

Social Rights Under the Constitution

Government and the Decent Life

Cécile Fabre

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Social Rights Under The Constitution Government And The Decent Life:

Social Rights Under the Constitution Cécile Fabre, 2000 The desirability or lack thereof of bills of rights has been the focus of some of the most enduring political debates over the last two centuries Unlike civil and political rights social rights to the meeting of needs standardly rights to adequate minimum income education housing and health care are not usually given constitutional protection This book argues that social rights should be constitutionalized and protected by the courts and examines when such constitutionalization conflicts with democracy It is thus located at the crossroads of two major issues of contemporary political philosophy to wit the issue of democracy and the issue of distributive justice Interestingly and surprisingly enough philosophers who engage in penetrating discussions on distributive justice do not usually reflect on the implications of their argument for democracy they are met with equal indifference on the part of theorists of democracy This book stems from the perception that there may be conflicts between the demands of democracy and the demands of distributive justice both of which are crucially important and from the resulting recognition that the question of the relationship between these two values cannot be ignored

Constituting Economic and Social Rights Katharine G. Young, 2012-08-23 This book will appeal to a range of constitutional and public legal scholars and practitioners and will appeal to both audiences of human rights practice and those following legal theory First the book presents a breakthrough in constitutional argument about economic and social rights long debated in constitutional rights scholarship and public law It provides an important collection of comparative developments new analytical constructs and contemporary developments in rights theory Second the book draws on comparative constitutional law to inform and develop debates in international human rights law This audience will learn how new approaches to interpretation enforcement adjudication justiciability and deliberation may advance international and transnational human rights advocacy argument and reasoning Third the book informs the interdisciplinary debates of food health care housing education and water law

Social Rights Under the Constitution, 2000 1 2 Rights *British Government and the Constitution* Colin Turpin, Adam Tomkins, 2011-09-01 Like the immensely successful previous edition of this highly respected work this new edition has been jointly prepared and thoroughly updated by Colin Turpin and Adam Tomkins It takes fully into account constitutional developments under the coalition government and examines the most recent case law of the Supreme Court the European Court of Justice and the European Court of Human Rights While it includes extensive material and commentary on contemporary constitutional practice the book covers the historical traditions and the continuity of the British constitution as well as the current tide of change Designed principally for law students the book includes substantial extracts from parliamentary and other political sources as well as from legislation and case law making it ideal for politics and government students With its fresh design it provides a full yet accessible account of the British constitution at a fascinating moment in its ongoing development

Without Trimmings Mark McBride, Visa AJ Kurki, 2022-05-02 Professor Matthew Kramer is one of the most important legal

philosophers of our time even if the label legal philosopher does not do justice to the breadth of his work This collection of essays brings together esteemed philosophers as well as junior scholars to critically assess Kramer s philosophy The contributions focus on Kramer s work on legal philosophy metaethics normative ethics and political philosophy The volume is divided into six parts each focusing on different aspect of Kramer s work The first part Rights and Right holding contains five essays addressing Kramer s work on rights and right holding including the Hohfeldian analysis and the interest theory of right holding The four essays in the second part General Jurisprudence focus on Kramer s work in general jurisprudence from the compatibility of legal positivism with universal legal error to his robust defense of inclusive legal positivism concluding with reflections on his writings on the rule of law The third part General Matters of Ethics contains two essays addressing Kramer s metaethical work on moral realism as a moral doctrine The fourth and fifth parts Freedom and Liberalism have four essays falling within political philosophy probing Kramer s work on negative freedom and political liberalism respectively The sixth part Applied Ethics contains two essays on Kramer s work on capital punishment and freedom of expression The collection is rounded off by reflections on and replies to the contributions by Kramer himself

The Veil of Participation Alexander Hudson,2021-05-06 Hudson provides new evidence about the roles of political parties leaders and citizen participants in constitution making processes

Rights as Security Rhonda Powell,2019-02-21 The right to security of person is widely recognized but little understood Courts legislatures and scholars disagree about how the right to security of person should be defined This book investigates the meaning of the right to security of person through an analysis of its constituent parts Applying an original conceptual analysis of security the right to security of person imposes both positive and negative duties Also identifying the interests to be protected by the right requires a theory of personhood or wellbeing such as Amartya Sen and Martha Nussbaum s capabilities approach It is accepted that any existing legal rights to security of person must be artificially delineated in order not to overstep the boundaries of other rights In recognition of the naturally broad meaning of the right to security of person it is proposed that human rights law as a whole should be seen as a mechanism to further security of person rights as security

Justiciability of Human Rights Law in Domestic Jurisdictions Alice Diver,Jacinta Miller,2015-12-15 This collection of 16 essays by 19 contributors calls into question the notion of domestic justiciability across a wide range of human rights issues such as health human dignity criminal justice property and transitional democracy The authors offer critical analyses of a number of rights frameworks focusing in considerable detail upon specific countries e g Libya Colombia Ireland the United Kingdom Northern Ireland South Africa Nigeria Zimbabwe Kenya India and regions e g Europe Africa to highlight the various challenges which continue to vex human rights advocates and scholars In doing so they pinpoint some of the major tensions that still exist within developing and developed jurisdictions via a myriad range of perspectives The essays collectively present a diverse assortment of themes unified by a single golden thread that of the domestic interpretations given to human rights protections They raise questions

as to how such rights might be made substantive at the level of domestic implementation and query the extent to which these rights can or even should be enforced by the courts. The potential strains in the relationship between human rights and the rule of law is further called into question by another central theme that of human dignity. A fundamental dilemma arises in respect of the extent to which a right to dignity can best be promoted, protected or monitored by domestic decision makers. Similar issues are apparent within the context of the protection of those human rights which increasingly tend to engage social, political or economic considerations and interests. Whilst these arguments are often framed principally in terms of rights, the collective message that emerges from this book is that such rights may often be in fact essentially non justiciable. Readers of this text will perhaps feel compelled to reflect carefully and fully upon what it tells us about human rights law generally and the extent to which such rights may be truly amenable to adjudication by the courts.

Between Cosmopolitan Ideals and State Sovereignty R. Tinnevelt, G. Verschraegen, 2006-10-26. *Between Cosmopolitan Ideals and State Sovereignty* explores how philosophers and political theorists have recast principles of justice and human rights in the light of challenges posed by globalization. It discusses ethical issues that arise at a global level and considers whether human rights and sovereignty can ever be reconciled.

Shaping Rights in the ECHR Eva Brems, Janneke Gerards, 2014-01-23. In fundamental rights adjudication a court first has to determine whether the interest at stake falls within the scope of the fundamental right invoked. Whether or not an individual interest falls within the scope or ambit of one of the fundamental rights protected by the European Convention on Human Rights determines whether or not the European Court of Human Rights can decide on the merits of a case. This volume brings together a variety of legal scholars in order to examine the scope of fundamental rights. Topics range from the nature of human rights and the real or imagined risk of rights inflation to theories of positive obligations and social and economic rights. It contains contributions of a theoretical nature as well as analytical overviews of the ECtHR's approach. In addition, comparisons are made with domestic EU and international law.

Beyond the Republican Revival Eric Ghosh, 2020-10-29. This is the first book length treatment of both the non positive and the positive liberty strands of the republican revival in political and constitutional theory. The republican revival pursued especially over the last few decades has presented republicanism as an exciting alternative to the dominant tradition of liberalism. The book provides a sharply different interpretation of liberty from that found in the republican revival and it argues that this different interpretation is not only historically more faithful to some prominent writers identified with the republican tradition but is also normatively more attractive. The normative advantages are revealed through discussion of some central concerns relating to democracy and constitutionalism including the justification for democracy and the interpretation of constitutional rights. The book also looks beyond republican liberty by drawing on the republican device of sortition (selection by lot). It proposes the use of large juries to decide bill of rights matters. This novel proposal indicates how democracy might be reconciled with constitutional review based on a bill of rights. Republicanism is not pitted against liberalism the favoured

values and institutions fit with liberal commitments *Contesting World Order?* Joe Wills, 2017-04-13 What do equality dignity and rights mean in a world where eight men own as much wealth as half the world's population *Contesting World Order Socioeconomic Rights and Global Justice Movements* examines how global justice movements have engaged the language of socioeconomic rights to contest global institutional structures and rules responsible for contributing to the persistence of severe poverty Drawing upon perspectives from critical international relations studies and the activities of global justice movements this book evaluates the counter hegemonic potential of socioeconomic rights discourse and its capacity to contribute towards an alternative to the prevailing neo liberal common sense of global governance Global Justice Holly Lawford-Smith, 2017-05-15 This volume brings together a range of influential essays by distinguished philosophers and political theorists on the issue of global justice Global justice concerns the search for ethical norms that should govern interactions between people states corporations and other agents acting in the global arena as well as the design of social institutions that link them together This volume includes articles that engage with major theoretical questions such as the applicability of the ideals of social and economic equality to the global sphere the degree of justified partiality to compatriots and the nature and extent of the responsibilities of the affluent to address global poverty and other hardships abroad It also features articles that bring the theoretical insights of global justice thinkers to bear on matters of practical concern to contemporary societies such as policies associated with immigration international trade and climate change **Health, Rights and Dignity** Christian Erk, 2013-05-02 The idea that there is such a thing as a human right to health has become pervasive It has not only been acknowledged by a variety of international law documents and thus entered the political realm but is also defended in academic circles Yet despite its prominence the human right to health remains something of a mystery especially with respect to its philosophical underpinnings Addressing this unfortunate and intellectually dangerous insufficiency this book critically assesses the stipulation that health is a human right which as international law holds derives from the inherent dignity of the human person Scrutinising the concepts underlying this stipulation health rights dignity it shall conclude that such right cannot be upheld from a philosophical perspective *The Philosophical Foundations of Extraterritorial Punishment* Alejandro Chehtman, 2010-12-09 1 Rights Individuals and States 2 An Interest based Justification for the Right to Punish 3 Extraterritorial Jurisdiction over Municipal Crimes 4 A Theory of International Crimes 5 Extraterritorial Jurisdiction over International Crimes 6 Legitimate Authority and Extraterritorial Punishment 7 Conclusion *Health and Human Rights* Thérèse Murphy, 2014-07-18 This book aims to bolster the burgeoning discourse of health and human rights In so doing it charts the history of the linkage between health and human rights It also pinpoints the sense of imperative that surrounds this relationship More importantly the book identifies a series of threats and challenges facing attempts to link health and human rights and proposes how these might be addressed Amongst other things it asks is conflict between risk and rights inevitable in the context of infectious disease control Is

reproductive choice a bad argument in the context of reproductive technologies Is it sensible for human rights to make use of measurement tools such as indicators Is the cost of human rights an argument that can and should be used by proponents of human rights The answers it gives to these questions are original and engaging and will be of great interest to a diverse audience including scholars and policy makers in these areas

Contesting Economic and Social Rights in Ireland Thomas Murray, 2016-08-18 This book presents a political understanding of socio economic rights by contextualising constitution makers and judges decision making in terms of Ireland s rich history of people s struggles for justice from below between 1848 and the present Its theoretical framework incorporates critical legal studies and world systems analysis It performs a critical discourse analysis of constitution making processes in 1922 and 1937 as well as subsequent property trade union family and welfare rights case law It traces the marginalisation of socio economic rights in Ireland from specific local and institutional factors to the contested balance of core peripheral and social relations in the world system The book demonstrates the endurance of ideological understandings of state constitutionalism as inherently neutral between interests Unemployed marches housing protestors and striking workers however provided important challenges and oppositional discourses Recognising these enduring forms of power and ideology is vital if we are to assess critically the possibilities and limits of contesting socio economic rights today

Democracy and the Claims of Nature Ben A. Minteer, Bob Pepperman Taylor, 2002 In Democracy and the Claims of Nature the leading thinkers in the fields of environmental political and social theory come together to discuss the tensions and sympathies of democratic ideals and environmental values The prominent contributors reflect upon where we stand in our understanding of the relationship between democracy and the claims of nature Democracy and the Claims of Nature bridges the gap between the often competing ideals of the two fields leading to a greater understanding of each for the other

Litigating Health Rights Alicia Ely Yamin, Siri Gloppen, 2015-04-01 This book examines the potential of litigation as a strategy to advance the right to health by holding governments accountable for these obligations It asks who benefits both directly and indirectly and what the overall impacts on health equity are Included are case studies from Costa Rica South Africa India Brazil Argentina and Colombia

Education, Law and Diversity Neville Harris, 2020-01-09 This new edition of Education Law and Diversity provides extensive updated analysis from a legal perspective of how the education system responds to social diversity and how the relevant social and cultural rights of individuals and groups are affected It spans wide ranging areas of school provision including types of school including faith schools the school curriculum choice of school out of school settings and duties towards children with special needs and disabilities It gives extensive coverage to children s rights in the context of education and includes considerable new material on issues including relationships and sex education exclusion from school home education equal access counter extremism and academisation The new edition also retains and updates areas of debate in the book such as those concerned with multiculturalism and the position of religion in schools It continues to focus on England but also makes reference to other

jurisdictions within the UK and internationally It is essential reading for anyone interested in the legal and related policy issues surrounding children s education today

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