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Constitutional Law and Politics - David M. O'Brien - 2020-03
A topical, comprehensive look at the Supreme Court cases that have shaped our nation.

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Legislation is also one of the exclusive powers of the state. As such, legislation is plainly both practical and inevitably political; at the same time most understandings of the relationship between law and politics have been overwhelmingly theoretical. In this light, public law is often seen as part of the political order or as inescapably partisan. We know relatively little about the real impact of law on politicians through their legal advisers and civil servants. How do lawyers in government see their roles and what use do they make of law? How does politics actually affect the drafting of legislation or the making of policy? This volume will begin to answer these and other questions about the practical, day-to-day relationship between law and politics in a number of settings. It includes chapters by former departmental legal advisers, drafters of legislation, law reformers, judges and academics, who focus on what actually happens when law meets politics in government.

Law in Politics, Politics in Law - David Feldman - 2014-07-18
A great deal has been written on the relationship between politics and law. Legislation, as a source of law, is often highly political, and is the product of a process or the creation of officials often closely bound into party politics. Legislation is also one of the exclusive powers of the state. As such, legislation is plainly both practical and inevitably political; at the same time most understandings of the relationship between law and politics have been overwhelmingly theoretical. In this light, public law is often seen as part of the political order or as inescapably partisan. We know relatively little about the real impact of law on politicians through their legal advisers and civil servants. How do lawyers in government see their roles and what use do they make of law? How does politics actually affect the drafting of legislation or the making of policy? This volume will begin to answer these and other questions about the practical, day-to-day relationship between law and politics in a number of settings. It includes chapters by former departmental legal advisers, drafters of legislation, law reformers, judges and academics, who focus on what actually happens when law meets politics in government.

American Constitutional Law, Volume I - Ralph A. Rossum - 2018-05-04
American Constitutional Law, Volume I provides a comprehensive account of the nation’s defining document, examining how its provisions were originally understood by those who drafted and ratified it, and how they have since been interpreted by the Supreme Court, Congress, the President, lower federal courts, and state judiciaries. Clear and accessible chapter introductions and a careful balance between classic and recent cases provide students with a sense of how the law has been understood and construed over the years. The Tenth Edition has been fully revised to include seven new cases, including key decisions National Labor Relations Board v. Noel Canning, Zivotofsky v. Kerry, Adoptive Couple v. Baby Girl, Horne v. Department of Agriculture and Comptroller of the Treasury of Maryland v. Wynne.A revamped and expanded companion website offers access to even more additional cases, an archive of primary documents, and links to online resources, making this text essential for any constitutional law course.

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American Constitutional Law, Volume II - Ralph A. Rossum - 2018-05-15

American Constitutional Law, Volume II provides a comprehensive account of the nation's defining document, examining how its provisions were originally understood by those who drafted and ratified it, and how they have since been interpreted by the United States Supreme Court, Congress, the President, lower federal courts, and state judiciaries. Clear and accessible chapter introductions and a careful balance between classic and recent cases provide students with a sense of how the law has been understood and construed over the years. The Tenth Edition has been fully revised to include twelve new cases, including key decisions Obergefell v. Hodges, Burwell v. Hobby Lobby Stores, Shelby County v. Holder, Horne v. Department of Agriculture, and Riley v. California. A revamped and expanded companion website offers access to even more additional cases, an archive of primary documents, and links to online resources, making this text essential for any constitutional law course.

Constitutional Law in Contemporary America: Institutions, politics, and process. Foundation, interpretation, and amendment of the Constitution ; Nature of the federal union ; Legislative powers over commerce, taxing, and spending ; Congress and the President ; Property rights and substantive due process ; Property rights and eminent domain ; State authority in a federal system ; Federal powers in foreign affairs ; The citizen and the political process - David Andrew Schultz - 2011

Constitutional Law in Contemporary America is the most up-to-date, carefully edited, and student-friendly undergraduate constitutional law textbook. Placing a unique emphasis on property rights, election law, and issues of gender, gender orientation, foreign policy, and criminal due process, the two-volume text features: * Skillfully edited excerpts of canonical Supreme Court decisions and lower federal and state court decisions * Historically important auxiliary materials—such as the Virginia and Kentucky Resolutions, the Declaration of Sentiments, and the Gulf of Tonkin Resolution—which help students better understand American constitutional law, politics, and government * Succinct case introductions, timelines, discussion questions, chapter glossaries, and chapter bibliographies * Discussions emphasizing significant contemporary issues (e.g., same-sex marriage, free speech on the Internet, and the war on terrorism) * Topical overviews for each constitutional subject area In order to best suit the traditional two-semester constitutional law sequence, the text is conveniently divided into two volumes: * Volume One: Institutions, Politics, and Process presents cases relating to the three branches of the national government. The authors address federalism, the relationship between the citizen and the political process, and those issues of property that have dominated the Supreme Court since its inception nearly two centuries ago. Other topics include: Constitutional and foreign affairs, including case law developed post-9/11; election law and political process cases; the role and power of the federal courts; economic due process; and eminent domain law. * Volume Two: Civil Rights and Liberties covers civil rights and liberties issues including those addressed in the Bill of Rights (as subsequently applied to the states) and in the Reconstruction Amendments. The authors address expressive freedoms such as religion, speech, press, and association, as well as the rights of those accused or convicted of crimes. Other topics include the state action doctrine, equal protection, the Second Amendment and gun rights, the rights of students, the death penalty, privacy, and reproductive rights.

Courts, Politics and Constitutional Law - Martin Below - 2019-10-16

This book examines how the judicialization of politics, and the politicization of courts, affect representative democracy, rule of law, and separation of powers. This volume critically assesses the phenomena of judicialization of politics and politicization of the judiciary. It explores the rising impact of courts on key constitutional principles, such as democracy and separation of powers, which is paralleled by increasing criticism of this influence from both liberal and illiberal perspectives. The book also addresses the challenges to rule of law as a principle, preconceived courts, which are triggered by both democratic backsliding and the mushrooming of populist constitutionalism and illiberal constitutional regimes. Presenting a wide range of case studies, the book will be a valuable resource for students and academics in constitutional law and political science seeking to understand the increasingly complex relationships between the judiciary, executive and legislature.

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The Law of Political Economy - Poul F. Kjaer - 2020-04-23

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Studyguide for Constitutional Law and Politics, Volume 2 - Cram101 Textbook Reviews - 2013-05
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American Constitutional Law - Otis H. Stephens, Jr. - 2014-02-07
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The Law and Politics of Unconstitutional Constitutional Amendments in Asia - Rehan Abyratne - 2021-11-30
This book explains how the idea and practice of UCA are shaped by, and inform, constitutional politics through various social and political actors, and in both formal and informal amendment processes, across Asia. This is the first book-length study of the law and politics of unconstitutional constitutional amendments in Asia. Comprising ten case studies from across the continent, and four broader, theoretical chapters, the volume provides an interdisciplinary, comparative perspective on the rising phenomenon of unconstitutional constitutional amendments (UCA) across a range of political, legal, and institutional contexts. The volume breaks new ground by venturing beyond the courts to consider UCA not only as a judicial doctrine, but also as a significant feature of political and intellectual discourse. The book will be a valuable reference for law and political science researchers, as well as for policymakers and NGOs working in related fields. Offering broad coverage of jurisdictions in East Asia, Southeast Asia and South Asia, it will be useful to scholars and practitioners within Asia as well as to those seeking to better understand the law and politics of the region.

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American Constitutional Law: Governmental powers and democracy - Donald P. Kommers - 2004
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Conservatives and the Constitution - Ken L. Kersch - 2019-04-30
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Political Political Theory - Jeremy Waldron - 2016-03-07
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Explains constitutional rights, how courts must identify them, and why their protections are more limited than most people think.

Comparative Matters - Richard H. Fallon Jr. - 2019-03-14

Through an extensive exploration of comparative constitutional endeavours past and present, near and far, Ran Hirsch shows how attitudes towards engagement with the constitutive laws of others reflect tensions between particularism and universalism as well as competing visions of who ‘we’ are as a political community. Drawing on insights from social theory, religion, history, political science, and public law, Hirsch argues for an interdisciplinary approach to comparative constitutionalism that is methodologically and substantively preferable to merely doctrinal accounts. The future of comparative constitutional studies, he contends, lies in relaxing the sharp divide between constitutional law and the social sciences.

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Federalism and Constitutional Law - Erika Arban - 2021-05-09

This volume examines the relationship between central government and local institutions, taking Italy as a case study to present a comparative perspective on how the Italian experience has influenced the global developments of federal and regional states. As the country with the longest standing regional system, Italy has a lot to tell countries that are dealing with similar issues in present times. Adopting a theoretical/analytical approach coupled with comparative analysis, this volume critically reflects on the changes brought to the Italian system of government by the reform of Title V of the Italian constitution, the reasons why further decentralisation has been resisted and offers a comparative overview of the place and contributions that the Italian experience has brought to the global debate on regionalism and federalism. The book is divided into two parts: Part I distils the essence of the evolution of Italian regionalism and the respective debate before and after 2001. While focusing on Italy, the various chapters situate it within the global framework of discussion. Part II reflects on how the Italian regional constitutional architecture contributes to the global debate, particularly focusing on the main innovations brought about by constitutional reform. The book will be essential reading for researchers, academics and policy-makers working in the areas of constitutional law and politics, and federalism.

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Great Cases in Constitutional Law - Robert P. George - 2016-03-04

Slavery, segregation, abortion, workers' rights, the power of the courts. These issues have been at the heart of the greatest constitutional controversies in American history. And in this concise and thought-provoking volume, some of today's most distinguished legal scholars and commentators explain for a general audience how five landmark Supreme Court cases centered on those controversies shaped the country's destiny and continue to affect us even now. The book is a profound exploration of the Supreme Court's importance to America's social and political life. It is also, as many of the contributors show, an intriguing reflection of what some have seen as an important trend in legal scholarship away from an uncritical belief in the essentially benign nature of judicial power. Robert George opens with an illuminating survey of the themes that unite and divide the five cases. Other contributors...
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Constitutional Law in Contemporary America, Volume 1 - David Schultz - 2017

This paperback volume (subtitled Constitutional Structures: Separated Powers and Federalism) includes Chapters Waldron exchange views on Marbury v. Madison, the pivotal 1803 case that established the power of the courts to invalidate legislation. Cass Sunstein and James McPherson discuss Dred Scott v. Sandford (1857), the notorious case that confirmed the rights of slaves, declared that black people could not be American citizens, and is often seen as a cause of the Civil War. Hadley Arkes and Donald Drakeman explore the legacy of Lochner v. New York (1905), a case that ushered in decades of judicial hostility to social welfare laws. Earl Maltz and Walter Murphy assess Brown v. Topeka Board of Education (1954), the famous case that ended racial segregation in public schools. Finally, Jean Bethke Elshtain and George Will tackle Roe v. Wade (1973), still a flashpoint a quarter of a century later in the debate over abortion. While some of the contributors show sympathy for strong judicial interventions on social issues, many across the ideological spectrum are sharply critical of judicial activism. A compelling introduction to the greatest cases in U.S. constitutional law, this is also an enlightening glimpse of the state of the art in American legal scholarship.

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This paperback volume (subtitled Constitutional Structures: Separated Powers and Federalism) includes Chapters 1 through 9 of American Constitutional Law, Eleventh Edition (hardback), plus the concluding chapter, “Efforts to Curb the Court.” This book, in addition to analyzing and including excerpts of court decisions, highlights the efforts of legislatures, executives, the states, and the general public to participate in an ongoing political dialogue about the meaning of the Constitution. It therefore rejects the idea that elected leaders and the public must passively receive and obey a series of unilateral and final judicial commands. The book covers all new developments in case law, congressional statutes, presidential policies, and initiatives undertaken by states under the Constitution. It concludes with a chapter on efforts to curb the Supreme Court. Professors may choose between the one-volume casebound book or two paperbacks: Volume 1 on “Constitutional Structures: Separated Powers and Federalism,” and Volume 2 on “Constitutional Rights: Civil Rights and Civil Liberties.”

American Constitutional Law - Donald P. Kommers - 2010

American Constitutional Law: Essays, Cases, and Comparative Notes is a unique casebook that encourages citizens and students of the Constitution to think critically about the fundamental principles and policies of the American constitutional order. In addition to its distinguished authorship, the book has two prominent features that set it apart from other books in the field: an emphasis on the social, political, and moral theory that provides meaning to constitutional law and interpretation, and a comparative perspective that situates the American experience within a world context that serves as a valuable prism through which to illuminate the special features of our own constitutional order. While the focus of the book is entirely on American constitutional law, the book asks students to consider what, if anything, is unique in American constitutional life and what we share with other constitutional democracies. Each chapter is preceded by an introductory essay that highlights these major themes and also situates the cases in their proper historical and political contexts. This new edition offers updated topical case and legislation to include more recent significant Supreme Court decisions. The focus on engaging case studies concerning affirmative action, school segregation.

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Arendtian Constitutionalism - Christian Volk - 2015-07-30
The meaning and function of law in Hannah Arendt’s work has never been the subject of a systematic reconstruction. This book examines Arendt’s work and reconstructs her ideas through political, legal, and constitutional theory, and shows that her engagement with law is continuous as well as crucial to an adequate understanding of her political thought. The author argues that Arendt was very much concerned with the question of an adequate arrangement of law, politics and order – the so-called triad of constitutionalism. By adopting this approach, the author suggests an alternative interpretation of Arendt’s thought, which sees her as thinker of political order who considers as crucial a stable and free political order in which political struggle and dissent can occur. Endorsements ‘Christian Volk is one of the most original and penetrating Arendt interpreters of his generation. This book addresses some of the most misunderstood aspects of Arendtian thought – namely, her views of law and constitutionalism. Volk does away with a lot of misconceptions and guides us to a novel view of Arendt on these questions and beyond’. Seyla Benhabib, Yale University ‘One could not imagine something new on Arendt these days. Too much has been written in the last decades. But this volume discloses new land and gives a fresh look at Arendt’s theory of the political. A great book, and a must for every reading list’. Hauke Brunkhorst, University of Flensburg ‘Hannah Arendt is famous for her unusual conception of politics, but as Christian Volk’s rich and seminal study shows, Arendt’s political theory goes hand in hand with a distinctive understanding of law. Volk persuasively charts the emergence of Arendt’s complementary approaches to law and politics out of her analysis of the crisis of the European nation-state, and tests the power of her thought by bringing it into a fresh dialogue with an unusually wide spectrum of contemporary theorists. An impressive work that deserves the new audience it will find in this welcome translation’. Patchen Markell, University of Chicago ‘Christian Volk splendidly discovers Hannah Arendt as a legal theorist. Lawyers interested in her seminal work should just read this book’. Christoph Möllers, Humboldt University Berlin ‘As Christian Volk persuasively demonstrates, reading Arendt as a constitutional theorist is more than just adding another dimension to the interpretation of her work. Based on comprehensive textual evidence, he can instead show that this has important conceptual implications which shed a completely new light on the basic aspects of her overall theoretical outlook. Emphasising the procedural grounding of her understanding of democracy, it thus presents a major challenge to many widely held beliefs about Arendt and an irresistible invitation to reinvestigate the foundations, promises and prospects of radical politics.’ Rainer Schmalz-Bruns, Leibniz University of Hanover

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Sovereignty, Civic Participation, and Constitutional Law - Brecht Deseure - 2021-04-13
This book brings recent insights about sovereignty and citizen participation in the Belgian Constitution to scholars in the fields of law, philosophy, history, and politics. Throughout the Western world, there are increasing calls for greater citizen participation. Referendums, citizen councils, and other forms of direct democracy are considered necessary antidotes to a growing hostility towards traditional party politics. This book focuses on the Belgian debate, where the introduction of participatory politics has stalled because of an ambiguity in the Constitution. Scholars and judges generally claim that the Belgian Constitution gives ultimate power to the nation, which can only speak through representation in parliament. In light of this, direct democracy would be an unconstitutional power for the citizens. This book critically investigates the Constitution's interpretation of the citizen and, by reaching back to the debates among Belgium’s 1831 founding fathers, concludes that it is untenable. The spirit, if not the text, of the Belgian Constitution allows for more popular participation than present-day jurisprudence admits. This book is the first to make recent debates in this field accessible to international scholars. It provides a rare source of information on Belgium’s 1831 Constitution, which was in its time seen as modern constitutionalism’s greatest triumph and which became a model for countless other constitutions. Yet the questions it asks reverberate far beyond Belgium. Combining new insights from law, philosophy, history, and politics, this book is a showcase for continental constitutional theory. It will be a valuable resource for academics and researchers in constitutional law, political and legal philosophy, and legal history.

Sovereignty, Civic Participation, and Constitutional Law - Brecht Deseure - 2021-04-13
This book brings recent insights about sovereignty and citizen participation in the Belgian Constitution to scholars in the fields of law, philosophy, history, and politics. Throughout the Western world, there are increasing calls for greater citizen participation. Referendums, citizen councils, and other forms of direct democracy are considered necessary antidotes to a growing hostility towards traditional party politics. This book focuses on the Belgian debate, where the introduction of participatory politics has stalled because of an ambiguity in the Constitution. Scholars and judges generally claim that the Belgian Constitution gives ultimate power to the nation, which can
settlements reached in the UK, notably in Scotland and Northern Ireland, but also on the future of European power grab by the current generation of citizens. This book critically investigates this received interpretation of the Constitution and, by reaching back to the debates among Belgium’s 1831 founding fathers, concludes that it is untenable. The spirit, if not the text, of the Belgian Constitution allows for more popular participation than present-day jurisprudence admits. This book is the first to make recent debates in this field accessible to international scholars. It provides a rare source of information on Belgium’s 1831 Constitution, which was in its time seen as modern constitutionalism’s greatest triumph and which became a model for countless other constitutions. It asks whether it can still offer insights into new challenges. These new challenges are not only in regard of the constitutional policy-making, notably the Area of Freedom Security and Justice, the Single Market, and Economic and Monetary Integration. Now that Article 50 of the Treaty on the European Union has been invoked, and the path towards full withdrawal by the UK from the EU remains clouded in uncertainties, a comprehensive legal and political analysis of how Brexit impacts on UK and the EU appears of the utmost importance. This book brings together leading lawyers, economists and political scientists to discuss the constitutional implications of Brexit and propose possible solutions for the way forward. The book is structured around four main themes. First, it considers how Brexit will be implemented legally and politically, in terms of the withdrawal and the possible new relations between the UK and the EU. Second, it examines the implications of Brexit on the constitutional structure of the UK, as well as the status of Northern Ireland and the relations with the Republic of Ireland. Third, it examines the implications of Brexit on the constitutional structure of the EU, focusing on a number of key areas of EU policy-making, notably the Area of Freedom Security and Justice, the Single Market, and Economic and Monetary Union. Finally, it looks to the book to the mid-long term future, and discusses the prospects for relaunching the EU after Brexit.

The DNA of Constitutional Justice in Latin America - Daniel M. Brinks - 2018-04-30
Analyzes the political roots of the systems of constitutional justice in Latin America, tracing its development over the last 40 years.

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As the 2000 decision by the Supreme Court to effectively deliver the presidency to George W. Bush recedes in time, its real meaning comes into focus. If the initial critique of the Court was that it had altered the rules of democracy after the fact, the perspective of distance permits us to see that the rules were, in some sense, not altered at all. Here was a “landmark” decision that, according to its own logic, was applicable only once and that therefore neither relied on past precedent nor lay the foundation for future interpretations. This logic, according to scholar Jack Jackson, not only marks a stark break from the traditional terrain of U.S. constitutional law but exemplifies an era of triumphant radicalism and illiberalism on the American Right. In Law Without Future, Jackson demonstrates how this philosophy has manifested itself across political life in the twenty-first century and locates its origins in overlooked currents of post-WWII political thought. These developments have undermined the very idea of constitutional government, and the resulting crisis, Jackson argues, has led to the decline of traditional conservatism on the Right and to the embrace on the Left of a studiously legal, apolitical understanding of constitutionalism (with ironically reactionary implications). Jackson examines Bush v. Gore, the post-9/11 “torture memos,” the 2005 Terri Schiavo controversy, the Republican Senate’s norm-obliterating refusal to vote on President Obama’s Supreme Court nominee Merrick Garland, and the ascendancy of Donald Trump in developing his claims. Engaging with a wide array of canonical and contemporary political thinkers—including St. Augustine, A. J. Toynbee, Karl Marx, Martin Luther King Jr., Hannah Arendt, Wendy Brown, Ronald Dworkin, and Hanna Pitkin—Law Without Future offers a provocative, sobering analysis of how these events have altered U.S. political life in the twenty-first century in profound ways—and seeks to think beyond the impasse they have created.

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The field of comparative constitutional law has grown immensely over the past couple of decades. Once a minor counterpart? These controversies form the background to the field of comparative constitutional law, challenging context? Is it perilous to compare minority rights in a multi-ethnic state to those in its ethnically homogeneous constitutional rights deployed in a libertarian context be profitably compared to those at work in a social welfare 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.

The Composite Constitutional Law - Michel Rosenfeld - 2012-05-17

The field of comparative constitutional law has grown immensely over the past couple of decades. Once a minor obscure adjunct to the field of domestic constitutional law, comparative constitutional law has now moved post-9/11 "torture memo," the 2005 Terri Schiavo controversy, the Republican Senate's no-emollienting refusal to vote on Merrick Garland, the ascendency of Donald Trump in developing his claims. Engaging with a wide array of canonical and contemporary political thinkers—including St. Augustine, Alexis de Tocqueville, Karl Marx, Martin Luther King Jr., Hannah Arendt, Wendy Brown, Ronald Dworkin, and Hanna Pitkin—Law Without Future offers a provocative, sobering analysis of how these events have altered U.S. political life in the twenty-first century in profound ways—and seeks to think beyond the impasse they have created.

The Words That Made Us - Akhil Reed Amar - 2021-05-04

A history of the American Constitution's formative decades from a preeminent legal scholar When the US Constitution won popular approval in 1788, it was the culmination of thirty years of passionate argument over the nature of government. But ratification hardly ended the conversation. For the next century, American Americans and statesmen alike continued to wrestle with weighty questions in the halls of government and in the pages of newspapers. Should the nation's borders be expanded? Should America allow slavery to spread westward? What rights should Indian nations hold? What was the proper role of the judicial branch? In The Words That Made Us, Akhil Reed Amar unites history and law in a vivid narrative of the biggest constitutional questions early Americans confronted, and he expertly assesses the answers they offered. His account of the document's origins and consolidation is a guide for anyone seeking to properly understand America's Constitution today.

The Oxford Handbook of Comparative Constitutional Law - Michel Rosenfeld - 2012-05-17

The field of comparative constitutional law has grown immensely over the past couple of decades. Once a minor 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.

Constitutional Dialogue - Geoffrey Sigalot - 2019-05-02

Identifies how and why 'dialogue' can describe and evaluate institutional interactions over constitutional questions concerning democracy and rights.

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Recent confrontations between constitutional courts and parliamentary majorities, for example in Poland and Hungary, have attracted international interest in the relationship between the judiciary and the legislature in Central and Eastern European countries. Several political actors have argued that courts have assumed too much power after the democratic transformation process in 1989/1990. These claims are explicitly or implicitly connected to the charge that courts have constrained the room for manoeuvre of the legislatures too heavily and that they have entered the field of politics. Nevertheless, the question to what extent has this aggregation of power constrained the dominant political actors has never been examined accurately and systematically in the literature. The present volume fills this gap by applying an innovative research methodology to quantify the impact and effect of court's decisions on legislation and legislators, and measure the strength of judicial decisions in six CEE countries.


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