

What Should Constitutions Do?

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What Should Constitutions Do Social Philosophy And Policy

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What Should Constitutions Do Social Philosophy And Policy:

What Should Constitutions Do? Ellen Frankel Paul, Fred D. Miller, Jr, Jeffrey Paul, 2011-01-31 The essays in this volume written by prominent philosophers political scientists and legal scholars address the basic purposes of constitutions and their status as fundamental law Some deal with specific constitutional provisions they ask for example which branches of government should have the authority to conduct foreign policy or how the judiciary should be organized or what role a preamble should play in a nation s founding document Other essays explore questions of constitutional design they consider the advantages of a federal system of government or the challenges of designing a constitution for a pluralistic society or they ask what form of constitution best promotes personal liberty and economic prosperity **Social and Political**

Foundations of Constitutions Denis James Galligan, 2013 This volume analyses the social and political forces that influence constitutions and the process of constitution making It combines theoretical perspectives on the social and political foundations of constitutions with a range of detailed case studies of constitution making in nineteen different countries In the first part of the volume leading scholars analyse and develop a range of theoretical perspectives including constitutions as coordination devices mission statements contracts products of domestic power play transnational documents and as reflection of the will of the people In the second part of the volume these theories are examined through in depth case studies of the social and political foundations of constitutions in countries such as Egypt Nigeria Japan Romania Bulgaria New Zealand Israel Argentina and others The result is a multidimensional study of constitutions as social phenomena and their interaction with other social phenomena The approach combines social science analysis of the nature of constitutions with case studies of selected constitutions **A Distinct Judicial Power** Scott Douglas Gerber, 2011-01-10 A Distinct

Judicial Power The Origins of an Independent Judiciary 1606 1787 by Scott Douglas Gerber provides the first comprehensive critical analysis of the origins of judicial independence in the United States Part I examines the political theory of an independent judiciary Gerber begins chapter 1 by tracing the intellectual origins of a distinct judicial power from Aristotle s theory of a mixed constitution to John Adams s modifications of Montesquieu Chapter 2 describes the debates during the framing and ratification of the federal Constitution regarding the independence of the federal judiciary Part II the bulk of the book chronicles how each of the original thirteen states and their colonial antecedents treated their respective judiciaries This portion presented in thirteen separate chapters brings together a wealth of information charters instructions statutes etc about the judicial power between 1606 and 1787 and sometimes beyond Part III the concluding segment explores the influence the colonial and early state experiences had on the federal model that followed and on the nature of the regime itself It explains how the political theory of an independent judiciary examined in Part I and the various experiences of the original thirteen states and their colonial antecedents chronicled in Part II culminated in Article III of the U S Constitution It also explains how the principle of judicial independence embodied by Article III made the doctrine of judicial review possible

and committed that doctrine to the protection of individual rights Moral Puzzles and Legal Perplexities Heidi M. Hurd, 2019 Engages with the life and work of Larry Alexander to explore puzzles and paradoxes in legal and moral theory

Philosophical Foundations of Constitutional Law David Dyzenhaus, Malcolm Thorburn, 2016-02-04 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

Peace, Discontent and Constitutional Law Martin Belov, 2021-05-24 This book offers a multi discursive analysis of the constitutional foundations for peaceful coexistence the constitutional background for discontent and the impact of discontent and the consequences of conflict and revolution on the constitutional order of a democratic society which may lead to its implosion It explores the capacity of the constitutional order to serve as a reliable framework for peaceful co existence while allowing for reasonable and legitimate discontent It outlines the main factors contributing to rising pressure on constitutional order which may produce an implosion of constitutionalism and constitutional democracy as we have come to know it The collection presents a wide range of views on the ongoing implosion of the liberal democratic constitutional consensus which predetermined the constitutional axiology the institutional design the constitutional mythology and the functioning of the constitutional orders since the last decades of the 20th century The constitutional perspective is supplemented with perspectives from financial EU labour and social security law administrative law migration and religious law Liberal viewpoints encounter radical democratic and critical legal viewpoints The work thus allows for a plurality of viewpoints theoretical preferences and thematic discourses offering a pluralist scientific account of the key challenges to peaceful coexistence within the current constitutional framework The book provides a valuable resource for academics researchers and policymakers working in the areas of constitutional law and politics

Constitutional Preambles Wim Voermans, Maarten Stremmer, 2017-06-30 While their use and significance have increased in recent decades constitutional preambles have received only scant attention in academic literature This presents a uniquely

quantitative and qualitative analysis of all the preambles currently in force around the world and addresses fascinating questions concerning their occurrence content style function and legal status Studying preambles not only helps us understand the phenomenon itself but also teaches us more about constitutions and the constitutional systems in which they are situated **Framed** Sanford Levinson,2012-03-01 In his widely acclaimed volume *Our Undemocratic Constitution* Sanford Levinson boldly argued that our Constitution should not be treated with sanctimonious reverence but as a badly flawed document deserving revision Now Levinson takes us deeper asking what were the original assumptions underlying our institutions and whether we accept those assumptions 225 years later In *Framed* Levinson challenges our belief that the most important features of our constitutions concern what rights they protect Instead he focuses on the fundamental procedures of governance such as congressional bicameralism the selection of the President by the electoral college or the dimensions of the President's veto power not to mention the near impossibility of amending the United States Constitution These seemingly settled and hardwired structures contribute to the now almost universally recognized dysfunctionality of American politics Levinson argues that we should stop treating the United States Constitution as uniquely exemplifying the American constitutional tradition We should be aware of the 50 state constitutions often interestingly different and perhaps better than the national model Many states have updated their constitutions by frequent amendment or by complete replacement via state constitutional conventions California's ungovernable condition has prompted serious calls for a constitutional convention This constant churn indicates that basic law often reaches the point where it fails and becomes obsolete Given the experience of so many states he writes surely it is reasonable to believe that the U S Constitution merits its own updating Whether we are concerned about making America more genuinely democratic or only about creating a system of government that can more effectively respond to contemporary challenges we must confront the ways our constitutions especially the United States Constitution must be changed in fundamental ways **Exploring the Political**

Economy and Social Philosophy of James M. Buchanan Paul Dragos Aligica,Christopher J. Coyne,Stefanie Haeffele,2018-05-22 James M Buchanan winner of the Nobel Prize in Economics in 1986 was a pioneer of public choice and constitutional political economy as well as contributing to many fields of study including philosophy political science and public finance Each chapter in this volume seeks to explore critique and emphasize the continuing relevance of the vast contributions of Buchanan to our understanding of political economy and social philosophy The diversity in topics and approaches will make the volume of interest to readers in a variety of fields and accessible to scholars from a variety of backgrounds providing the opportunity to further a cross disciplinary exploration and discussion on market process theory

Why the Russian Constitution Matters William Partlett,2024-09-19 This book challenges the common view that the Russian Constitution is a sham or a reflection of Russia's authoritarian past It instead shows that the Russian Constitution was a product of the constitutional dark arts an increasingly common constitutional practice that seeks to guarantee liberal

democracy and individual rights in a system of highly centralised power Over time in Russia the centralisation of power in the president has undermined the constitution's democratic and rights protections This Russian experience matters for three reasons First it shows that Russian authoritarianism is neither the personal creation of Vladimir Putin nor a natural reflection of Russian history It is instead the product of a centralised constitutional system A democratic Russia is possible but requires more than just Putin leaving office it also requires breaking with Russia's constitutional commitment to centralisation Second it demonstrates the role that the constitutional dark arts play in populist authoritarianism around the world In these contexts centralisation allows one office to claim popular legitimacy and dominate politics while generally falsely also claiming to respect individual rights and democracy Third it reveals that democratic constitutions are more than legal texts enforced in court They are more fundamentally political texts that create a balanced state with political checks on the centralisation of political power These checks and balances do not just limit state power and protect rights they also enable the state to better understand and advance the general well being of its citizens This book therefore provides critical guidance to those involved in building democracy in a post Putin Russia It is also important to those seeking to better understand the role that constitutions play in shaping both authoritarian and democratic politics

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