

What Is The Meaning Of Constitution

Andreea Smaranda Aldea,David Carr,Sara Heinämaa

The Flexible Constitution Sean Wilson,2013 This is an ambitious work on constitutional theory. Influenced by the views of Ludwig Wittgenstein, Sean Wilson tackles the problem of how a judge can obey a document written in ordinary, flexible language. He argues that whether something is “constitutional” is not an historical fact, but is an artisan judgment. Criteria are set forth showing why some judgments represent superior connoisseurship and why others do not. Along the way, Wilson offers a potent critique of originalism. He not only explains this belief system, but shows why it is inherently incompatible with the American legal system. His conclusion is that originalism can only be understood as a legal ideology, not a meaningful contribution to philosophy of law. The ways of thinking about constitutional interpretation provided in the book end up challenging the scholarship of Ronald Dworkin and numerous law professors. And the findings also challenge the way that professors of politics often think about whether a judge has “followed law.”

Constitutional Theory Carl Schmitt,2008-01-23 This volume makes Schmitt's provocative work on comparative constitutionalism available in English for the first time since it was published in 1928 in Germany.

A Principled Constitution? Steven D. Smith,Larry Alexander,James Allan,Maimon Schwarzschild,2022-09-02 Is the United States Constitution the embodiment of certain principles? The four authors of this book for a variety of reasons, and with somewhat different emphases, believe the answer is no. Those who authored the Constitution no doubt all believed in liberty, equality, and, with caveats, republican self-government values, or if you will, principles. But they had different conceptions of those principles and what those principles entailed for constituting a government. Although the Constitution they created reflected, in some sense, their principles, the Constitution itself was a specific list of do's and don'ts that its creators hoped would gain the allegiance of the newly independent and sovereign states. And, for somewhat different reasons, the authors of this book believe that was a good thing.

Constitutional Originalism Robert W. Bennett,Lawrence B. Solum,2011-06-06 Problems of constitutional interpretation have many faces, but much of the contemporary discussion has focused on what has come to be called originalism. The core of originalism is the belief that fidelity to the original understanding of the Constitution should constrain contemporary judges. As originalist thinking has evolved, it has become clear that there is a family of originalist theories, some emphasizing the intent of the framers, while others focus on the original public meaning of the constitutional text. This idea has enjoyed a

modern resurgence, in good part in reaction to the assumption of more sweeping power by the judiciary, operating in the name of constitutional interpretation. Those arguing for a living Constitution that keeps up with a changing world and changing values have resisted originalism. This difference in legal philosophy and jurisprudence has, since the 1970s, spilled over into party politics and the partisan wrangling over court appointments from appellate courts to the Supreme Court. In *Constitutional Originalism*, Robert W. Bennett and Lawrence B. Solum elucidate the two sides of this debate and mediate between them in order to separate differences that are real from those that are only apparent. In a thorough exploration of the range of contemporary views on originalism, the authors articulate and defend sharply contrasting positions. Solum brings learning from the philosophy of language to his argument in favor of originalism, and Bennett highlights interpretational problems in the dispute-resolution context, describing instances in which a living Constitution is a more feasible and productive position. The book explores those contrasting positions, to be sure, but also uncovers important points of agreement for the interpretational enterprise. This provocative and absorbing book ends with a bibliographic essay that points to landmark works in the field and helps lay readers and students orient themselves within the literature of the debate.

Engineering Constitutional Change Xenophon Contiades, 2012-12-20 This volume provides a holistic presentation of the reality of constitutional change in 18 countries (the 15 old EU member states, Canada, Switzerland and the USA). The essays offer analysis on formal and informal constitutional amendment bringing forth the overall picture of the parallel paths constitutional change follows, in correlation to what the constitution means and how constitutional law works. To capture the patterns of constitutional change, multi-faceted parameters are explored such as the interrelations between form of government, party system, and constitutional amendment; the interplay between constitutional change and the system of constitutionality review; the role of the people, civil society, and experts in constitutional change; and the influence of international and European law and jurisprudence on constitutional reform and evolution. In the extensive final, comparative chapter, key features of each country's amendment procedures are epitomized and the mechanisms of constitutional change are explained on the basis of introducing five distinct models of constitutional change. The concept of constitutional rigidity is re-approached and broken down to a set of factual and institutional rigidities. The classification of countries within models, in accordance with the way in which operative amending mechanisms connect, leads to a succinct portrayal of different modes of constitutional change engineering. This book will prove to be an invaluable tool for approaching constitutional revision either for theoretical or for practical purposes and will be of particular interest to students and scholars of constitutional, comparative and public law.

The Constitution of the State of Ohio, 1912, and the Constitution of the United States Ohio, 1913

Constitutional Interpretation Jeffrey M. Shaman, 2000-11-30 This study analyzes the process of constitutional

interpretation, that is, the methodology by which the Supreme Court goes about interpreting the Constitution, and offers a comprehensive view of constitutional law through the lens of history, political science, and jurisprudence. Shaman examines the practice of creating meaning for the Constitution, the dichotomy of legal formalism and realism, the levels of judicial scrutiny, the perception of reality, and the puzzle of legislative motive. While the book traces the historical development of constitutional law, its main focus is on modern jurisprudence, including analyses of the major themes of constitutional interpretation developed by the Warren, Burger, and Rehnquist Courts. Shaman details the Warren Court's move to a more realistic jurisprudence and its development of a multi-level system of judicial review that has become increasingly more complex under the Burger and Rehnquist Courts. He critiques the Supreme Court's reversion in recent years to an old-fashioned formalistic jurisprudence and the growing tendency of the Court to look to the past rather than to future to interpret the Constitution. The book also includes discussion of recent major doctrinal developments such as constitutional theory underlying Supreme Court decisions on gender discrimination, discrimination on the basis of sexual preference, the right to die, abortion, and freedom of speech.

Philosophical Foundations of Constitutional Law David Dyzenhaus, Malcolm Thorburn, 2016 Constitutional law has been and remains an area of intense philosophical interest, and yet the debate has taken place in a variety of different fields with very little to connect them. In a collection of essays bringing together scholars from several constitutional systems and disciplines, *Philosophical Foundations of Constitutional Law* unites the debate in a study of the philosophical issues at the very foundations of the idea of a constitution: why one might be necessary; what problems it must address; what problems constitutions usually address; and some of the issues raised by the administration of a constitutional regime. Although these issues of institutional design are of abiding importance, many of them have taken on new significance in the last few years as law-makers have been forced to return to first principles in order to justify novel practices and arrangements in their constitutional orders. Thus, questions of constitutional 'revolutions', challenges to the demands of the rule of law, and the separation of powers have taken on new and pressing importance. The essays in this volume address these questions, filling the gap in the philosophical analysis of constitutional law. The volume will provoke specialists in philosophy, politics, and law to develop new philosophically grounded analyses of constitutional law, and will be a valuable resource for graduate students in law, politics, and philosophy.

Research Handbook on Legal Semiotics Anne Wagner, Sarah Marusek, 2023-11-03 This comprehensive Research Handbook explores the wide variety of work conducted in legal semiotics to provide a broad understanding of how the law works through signs and symbols. Demonstrating that law is a strategical system of fluctuating signs, contributors critically analyse the ever-evolving conceptualisations of law and legal discourse.

The Constitution of Freedom András Sajó, Renáta Uitz, 2017-11-04 Constitutional democracy is more fragile and less

'natural' than autocracy. While this may sound surprising to complacent democrats, more and more people find autocracy attractive, because they were never forced to understand or imagine what despotism is. Generations who have lived in stable democracies with the promise that their enviable world will become the global 'normal' find government rule without constitutionalism difficult to conceive. It is difficult, but never too late, to see one's own constitutional system as something that is fragile, or up for grabs and in need of constant attention and care. In this book, Andras Sajo and Renata Uitz explore how constitutionalism protects us and how it might be undone by its own means. Sajo and Uitz's intellectual history of the constitutional ideal is rich in contextual detail and informed by case studies that give an overview of both the theory and practice of constitutionalism worldwide. Classic constitutions are contrasted with twentieth-century and contemporary endeavours, and experimentations in checks and balances. Their endeavour is neither apologetic (and certainly not celebratory), nor purely defensive: this book demonstrates why constitutionalism should continue to matter. Between the rise of populist, anti-constitutional sentiment and the normalization of the apparatus of counter-terrorism, it is imperative that the political communities who seek to sustain democracy as freedom understand the importance of constitutionalism. This book is essential reading for students of law and general readers without prior knowledge of the field, as well as those in politics who believe they know how government works. It shows what is at stake in the debate on constitutionalism.

Reflections on Meaning Paul Horwich, 2005-11-10 Paul Horwich, one of the world's most distinguished philosophers, develops in this book his highly original deflationary conception of language. His main aim in *Reflections on Meaning* is to explain how mere noises, marks, gestures, and mental symbols are able to capture the world - that is, how words and sentences (in whatever medium) come to mean what they do, to stand for certain things, to be true or false of reality. His answer is an innovative development of Wittgenstein's idea that the meaning of a term is nothing more than its use.

Constitutional Argument and Institutional Structure in the United States Nicholas Papaspyrou, 2018-03-22 US constitutional jurisprudence often conflates two distinct enquiries: how to interpret the Constitution and how to allocate interpretive authority. This book explains the distinct role of judgements about interpretive authority in constitutional practice. It argues that these judgements do not determine what qualifies as good constitutional argument, and cannot substitute for it. Rather, they specify the division of labour between the political branches and the judiciary in forming applicable constitutional determinations. This explanation of the structure of constitutional reasoning sets the stage for the development of a normative theory about each enquiry. The book advances a theory of substantive constitutional argument. It argues that constitutional interpretation is a special kind of practical reasoning, aiming to construct and specify morally sound accounts of the Constitution and surrounding constitutional practice. Yet, this task is entrusted to a scheme of institutions, as agents of free and equal citizens. The standard of review is an interlocking component of that scheme, regulating the judicial assignment. As such, it should aim to facilitate best performance of the overall interpretive task, so

that the judicial process settles on appropriate constitutional determinations; grounded on morally sound reasons that reach all citizens and uphold the fundamental commitments to freedom and equal citizenship.

National Identity in EU Law Elke Cloots, 2015-02-12 Despite nearly sixty years of European integration, neither nations nor national loyalties have withered away. On the contrary, national identity rhetoric seems on the rise, not only in politics but also in legal discourse. Lately we have seen a rise in the number of Member States invoking their national identity in an attempt to justify a derogation from a requirement imposed on them by a Treaty article or an EU legislative act, or to legitimize a particular national reading of such an EU norm. Despite this, the European Court of Justice (ECJ) has yet to develop a coherent approach to such arguments, or express a vision of the role national identity should play in EU law. Elke Cloots undertakes this task by providing a principled and coherent scheme for the adjudication of disputes involving claims based on the national identity of a Member State. Should arguments involving national identity be legally relevant? If yes, how should the ECJ approach such identity-related interests? Cloots crafts a normative framework to assist the ECJ in striking the right balance between European integration and respect for the identity concerns at issue. The book combines rigorous theoretical inquiry with thorough analysis of the European Treaties and case law, with particular attention paid to litigation involving domestic measures concerning the national system of government, constitutional rights protections, and language policy. Clarifying the issues at stake and presenting a solution to these problems, this book will be an invaluable resource for the academics, lawyers, and policy makers in the field.

The Sovereignty of We the People Pasquale De Marco, 2025-07-18 ****The Sovereignty of We the People**** is a powerful and timely book that examines the role of the people in American democracy. Drawing on history, law, and political theory, it argues that the people are the ultimate guardians of the Constitution and that they have a duty to defend it against all enemies, foreign and domestic. In recent years, we have witnessed a rise in authoritarianism, a decline in civic engagement, and a growing sense of hopelessness among our citizens. This book is a call to action for all Americans who believe in democracy and who are committed to fighting for their rights. The author, a leading expert on constitutional law, provides a clear and concise explanation of the Constitution and its history. He shows how the Constitution was designed to protect the rights of the people and to prevent the rise of tyranny. The book also offers a powerful critique of the modern Supreme Court, which has become increasingly activist and has usurped the power of the people to interpret the Constitution. The author argues that the Court must be reined in and that the people must reclaim their rightful role as the ultimate interpreters of the Constitution. ****The Sovereignty of We the People**** is a must-read for anyone who wants to understand the Constitution and its role in American democracy. It is a clarion call for all Americans to defend their rights and to fight for the future of our democracy. This book is essential reading for anyone who cares about the future of American democracy. It is a powerful reminder that the people are the ultimate guardians of the Constitution and that they have a duty

to defend it against all enemies. If you like this book, write a review!

Against Constitutional Originalism Jonathan Gienapp, 2024-09-03 A detailed and compelling examination of how the legal theory of originalism ignores and distorts the very constitutional history from which it derives interpretive authority “What are the chances that, in 2024, a new book could fundamentally reorient how we understand America’s founding? Jonathan Gienapp . . . has written such a book. . . . You read it, and you get vertigo. . . . Gienapp’s book comes as a thunderclap.”—Cass Sunstein, Washington Post Constitutional originalism stakes law to history. The theory’s core tenet—that the U.S. Constitution should be interpreted according to its original meaning—has us decide questions of modern constitutional law by consulting the distant constitutional past. Yet originalist engagement with history is often deeply problematic. And now that a majority of justices on the U.S. Supreme Court champion originalism, the task of scrutinizing originalists’ use and abuse of history has never been more urgent. In this comprehensive and novel critique of originalism, Jonathan Gienapp targets originalists’ unspoken assumptions about the Constitution and its history. Originalists are committed to recovering the Constitution laid down at the American Founding, yet they often assume that the Constitution is fundamentally modern. Rather than recovering the original Constitution, they project their own understandings onto it, assuming that eighteenth-century constitutional thinking was no different than their own. They take for granted what it meant to write a constitution down, what law was, how it worked, and where it came from, and how a constitution’s meaning was fixed. In the process, they erase the Constitution that eighteenth-century Americans in fact created. By understanding how originalism fails, we can better understand the Constitution that we have.

A Treatise on the Constitutional Limitations which Rest Upon the Legislative Power of the States of the American Union
Thomas McIntyre Cooley, 1878

Phenomenology as Critique Andreea Smaranda Aldea, David Carr, Sara Heinämaa, 2022-03-29 Drawing on classical Husserlian resources as well as existentialist and hermeneutical approaches, this book argues that critique is largely a question of method. It demonstrates that phenomenological discussions of acute social and political problems draw from a rich tradition of radically critical investigations in epistemology, social ontology, political theory, and ethics. The contributions show that contemporary phenomenological investigations of various forms of oppression and domination develop new critical-analytical tools that complement those of competing theoretical approaches, such as analytics of power, critical theory, and liberal philosophy of justice. More specifically, the chapters pay close attention to the following methodological themes: the conditions for the possibility of phenomenology as critique; critique as radical reflection and free thinking; eidetic analysis and reflection of transcendental facticity and contingency of the self, of others, of the world; phenomenology and immanent critique; the self-reflective dimensions of phenomenology; and phenomenological analysis and self-transformation and world transformation. All in all, the book explicates the multiple critical resources phenomenology

has to offer, precisely in virtue of its distinctive methods and methodological commitments, and thus shows its power in tackling timely issues of social injustice. Phenomenology as Critique: Why Method Matters will appeal to researchers and advanced students working in phenomenology, Continental philosophy, and critical theory.

United States constitutional law. State constitutions. Statutory construction Albert Hutchinson Putney, Scott C. Runnels, 1910

Law and the Humanities Austin Sarat, Matthew Anderson, Cathrine O. Frank, 2009-10-30 Law and the Humanities: An Introduction brings together a distinguished group of scholars from law schools and an array of the disciplines in the humanities. Contributors come from the United States and abroad in recognition of the global reach of this field. This book is, at one and the same time, a stock taking both of different national traditions and of the various modes and subjects of law and humanities scholarship. It is also an effort to chart future directions for the field. By reviewing and analyzing existing scholarship and providing thematic content and distinctive arguments, it offers to its readers both a resource and a provocation. Thus, Law and the Humanities marks the maturation of this 'law and' enterprise and will spur its further development.

Digest of the Decisions of the Supreme Court of the State of Alabama ... James Jefferson Mayfield, 1901

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Table of Contents What Is The Meaning Of Constitution

1. Understanding the eBook What Is The Meaning Of Constitution
 - The Rise of Digital Reading What Is The Meaning Of Constitution
 - Advantages of eBooks Over Traditional Books
2. Identifying What Is The Meaning Of Constitution
 - Exploring Different Genres
 - Considering Fiction vs. Non-Fiction
 - Determining Your Reading Goals
3. Choosing the Right eBook Platform
 - Popular eBook Platforms
 - Features to Look for in an What Is The Meaning Of Constitution
 - User-Friendly Interface
4. Exploring eBook Recommendations from What Is The Meaning Of Constitution
 - Personalized Recommendations
 - What Is The Meaning Of Constitution User Reviews and Ratings
 - What Is The Meaning Of Constitution and Bestseller Lists
5. Accessing What Is The Meaning Of Constitution Free and Paid eBooks
 - What Is The Meaning Of Constitution Public Domain eBooks
 - What Is The Meaning Of Constitution eBook Subscription Services
 - What Is The Meaning Of Constitution Budget-Friendly Options
6. Navigating What Is The Meaning Of Constitution eBook Formats
 - ePub, PDF, MOBI, and More
 - What Is The Meaning Of Constitution Compatibility with Devices
 - What Is The Meaning Of Constitution Enhanced eBook Features
7. Enhancing Your Reading Experience
 - Adjustable Fonts and Text Sizes of What Is The Meaning Of Constitution
 - Highlighting and Note-Taking What Is The Meaning Of Constitution
 - Interactive Elements What Is The Meaning Of Constitution
8. Staying Engaged with What Is The Meaning Of Constitution
 - Joining Online Reading Communities
 - Participating in Virtual Book Clubs
 - Following Authors and Publishers What Is The Meaning Of Constitution

9. Balancing eBooks and Physical Books What Is The Meaning Of Constitution
 - Benefits of a Digital Library
 - Creating a Diverse Reading Collection What Is The Meaning Of Constitution
10. Overcoming Reading Challenges
 - Dealing with Digital Eye Strain
 - Minimizing Distractions
 - Managing Screen Time
11. Cultivating a Reading Routine What Is The Meaning Of Constitution
 - Setting Reading Goals What Is The Meaning Of Constitution
 - Carving Out Dedicated Reading Time
12. Sourcing Reliable Information of What Is The Meaning Of Constitution
 - Fact-Checking eBook Content of What Is The Meaning Of Constitution
 - Distinguishing Credible Sources
13. Promoting Lifelong Learning
 - Utilizing eBooks for Skill Development
 - Exploring Educational eBooks
14. Embracing eBook Trends
 - Integration of Multimedia Elements
 - Interactive and Gamified eBooks

What Is The Meaning Of Constitution Introduction

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