
RESPONDING TO IMPERFECTION

*The Theory and
Practice of
Constitutional
Amendment*

Sanford Levinson. Editor

Responding To Imperfection

Almut Schilling-Vacaflor



Responding To Imperfection:

Responding to Imperfection Sanford Levinson, 1995-01-24 An increasing number of constitutional theorists within both the legal academy and university departments of government are focusing on the conceptual and political problems attached to the notion of constitutional amendment Amendments are among other things recognitions of the imperfection of existing schemes of government The relative ease or difficulty of amendment has significant implications for the ways that governments respond to problems that call either for new structures of governance or new powers for already established structures This book brings together essays by leading legal authorities and political scientists on a range of questions from whether the U S Constitution is subject to amendment by procedures other than those authorized by Article V to how significant change is conceptualized within classical rabbinic Judaism Though the essays are concerned for the most part with the American experience other constitutional traditions are considered as well The contributors include Bruce Ackerman Akhil Reed Amar Mark E Brandon David R Dow Stephen M Griffin Stephen Holmes and Cass R Sunstein Sanford Levinson Donald Lutz Walter Murphy Frederick Schauer John R Vile and Noam J Zohar *Perfecting the Constitution* Darren Patrick Guerra, 2013-06-10 He who can change the Constitution controls the Constitution So who does control the Constitution The answer has always been the people The people control the Constitution via the Article V amending process outlined in the Constitution itself Changes can only be made through Article V and its formal procedures Article V has always provided a means of perfecting the Constitution in an explicit democratically authentic prudent and deliberative manner In addition to changing the Constitution Article V also allowed the people to perfect and preserve their Constitution at the same time In recent years Article V has come under attack by influential legal scholars who criticize it for being too difficult undemocratic and too formal Such scholars advocate for ignoring Article V in favor of elite adaptation of the Constitution or popular amendment through national referendums In making their case critics also assume that Article V is an unimportant and expendable part of the Constitutional structure One notable scholar called the Constitution imbecilic because of Article V This book shows that to the contrary Article V is a unique and powerful extension of the American tradition of written constitutionalism It was a logical extension of American constitutional development and it was a powerful tool used by the Federalists to argue for ratification of the new Constitution Since then it has served as a means of perfecting the US Constitution for over 200 years via a wide range of amendments Contrary to contemporary critics the historical evidence shows Article V to be a vital element in the Constitutional architecture not an expendable or ancillary piece This book defends Article V against critics by showing that it is neither too difficult undemocratic nor too formal Furthermore a positive case is made that Article V remains the most clear and powerful way to register the sovereign desires of the American public with regard to alterations of their fundamental law In the end Article V is an essential bulwark to maintaining a written Constitution that secures the rights of the people against both elites and themselves *Liberal Democracy and the Social*

Acceleration of Time William E. Scheuerman, 2020-06-09 A fine contribution to the literature on the problems of modern liberal democracy Choice The pace of American society has quickened exponentially since the Founding Fathers first mapped the constitution Information travels at the speed of light so does money We can hop from one side of the country to the other in a matter of hours contact our elected officials instantaneously and share our views with thousands of people at the touch of a button Both academia and the popular media have grappled with the consequences of this acceleration on every aspect of contemporary life Most pressing however may be its impact on political life In *Liberal Democracy and the Social Acceleration of Time* William Scheuerman offers a sophisticated assessment of the implications of social and technological celerity in the operation of liberal democracies Specifically he asks what is acceleration's main impact on the traditional liberal democratic model of the separation of powers According to Scheuerman high speed has created an imbalance The executive branch was intended to react with dispatch by contrast legislatures and the courts were designed to be more deliberate and thoughtful While this system of checks and balances was effective in the age of horse and buggy Scheuerman argues that the very features that were these institutions strengths may now be a liability Throughout this book Scheuerman offers a constructive critique which articulates ways in which liberal democracy might be recalibrated in accordance with the tempo of modern society

Rawls and Law Thom Brooks, 2017-07-05 John Rawls 1921 2002 is widely held to be amongst the most important political philosophers for over a century This volume which is the first work of its kind to publish in one place the most influential essays in the field features articles on a wide range of subjects including constitutionalism democratic theory egalitarianism feminism global justice political liberalism the rule of law and public reason The collection informs scholars and students coming to the study of Rawls's work for the first time of the importance and complexity of Rawls's ideas and sheds light on how these ideas might be further improved and applied

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

Comparative Constitutionalism and Good Governance in the Commonwealth John Hatchard, Muna Ndulo, Peter Slinn, 2004-07-08 The central role that good effective and capable governance plays in the economic and social development of a country is now widely recognised Using the Commonwealth countries of eastern and southern Africa this book analyses some of the key constitutional issues in the process of developing strengthening and consolidating the capacity of states to ensure the good governance of their peoples Utilising comparative material the book seeks to draw lessons both positive and negative about the problems of constitutionalism in the region and in doing so critically addresses the legal issues involved in seeking to make constitutions work in practice

Originalism and the Good Constitution John O. McGinnis, Michael B. Rappaport, 2013-11-01 John McGinnis and Michael Rappaport argue that the text of the Constitution and its Amendments

should be adhered to by the Supreme Court because it was enacted by supermajorities A text approved by supermajorities has special value in a democracy because it has unusually wide support and tends to maximize the welfare of the greatest number

New Constitutionalism in Latin America Almut Schilling-Vacaflor, 2016-04-29 Latin America has a long tradition of constitutional reform Since the democratic transitions of the 1980s most countries have amended their constitutions at least once and some have even undergone constitutional reform several times The global phenomenon of a new constitutionalism with enhanced rights provisions finds expression in the region but the new constitutions such as those of Bolivia Colombia Ecuador and Venezuela also have some peculiar characteristics which are discussed in this important book Authors from a number of different disciplines offer a general overview of constitutional reforms in Latin America since 1990 They explore the historical philosophical and doctrinal differences between traditional and new constitutionalism in Latin America and examine sources of inspiration The book also covers sociopolitical settings which factors and actors are relevant for the reform process and analyzes the constitutional practices after reform including the question of whether the recent constitutional reforms created new post liberal democracies with an enhanced human and social rights record or whether they primarily serve the ambitions of new political leaders

Comparative Constitutional Law Tom Ginsburg, Rosalind Dixon, 2011-01-01 This landmark volume of specially commissioned original contributions by top international scholars organizes the issues and controversies of the rich and rapidly maturing field of comparative constitutional law Divided into sections on constitutional design and redesign identity structure individual rights and state duties courts and constitutional interpretation this comprehensive volume covers over 100 countries as well as a range of approaches to the boundaries of constitutional law While some chapters reference the text of legal instruments expressly labeled constitutional others focus on the idea of entrenchment or take a more functional approach Challenging the current boundaries of the field the contributors offer diverse perspectives cultural historical and institutional as well as suggestions for future research A unique and enlightening volume *Comparative Constitutional Law* is an essential resource for students and scholars of the subject

Debating Reform Richard J. Ellis, Michael Nelson, 2019-12-20 Getting students away from spouting opinions about highly charged partisan issues *Debating Reform* Fourth Edition looks at key questions about reforming political institutions with contributed pieces written by top scholars specifically for the volume Each pro or con essay considers a concrete proposal for reforming the political system By focusing on institutions rather than liberal or conservative public policies students tend to leave behind ideology and grapple with claims and evidence to draw their own conclusions and build their own arguments Students will explore how institutions work in their American government text but this reader helps them to understand how they can be made to work better

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