



The National Security Constitution

HAROLD HONGJU KOH

SHARING POWER AFTER
THE IRAN-CONTRA AFFAIR

The National Security Constitution Sharing Power After The Iran Contra Affair

Ryan C. Hendrickson



The National Security Constitution Sharing Power After The Iran Contra Affair:

The National Security Constitution Harold Hongju Koh, 1990-01-01 Discusses the Iran Contra affair and its implications

The National Security Constitution Harold Hongju Koh, 1990 Was the Iran Contra affair caused by executive lawlessness or legislative folly Or did it result instead from structural defects in our national security decision making system In this important new book Harold Koh argues that the affair was not aberrational but symptomatic of a chronic dysfunction in America's foreign policy process Combining practical knowledge of government with insights from law history and political science Koh presents the definitive historical and constitutional analysis of the Iran Contra affair the subsequent investigations and the trial of Oliver North He then discusses the implications of the Iran Contra scandal for the constitutional conduct of national security policy and offers prescriptions to improve this decision making system Koh contends that the Iran Contra affair arose not from Watergate as many have claimed but from Vietnam for it was only the latest episode in a series of foreign policy decisions made by unrestrained executive discretion Koh shows that throughout its history America has operated under a National Security Constitution a constitutionally defined national security process that views that administration of foreign affairs as a power shared by the president Congress and the courts Yet the executive branch has increased its role in making foreign policy at the expense of the other branches placing in jeopardy this vision of constitutional balance Koh advocates a national security charter to reform the foreign policy making process and offers innovative proposals about war powers international agreements emergency economic powers intelligence oversight and information control His proposals would restrain the executive and restore and reinvigorate the constitutional roles of Congress and the federal judiciary in national security decision making This challenging book forces government decision makers scholars and concerned citizens to reexamine the process by which the United States will conduct its foreign affairs into the next century

Intelligence and national security policymaking on Iraq James Pfiffner, Mark Phythian, 2018-07-30 The decision to go to war in Iraq has had historic repercussions throughout the world The editors of this volume bring together scholarly analysis of the decision making in the U S and U K that led to the war inside accounts of CIA decision making and key speeches and documents related to going to war The book presents a fascinating case study of decision making at the highest levels in the United States and Britain as their leaders planned to go to war in Iraq Just as the Cuban Missile Crisis has been used for decades as a case study in good decision making the decision to go to war in Iraq will be analysed for years to come for lessons about what can go wrong in decisions about war The book presents a fascinating and truly comparative perspective on how President Bush and Prime Minister Blair took their countries to war in Iraq Each had to convince his legislature and public that war was necessary and both used intelligence in questionable ways to do so This book brings together some of the best scholarship and most relevant documents on these important decisions that will reverberate for decades to come

National Security in International and Domestic Investment Law Yuwen Li, Feng

Lin,Cheng Bian,2023-10-20 This book offers a dynamic introduction to the new developments on national security review of foreign direct investment FDI from the perspectives of both domestic law and international investment law COVID 19 and the Russian invasion of Ukraine have intensified FDI screening to an unprecedented scale yet its purposes scope and potential impact remain ambiguous and controversial The book first attests the legitimacy of FDI screening by using the theory of National Security Constitution Part I explicates the national security public order and public health exceptions clauses in international investment law and the novel EU Regulation on FDI screening Part II provides an in depth analysis of FDI screening in China France Germany Italy the Netherlands Poland and the UK which have either witnessed momentous changes in domestic law recently or have adopted new laws to cope with the growing security concerns The book illustrates how States and the EU are using legal instruments to tackle exigent and emerging challenges and the complexity of national security emanated from foreign investment in the context of evolving disruptive digital technologies and the structural change of the global economy The volume will be of great value to a wide range of audiences including academics in investment and trade law legal practitioners in house counsels policymakers business professionals and law and business students at the graduate level The Contest Over National Security Peter Roady,2024-03-19 National security once was not limited to physical defense FDR equated national security with safety from foreign attack and economic want conservatives fearful of costs and federal expansion stripped out domestic policy The Contest over National Security explains why the US developed separate imbalanced national security and welfare states *Restoring the Global Judiciary* Martin S. Flaherty,2022-05-17 Why there should be a larger role for the judiciary in American foreign relations In the past several decades there has been a growing chorus of voices contending that the Supreme Court and federal judiciary should stay out of foreign affairs and leave the field to Congress and the president Challenging this idea *Restoring the Global Judiciary* argues instead for a robust judicial role in the conduct of U S foreign policy With an innovative combination of constitutional history international relations theory and legal doctrine Martin Flaherty demonstrates that the Supreme Court and federal judiciary have the power and duty to apply the law without deference to the other branches Turning first to the founding of the nation Flaherty shows that the Constitution s original commitment to separation of powers was as strong in foreign as domestic matters not least because the document shifted enormous authority to the new federal government This initial conception eroded as the nation rose from fledgling state to superpower fueling the growth of a dangerously formidable executive that today asserts near plenary foreign affairs authority Flaherty explores how modern international relations makes the commitment to balance among the branches of government all the more critical and he considers implications for modern controversies that the judiciary will continue to confront At a time when executive and legislative actions in the name of U S foreign policy are only increasing *Restoring the Global Judiciary* makes the case for a zealous judicial defense of fundamental rights involving global affairs *The Semi-sovereign Presidency* Charles Tiefer,2019-07-11 In The Semi

Sovereign Presidency Capitol Hill insider Charles Tiefer shows how George Bush used the executive office to circumvent Congress thwart official Washington and confound the public will Even Bush partisans may be surprised to discover the president's unprecedented use of executive signing statements to modify or in effect abrogate acts of Congress even popular bipartisan efforts like the 1991 Civil Rights Act his commissioning of the Quayle Council to derail regulatory legislation such as the Clean Air Act of 1990 and his catapulting of the National Security Council into foreign policy prominence outstripping that of the Departments of Defense and State As Tiefer details for the first time here Iraqgate the hidden courtship of Saddam Hussein prior to the Gulf War is perhaps the most dramatic example of Bush's executive fiat a relationship conducted by way of Bush National Security Directives and similarly obscured from the public eye Bush chose an essentially negative approach to governing partly because he was unwilling to engage Congress on matters of principle head to head and was equally unwilling to make his principles public addressing himself to the nation as his predecessor had so effectively done But as Tiefer persuasively argues it was Bush's belief in the sovereignty of executive power an almost monarchical conception of the presidency that was his primary modus operandi and ultimately his downfall Bush and his approach to power are interesting not just to students and scholars of the presidency but to all citizens concerned about the country and its leadership

Obama at War Ryan C. Hendrickson, 2015-06-19 During President Barack Obama's first term in office the United States expanded its military presence in Afghanistan and increased drone missile strikes across Pakistan Yemen and Somalia The administration also deployed the military to combat piracy in the Indian Ocean engaged in a sustained bombing operation in Libya and deployed U S Special Forces in Central Africa to capture or kill Joseph Kony In these cases President Obama decided to use force without congressional approval Yet this increased executive power has not been achieved simply by the presidential assertion of such powers It has also been supported by a group of senators and representatives who for political reasons that stem from constant campaigning seek to avoid responsibility for military action abroad In this revealing book Ryan C Hendrickson examines President Obama's use of force in his first term with four major case studies He demonstrates that much like his predecessors Obama has protected the executive branch's right not only to command but also to determine when and where American forces are deployed He also considers the voting records of Democrat John Kerry and Republican John McCain in the Senate detailing how both men have played leading roles in empowering the commander in chief while limiting Congress's influence on military decision making Obama at War establishes that the imperial presidency poses significant foreign policy risks and concludes with possible solutions to restore a more meaningful balance of power The first book on the constitutional and political relationship between President Obama and the U S Congress and the use of military force this timely reassessment of war powers provides a lucid examination of executive privilege and legislative deference in the modern American republic

The Constitution and the Conduct of American Foreign Policy David Gray Adler, Larry Nelson George, 1996 In this provocative and readable volume eleven leading

constitutional authorities challenge business as usual in American foreign policymaking For far too long they contend Americans have acquiesced to presidential claims to sweeping executive powers in foreign affairs thanks to imperial minded presidents a weak willed Congress and neglectful scholars These authors forcefully argue that the president is not the supreme crafter of foreign policy and that Congress must provide more than a rubber stamp for the president s agenda Unilateral presidential control of foreign relations they warn can pose a grave threat to our nation s welfare and is simply without constitutional warrant Combining constitutional theory with keen historical insights these authors illuminate the roots of presidential abuse of executive power and remind us of the past and potential costs of such disregard for our unique system of checks and balances An essential guide for all concerned citizens and members of Congress this volume should help revive a proper understanding of this crucial dimension of American democracy

Landmark Supreme Court Cases
Donald E. Lively, 1999-06-30 This needed resource written specifically for students and general readers provides accessible discussions of 74 landmark Supreme Court cases that will help students understand the cases and their importance in American history Cases selected for this work are those in which the Supreme Court s decisions have had a profound impact on society and the future and a meaning that transcends the impact on the immediate parties In his own words Donald Lively Dean of Florida Coastal School of Law discusses the facts background and significance of each landmark case so that students will be able to easily understand it Each case features a fact box for quick reference succinctly identifying the issue year of decision outcome vote and author of the opinion The narrative discussion of each case puts it in historical perspective examines the background and constitutional issue involved the case itself why it is a landmark case and its significance and impact A short bibliography directs readers to a more in depth discussion of the case and issue The work is organized topically into four parts within which the cases are organized chronologically from the nation s first court through the 1990s so that the reader can trace the progression of the Court s thinking on the issue Part I focuses upon the separation and distribution of powers among the branches of government Part II consists of cases that have been crucial in determining the relationship between the nation and its states the concept of federalism and regulation of the country s economy Part III deals with the most important cases involving equality race gender and fundamental rights Part IV identifies landmark cases on individual rights and liberties freedom of speech association press and other media religion search and seizure self incrimination right to counsel cruel and unusual punishment economic rights and the right to privacy Each part begins with an overview of the issues raised by the cases discussed A glossary of legal terms a table of cases and a handy text of the Constitution will help the student researcher This work is ideal for the high school library and classroom

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