interest to academics researchers and policy makers working in the areas of comparative public law constitutionalism sociology of law anthropology legal geography international relations political science and African studies

Soviet Constitutional Crisis Robert Sharlet, 2016-06-16 Moving from the adoption of the post Stalin Constitution of 1977 through its subsequent implementation under Brezhnev Andropov and Chernenko to the radical legal restructuring of the Gorbachev years Robert Sharlet traces the gradual evolution of a nascent constitutionalism in the erstwhile USSR Sharlet a noted authority on Soviet law and constitutional development demonstrates the gradual transformation of law from an instrument of Communist Party rule into the new rules of the game for nonauthoritarian political development In effect he argues one of

Gorbachev's most durable achievements may be his redefinition of Soviet politics into a legal idiom along with his relocation of policymaking from behind the closed doors of Party conclaves into the more open emergent arena of constitutional government. In analyzing the politics of law from the Brezhnev era to the rise of Yeltsin, the author takes account of the war of laws, the symbolic uses of the Soviet constitution, and even the fact that the leaders of the failed coup attempted to justify their seizure of power on constitutional grounds. Constitutionalism has sufficiently suffused Soviet public life, the book concludes, that most of the sovereign republics as successors to the former USSR have begun designing their futures to varying degrees in constitutional forms.

The Origin and Growth of the English Constitution Hannis Taylor, 1890

The Constitutional Law of Bangladesh M Rafiqul Islam, Muhammad Ekramul Haque, 2023-07-25 This book provides a supportive lending hand to researchers of constitutional law worldwide about the constitutional law of Bangladesh. Moreover, this book discusses the evolution and development of the constitutional law of Bangladesh over 50 years from its embryonic stage with reference to comparative constitutional law. This book is a very useful resource for the comparative constitutional researchers as readers will be able to easily interpret the constitutional law of Bangladesh from national, regional, and global constitutional law perspectives. This book celebrates the fiftieth anniversary of the Constitution, the first of its kind to portray the journey of constitutionalism in Bangladesh comprehensively with intellectual observations and palatable recommendations for improvement. This book looks back to the constituent assembly debates, intention of the constitution makers, and how those dreams and aspirations have come into realities: what goals have been achieved, what caused some failures, and what should be its future directions. At such a momentous point in history, it is imperative that its native and foreign constitutional authoritative voices scholarly assess the constitutional design, understand the reasons for its successes and occasional failures, and ventilate their views towards its progressive development to elevate it to a new height in the 21st century and beyond. The book chapters discuss not only the text of the constitution and some judicial precedents, rather involve in a much larger task of unveiling the interpretative approach of the Constitution from a comparative constitutional law perspective. This book shall project the future roadmap for the journey of constitutionalism in Bangladesh throughout all chapters, offering policy recommendations for the revision of the Constitution.

A Pluralist Theory of

Constitutional Justice Michel Rosenfeld, 2022-10-17 In recent years, liberal constitutionalism has come under sharp attack. Globalization has caused huge disparities in wealth, identity-based alienation triggered by mass migration, and accompanying erosions of democracy. Liberal populists have also adapted the framework of liberal institutionalism, masking their aim to subvert its core values. These developments bring the links between justice and the constitution to the fore, particularly concerning distributive justice in its three dimensions: redistribution, recognition, and representation. A Pluralist Theory of Constitutional Justice provides a systematic account of the central role of distributive justice in the normative legitimation of liberal constitutions. The requirements of distributive justice are highly contested, and constitutions are susceptible to

influencing those they govern By drawing on Rawls insight that distributive justice calls for constitutional essentials Rosenfeld advances the thesis that liberal constitutions must incorporate certain justice essentials This book is divided into three sections Part one examines the current legal economic political and ideological developments that pose challenges to the normative viability of liberal constitutionalism Part two offers a rereading of philosophical and jurisprudential literature that sheds crucial light on the relationship between constitution and justice Finally part three makes a case for using a thoroughly pluralistic approach in the quest for a constitution s justice essentials

The Invisible Constitution in Comparative Perspective Rosalind Dixon, Adrienne Stone, 2018-11-08 Constitutions worldwide inevitably have invisible features they have silences and lacunae unwritten or conventional underpinnings and social and political dimensions not apparent to certain observers This contributed volume will help its wide audience including scholars students and practitioners understand the dimensions to contemporary constitutions and their role in the interpretation legitimacy and stability of different constitutional systems

The Political Economy of Development in Kenya Kempe Ronald Hope, Sr., 2011-12-01 Kenya is a country of geopolitical and economic importance in East Africa It shares borders with unstable states such as Somalia and Sudan while being a hub for trade communication finance and transportation across the region Although relatively stable since its independence in 1963 the country still faces poverty inequality and corruption In addition the contested election of 2007 led to severe ethnic strife that tested its political stability leading to a new constitution in 2010 This unique survey by a leading expert on the region provides a critical analysis of the socio economic development in Kenya from a political economy perspective It highlights Kenya s transition from being a centralized state to having a clear separation of powers and analyzes key issues such as economic growth urbanization corruption and reform The book identifies Kenya s key socio development problems and offers solutions to improve both governance and economic performance making it an essential resource to researchers academics and policy makers working on development issues and African politics

Identifying Selfhood Henry Isaac Venema, 2000-09-28 Traces the decentered formulation of self at the heart of Paul Ricoeur s philosophy from his earliest works to his most recent

Sketches from Our Constitutional History James A. Van Osdol, 1928 *Constitutional Foundings in South Asia* Kevin YL Tan, Ridwanul Hoque, 2021-01-28 This volume addresses the idea of origins how things are formed and how they relate to their present and future in terms of constitution making which is a continuous process in South Asian states It examines the drafting nature core values and roles of the first modern constitutions during the founding of the eight modern nation states in South Asia The book looks at the constitutions of Afghanistan Bangladesh Bhutan India Maldives Nepal Pakistan and Sri Lanka It provides an explanatory description of the process and substantive inputs in the making of the first constitutions of these nations it sets out to analyse the internal and external including intra regional forces surrounding the making of these constitutions and it sets out theoretical constructions of models to conceptualise the nature and role of the first constitutions including constituent

documents in the founding of the modern nation states and their subsequent impact on state building in the region

The Challenge of Originalism Grant Huscroft, Bradley W. Miller, 2011-09-12 Originalism is a force to be reckoned with in constitutional interpretation At one time a monolithic theory of constitutional interpretation contemporary originalism has developed into a sophisticated family of theories about how to interpret and reason with a constitution Contemporary originalists harness the resources of linguistic moral and political philosophy to propose methodologies for the interpretation of constitutional texts and provide reasons for fidelity to those texts The essays in this volume which includes contributions from the flag bearers of several competing schools of constitutional interpretation provides an introduction to the development of originalist thought showcases the great range of contemporary originalist constitutional scholarship and situates competing schools of thought in dialogue with each other They also make new contributions to the methodological and normative disputes between originalists and non originalists and among originalists themselves

Kenya's Independence Constitution Robert M. Maxon, 2011-04-01 Kenya's Independence Constitution Constitution Making and End of Empire is a narrative of the evolution of the constitution that was put into effect as Kenya's history as a colonial possession came to an end It details the attempts of the colony's political elite and the British Colonial Office to find a constitutional means to move Kenya to the status of independent state As this process moved forward political ethnicity assumed central significance This produced an environment in which demands for a federal constitution popularly termed majimbo came to dominate constitutional discourse Deep disagreement among Kenya's political elite over this issue marked the remainder of the colonial period That elite now represented by the Kenya African National Union KANU and the Kenya African Democratic Union KADU advocated different constitutional paths to independence KADU's demands for a majimbo constitution dominated discourse during 1962 and early 1963 but deep disagreement characterized the constitutional negotiations This resulted in a constitution for self government introduced on June 1 1963 that was regional in character but fell short of a federal system Almost as soon as it came into existence this constitution faced pressure for substantial change from KANU the party that won the 1963 general election As a result the British government was forced to make alterations in what became the independence constitution The latter proved a prelude to the destruction of majimbo a year later Kenya's Independence Constitution provides the first in depth description of the final stage of colonial Kenya's constitutional evolution This book not only provides a detailed account of the process of constitution making including definitive treatments of the final two constitutional conferences of 1962 and 1963 Utilizing British and Kenya cabinet papers and secret intelligence reports never featured in earlier accounts the narrative also destroys many of the myths

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