

ON THE RULE OF LAW

History, Politics, Theory

BRIAN Z. TAMANAHA



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On the Rule of Law Brian Z. Tamanaha, 2004-11-18 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 *The Rule of Law, Islam, and Constitutional Politics in Egypt and Iran* Said Amir Arjomand, Nathan J. Brown, 2013-04-15 Comparative study of Islam and the rule of law in Egypt and Iran

The Rule of Law in Germany Dana Burchardt, Hannah Birkenkötter, 2025-01-09 The rule of law or Rechtsstaatsprinzip is one of Germany's oldest constitutional principles and forms part of Germany's constitutional self understanding This book critically examines to what extent this key constitutional principle has translated into a reality for all The book provides a comprehensive insight into rule of law experiences and discourses in Germany It explores Germany's long rule of law tradition and highlights where the German state has fallen short of its rule of law promise using historical and contemporary examples It also shows that Germany's rule of law experience is tightly interwoven with European and international rule of law debates By integrating historical socio legal and doctrinal perspectives the book provides a nuanced account of a foundational principle in German constitutional thought Dedicated chapters explore the history and doctrine of the rule of law challenges to the rule of law in today's Germany the rule of law experience in the former German Democratic Republic and in the context of reunification the relationship of the German rule of law practice with the rule of law on the European and international level and the rule of law in times of crisis This includes challenges to the rule of law through anti terrorism measures as well as the more recent COVID 19 pandemic and the so called migration crisis but also how the rule of law has been discursively mis used in those situations In concluding the book highlights digitalisation as a challenge to the future of the rule of law in Germany

The Law, Politics and Theory of Treaty Withdrawal Frederick Cowell, 2023-11-16 This book explores how the law of treaty withdrawal operates Many commentators have observed a wider sense of crisis in international law as governments of different ideological stripes withdraw or threaten to withdraw from international organisations and treaties There are different political forces behind all of these cases but they all use the same basic device in international law a treaty withdrawal clause This book focuses on withdrawal clauses within multilateral treaties providing a detailed overview of their operation drawing on a range of case studies including Brexit nuclear weapons treaties and investment arbitration agreements The obligations a withdrawal clause places on a withdrawing state help regulate the

withdrawal process providing a notional form of stability Using insights from international relations theory and legal theory this book unpacks how and why the law of withdrawal operates and what its limitations are *The Rule of Law History, Theory and Criticism* Pietro Costa, Danilo Zolo, 2007-05-06 Authors Costa and Zolo share the conviction that a proper understanding of the rule of law today requires reference to a global problematic horizon This book offers some relevant guides for orienting the reader through a political and legal debate where the rule of law and the doctrine of human rights is a concept both controversial and significant at the national and international levels

The Rule of Law in the European Union Theodore Konstadinides, 2017-09-21 This is a book about the internal dimension of the rule of law in the European Union EU The EU is a community based on law which adheres to and promotes a set of common values between the Member States The preservation of these values such as legality legal certainty prohibition of arbitrariness respect for fundamental rights is pivotal to the success of European integration and the well being of the individuals within it Yet the EU rule of law suffers from an imposter syndrome and has been the subject of criticism ie that it is only part of the EU agenda in order to legitimise sweeping new powers and policies and that it plays little or no role in promoting a culture of compliance for either deviant EU Institutions or for Member States This book will examine whether the EU rule of law deserves those criticisms It will offer an analytical guide to the EU rule of law by conceptualising it and locating it within the sources of EU law It will then ask whether the EU is based on the rule of law a question which is answered in the affirmative but one which has to be considered in the context of compliance and the overall effectiveness of the EU enforcement acquis It is argued that while the EU means well in its aim to preserve unity in an increasingly diversified Europe the extent to which it can pave the way to a better world based on a transnational rule of law concept akin to good governance and improvement of citizens lives is dependent on the commitment of all European integration stakeholders to the EU project

The Rule of Law's Anatomy in the EU Allan Rosas, Juha Raitio, Pekka Pohjankoski, 2023-06-15 This study with its approach rooted in EU law and its clear focus on conceptual underpinnings grapples with one of the most challenging questions facing constitutional lawyers today namely the rule of law Drawing on the expertise of leading scholars and judges at the forefront of the question it takes a dual approach It opens by setting out the foundations of the rule of law including legal certainty democratic principles and judicial independence It goes on to explore the protections that can be relied upon from policy developments to human rights sanctions and infringement actions This is a rapidly developing question in EU constitutional law so this masterful collection will be welcomed by both scholars and policy makers in the field

A Theory of the Executive Branch Margit Cohn, 2021-02-24 The executive branch in Western democracies has been granted a virtually impossible task expected to imperially direct the life of the nation through thick and thin it is concurrently required to be subservient to legislation meted out by a sovereign parliament Drawing on a general argument from constitutional theory that prioritizes dispersal of power over concepts of hierarchy this book argues that the tension between dominance and submission in the executive branch is

maintained by the adoption of various forms of fuzziness under which a guise of legality masks the absence of substantive limitation of power Under this internal tension vision of constitutionalism the executive branch is simultaneously submissive to law and dominant over it while concepts of substantive legality are compromised Building on legal and political science research this volume classifies and analyses thirteen forms of fuzziness ranging from open ended or semi written constitutions to unapplied legislation The study of this unavoidable yet problematic feature of the public sphere is addressed descriptively and normatively Adding detailed examples from two fields of law emergency law and air pollution law in two systems the UK and the US the book ends with a call for raising the threshold of judicial review grounded in theories of participatory and deliberative democracy This book addresses an area that is surprisingly under researched Despite the increase in executive power across democratic polities and increasing public interest in the executive branch and executive powers this much needed book offers a theoretical foundation that should ground all analysis of arguably the most powerful branch of modern government

Diplomacy and the Making of World Politics Ole Jacob Sending, Vincent Pouliot, Iver B. Neumann, 2015-08-20 This book examines world politics through the lens of diplomatic practice It argues that many global phenomena of our time from the making of international law to the constitution of international public power through humanitarianism and the maintenance of global hierarchies are made possible and shaped by evolving forms of diplomacy The study of diplomacy is largely dominated by firsthand accounts and historical treaties with little effort at theoretical discussion This book shows how diplomatic studies can benefit from more explicit theorizing and argues that the study of world politics should pay more attention to what goes on in the diplomatic engine room of international politics

Contemporary Mexican Politics Emily Edmonds-Poli, David A. Shirk, 2020-03-10 This comprehensive and engaging text explores contemporary Mexico's political economic and social development and examines the most important policy issues facing the country today Readers will find this widely praised book continues to be the most current and accessible work available on Mexico's politics and policy

Rule of Law vs Majoritarian Democracy Giuliano Amato, Benedetta Barbisan, Cesare Pinelli, 2021-08-26 What is more paradoxically democratic than a people exercising their vote against the harbingers of the rule of law and democracy What happens when the will of the people and the rule of law are at odds Some commentators note that the presence of illiberal political movements in the public arena of many Western countries demonstrates that their democracy is so inclusive and alive that it comprehends and countenances even undemocratic forces and political agendas But what if on the contrary these were the signs of the deconsolidation of democracy instead of its good health What if democratically elected regimes were to ignore constitutional principles representing the rule of law and the limits of their power With contributions from judges and scholars from different backgrounds and nationalities this book explores the framework in which this tension currently takes place in several Western countries by focusing on four key themes The Rule of Law presenting a historical and theoretical reconstruction of the evolution of the Rule of Law The People

dealing with a set of problems around the notion of people and the forces claiming to represent their voice Democracy and its enemies tackling a variety of phenomena impacting on the traditional democratic balance of powers and institutional order Elected and Non Elected focusing on the juxtaposition between judges and more generally non representative bodies and the people s representation **The Search for Environmental Justice** Paul Martin,Sadeq Z. Bigdeli,Trevor

Daya-Winterbottom,Willemien du Plessis,Amanda Kennedy,2015-07-31 This thoughtful book provides an overview of the major developments in the theory and practice of environmental justice It illustrates the direction of the evolution of rights of nature and exposes the diverse meanings and practical uses of the conc **Dealing with Bribery and Corruption in**

International Commercial Arbitration Emmanuel Obiora Igbokwe,2023-01-10 International Arbitration Law Library Volume 65 International commercial arbitration is by no means free from bribery and corruption Although a plethora of legal scholarship clearly affirms this contention a thorough study on the particularly important question of the authority and duty of international commercial arbitrators to investigate a suspicion or indication of bribery or corruption sua sponte that is on their own initiative has been surprisingly lacking This important book fills this gap inter alia by locating sua sponte authority in the position of arbitral tribunals in establishing the facts of a case and ascertaining and applying the applicable normative standards In addition to providing a comprehensive examination of how the issue of bribery and corruption is dealt with in contemporary international commercial arbitration the book also highlights the role of arbitrators in global efforts to combat transnational commercial bribery and corruption Among others the following critical issues are thoroughly investigated arbitrability of issues of public interests intermediary contracts role of arbitrators in the fact finding process party autonomy versus overriding mandatory rules iura novit curia in international commercial arbitration in the context of bribery and corruption notion of transnational or truly international public policy arbitrators duty to act as guardians of international commerce investigative tools available to arbitrators dealing with manifestly recalcitrant parties possible consequences of violating the obligation to sua sponte investigate and the view from developing countries The analysis leans primarily on Swiss law as Switzerland is one of the most important jurisdictions in international commercial arbitration Switzerland has also been involved in some of the most famous and controversial arbitration cases wherein bribery and corruption became an issue However the study also includes a comparative analysis of the relevant laws jurisprudence and doctrine of other major arbitration venues particularly England France and Germany Not only in the light it sheds on how and whether international commercial arbitrators have hitherto justified the trust States have placed in them regarding the protection of the public interests but also in the practical solutions it offers arbitrators faced with issues of bribery and corruption this deeply researched book equips arbitration practitioners and arbitration institutions with a hitherto lacking in depth analysis on the question of sua sponte investigation It also provides invaluable insights on how this issue might affect the future legitimacy and expansion of this dispute settlement mechanism Outside the field of arbitration the book also provides jurists legal

scholars in house counsel for companies doing transnational business and public officials with highly enlightening perspectives on the interaction between international commercial arbitration and public interests A Theory of Contestation Antje Wiener, 2014-08-14 The Theory of Contestation advances critical norms research in international relations It scrutinises the uses of contestation in international relations theories with regard to its descriptive and normative potential To that end critical investigations into international relations are conducted based on three thinking tools from public philosophy and the social sciences The normativity premise the diversity premise and cultural cosmopolitanism The resulting theory of contestation entails four main features namely types of norms modes of contestation segments of norms and the cycle of contestation The theory distinguishes between the principle of contestedness and the practice of contestation and argues that if contestedness is accepted as a meta organising principle of global governance regular access to contestation for all involved stakeholders will enhance legitimate governance in the global realm *Illiberal Trends and Anti-EU Politics in East Central Europe* Astrid Lorenz, Lisa H. Anders, 2020-10-27 This open access book provides an in depth look into the background of rule of law problems and the open defiance of EU law in East Central European countries Current illiberal trends and anti EU politics have the potential to undermine mutual trust between member states and fundamentally change the EU It is therefore crucial to understand their domestic causes context conditions specific processes and consequences This volume contributes to empirically informed theory building and includes contributions from researchers from various disciplines and multiple perspectives on illiberal trends and anti EU politics in the region The qualitative case studies comparative works and quantitative analyses provide a comprehensive picture of current societal political and institutional developments in the Czech Republic Hungary Poland and Slovakia Through studying similarities and differences between East Central European and other EU countries the chapters also explore whether there are regional patterns of democracy and EU related problems *The Hart-Fuller Debate in the Twenty-First Century* Peter Cane, 2010-02-16 This book presents the papers and comments on those papers delivered at a colloquium held at the Australian National University in December 2008 to celebrate 50 years since the publication in the Harvard Law Review of the famous and wide ranging debate between HLA Hart and Lon L Fuller These essays do not re run that debate and they are not confined to discussion of the jurisprudential issues canvassed by Hart and Fuller Rather they pick up on strands in the debate and re think them in the light of social political and intellectual developments in the past 50 years and changed ways of understanding law and other normative systems This collection looks forward rather than backward using the debate as a point of departure and inspiration The Oxford Handbook of Governance and Limited Statehood Thomas Risse, Tanja A. Börzel, Anke Draude, 2018 Unpacking the major debates this Oxford Handbook brings together leading authors of the field to provide a state of the art guide to governance in areas of limited statehood where state authorities lack the capacity to implement and enforce central decision and or to uphold the monopoly over the means of violence While areas of limited statehood can be found everywhere

not just in the global South they are neither ungoverned nor ungovernable Rather a variety of actors maintain public order and safety as well as provide public goods and services While external state governors and their interventions in the global South have received special scholarly attention various non state actors from NGOs to business to violent armed groups have emerged that also engage in governance This evidence holds for diverse policy fields and historical cases The Handbook gives a comprehensive picture of the varieties of governance in areas of limited statehood from interdisciplinary perspectives including political science geography history law and economics 29 chapters review the academic scholarship and explore the conditions of effective and legitimate governance in areas of limited statehood as well as its implications for world politics in the twenty first century The authors examine theoretical and methodological approaches as well as historical and spatial dimensions of areas of limited statehood and deal with the various governors as well as their modes of governance They cover a variety of issue areas and explore the implications for the international legal order for normative theory and for policies toward areas of limited statehood

Planetary Defense Nikola Schmidt, 2018-12-26 Planetary defense from near Earth objects such as asteroids is a far more nuanced and challenging topic than it might seem Each day technology is making it easier to detect asteroid impact threats in advance but at present there is still no easy way to design and implement any form of global defense This book examines how various asteroid deflection methods can change global political affairs The authors believe that the final policy for potential Earth impacts should be based on practical engineering solutions and innovative architectural structures while at the same time reflecting the most recent political science contributions in ethical security studies and security cosmopolitanism Their focus is not limited to effective engineering solutions but rather extends to how such proposals resonate in possible political structures of the future Planetary defense cannot be achieved with technology alone the chapters in this volume highlight the issues that arise when space science and technology intersect with political science This complex interdisciplinary project not only demands global participation and collaboration but also proposes the way we can achieve it The authors explore various concepts of governance and their far reaching implications for planetary defense and vice versa how scientific progress in Solar System observations and asteroid collision engineering influence political science and put pressure on the international legal framework The text is intentionally written for a diverse scholarly and diplomatic audience in a style accessible to non specialists and practitioners and can be read by those across diverse disciplinary backgrounds

Critical theory and human rights David McGrogan, 2021-05-11 This book describes how human rights have given rise to a vision of benevolent governance that if fully realised would be antithetical to individual freedom It describes human rights evolution into a grand but nebulous project rooted in compassion with the overarching aim of improving universal welfare by defining the conditions of human well being and imposing obligations on the state and other actors to realise them This gives rise to a form of managerialism preoccupied with measuring and improving the human rights performance of the state businesses and so on The ultimate

result is the governmentalisation of a pastoral form of global human rights governance in which power is exercised for the general good moulded by a complex regulatory sphere which shapes the field of action for the individual at every turn This unsurprisingly does not appeal to rights holders themselves

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In some sort of defined by information and interconnectivity, the enchanting power of words has acquired unparalleled significance. Their ability to kindle emotions, provoke contemplation, and ignite transformative change is really awe-inspiring. Enter the realm of "**On The Rule Of Law History Politics Theory**," a mesmerizing literary masterpiece penned by a distinguished author, guiding readers on a profound journey to unravel the secrets and potential hidden within every word. In this critique, we shall delve into the book's central themes, examine its distinctive writing style, and assess its profound effect on the souls of its readers.

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