

OXFORD CONSTITUTIONAL THEORY



*Constituting Economic
and Social Rights*

KATHARINE G. YOUNG

Constituting Economic And Social Rights Oxford Constitutional Theory

Christoph Möllers



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Carl Schmitt's State and Constitutional Theory Benjamin A. Schupmann, 2017 Can a constitutional democracy commit suicide Can an illiberal antidemocratic party legitimately obtain power through democratic elections and amend liberalism and democracy out of the constitution entirely In Weimar Germany these theoretical questions were both practically and existentially relevant By 1932 the Nazi and Communist parties combined held a majority of seats in parliament Neither accepted the legitimacy of liberal democracy Their only reason for participating democratically was to amend the constitution out of existence This book analyses Carl Schmitt's state and constitutional theory and shows

how it was conceived in response to the Weimar crisis Right wing and left wing political extremists recognized that a path to legal revolution lay in the Weimar constitution s combination of democratic procedures total neutrality toward political goals and positive law Schmitt s writings sought to address the unique problems posed by mass democracy Schmitt s thought anticipated constrained or militant democracy a type of constitution that guards against subversive expressions of popular sovereignty and whose mechanisms include the entrenchment of basic constitutional commitments and party bans Schmitt s state and constitutional theory remains important the problems he identified continue to exist within liberal democratic states Schmitt offers democrats today a novel way to understand the legitimacy of liberal democracy and the limits of constitutional change

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Proportionality, Balancing, and Rights Jan-R. Sieckmann, 2021-08-12 The book focuses on Robert Alexy s theory of constitutional rights Alexy systematically presented the theory in his seminal book *Theorie der Grundrechte* 1985 Engl translation *Theory of Constitutional Rights* 2002 and continued to develop it in numerous subsequent articles Arguably still the most influential theory of constitutional rights it has found widespread academic support as well as recognition in several constitutional jurisdictions On the other hand it has also been the object of considerable criticism The aim of this book is to outline the central aspects of Alexy s theory as he sees them and to further develop the principles of constitutional fundamental and

human rights by applying a constructive criticism of his theory **The Public Law of Gender** Kim Rubenstein, Katharine G. Young, 2016-05-26 Examines the public law of gender and equality from the perspectives of comparative constitutional law international law and governance **The Three Branches** Christoph Möllers, 2013-03-14 The idea of the separation of powers is still popular in much political and constitutional discourse though its meaning for the modern state remains unclear and contested This book develops a new comprehensive and systematic account of the principle It then applies this new concept to legal problems of different national constitutional orders the law of the European Union and international institutional law It connects an argument from normative political theory with phenomena taken from comparative constitutional law The book argues that the conflict between individual liberty and democratic self determination that is characteristic of modern constitutionalism is proceduralized through the establishment of different governmental branches A close analysis of the relation between individual and collective autonomy on the one hand and the ways lawmaking through public institutions can be established on the other hand helps us identify criteria for determining how legislative administrative and judicial lawmaking can be distinguished and should be organized These criteria define a common ground in the confusing variety of western constitutional traditions and their diverse use of the notion of separated powers They also enable us to establish a normative framework that throws a fresh perspective on problems of constitutional law in different constitutional systems constitutional judicial review of legislation limits of legislative delegation parliamentary control of the executive and standing Linking arguments from comparative constitutional law and international law the book then uses this framework to offer a new perspective on the debate on constitutionalism beyond the state The concept permits certain institutional insights of the constitutional experiences within states to be applied at the international level without falling into any form of methodological nationalism **Borrowing Justification for Proportionality** João Andrade Neto, 2018-11-11 The proportionality test as proposed in Robert Alexy's principles theory is becoming commonplace in comparative constitutional studies And yet the question are courts justified in borrowing proportionality has not been expressly put in many countries where judicial borrowings are a reality This book sheds light on this question and examines the circumstances under which courts are authorized to borrow from alien legal sources to rule on constitutional cases Taking the Supreme Federal Court of Brazil and its enthusiastic recourse to proportionality when interpreting the Federal Constitution as a case study the book investigates the normative reasons that could justify the court's attitude and offers a comprehensive overview of its case law on controversial constitutional matters like abortion same sex union racial quotas and the right to public healthcare Providing a valuable resource for those interested in comparative constitutional law and legal theory or curious about Brazilian constitutional law this book questions the alleged universality of the proportionality test challenges the premises of Alexy's principles theory and discloses more than 68 Brazilian Supreme Court decisions delivered from 2003 to 2018 that would otherwise have remained unknown to an English speaking audience Constituting the

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The Journal of Education ,1923 Talking Politics ,1992 **Journal of Economic Literature** ,1997

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