

The Concept Of Liberal Democratic Law

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Explore the fundamental tenets of liberal democratic law, a crucial framework that combines individual liberties with democratic governance. This concept outlines the essential principles ensuring human rights, justice, and the rule of law, forming the bedrock of free and equitable societies worldwide. Understand how these legal structures protect citizens and foster a stable political environment.

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The Concept of Liberal Democratic Law

This book develops a historical concept of liberal democratic law through readings of the pivotal twentieth century legal theoretical positions articulated in the work of Herbert Hart, Ronald Dworkin, Duncan Kennedy, Rudolf Smend, Hans Kelsen and Carl Schmitt. It assesses the jurisprudential projects and positions of these theorists against the background of a long history of European metaphysics from which the modern concept of liberal democratic law emerged. Two key narratives are central to this history of European political and legal metaphysics. Both concern the historical development of the concept of nomos that emerged in early Greek legal and political thought. The first concerns the history of philosophical reflection on the epistemological and ontological status of legal concepts that runs from Plato to Hobbes (the realist-nominalist debate as it became known later). The second concerns the history of philosophical and political discourses on law, sovereignty and justice that starts with the nomos-physis debate in fifth century Athens and runs through medieval, modern and twentieth century conceptualisations of the relationship between law and power. Methodologically, the reading of the legal theoretical positions of Hart, Dworkin, Kennedy, Smend, Kelsen and Schmitt articulated in this book is presented as a distillation process that extracts the pure elements of liberal democratic law from the metaphysical narratives that not only cradled it, but also smothered and distorted its essential aspirations. Drawing together key insights from across the fields of jurisprudence and philosophy, this book offers an important and original re-articulation of the concept of democratic law.

Abusive Constitutional Borrowing

Law is fast globalizing as a field, and many lawyers, judges and political leaders are engaged in a process of comparative borrowing. But this new form of legal globalization has darksides: it is not just a source of inspiration for those seeking to strengthen and improve democratic institutions and policies. It is increasingly an inspiration - and legitimation device - for those seeking to erode democracy by stealth, under the guise of a form of faux liberal democratic cover. Abusive Constitutional Borrowing: Legal globalization and the subversion of liberal democracy outlines this phenomenon, how it succeeds, and what we can do to prevent it. This book address current patterns of democratic retrenchment

and explores its multiple variants and technologies, considering the role of legitimating ideologies that help support different modes of abusive constitutionalism. An important contribution to both legal and political scholarship, this book will be of interest to all those working in the legal and political disciplines of public law, constitutional theory, political theory, and political science.

The Law of Peoples

This work consists of two parts: *The Idea of Public Reason Revisited* and *The Law of Peoples*. Taken together, they are the culmination of more than 50 years of reflection on liberalism and on some pressing problems of our times.

A Theory of Universal Democracy

A Theory of Universal Democracy empowers cultures and communities across the world to custom design democracy in consonance with their traditional values. For example, the book makes concrete proposals for Muslim countries to democratize their constitutions without accepting Western values and without violating the principles of Islamic law. More importantly, *Universal Democracy* further develops the idea of Free State, which the author first presented in his previous book, *The Extinction of Nation-States* (Kluwer, 1996). The proposed fusion of *Universal Democracy* and *Free State* is designed to revolutionize the classical theory of government and to offer a new paradigm that accommodates both universality and uniqueness. Scholars, teachers and students of international law, constitutional law, legal theory, and Islamic law will find this book a source of valuable ideas.

Law as Politics

Articles previously published in the Canadian journal of law and jurisprudence.

Balance of Freedom

"Can individual freedom and the social good be reconciled? Do liberal democracies require economic preconditions to function? Can liberal democracies escape a slow drift from individual freedom and control over private property to a large welfare state that regulates and taxes all ownership and activities? To what extent do laws intended to protect people from the arbitrary actions of government themselves lead to coercion and limit freedom? Do liberal universities produce men and women that sustain democracy or undermine it? Is there a moral vacuity in liberal democracy that will undermine its vitality?" "These questions and others like them refer to the fragile balance between conflicting principles that are demanded of modern government. Professor Michener has organized a discussion by American and European scholars of how the demands of freedom, on the one hand, and social obligation, on the other, are balanced by the primary institutions which maintain liberal democratic societies: the economy, the rule of law, and education. Their penetrating insights illuminate the debates which prevail in modern society." "The centerpiece of this book is a broad treatise by Edward Shils on the development of the modern university and its role in the creation and support of liberal democracies. Universities, while expected to educate men and women of the character democracy requires, have often been plagued by incivility." "Judge Robert Bork concludes with a view toward the prospects for democracy, noting that fractious pluralism and a cultural civil war are products of a liberalism emptied of meaning and moral purpose at its core."--BOOK JACKET. Title Summary field provided by Blackwell North America, Inc. All Rights Reserved

Social Justice in the Liberal State

An original and compelling vision of a just society "A 'new view' of the theoretical foundations of liberalism that will 'challenge us to clarify our own implicit notions of liberal democracy.'"—The New York Times Book Review Winner of a Certificate of Merit for the American Bar Association's 1981 Gavel Award for outstanding public service First published in 1980 and continuously in print ever since, Bruce Ackerman's classic *Social Justice in the Liberal State* offers a new foundation for liberal political theory—a world in which each of us may live his or her own life in his or her own way, without denying the same right to others. Full of provocative discussions of issues ranging from education to abortion, it makes fascinating reading for anyone concerned with the future of the liberal democratic state. "Professor Ackerman has tackled age-old problems of social justice with the refreshing technique of a series of dialogues in which the proponent of a position must either confront his opponent with an answer, constrained by the three principles of rationality, consistency, and neutrality, or submit to a

checkmate. The author's ability to combine earthiness with extreme subtlety in framing the dialogues has produced a novel, mind-stretching book."—Henry J. Friendly, Senior Judge, U.S. Court of Appeals for the Second Circuit "What limits should we place on genetic manipulation? How many children should we have? How should we regulate abortions and adoptions? What rights does the community have, what rights do parents have in the education of children? What rights do children have? What resources must we leave to future generations? To see all these as questions of distributive justice is to connect them in a new way (and to make) a significant contribution."—Michael Walzer, *The New Republic* "The breadth of the attack on the fundamental issues of man and society is impressive."—*Foreign Affairs*

The Political Morality of Liberal Democracy

This important new work elaborates and defends an account of the political morality of liberal democracy.

Against Obligation

Do citizens of a nation such as the United States have a moral duty to obey the law? Do officials, when interpreting the Constitution, have an obligation to follow what that text meant when ratified? To follow precedent? To follow what the Supreme Court today says the Constitution means? These are questions of political obligation (for citizens) and interpretive obligation (for anyone interpreting the Constitution, often officials). Abner Greene argues that such obligations do not exist. Although citizens should obey some laws entirely, and other laws in some instances, no one has put forth a successful argument that citizens should obey all laws all the time. Greene's case is not only "against" obligation. It is also "for" an approach he calls "permeable sovereignty": all of our norms are on equal footing with the state's laws. Accordingly, the state should accommodate religious, philosophical, family, or tribal norms whenever possible. Greene shows that questions of interpretive obligation share many qualities with those of political obligation. In rejecting the view that constitutional interpreters must follow either prior or higher sources of constitutional meaning, Greene confronts and turns aside arguments similar to those offered for a moral duty of citizens to obey the law.

From Liberal Democracy to Fascism

The Weimar Republic – from 1919 until 1933, when Hitler came into power – witnessed crucial debates on law and politics. These debates are reexamined in this book. Were, for example, democratic rules and procedures an adequate basis for democracy, as Hugo Preuss and Hans Kelsen suggested? Or should constitutional law elaborate the deeper, basic principles embedded in the democratic constitution itself, as Hermann Heller argued? Was the president the immediate "guardian of the constitution", as Carl Schmitt's concept of "representation" suggested? Or was Schmitt's concept itself subject to Walter Benjamin's critique of the aura of authenticity? These, and other typical Weimar-era debates helped shape West German constitutionalism. The former labor lawyer on the left Ernst Fraenkel, for example, began to develop a general theory of dictatorship mass democracy while in exile, which influenced the new discipline of political science after the war. Similarly, Gerhard Leibholz, an anti-positivist lawyer in Weimar, served on the first Constitutional Court of the Federal Republic of Germany, helping to consolidate its new constitutional culture.

Law in the Age of Pluralism

Law in the Age of Pluralism contains a collection of essays on the intersection of legal and political philosophy. Written within the analytical tradition in jurisprudence, the collection covers a wide range of topics, such as the nature of law and legal theory, the rule of law, the values of democracy and constitutionalism, moral aspects of legal interpretation, the nature of rights, economic equality, and more. The essays in this volume explore issues where law, morality and politics meet, and discuss some of the key challenges facing liberal democracies. Marmor posits that a liberal state must first and foremost respect people's personal autonomy and their differing, though reasonable, conceptions of the good and the just. This basic respect for pluralism is shown to entail a rather skeptical attitude towards grand theories of law and state, such as contemporary constitutionalism or Dworkin's conception of 'law as integrity'. The values of pluralism and respect for autonomy, however, are also employed to justify some of the main aspects of a liberal state, such as the value of democracy, the rule of law, and certain conceptions of equality. The essays are organized in three groups: the first considers the rule of law, democracy and constitutionalism. The second group consists of several essays on the nature

of law, legal theory, and their relations to morality. Finally, the collection concludes with essays on the nature of rights, the limits of rights discourse, and the value of economic equality.

A New Introduction to Jurisprudence

A New Introduction to Jurisprudence takes one of the central problems of law and jurisprudence as its point of departure: what is the law? Adopting an intermediate position between legal positivism and natural law, this book reflects on the concept of 'liberal democracy' or 'constitutional democracy'. In five chapters the book analyses: (i) the idea of higher law, (ii) liberal democracy as a legitimate model for the state, (iii) the separation of church and state or secularism as essential for the democratic state, (iv) the universality of higher law principles, (v) the history of modern political thought. This interdisciplinary approach to jurisprudence is relevant for legal scholars, philosophers, political theorists, public intellectuals, historians, and politicians.

Liberal Democracy, Law and the Citizen Speaker

This book delivers an original, theoretically informed analysis of the legal regulation of online speech. Rejecting the narrow pluralism of elitist and deliberative accounts of the citizen's role in political discourse, the book defends a participatory account of speech in non-deliberative settings. The latter account of political pluralism best captures the republican democratic aspiration for popular, on-going authorship of the laws and the centrality of freedom to dissent in democratic theory. The legal and policy implications for governments and social media platforms of this inclusive envisioning of public discourse are then elaborated upon. In the digital world, anyone with access to the internet can be a speaker. Speech on public platforms has become democratised. At the same time, aspects of online speech are plainly problematic. Concerns exist about disinformation, 'fake news', 'deep fakes', 'weaponised speech' and 'trolls'. Offensive speech and the polarising effects of robustly expressed political opinion are also troublesome. These assorted downsides of democratised speech are said to undermine the integrity of democratic processes and institutions. Public debate is distorted and coarsened and the electorate are misled. How ought the liberal democratic state respond to these challenges? The discussion is intended to be read by academics and researchers with interests in democratic theory, digital communications and freedom of expression. It offers a stimulating and distinctive contribution to debates about online speech.

European and International Media Law

Over the past half century, western democracies have lead efforts to entrench the economic and political values of liberal democracy into the foundations of European and international public order. As this book details, the relationship between the media and the state has been at the heart of those efforts. In that relationship, often framed in constitutional principles, the liberal democratic state has celebrated the liberty to publish information and entertainment content, while also forcefully setting the limits for harmful or offensive expression. It is thus a relationship rooted in the state's need for security, authority, and legitimacy as much as liberalism's powerful arguments for economic and political freedom. In Europe, this long running endeavour has yielded a market based, liberal democratic regional order that has profound consequences for media law and policy in the member states. This book examines the economic and human rights aspects of European media law, which is not only comparatively coherent but also increasingly restrictive, rejecting alternatives that are well within the traditions of liberalism. Parallel efforts in the international sphere have been markedly less successful. In international media law, the division between trade and human rights remains largely unabridged and, in the latter field, liberal democratic concepts of free speech are influential but rarely decisive. In the international sphere states are moreover quick to assert their rights to autonomy. Nonetheless, the current communications revolution has overturned fundamental assumptions about the media and the state around the world, eroding the boundaries between domestic and foreign media as well as mass and personal communication. European and International Media Law sets legal and policy developments in the context of this fast changing, globalized media and communications sector.

The Riddle of All Constitutions

The promotion of democracy is today a familiar feature of foreign policy, and an accepted part of the activities of international organizations. Should international law join in this move to promote democratic political arrangements? If so, on what basis, and with which of the many competing conceptions of democracy? Drawing on an eclectic range of source material, the author examines current debates

about the emergence of an international legal 'norm of democratic governance', and considers how proposals for such a norm might be rearticulated to meet some of the concerns to which they give rise. She also uses these debates to illustrate some more general points about approaches to the study of international law. In doing so, she seeks to defend an approach to international legal scholarship that takes its cue from the tradition of ideology critique.

Liberal Democracy and the Social Acceleration of Time

The political and legal institutions of liberal democracy were designed in an era in which information, transactions, travel, and other aspects of social life moved at a much slower pace. The rapid acceleration of social life that characterizes today's world potentially disables these institutions according to Scheuerman (political science, U. of M

Carl Schmitt

There continues to be a remarkable revival in academic interest in Carl Schmitt's thought within politics and social theory but this is the first book to address his thought from an explicitly legal theoretical perspective. Transcending the prevailing one-sided and purely historical focus on Schmitt's significance for debates that took place in the Weimar Republic 1919-1933, this book addresses the actual and potential significance of Schmitt's thought for controversies within contemporary Anglo-American legal theory that have emerged during the past three decades. These include: the critique of liberal forms of legal positivism; the relative 'indeterminacy' of legal doctrine and the need for an explicitly interpretative approach to its range of meanings, their scope and policy rationale; the centrality of discretion and judicial law-making within the legal process; the important role played by ideological prejudices and assumptions in legal reasoning; the reinterpretation of law as a form of strategically disguised politics; the legal theoretical critique of universalistic approaches to "human" rights and associated liberal-cosmopolitan 'ideologies of humanity,' including the rhetoric of 'humanitarian intervention'; and the limitations of liberal constitutionalism and liberalism more generally as an approach to law. In *Carl Schmitt: Law as Politics, Ideology and Strategic Myth*, the author provides an overview and assessment of Schmitt's thought, as well as a consideration of its relevance for contemporary legal thought and debates.

Legitimation by Constitution

"Legitimation by Constitution" is the phrase, coined by distinguished authors Frank Michelman and Alessandro Ferrara, for a key idea in Rawlsian political liberalism of a reliance on a dualist form of democracy—a subjection of ground-level lawmaking to the constraints of a higher-law constitution that most citizens could find acceptable as a framework for their politics—as a response to the problem of maintaining a liberally just, stable, and oppression-free democratic government in conditions of pluralist visionary conflict. *Legitimation by Constitution* recalls, collects, and combines a series of exchanges over the years between Michelman and Ferrara, inspired by Rawls' encapsulation of this conception in his proposed liberal principle of legitimacy. From a shared standpoint of sympathetic identification with the political-liberal statement of the problem, for which legitimation by constitution is proposed as a solution, these exchanges consider the perceived difficulties arguably standing in the way of this proposal's fulfillment on terms consistent with political liberalism's defining ideas about political justification. The authors discuss the mysteries of a democratic constituent power; the tensions between government-by-the-people and government-by-consent; the challenges posed to concretization by judicial authorities of national constitutional law; and the magnification of these tensions and challenges under the lenses of ambition towards transnational legal ordering. These discussions engage with other leading contemporary theorists of liberal-democratic constitutionalism including Bruce Ackerman, Ronald Dworkin, and Jürgen Habermas.

Making Democratic Theory Democratic

This book addresses a timely and fundamental problematic: the gap between the aims that people attempt to realize democratically and the law and administrative practices that actually result. The chapters explain the realities that administration poses for democratic theory. Topics include the political value of accountability, the antinomic character of political values, the relation between ultimate ends and the intermediate ends that are sought by constitutions, and a reconsideration of the meaning of the rule of law itself. The essays are inspired by the demystifying realism of Max Weber and Hans Kelsen, including explications of their views on law, constitutions, and the rule of law. The book will be

of interest to social and political theorists, philosophers of law, and legal theorists, and for discussions of democratic theory, the administrative state, constitutionalism, and justice, as well as to readers of Weber and Kelsen.

Constitutionalism, Democracy and Religious Freedom

In both Europe and North America it can be argued that the associational and institutional dimensions of the right to freedom of religion or belief are increasingly coming under pressure. This book demonstrates why a more classical understanding of the idea of a liberal democracy can allow for greater respect for the right to freedom of religion or belief. The book examines the major direction in which liberal democracy has developed over the last fifty years and contends that this is not the most legitimate type of liberal democracy for religiously divided societies. Drawing on theoretical developments in the field of transnational constitutionalism, Hans-Martien ten Napel argues that redirecting the concept and practice of liberal democracy toward the more classical notion of limited, constitutional government, with a considerable degree of autonomy for civil society organizations would allow greater religious pluralism. The book shows how, in a postsecular and multicultural context, modern sources of constitutionalism and democracy, supplemented by premodern, transcendental legitimation, continue to provide the best means of legitimating Western constitutional and political orders.

Human Rights in Times of Transition

This timely book explores the extent to which national security has affected the intersection between human rights and the exercise of state power. It examines how liberal democracies, long viewed as the proponents and protectors of human rights, have transformed their use of human rights on the global stage, externalizing their own internal agendas.

Criminalizing Dissent

While liberal-democratic states like America, Britain and Australia claim to value freedom of expression and the right to dissent, they have always actually criminalized dissent. This disposition has worsened since 9/11 and the 2008 Great Recession. This ground-breaking study shows that just as dissent involves far more than protest marches, so too liberal-democratic states have expanded the criminalization of dissent. Drawing on political and social theorists like Arendt, Bourdieu and Isin, the book offers a new way of thinking about politics, dissent and its criminalization relationally. Using case studies like the Occupy movement, selective refusal by Israeli soldiers, urban squatters, democratic education and violence by anti-Apartheid activists, the book highlights the many forms dissent takes along with the many ways liberal-democratic states criminalize it. The book highlights the mix of fear and delusion in play when states privilege security to protect an imagined 'political order' from difference and disagreement. The book makes a major contribution to political theory, legal studies and sociology. Linking legal, political and normative studies in new ways, Watts shows that ultimately liberal-democracies rely more on sovereignty and the capacity for coercion and declarations of legal 'states of exception' than on liberal-democratic principles. In a time marked by a deepening crisis of democracy, the book argues dissent is increasingly valuable.

Civil Rights and the Paradox of Liberal Democracy

In *Civil Rights and the Paradox of Liberal Democracy*, Bradley Watson demonstrates the paradox of liberal democracy: that its cornerstone principles of equality and freedom are principles inherently directed toward undermining it. Modernity, beyond bringing definition to political equality, unleashed a whirlwind of individualism, which feeds the soul's basic impulse to rule without limitation including the limitation of consent. Here Watson begins his analysis of the foundations of liberalism, looking carefully and critically at the moral and political philosophies that justify modern civil rights litigation. He goes on to examine the judicial manifestations of the paradox of liberal democracy, seeking to bring a broad philosophical coherence to legal decision making in the United States and Canada. Finally, Watson illuminates the extent to which this decision making is in tension with liberal democracy, and outlines proposals for reform.

Law as Politics

While antiliberal legal theorist Carl Schmitt has long been considered by Europeans to be one of this century's most significant political philosophers, recent challenges to the fundamental values of liberal democracies have made Schmitt's writings an unavoidable subject of debate in North America as well. In an effort to advance our understanding not only of Schmitt but of current problems of liberal democracy, David Dyzenhaus presents translations of classic German essays on Schmitt alongside more recent writings by distinguished political theorists and jurists. Neither a defense of nor an attack on Schmitt, *Law as Politics* offers the first balanced response to his powerful critique of liberalism. One of the major players in the 1920s debates, an outspoken critic of the Versailles Treaty and the Weimar Constitution, and a member of the Nazi party who provided juridical respectability to Hitler's policies, Schmitt contended that people are a polity only to the extent that they share common enemies. He saw the liberal notion of a peaceful world of universal citizens as a sheer impossibility and attributed the problems of Weimar to liberalism and its inability to cope with pluralism and political conflict. In the decade since his death, Schmitt's writings have been taken up by both the right and the left and scholars differ greatly in their evaluation of Schmitt's ideas. *Law as Politics* thematically organizes in one volume the varying engagements and confrontations with Schmitt's work and allows scholars to acknowledge--and therefore be in a better position to negotiate--an important paradox inscribed in the very nature of liberal democracy. *Law as Politics* will interest political philosophers, legal theorists, historians, and anyone interested in Schmitt's relevance to current discussions of liberalism. Contributors: Heiner Bielefeldt, Ronald Beiner, Ernst-Wolfgang Bockenforde, Renato Cristi, David Dyzenhaus, Robert Howse, Ellen Kennedy, Dominique Leydet, Ingeborg Maus, John P. McCormick, Reinhard Mehring, Chantal Mouffe, William E. Scheuerman, Jeffrey Seitzer

Beyond hegemony

Since the Enlightenment, liberal democrat governments in Europe and North America have been compelled to secure the legitimacy of their authority by constructing rational states whose rationality is based on modern forms of law. The first serious challenge to liberal democratic practices of legal legitimacy comes in Marx's early writings on Rousseau and Hegel. Marx discovers the limits of formal legal equality that does not address substantive relations of inequality in the workplace and in many other spheres of social life. *Beyond Hegemony* investigates the authoritarianism and breakdown of those state socialist governments in Russia and elsewhere which claim to put Marx's ideas on democracy and equality into practice. The book explains that although many aspects of Marx's critique are still valid today, his ideas need to be supplemented by the contributions to social theory made by Nietzsche, Foucault, the critical theory of the Frankfurt School as well as the libertarian socialism of G.D.H. Cole. What emerges is a new theory of political legitimacy which indicates how it is possible to move beyond liberal democracy whilst avoiding the authoritarian turn of state socialism. Schechter points out the weaknesses of the many extra-legal accounts of non-formal legitimacy now on offer, such as those based on friendship and identity. He then argues that the first step beyond hegemony depends on the discovery of forms of legitimate legality and demonstrates why the conditions of legitimate law can be identified.

Democracy, Religious Pluralism and the Liberal Dilemma of Accommodation

How should liberal democratic governments respond to citizens as religious believers whose values, norms and practices might lie outside the cultural mainstream? Some of the most challenging political questions arising today focus on the adequacy of a policy of 'live and let live' liberal toleration in contexts where disputes about the metaphysical truth of conflicting world-views abound. Does liberal toleration fail to give all citizens their due? Do citizens of faith deserve a more robust form of accommodation from the state in the form of 'recognition'. This issue is far from settled. Controversies over the terms of religious accommodation continue to dominate political agendas around the world. This is the first edited collection to provide a sustained examination of the politics of toleration and recognition in an age of religious pluralism. The aftermath of the events of September 11th have dramatised the urgency of this debate. It has also surfaced, nationally and globally, in disputes about terrorism, security and gender and human rights questions in relation to minority communities. This volume brings together a group of new and established scholars from the fields of law and philosophy, who all present fresh and challenging perspectives on an urgent debate. It will be indispensable reading for advanced researchers in political and legal philosophy, religious and cultural studies and related disciplines.

Natural Law and Public Reason

"Public reason" is one of the central concepts in modern liberal political theory. As articulated by John Rawls, it presents a way to overcome the difficulties created by intractable differences among citizens' religious and moral beliefs by strictly confining the place of such convictions in the public sphere. Identifying this conception as a key point of conflict, this book presents a debate among contemporary natural law and liberal political theorists on the definition and validity of the idea of public reason. Its distinguished contributors examine the consequences of interpreting public reason more broadly as "right reason," according to natural law theory, versus understanding it in the narrower sense in which Rawls intended. They test public reason by examining its implications for current issues, confronting the questions of abortion and slavery and matters relating to citizenship. This energetic exchange advances our understanding of both Rawls's contribution to political philosophy and the lasting relevance of natural law. It provides new insights into crucial issues facing society today as it points to new ways of thinking about political theory and practice.

Democracy in Its Essence

Hans Kelsen is commonly associated with legal theory and philosophy of law. *Democracy in Its Essence: Hans Kelsen as a Political Thinker* instead investigates Kelsen's democratic theory as it developed between the 1920s and 1950s, which challenged the existence of democracies in many different respects. Kelsen provided a critical reflection on the strengths and problems of living within a democratic system, while also defending it against a series of specific targets: from the Soviet regime and Bolshevism to European Fascisms, from religious-based conceptions of politics to those claiming a perfect identity between capitalism and classical liberal institutions, and chiefly against all those ideologies claiming to possess objective understanding of what true freedom and true democracy signify. By seeking what he defined as the "essence" and "value" of democracy, Kelsen elaborated a pluralist, relativist, constitutional, proceduralist, and liberal theory of representative democracy, characterized by a strong recall to the values of tolerance, responsibility, and respect toward "the other" as well as to the idea of politics as space for compromise. In this book, Sara Lagi reconstructs his political theory as a relevant contribution to the twentieth-century liberal-democratic tradition of thought, while representing a stimulating reflection on the meaning and implication of democracy both as a political system and as a form of co-existence.

Understanding the Rule of Law

This edited volume is focused on the issue of freedom of religion from various perspectives, inquiring whether freedom of religion may be realized non-neutrally, and whether a secular state in particular may accomplish this goal.

Religious Ideas in Liberal Democratic States

This is the first full-length study in English of twentieth-century Germany's most influential authoritarian right-wing political theorist, Carl Schmitt, that focuses on the central place of his attack on the liberal rule of law. This is also the first book in any language to devote substantial attention to Schmitt's subterranean influence on some of the most important voices in political thought (Joseph Schumpeter, Friedrich A. Hayek, and Hans Morgenthau) in the United States after 1945. Visit our website for sample chapters!

Carl Schmitt

John Rawls (1921-2002) is widely held to be amongst the most important political philosophers for over a century. This volume, which is the first work of its kind to publish in one place the most influential essays in the field, features articles on a wide range of subjects including constitutionalism, democratic theory, egalitarianism, feminism, global justice, political liberalism, the rule of law, and public reason. The collection informs scholars and students coming to the study of Rawls's work for the first time of the importance and complexity of Rawls's ideas, and sheds light on how these ideas might be further improved and applied.

Rawls and Law

Reformulating a problem of both constitutionalism and liberalism discussed in the works of Ernst-Wolfgang Böckenförde, Hannah Arendt, and Alexis de Tocqueville, the book examines one generally overlooked manifestation of constitutionalism: the role of the courts in shaping democratic politics and

the inter-relationship between citizens and state. Drawing on constitutional history, law, and political theory, David Miles argues that constitutionalism cannot be seen merely as an institutional mechanism to limit government, as it also has a crucial civic dimension upon which the liberal state depends. Utilising the works of Böckenförde, Arendt, and Tocqueville, constitutionalism is conceived in the book as part of a broader system of communal norms which sustains representative democracy and liberalism. Through an analysis of judicial interventions in the electoral processes of the United States and Germany, Miles explores the role of civil society actors in transforming constitutionalism through legal challenges to oligarchical or exclusionary practices. He assesses how, in adjudicating these cases, the US Supreme Court and the German Constitutional Court have mediated the tension between threats to stability and the imperative of democratic renewal. Democracy, the Courts, and the Liberal State will be of interest to scholars, students, and practitioners interested in comparative politics, political theory, and constitutional law and history.

Democracy, the Courts, and the Liberal State

"This book addresses the impact of a range of destabilising issues on minority rights in Europe and North America. This collection stems from the fact that liberal democracy did not bring about the 'end of history' but rather that the transatlantic region of Europe and North America has encountered a new era of instability, particularly since the global financial crisis. The transatlantic region may have appeared to be entering a period of stability, but terrorist attacks on the soil of Euro-Atlantic states, the financial crisis itself, and other changes including mass migration, the rise of populism, changes in fundamental political conceptions, technological change, and most recently the Covid pandemic, have brought increasing uncertainties and instabilities in existing orders. In these contexts, the book investigates the resulting difficulties and opportunities for minority rights. Bringing together scholars from a range of disciplines, and engaged in work on various unstable orders, the book provides a unique, and largely neglected, perspective on present developments as well as addressing the pressing issue of the future of the minority rights regime at global, regional, and national levels. This book will appeal to those with interests in minority rights, human rights, nationalism, law, and politics"--

Minority Rights and Liberal Democratic Insecurities

This book argues that since the end of the Cold War an international community of liberal states has crystallised within the broader international society of sovereign states. Significantly, this international community has demonstrated a tendency to deny non-liberal states their previously held sovereign right to non-intervention. Instead, the international community considers only those states that demonstrate respect for liberal democratic standards to be sovereign equals. Indeed the international community, motivated by the theory that international peace and security can only be achieved in a world composed exclusively of liberal states, has engaged in a sustained campaign to promote its liberal values to non-liberal states. This campaign has had (and continues to have) a profound impact upon the structure and content of international law. In light of this, this book deploys the concepts of the international society and the international community in order to construct an explanatory framework that can enable us to better understand recent changes to the political and legal structure of the world order and why violations of international peace and security occur.

International Law and the Construction of the Liberal Peace

"This is a very fine text, a powerful piece of work that deserves to be read widely. The analysis is truly panoramic. It ranges across central concerns in the fields of social theory, political theory, and science studies and engages with and/or draws upon the ideas of key classical and contemporary thinkers, including Tocqueville, Weber, Schumpeter, Polyani, Habermas, Foucault, Schmitt and Beck' - Barry Smart, Professor of Sociology, University of Portsmouth What are the political implications of 'expert' knowledge and especially scientific knowledge for liberal democracy? If knowledge is not evenly distributed upon what basis can the philosophy of equal rights be sustained? This important book points to the crisis in knowledge in liberal democracies. This crisis, simply put, is that most citizens cannot understand, much less judge, the claims scientists make. One response is the appointment of public commissions to provide conclusions for policy-makers to act upon. There are also 'commissions from below', such as grass roots associations that quiz the limits of expert knowledge and power and make rival knowledge claims. Do these commissions represent a new stage in the development of liberal democracy? Or is it merely a pragmatic device of no political consequence. The central argument of the book is that in a 'knowledge society' in which specialized knowledge is increasingly important to

politics, more has to be delegated because democratic discussion can't handle it. This limitation in the scope of liberal democracy threatens its fundamental character. The book will be required reading in the fields of social theory, political theory and science studies.

Liberal Democracy 3.0

How do different meanings of the concept of 'democracy' operate in democracy promotion? How do conceptual decisions influence real political events? How is policy and reflection on democracy promotion shaped by the way different practitioners and scholars understand democracy? The *Conceptual Politics of Democracy Promotion* explores the way in which the meaning, content and context of 'democracy' are interpreted by different actors in democracy promotion, and how these influence political decisions. Introducing a theoretically new approach to the study of democracy promotion, the volume shows how the alternate ways that democracy can be understood reflects specific interpretations of political and normative ideals, as well as being closely tied to social power relations, interests, and struggles between political actors. With original contributions from some of the most prominent specialists on democracy promotion and democratization, the book examines a number of concrete cases of democracy promotion and contestation over democracy's meaning. Re-examining democracy promotion at its time of crisis, this book will be of interest scholars and students of democracy and democratization, politics and international relations, international law, development studies and political theory.

The Conceptual Politics of Democracy Promotion

"This book explores the role of lawyers in social movements at a moment in which that role has taken center stage in American legal theory and practice. It is a comprehensive analysis of how lawyers mobilize law to advance movement goals and what impact they have within liberal democracy. The book's central contribution is to provide a new way of understanding and evaluating how lawyers support social movements in order to chart a different direction in research and reclaim a more positive professional role for lawyers in practice. It focuses on the tradition of law and social movements research and practice in the United States, but has implications for movement lawyering in the global arena. Ultimately, the book aims to decisively push away from foundational critiques of lawyers in social movements, developed a generation ago in dramatically different political conditions, which continue to powerfully shape academic debate and progressive legal practice. In their place, it offers a positive account, in which lawyers act as allies-and sometimes leaders-in struggles for transformative and enduring democratic change"--

Lawyers and Social Movements

This volume examines Rawls's theory of international justice as worked out in his controversial last book, *The Law of Peoples*.

Rawls's Law of Peoples

The rule of law is the most important political ideal today, yet there is much confusion about what it means and how it works. This 2004 book explores the history, politics, and theory surrounding the rule of law ideal, beginning with classical Greek and Roman ideas, elaborating on medieval contributions to the rule of law, and articulating the role played by the rule of law in liberal theory and liberal political systems. The author outlines the concerns of Western conservatives about the decline of the rule of law and suggests reasons why the radical Left have promoted this decline. Two basic theoretical streams of the rule of law are then presented, with an examination of the strengths and weaknesses of each. The book examines the rule of law on a global level, and concludes by answering the question of whether the rule of law is a universal human good.

On the Rule of Law