



Quest For A Constitution

Randy E. Barnett



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 making of the constitution Hannis Taylor, 1895

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

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 *The origin and growth of the English constitution* Hannis Taylor, 1889 **Canadian Law and**

Indigenous Self-Determination Gordon Christie, 2019-09-13 Canadian Law and Indigenous Self Determination demonstrates how over the last few decades Canadian law has attempted to remove Indigenous sovereignty from the Canadian legal social and political landscape *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 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 have 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 **Fidelity to Our Imperfect Constitution** James E.

Fleming, 2015-07-17 Many conservative originalists contend that the only way to be faithful to the Constitution is to follow the relatively specific original meanings and expectations of the framers and ratifiers Fidelity to Our Imperfect Constitution vigorously rejects all varieties of originalism arguing instead for a moral reading that the quest for fidelity in interpreting the Constitution as written exhorts us to interpret it so as to make it the best it can be by honoring its commitments to abstract moral principles and ends *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 of 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 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

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

Origin and Growth of the English Constitution Hannis Taylor,1889

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 myt

The Canadian Constitution Adam Dodek,2016-10-22 The Hill Times Best Books of 2016 A new expanded edition of the first ever primer on Canada s Constitution for anyone who wants to understand the supreme law of the land The Canadian Constitution makes Canada s Constitution readily accessible to readers It includes the complete text of the Constitution Acts of 1867 and 1982 accompanied by an explanation of what each section means along with a glossary of key terms a short history of the Constitution and a timeline of important constitutional events The Canadian Constitution explains how the Supreme Court of Canada works and describes the people and issues involved in leading constitutional cases Author Adam Dodek a law professor at the University of Ottawa provides the only index so far to the Canadian Constitution as well as fascinating background on the Supreme Court and the Constitution This revised and expanded edition is a great primer for those coming to Canada s Constitution for the first time and a useful reference work for students and

scholars *The Origin and Growth of the English Constitution: The making of the constitution* Hannis Taylor, 1898 *From Words to Worlds* Beau Breslin, 2009-01-26

In the 225 years since the United States Constitution was first drafted no single book has addressed the key questions of what constitutions are designed to do how they are structured and why they matter In *From Words to Worlds* constitutional scholar Beau Breslin corrects this glaring oversight singling out the essential functions that a modern written constitution must incorporate in order to serve as a nation's fundamental law Breslin lays out and explains the basic functions of a modern constitution including creating a new citizenry structuring the institutions of government regulating conflict between layers and branches of government and limiting the power of the sovereign He also discusses the theoretical concepts behind the fundamentals of written constitutions and examines in depth some of the most important constitutional charters from around the world In assaying how states put structural ideas into practice Breslin asks probing questions about why and if constitutions matter Solidly argued and engagingly written this comparative study in constitutional thought demonstrates clearly the key components that a state's foundational document must address Breslin draws a critically important distinction between constitutional texts and constitutional practice

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