



# The Supreme Court Review

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# Supreme Court Review 2003

**Nathaniel Persily, Jack Citrin, Patrick J.  
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### **Supreme Court Review 2003:**

**Right Star Rising: A New Politics, 1974-1980** Laura Kalman, 2010-06-28 Tells the history of the Ford Carter years discusses the relevance of the period s politics on today s issues and explains its shaping of the current political environment

*The Rehnquist Court and Criminal Justice* Christopher E. Smith, Christina DeJong, Michael McCall, 2011-11-16 This book examines the criminal justice decisions of the Rehnquist Court era through analyses of individual justices contributions to the development of law and policy The Rehnquist Court era 1986 2005 produced a period of opportunity for the U S Supreme Court s judicial conservatives to reshape constitutional law concerning rights in the criminal justice process It was an era in which the Court produced many hotly debated decisions concerning such issues as capital punishment search and seizure police interrogations and prisoners rights The Court s most conservative justice William H Rehnquist ascended to the key leadership position of Chief Justice and he was joined on the Court by two new appointees Antonin Scalia and Clarence Thomas who were equally supportive of both greater authority for police and limited definitions of constitutional rights for suspects defendants and criminal offenders The Rehnquist Court era decisions refined and narrowed many of the rights expanding decisions of the Warren Court era 1953 1969 However the Supreme Court did not ultimately eliminate the Warren era s foundational rights concepts in criminal justice such as the exclusionary rule and Miranda warnings As the leading liberal voices of the Warren era William Brennan and Thurgood Marshall retired early in the Rehnquist era the Court experienced continued advocacy of broad conceptions for many rights through the increased assertiveness of Republican appointees Harry Blackmun John Paul Stevens and David Souter as well as the arrival of new Democratic appointees Ruth Bader Ginsburg and Stephen Breyer In many important cases the justices advocating the preservation of constitutional protections could prevail even on a generally conservative Court by persuading one or more of President Ronald Reagan s appointees to support a particular right for suspects and defendants Sandra Day O Connor and Anthony Kennedy in particular shaped outcomes within a divided Court as they determined which of the Court s wings with which they would align in a particular case The contributors to this volume identify and highlight the unique perspectives and influential decisions of individual justices as the means for understanding the Rehnquist Court s imprint on criminal justice

**Constitutional Politics in a Conservative Era** Austin Sarat, 2008-05-05 Aims to bring together the work of leading scholars of Constitutionalism Constitutional law and politics in the United States to take stock of the field to chart its progress and point the way for its future development [The Oxford Handbook of the U.S. Constitution](#) Mark Tushnet, Mark A. Graber, Sanford Levinson, 2015-07-31 The Oxford Handbook of the U S Constitution offers a comprehensive overview and introduction to the U S Constitution from the perspectives of history political science law rights and constitutional themes while focusing on its development structures rights and role in the U S political system and culture This Handbook enables readers within and beyond the U S to develop a critical comprehension of the literature on the Constitution along with

accessible and up to date analysis The historical essays included in this Handbook cover the Constitution from 1620 right through the Reagan Revolution to the present Essays on political science detail how contemporary citizens in the United States rely extensively on political parties interest groups and bureaucrats to operate a constitution designed to prevent the rise of parties interest group politics and an entrenched bureaucracy The essays on law explore how contemporary citizens appear to expect and accept the exertions of power by a Supreme Court whose members are increasingly disconnected from the world of practical politics Essays on rights discuss how contemporary citizens living in a diverse multi racial society seek guidance on the meaning of liberty and equality from a Constitution designed for a society in which all politically relevant persons shared the same race gender religion and ethnicity Lastly the essays on themes explain how in a globalized world people living in the United States can continue to be governed by a constitution originally meant for a society geographically separated from the rest of the civilized world Whether a return to the pristine constitutional institutions of the founding or a translation of these constitutional norms in the present is possible remains the central challenge of U S constitutionalism today

**Limits of Legality** Jeffrey Brand-Ballard,2010 Judges sometimes hear cases in which the law as they honestly understand it requires results that they consider morally objectionable Most people assume that nevertheless judges have an ethical obligation to apply the law correctly at least in reasonably just legal systems This is the view of most lawyers legal scholars and private citizens but the arguments for it have received surprisingly little attention from philosophers Combining ethical theory with discussions of caselaw Jeffrey Brand Ballard challenges arguments for the traditional view including arguments from the fact that judges swear oaths to uphold the law and arguments from our duty to obey the law among others He then develops an alternative argument based on ways in which the rule of law promotes the good Patterns of excessive judicial lawlessness even when morally motivated can damage the rule of law Brand Ballard explores the conditions under which individual judges are morally responsible for participating in destructive patterns of lawless judging These arguments build upon recent theories of collective intentionality and presuppose an agent neutral framework rather than the agent relative framework favored by many moral philosophers Defying the conventional wisdom Brand Ballard argues that judges are not always morally obligated to apply the law correctly Although they have an obligation not to participate in patterns of excessive judicial lawlessness an individual departure from the law so as to avoid an unjust result is rarely a moral mistake if the rule of law is otherwise healthy Limits of Legality will interest philosophers legal scholars lawyers and anyone concerned with the ethics of judging

The Collaborative Constitution Aileen Kavanagh,2023-10-26 In this book Aileen Kavanagh offers a fresh account of how we should protect rights in a democracy Departing from leading theoretical accounts which present the courts and legislature as rivals for constitutional supremacy Kavanagh argues that protecting rights is a collaborative enterprise between all three branches of government the Executive the legislature and the courts On a collaborative vision of constitutionalism protecting rights is neither the solitary task of a Herculean super judge nor the

dignified pronouncements of an enlightened legislature Instead it is a complex dynamic and collaborative endeavour where each branch has a distinct but complementary role to play whilst engaging with each other in a spirit of comity and mutual respect Connecting constitutional theory with the practice of protecting rights in a democracy this book offers an innovative understanding of the separation of powers grounded in the values and virtues of constitutional collaboration **Public**

**Opinion and Constitutional Controversy** Nathaniel Persily, Jack Citrin, Patrick J. Egan, 2008-04-04 American politics is most notably characterized by the heated debates on constitutional interpretation at the core of its ever raging culture wars and the coverage of these lingering disputes are often inundated with public opinion polls Yet for all their prominence in contemporary society there has never been an all inclusive systematic study of public opinion and how it impacts the courts and electoral politics Public Opinion and Constitutional Controversy is the first book to provide a comprehensive analysis of American public opinion on the key constitutional controversies of the twentieth century including desegregation school prayer abortion the death penalty affirmative action gay rights assisted suicide and national security to name just a few With essays focusing on each issue in depth Nathaniel Persily Jack Citrin Patrick Egan and an established group of scholars utilize cutting edge public opinion data to illustrate these contemporary debates methodically examining each one and how public attitudes have shifted over time especially in the wake of prominent Supreme Court decisions More than just a compilation of available data however these essays join the popular constitutionalism debate between those who advocate a dominant role for courts in constitutional adjudication and those who prefer a more pluralized constitutional discourse Each essay also vividly details the gap between the public and the Supreme Court on these hotly contested issues and analyzes how and why this divergence of opinion has grown or shrunk over the last fifty years Ultimately Public Opinion and Constitutional Controversy sheds light on a major yet understudied part of American politics providing an incisive look at the crucial part played by the voice of the people on the issues that have become an indelible part of the modern day political landscape

The Law's Delay C. H. van Rhee, 2004 Papers from a conference organised by Maastricht University Faculty of Law on 24-25 April 2003 The Use of Foreign Precedents by Constitutional Judges Tania Groppi, Marie-Claire Ponthoreau, 2013-03-28 In 2007 the International Association of Constitutional Law established an Interest Group on The Use of Foreign Precedents by Constitutional Judges to conduct a survey of the use of foreign precedents by Supreme and Constitutional Courts in deciding constitutional cases Its purpose was to determine through empirical analysis employing both quantitative and qualitative indicators the extent to which foreign case law is cited The survey aimed to test the reliability of studies describing and reporting instances of transjudicial communication between Courts The research also provides useful insights into the extent to which a progressive constitutional convergence may be taking place between common law and civil law traditions The present work includes studies by scholars from African American Asian European Latin American and Oceania countries representing jurisdictions belonging to both common law and civil law traditions and countries employing both

centralised and decentralised systems of judicial review The results published here for the first time give us the best evidence yet of the existence and limits of a transnational constitutional communication between courts     The State and Federal Courts Christopher P. Banks,2017-01-26 How does the American judiciary impact the development of legal and social policies in the United States How are the state and federal court systems constructed This book answers these questions and many others regarding politics the U S courts and society This single volume work provides a comprehensive and contemporary treatment of the historical development of state and federal courts that clearly documents how they have evolved into significant political institutions It addresses vital and highly relevant subjects such as the constitutional origins of courts the nature of judicial selection and service and the organization of courts and their administration The book explains civil and criminal legal proceedings the political impact of judicial rulings and the restraints placed upon the exercise of judicial powers Readers will come away with an understanding of the key principles of constitutional interpretation and judicial review as well as judicial independence what factors affect access to courts the underlying politics of state judicial campaigns and the confirmation of presidential appointments to the federal bench The book covers historical and contemporary court perspectives on major issues such as same sex marriage the Affordable Care Act campaign financing gun rights free speech and religious freedom racial discrimination affirmative action criminal procedure and punishments property rights and voting rights     Flagrant Conduct: The Story of Lawrence V. Texas Dale Carpenter,2012-03-12 Provides a detailed legal history and examines the motives of all players involved with the landmark Supreme Court gay rights case that protected consenting adults rights regardless of sexual preference in the bedroom     The Supreme Court Peter Charles Hoffer,Williamjames Hoffer,N. E. H. Hull,2007 For more than two centuries the U S Supreme Court has provided a battleground for nearly every controversial issue in our nations history This veteran team of talented historians produces the most readable astute and up to date single volume history of this venerated institution     **Handbook of Research with Lesbian, Gay, Bisexual, and Transgender Populations** William Meezan,James I. Martin,2009-09-10 Handbook of Research with Lesbian Gay Bisexual and Transgender Populations provides a detailed examination of the current methods and theoretical frameworks for conducting research with LGBT populations Introducing greater nuance in designing and implementing research models for working with these populations Handbook of Research with Lesbian Gay Bisexual and Transgender Populations provides guidelines for defining these groups strategies to obtain more inclusive and representative samples and methods for engaging these populations to produce consistent and relevant data Collecting essays by notable researchers and scholars in the field Handbook of Research with Lesbian Gay Bisexual and Transgender Populations provides meaningful analyses of the ethics and practical constraints that researchers confront in dealing with LGBT populations including protection of privacy which is a special concern for many For students teachers social workers mental health professionals and researchers of all backgrounds this is an invaluable resource and guidebook for anyone seeking a better

quality of understanding and engagement with LGBT individuals and communities *West's Pacific Digest, Beginning 585 P.2d*, 1990

**The Courts and the People: Friend or Foe?** DJ Galligan, 2021-10-07 Are the courts our friend or our foe This book has three parts Part I considers the case for judicial independence Part II looks at the question Is judicial independence under threat Part III reflects on whether judicial independence be defended and protected Prompted by the constitutional crisis following the referendum of 2016 the Foundation for Law Justice and Society convened the second Putney Debates Now convened on an annual basis they provide a forum each year for the discussion of matters of constitutional importance The original Putney Debates were held in St Mary's Church Putney in 1647 The Civil War had been won the King was held prisoner the New Model Army was in control In late October of that year the weekly meeting of the High Council of the New Model Army under the chairmanship of Oliver Cromwell together with several civilians turned into a debate about the constitution This is perhaps the only occasion in modern history that a constitutional convention has been held on the English constitution

**Torture and Moral Integrity** Matthew H. Kramer, 2014 Torture and Moral Integrity tackles a concrete moral problem that has been hotly debated by governments scholars and the media the morality of interrogational torture It discusses multiple types of torture with great philosophical acuity and seeks to explain why interrogational torture and other types of torture are always and everywhere morally wrong At the same time it rigorously plumbs the general structure of morality and the intricacies of moral conflicts and probes some of the chief grounds for the moral illegitimacy of various modes of conduct It defends a deontological conception of morality against the subtle critiques that have been mounted over the past few decades by proponents of consequentialism Kramer's recommendations concerning the legal consequences of the perpetration of torture by public officials or private individuals for example are based squarely on his more abstract accounts of the nature of torture and the nature of morality His philosophical reflections on the structure of morality are a vital background for his approach to torture and his approach to torture is a natural outgrowth of those philosophical reflections

**North Carolina Reports** North Carolina. Supreme Court, 2002 Cases argued and determined in the Supreme Court of North Carolina *The Judicial Branch of State Government* Sean O. Hogan, 2006-08-23 Part of ABC CLIO's groundbreaking About State Government set this volume is the first comprehensive resource to focus exclusively on judicial politics at the state level covering all 50 states and demonstrating the profound influence state courts have on American life The Judicial Branch of State Government People Process and Politics reveals the workings of a network of courts that generate tremendous legal activity and yet have not previously been the focus of a comprehensive in depth reference Beginning with the origins of American law this volume examines the many different types of state court cases legal decision making processes court administration procedures and personnel and political issues such as judicial selection and funding A concluding section summarizes the structure and mechanisms of the court systems of each of the 50 states Filling a major reference need the titles in ABC CLIO's About State Government set offer comprehensive

coverage of contemporary American politics at the state level Each of the three volumes focuses on a specific governmental branch providing both general information and comparative details of how that branch operates in each state

**Intention, Supremacy and the Theories of Judicial Review** John McGarry, 2016-07-28 In the late 1980s a vigorous debate began about how we may best justify in constitutional terms the English courts jurisdiction to judicially review the exercise of public power derived from an Act of Parliament Two rival theories emerged in this debate the ultra vires theory and the common law theory The debate between the supporters of these two theories has never satisfactorily been resolved and has been criticised as being futile Yet the debate raises some fundamental questions about the constitution of the United Kingdom particularly the relationship between Parliament and the courts the nature of parliamentary supremacy in the contemporary constitution and the possibility and validity of relying on legislative intent This book critically analyses the ultra vires and common law theories and argues that neither offers a convincing explanation for the courts judicial review jurisdiction Instead the author puts forward the theory that parliamentary supremacy and in turn the relationship between Parliament and the courts is not absolute and does not operate in a hard and fast way but rather functions in a more flexible way and that the courts will balance particular Acts of Parliament against competing statutes or principles McGarry argues that this new conception of parliamentary supremacy leads to an alternative theory of judicial review which significantly differs from both the ultra vires and common law theories This book will be of great interest to students and scholars of UK public law

**Judicial Cosmopolitanism** Giuseppe Franco Ferrari, 2019-09-24 Judicial Cosmopolitanism The Use of Foreign Law in Contemporary Constitutional Systems offers a detailed account of the use of foreign law by supreme and constitutional Courts of Europe America and East Asia The individual contributions highlight the ways in which the use of foreign law is carried out by the individual courts and the path that led the various Courts to recognize the relevance for the purpose of the decision to foreign law The authors try to highlight reasons and types of the more and more frequent circulation of foreign precedents in the case law of most high courts At the same time they show the importance of this practice in the so called neo constitutionalism



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