

What Are The Principles Of Constitutional Law?

Bicameralism

Separation of Powers

Checks and Balances

Federalism

Public Values In Constitutional Law

Harry H. Wellington



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Public Values in Constitutional Law Stephen E. Gottlieb, 1993 Critical examination of the concept of compelling government interests

The Constitutional Underclass Evan Gerstmann, 1999-03-15 When the Supreme Court struck down Colorado's Amendment 2 which would have nullified all state and local laws protecting gays and lesbians from discrimination it was widely regarded as a victory for gay rights Yet many gays and lesbians still risk losing their jobs custody of their children and even their liberty under the law Using the Colorado initiative as his focus Gerstmann untangles the complex standards and subtle rhetoric the Supreme Court uses to apply the equal protection clause The Court divides people into legal classes that receive varying levels of protection gays and lesbians and other groups such as the elderly and the poor receive the least Gerstmann reveals how these standards are used to favor certain groups over others and also how Amendment 2 advocates used the Court's doctrine to convince voters that gays and lesbians were seeking special rights in Colorado Concluding with a call for wholesale reform of equal protection jurisprudence this book is essential reading for anyone interested in fair coherent and truly equal protection under the law

Constitutional Law and Its Interpretation Jules L. Coleman, Anthony James Sebok, 1994

Interpreting the Constitution Harry H. Wellington, 1992-07-29 How does the Supreme Court work Is there something undemocratic about having unelected judges overturn laws passed by elected legislators How can a brief two hundred year old constitution continue to provide the fundamental law for governing the United States In this book a prominent legal scholar explores these questions with unusual clarity Harry H Wellington discusses judicial review the process by which the court decides whether laws are valid and the interpretive role the court plays in constitutional regulation and the resolution of individual disputes Written in an engaging and accessible manner the book offers fascinating examples of the court at work in particular showing how it has addressed one of the most controversial political and judicial issues of our time abortion Harry H Wellington takes a frank and provocative look at the process of adjudication showing how it incorporates and shapes public values and mores as they change from one generation to the next He explains why democracies can tolerate judicial review by nonelected officials and he refutes the politically popular doctrine of original intent and explains why those who interpret the Constitution must be responsive to precedent and process Wellington also shows how the American political system allows the public to respond to the Court's decisions on such strongly debated issues as abortion Although he argues for the retention of *Roe v Wade* Wellington points out that the Court makes mistakes and he asserts that institutions groups and individuals sometimes have an obligation to contest the court's readings and its authority This often noisy dialogue says Wellington is necessary to make judicial regulation compatible with the democratic ideology on which the United States is based

Constitutional Cultures Robert F. Nagel, 1989

Overcriminalization Douglas Husak, 2008-01-08 In the US one out of every 138 residents is incarcerated The size of the prison population has quadrupled since 1980 Approximately 2.4% of Americans are either on probation and parole

The US has the highest rate of criminal punishment in the Western world The problem with American criminal law as the philosopher of law Douglas Husak and many others see it is that there is simply too much of it Recent years have seen a dramatic expansion in the amount of criminal statutes and in the resulting reliance on punishment for convictions under those laws Husak argues that this is regrettable for several reasons but most importantly he says that much of the resulting punishment is unjust excessive and disproportionate He also claims that it is destructive to the rule of law and undermines the principle of legality What should be done Husak s goal in this book is formulate a normative theory of criminalization that will allow us to distinguish which criminal laws are justified and which are not something he sees this as essential in order to reverse the trend towards too many criminal laws The first part of his book makes the case that there is both too much criminal law and too much punishment and clarifies the relationship between the two using empirical data He then provides examples of dubious criminal laws enacted by legislatures in particular statutes on drugs possession and guns The latter part of the book develops his theory which establishes principles that should set limits both external and internal to the criminal law on what we can and should criminalize

The Constitutional Bases of Political and Social Change in the United States Shlomo Slonim, 1990-04-23 This volume collects the papers presented at a conference sponsored by the Hebrew University of Jerusalem to mark the bicentennial of the framing and adoption of the U S Constitution The conference joined distinguished members of the American judiciary bar and academia and their Israeli counterparts in an intensive debate on the part the Constitution has assumed in American life during the 200 years of its existence Each paper focuses specifically on one aspect of the Constitution the subject matter ranges from executive legislative relations to minority rights religious freedom and constitutional reform Throughout comments and rebuttals are also included Unique in its international approach to constitutional issues and developments this volume will be of significant interest to constitutional and legal scholars Following two papers that provide a backdrop to the debate by reviewing the historical background of the Constitution and examining the rise of the Supreme Court the contributors move on to address such issues as the issue of executive legislative relations and the impacts of the Constitution on these relations over the years the inherent tensions that exist between the establishment and free exercise clauses in the First Amendment the question of minority rights under the Constitution as relates to both race and gender and the newly discovered right of privacy under the constitution Subsequent papers address whether the Constitution needs amending and explore the impact of the U S Constitution on Israeli jurisprudence In the final group of essays the contributors deal with the possible assumption by the U S Supreme Court of a new role a more forthright involvement in promoting social justice

Philosophical Dimensions Of The Constitution Diana T Meyers, Kenneth Kipnis, Steve Griffin, 2019-06-18 In the closing decades of the eighteenth century the newly independent colonies along the mid Atlantic coast of North America commenced an unprecedented public debate concerning the principles of civil government The debate culminated in 1787 with the Philadelphia convention where the United States Constitution was

drafted and adopted After rati Proportionality Balancing and Constitutional Governance Alec Stone Sweet, Jud Mathews, 2019-05-16 In this book Alec Stone Sweet and Jud Mathews focus on the law and politics of rights protection in democracies and in human rights regimes in Europe the Americas and Africa After introducing the basic features of modern constitutions with their emphasis on rights and judicial review the authors present a theory of proportionality that explains why constitutional judges embraced it Proportionality analysis is a highly intrusive mode of judicial supervision it permits state officials to limit rights but only when necessary to achieve a sufficiently important public interest Since the 1950s virtually every powerful domestic and international court has adopted proportionality analysis as the central method for protecting rights In doing so judges positioned themselves to review all important legislative and administrative decisions and to invalidate them as unconstitutional when such policies fail the proportionality test The result has been a massive and global transformation of law and politics The book explicates the concepts of trusteeship the system of constitutional justice the effectiveness of rights adjudication and the zone of proportionality A wide range of case studies analyse how proportionality has spread and variation in how it is deployed the extent to which the U S Supreme Court has evolved and resisted similar doctrines the role of proportionality in building ongoing constitutional dialogues with the other branches of government and the importance of the principle to the courts of regional human rights regimes While there is variance in the intensity of proportionality based dialogues such interactions are today at the very heart of governance in the modern constitutional state and beyond Human Dignity Aharon Barak, 2015-01-29 An analytical study of human dignity as the humanity of a person as a constitutional value and a constitutional right

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