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A critical analysis of the transformation of constitutionalism from an increasingly irrelevant theory of limited government into the most influential philosophy of governance in the world today. Constitutionalism is universally commended because it has never been precisely defined. Martin Loughlin argues that it is not some vague amalgam of liberal aspirations but a specific and deeply contentious governing philosophy. An Enlightenment idea that in the nineteenth century became America’s unique contribution to the philosophy of government, constitutionalism was by the mid-twentieth century widely regarded as an anachronism. Advocating separated powers and limited government, it was singularly unsuited to the political challenges of the times. But constitutionalism has since undergone a remarkable transformation, giving the Constitution an unprecedented role in society. Once treated as a practical instrument to regulate government, the Constitution has been raised to the status of civil religion, a symbolic representation of collective unity. Against Constitutionalism explains why this has happened and its far-reaching consequences. Spearheaded by a “rights revolution” that subjects governmental action to comprehensive review through abstract principles, judges acquire greatly enhanced power as oracles of the regime’s “invisible constitution.” Constitutionalism is refashioned as a theory maintaining that governmental authority rests not on collective will but on adherence to abstract standards of “public reason.” And across the world the variable practices of constitutional government have been reshaped by its precepts. Constitutionalism, Loughlin argues, now propagates the widespread belief that social progress is advanced not through politics, electoral majorities, and legislative action, but through innovative judicial interpretation. The rise of constitutionalism, commonly conflated with constitutional democracy, actually contributes to its degradation. This article questions the constitutional advice commonly offered to societies deeply divided over the vision of their state (e.g., Egypt, Tunisia, Turkey and Israel) to draft a “thin” constitution. According to this liberal constitutionalist

approach, the constitution-making process is not expected to interfere with value-ridden conflicts (e.g., minority rights or the role of religious law) but rather to provide an institutional framework for future democratic deliberation and decision-making on divisive issues. While normatively a thin constitution is an attractive ideal, this instrument, I argue, is at odds with social, political, and institutional realities in contemporary societies driven by identity conflicts. Based on a close empirical analysis of the failed attempt to draft a thin constitution in Israel from 2003-2006, this article illustrates two central obstacles to realizing the ideal of a thin constitution: the first stems from an inherent incoherence in that ideal, since in fact thin constitutions have a strong symbolic content in representing a particular type of liberal democracy. The idea of thin constitution rests on widespread public acceptance of the principles of political liberalism, defined by John Rawls in terms of "overlapping consensus," yet conflicts over liberal rights are usually at the heart of the constitution debate in divided societies. The second problem stems from the effects of existing institutional legacies -- particularly judiciary-legislature relation -- on the drafting process. The legacy of constitutional dialogue between the judiciary and the legislature hinders the separation between constitutional debates on procedural-institutional and ideational-foundational issues, during the constitution-drafting process. Thus the timing of constitution writing, whether it occurs at the state-building stage or during a transitional phase decades after independence, is of great importance. The article concludes that the difficulties of writing a thin constitution are increasing, rather than decreasing, over the years. This insightful book discusses the impact of EU law on the creation and empowerment of autonomous public bodies (APBs) at Member State level and analyzes recent attempts of European states to rationalize delegation to APBs. It examines the tensions between these trends: under what conditions can APBs be considered legitimate forms of government in the light of modern conceptions of constitutionalism, the rule of law and democracy - values that are deeply rooted in European constitutions? And to what extent do EU obligations on the independence of national regulators, data protection authorities and the like conflict with those conceptions? Democratic constitutions are increasingly unfit for purpose with governments facing increased pressures from populists and distrust from citizens. The only way to truly solve these problems is through reform. Within this important book, Frank Vibert sets out the key challenges to reform, the ways in which constitutions should be revitalised and provides the standards against which

reform should be measured. Constitution making is a topic of increasing scholarly and practical interest. Focusing on a set of important case studies, yet also featuring classic articles on the subject, this volume is a critical assembly of theoretical literature. Ensuring wide geographic and historical coverage, and including an original introduction by the editors, this collection provides an essential overview of the myriad of circumstances in which constitutions can be made. A concise history of the long struggle between two fundamentally opposing constitutional traditions, from one of the nation's leading constitutional scholars—a manifesto for renewing our constitutional republic. The Constitution of the United States begins with the words: "We the People." But from the earliest days of the American republic, there have been two competing notions of "the People," which lead to two very different visions of the Constitution. Those who view "We the People" collectively think popular sovereignty resides in the people as a group, which leads them to favor a "democratic" constitution that allows the "will of the people" to be expressed by majority rule. In contrast, those who think popular sovereignty resides in the people as individuals contend that a "republican" constitution is needed to secure the pre-existing inalienable rights of "We the People," each and every one, against abuses by the majority. In Our Republican Constitution, renowned legal scholar Randy E. Barnett tells the fascinating story of how this debate arose shortly after the Revolution, leading to the adoption of a new and innovative "republican" constitution; and how the struggle over slavery led to its completion by a newly formed Republican Party. Yet soon thereafter, progressive academics and activists urged the courts to remake our Republican Constitution into a democratic one by ignoring key passes of its text. Eventually, the courts complied. Drawing from his deep knowledge of constitutional law and history, as well as his experience litigating on behalf of medical marijuana and against Obamacare, Barnett explains why "We the People" would greatly benefit from the renewal of our Republican Constitution, and how this can be accomplished in the courts and the political arena. Variously and roundly perceived as gridlocked, incompetent, irresponsible, and corrupt, American government commands less respect and trust today than perhaps at any time in the nation's history. But the dysfunction in government that we like so little, along with the policy disasters it engenders, is in fact a product of that deep and persistent distrust, Stephen M. Griffin contends in Broken Trust, an accessible work of constitutional theory and history with profound implications for our troubled political system. Undertaken with a deep

concern about the way our government is performing, Broken Trust makes use of the debate over dysfunctional government to uncover significant flaws in the conventional wisdom as to how the Constitution works. Indeed, although Americans strongly believe that our government is dysfunctional, they are just as firmly convinced that the Constitution still works well. Griffin questions this conviction by examining how recent policy disasters—such as the 9/11 terrorist attacks, the response to Hurricane Katrina, and the 2008 financial crisis—are linked to our constitutional system. This leads him to pose the question of whether the government institutions we have inherited from the eighteenth century are poor fits for contemporary times. Griffin argues that understanding the decline of trust in government requires investigating the historical circumstances of the last several decades as well as the constitutional experience of the states. In particular, he examines "hybrid democracy," the form of constitutionalism prevailing in California and other western states that combines Madisonian-style representative government with direct democracy. Hybrid democracy offers valuable lessons relevant to our contemporary difficulties with dysfunctional government at the national level. These lessons underpin the agenda for reform that Griffin then proposes, emphasizing democratic innovations aimed at producing both more effective government and greater trust in our political institutions. Building on a better understanding of the sources and consequences of government dysfunction, his book holds genuine hope, as well as practical possibilities, for the repair of our broken political and constitutional system. Vernon Bogdanor once told The Guardian that he made 'a living of something that doesn't exist'. He also quipped that the British Constitution can be summed up in eight words: 'Whatever the Queen in Parliament decides is law.' That may still be the case, yet in many ways the once elusive British Constitution has now become much more grounded, much more tangible and much more based on written sources than was previously the case. It now exists in a way in which it previously did not. However, though the changes may seem revolutionary, much of the underlying structure remains unchanged; there are limits to the changes. Where does all this leave the Constitution? Here constitutional experts, political scientists and legal practitioners present up-to-date and in-depth commentaries on their respective areas of expertise. While also a Festschrift in honour of Vernon Bogdanor, this book is above all a comprehensive compendium on the present state of the British Constitution. 'The new constitutional politics has spawned a new constitutional scholarship. This

stimulating collection, skilfully put together by Matt Qvortrup, works both as a welcome snapshot of where we are now and as an expert audit, from specialists in law, history and political science, of the deeper issues and of the complex dynamics of continuity and change in the ongoing refashioning of Britain's constitutional architecture.' Kevin Theakston, Professor of British Government, University of Leeds 'The highly distinguished team of scholars assembled by Matt Qvortrup has produced a deeply thought-provoking collection on the profound constitutional changes that have occurred in the UK over the last twenty years. A book worthy of reaching a very wide readership.' Roger Scully, Professor of Political Science, Cardiff University 'Vernon Bogdanor understands like few others the connections between history, politics and institutions - and that is what makes him such an authority on the British system of government.' The Rt Hon David Cameron MP, Prime Minister 'I think Vernon's guiding principle at Brasenose was to treat all his students as if they might one day be Prime Minister. At the time, I thought this was a bit over the top, but then a boy studying PPE at Brasenose two years beneath me became Prime Minister.' Toby Young, The Spectator Evaluates the pressures, both institutional and territorial, that Brexit exerts on both the United Kingdom and Irish constitutional orders. What role do and should constitutions play in mitigating intense disagreements over the religious character of a state? And what kind of constitutional solutions might reconcile democracy with the type of religious demands raised in contemporary democratising or democratic states? Tensions over religion-state relations are gaining increasing salience in constitution writing and rewriting around the world. This book explores the challenge of crafting a democratic constitution under conditions of deep disagreement over a state's religious or secular identity. It draws on a broad range of relevant case studies of past and current constitutional debates in Europe, Asia, Africa and the Middle East, and offers valuable lessons for societies soon to embark on constitution drafting or amendment processes where religion is an issue of contention. The New York Times bestselling author of The Party Is Over delivers a no-holds-barred exposé of who really wields power in Washington Every Four years, tempers are tested and marriages fray as Americans head to the polls to cast their votes. But does anyone really care what we think? Has our vaunted political system become one big, expensive, painfully scriped reality TV show? In this cringe-inducing expose of the sins and excesses of Beltwayland, a longtime Republican party insider argues that we have become an oligarchy in form if not in name. Hooked on war, genuflecting to

big donors, in thrall to discredited economic theories and utterly bereft of a moral compass, America’s governing classes are selling their souls to entrenched interest while our bridges collapse, wages, stagnate, and our water is increasingly undrinkable. Drawing on sinsights gleaned over three decades on Capitol Hill, much of it on the Budget Committee, Lofgren paints a gripping portrait of the dismal swamp on the Potomac and the revolution it will take to reclaim our government and set us back on course. A broad-ranging, interdisciplinary, and context-rich exploration of the fields of constitutional studies and comparative constitutional law for research and teaching. Constitutions and gender is a new and exciting field, attracting scholarly attention and influencing practice around the world. This timely handbook features contributions from leading pioneers and younger scholars, applying a gendered lens to constitution-making and design, constitutional practice and citizenship, and constitutional challenges to gender equality rights and values. It offers a gendered perspective on the constitutional text and record of multiple jurisdictions, from the long-established, to the world's newly emerging democracies. Constitutions and Gender portrays a profound shift in our understanding of what constitutions stand for and what they do. The Constitution of the Republic of Austria originated in 1920. From the beginning it represented a compromise between deeply opposed political parties with widely divergent moral and political principles. The Constitution deliberately lacked substantive content, was formal in character, and was concerned only with the framework for the everyday political process. Constitutional amendments were, and remain, frequent events. As a result case law interpreting the constitution tended to be conservative in outlook; controversial cases were considered a matter for constitutional amendment rather than constitutional interpretation. Only comparatively recently, in the 1980s, has the Constitutional Court adopted a more expansive constitutional jurisprudence, especially in the field of fundamental rights. While this was to some extent an inevitable result of the influence of the ECtHR, it meant for instance that the principle of proportionality became enshrined in Austrian fundamental rights theory. The Constitutional Court even saw fit to set limits to Parliament's power to amend the Constitution. Becoming a member of the EU in 1995 presented Austria with new challenges, leading inevitably to the creation of a Constitutional Convention and, eventually, major amendments to the Constitution in 2008. This book shows how the Austrian Constitution has been shaped and interpreted by the fundamental events in Austria's modern history. At the same time it emphasises the way in which the

Constitution establishes a parliamentary system, with additional presidential features, limited, in turn, by Austria's federal structure and the parliaments of nine states. This book analyzes how replacing democratic constitutions may contribute to the improvement or erosion of democratic principles and practices. After President Hosni Mubarak was toppled in 2011, discussions followed immediately regarding the revision of the Egyptian Constitution. Islamist political groups insisted that Parliamentary and Presidential elections should precede the formation of a new Constitution, aiming to use their momentum to gain the upper hand in the Constitutional Assembly. Non-Islamists believed that representatives from all layers of society must first formulate a new Constitution before elections should be held. Out of this struggle emerged the 2012 Constitution, a document deeply influenced by Islamist political ideas and goals. Dissatisfied with the proceedings, the non-Islamists walked out of the Constitutional Assembly before the Constitution was finalized. In attempts to reconcile the alienated non-Islamist factions, and heal a divided Egyptian society, the Egyptian Constitution of 2014 was created. All efforts were made to avoid a similar walk-out from Islamist factions. Various political actors were interviewed during, and shortly after the 2014 constitutional formation process. This book is essential reading for anyone wishing to understand the discussions and debates surrounding the formation of the 2014 Constitution. This book follows and complements the previous books in the series on recent religious and political developments in Egypt, in particular Vol. 3 The Sharia as the Main Source of Legislation? (2012), Vol. 8 Rise and Fall of the Muslim Brotherhood 2011-2013 (2016), Vol. 9 From Ruling to Opposition 2011-2013 (2017). The National Judicial Appointments Commission (NJAC) judgment, on the appointment of judges to the Supreme Court, has been the subject of a deeply polarized debate in the public sphere and academia. This volume analyses the NJAC judgment, and provides a rich context to it, in terms of philosophical, comparative, and constitutional issues that underpin it. The work traces the history of judicial appointments in India; examines the constitutional principles behind selecting judges and their application in the NJAC judgment; and comparatively looks at the judicial appointments process in six select countries—United Kingdom, South Africa, Canada, Pakistan, Sri Lanka, and Nepal—enquiring into what makes a good judge and an effective appointments process. With wide-ranging essays by leading lawyers, political scientists, and academics from India and abroad, the volume is a deep dive into the constitutional concepts of judicial independence and separation of powers as discussed in the NJAC

judgment. Excerpt from Lectures Introductory to the Study of the Law of the Constitution This book is (as its title imports) an introduction to the study of the law of the constitution; it does not pretend to be even a summary, much less a complete account of constitutional law. It deals only with two or three guiding principles which pervade the modern constitution of England. My object in publishing the work is to provide students with a manual which may impress these leading principles on their minds, and thus may enable them to study with benefit in Blackstone's Commentaries and other treatises of the like nature those legal topics which taken together make up the constitutional law of England. In furtherance of this design I have not only emphasised the doctrines (such for example as the sovereignty of Parliament) which are the foundation of the existing constitution, but have also constantly illustrated English constitutionalism by comparisons between it and the constitutionalism on the one hand of the United States, and on the other of the French Republic. Whether I have in any measure attained my object must be left to the judgment of my readers. About the Publisher Forgotten Books publishes hundreds of thousands of rare and classic books. Find more at www.forgottenbooks.com This book is a reproduction of an important historical work. Forgotten Books uses state-of-the-art technology to digitally reconstruct the work, preserving the original format whilst repairing imperfections present in the aged copy. In rare cases, an imperfection in the original, such as a blemish or missing page, may be replicated in our edition. We do, however, repair the vast majority of imperfections successfully; any imperfections that remain are intentionally left to preserve the state of such historical works. Shah uncovers the complex interaction between constitutional law, religion and politics in three key plural societies in Asia. Recent years have witnessed an explosion of new research on constitution making. Comparative Constitution Making provides an up-to-date overview of this rapidly expanding field. p.p1 {margin: 0.0px 0.0px 0.0px 0.0px; font: 10.0px Arial} From one of our leading scholars of comparative constitutionalism, advice for everyone involved in the surprisingly common practice of constitution-writing Enhancing prospects for democracy is an important objective in the process of creating a new constitution. Donald L. Horowitz argues that constitutional processes ought to be geared to securing commitment to democracy by those who participate in them. Using evidence from numerous constitutional processes, he makes a strong case for a process intended to increase the likelihood of a democratic outcome. He also assesses tradeoffs among various process attributes and identifies some that might

impede democratic outcomes. This book provides a fresh perspective on constitutional processes that will interest students and scholars. It also offers sound advice for everyone involved in the surprisingly common practice of constitution†‘writing. In six lectures, Aiken compares the constitutions of Great Britain and the United States and also examines their similarities and differences in terms of government, (The House of Commons and the House of Representatives, the Senate and the House of Lords), religion, slavery, elections, the judiciary and other topics. "The author's design was to compare our limited monarchy with the greatest modern republic, not in order to disparage either, but to elucidate both to a popular audience of his countrymen (...) The subject has an intrinsic claim to attention. It embraces a variety of topics, both entertaining and important, and historical truths of immense practical value, concerning which the people are deeply interested and too often misled." --(Preface, viii Contents: Lecture One: Introductory Lecture Two: Provincial Institutions. Outline of American Constitution. Lecture Three: Elective Franchise. Legislative Assemblies. Lecture Four: The Executive Power. Lecture Five: Law-Religion. Lecture Six: Social Influence of Political Institutions. Peter Freeland Aiken (1799?-1877) was a Scottish advocate for some time, and later moved to Bristol, England. He was the author of The People's Charter, and Old England For Ever (1839) and War: Religiously, Morally and Historically Considered (1850). This book addresses the constitutional journey of religious minorities in modern Turkey, specifically the Lausanne minorities, who have been both coded and blacklisted in the official records for decades. It focuses on the non-Muslim citizens who have maintained their lives with confidential codes without knowing that these codes have been instrumentally used for strategic purposes. In spite of such discriminatory practices, they are on the way to a new democratic and civil constitution. It is significant to note that this will be their first constitutional experience in post-republic history. The first book to document the role of religious minorities in constitution making in modern Turkey, it lists recent discussions and findings on this controversial process. One of the important findings of this study is that government-led initiatives endeavouring to be inclusive have had the opposite effect. Felix Cohen (1907-1953) was a leading architect of the Indian New Deal and steadfast champion of American Indian rights. Appointed to the Department of the Interior in 1933, he helped draft the Indian Reorganization Act (1934) and chaired a committee charged with assisting tribes in organizing their governments. His "Basic Memorandum on Drafting of Tribal Constitutions,"

submitted in November 1934, provided practical guidelines for that effort. Largely forgotten until Cohen's papers were released more than half a century later, the memorandum now receives the attention it has long deserved. David E. Wilkins presents the entire work, edited and introduced with an essay that describes its origins and places it in historical context. Cohen recommended that each tribe consider preserving ancient traditions that offered wisdom to those drafting constitutions. Strongly opposed to "sending out canned constitutions from Washington," he offered ideas for incorporating Indigenous political, social, and cultural knowledge and structure into new tribal constitutions. On the Drafting of Tribal Constitutions shows that concepts of Indigenous autonomy and self-governance have been vital to Native nations throughout history. As today's tribal governments undertake reform, Cohen's memorandum again offers a wealth of insight on how best to amend previous constitutions. It also helps scholars better understand the historic policy shift brought about by the Indian Reorganization Act. This book provides a new, comprehensive analytical framework for the examination of majority-minority relations in deeply divided societies. Hegemonic states in which one ethnic group completely dominates all others will continue to face enormous pressures to transform because they are out of step with the new, emerging, global governing code that emphasizes democracy and equal rights. Refusal to change would lead such states to lose international legitimacy and face increasing civil strife, instability, and violence. Through systematic theoretical analysis and careful empirical study of 14 key cases, Peleg examines the options open to polities with diverse populations. Challenging the conventional wisdom of many liberal democrats, Peleg maintains that the preferred solution for a traditional hegemonic polity is not merely to grant equal rights to individuals, but also to incorporate significant group rights via mega-constitutional transformation. Explores and illustrates how domestic and international factors shape the direction of democratization process with special reference to constitution making process in Turkey. Describes how all five Turkish constitutions were, by and large, the products of indigenous effort, although borrowing could be felt in certain limited areas. Argues that the constitutional reforms in the post-1983 period were the outco me of broad inter-party negotiations and agree ments as a response to the society's demands for a more democratic and liberal political system. Finally, the constitutional revisions adopted since 1995 were strongly conditioned by Turkey's hope of accession to the European Union. With these reforms, Turkey was successful in meeting the

political criteria and started accession negotiations with the EU. The attempt in 2004 to draft an interim constitution in Iraq and the effort to enact a permanent one in 2005 were unintended outcomes of the American occupation, which first sought to impose a constitution by its agents. This two-stage constitution-making paradigm, implemented in a wholly unplanned move by the Iraqis and their American sponsors, formed a kind of compromise between the populist-democratic project of Shi'ite clerics and America's external interference. As long as it was used in a coherent and legitimate way, the method held promise. Unfortunately, the logic of external imposition and political exclusion compromised the negotiations. Andrew Arato is the first person to record this historic process and analyze its special problems. He compares the drafting of the Iraqi constitution to similar, externally imposed constitutional revolutions by the United States, especially in Japan and Germany, and identifies the political missteps that contributed to problems of learning and legitimacy. Instead of claiming that the right model of constitution making would have maintained stability in Iraq, Arato focuses on the fragile opportunity for democratization that was strengthened only slightly by the methods used to draft a constitution. Arato contends that this event would have benefited greatly from an overall framework of internationalization, and he argues that a better set of guidelines (rather than the obsolete Hague and Geneva regulations) should be followed in the future. With access to an extensive body of literature, Arato highlights the difficulty of exporting democracy to a country that opposes all such foreign designs and fundamentally disagrees on matters of political identity. "A Practical Guide to Constitution Building provides an essential foundation for understanding constitutions and constitution building. Full of world examples of ground-breaking agreements and innovative provisions adopted during processes of constitutional change, the Guide offers a wide range of examples of how constitutions develop and how their development can establish and entrench democratic values. Beyond comparative examples, the Guide contains in-depth analysis of key components of constitutions and the forces of change that shape them. The Guide analyzes the adoption of the substantive elements of a new constitution by looking at forces for the aggregation or dissemination of governmental power, and forces for greater legalization or politicization of governmental power, and examining how these forces influence the content of the constitution. It urges practitioners to look carefully at the forces at play within their individual contexts in order to better understand constitutional dynamics and play a role in shaping a

constitution that will put into place a functioning democratic government and foster lasting peace."-- Who governs Britain? Is Parliament sovereign? Who chooses the Prime Minister? And who enforces the rules? The United Kingdom is in the throes of political and constitutional conflict. Tensions between different Westminster and Holyrood, and between the UK and the European Union, are part of a wider picture of constitutional flux. The United Kingdom is one of only three nations that does not have the principal provisions of the organs of state, nor is how they relate to one another and to the citizen embodied in a single document. Devolution and Brexit have given rise to calls for a codified constitution, but the debate has taken place against a background of confusion and uncertainty as to existing constitutional arrangements. We must first understand what already exists and how our constitution works today. This deeply informed and elegantly written book addresses the problems that have arisen in the context of the greatest political crisis our country has faced in decades. A plan for restoring and protecting freedom, based on the United States Constitution. There has been a deliberate effort over the past one hundred years to change the worldview of Americans from a liberty and constitutionally focused world view, based on the writings of Englishman John Locke, to that of government control of the individual based on the writings of Frenchman Jean Jacques Rousseau. Rousseau’s model of state control now dominates government policy and America’s world view, and the free market, civil liberties and protections guaranteed by the United States Constitution are being destroyed. The Rousseau world view dominates our education, judicial, media, and legislative institutions with what is called progressivism. This leads to socialism, fascism, and even communism. It is what has inflamed the backlash known as the tea party movement. There is hope, however. Although seriously weakened, the Constitution still stands, and its protections are still in most laws at the federal and state level that offers protections for local communities that are generally unknown to most people—even attorneys. The book explains why Americans are so divided, how the destruction of liberty occurred, who is behind it, and how Americans can stop this destruction of our way of life by electing constitutionally based candidates to office and protect their communities from egregious federal and state laws and regulations. Constitutions can play a central role in responding to environmental challenges, such as pollution, biodiversity loss, lack of drinking water, and climate change. The vast majority of people on earth live under constitutional systems that protect the environment or recognize environmental rights. Such

environmental constitutionalism, however, falls short without effective implementation by policymakers, advocates and jurists. Implementing Environmental Constitutionalism: Current Global Challenges explains and explores this 'implementation gap'. This collection is both broad and deep. While some of the essays analyze crosscutting themes, such as climate change and the need for rule of law that affect the implementation of environmental constitutionalism throughout the world, others delve deeply into geographically contextual experiences for lessons about how constitutional environmental law might be more effectively implemented. This volume informs global conversations about whether and how environmental constitutionalism can be made more effective to protect the natural environment. The proper construction of the compensation clause of the Constitution has emerged as the central legal issue of the environmental revolution, as property owners have challenged a steady stream of environmental statutes that have cut deeply into traditional notions of property rights. When may they justly demand that the state compensate them for the sacrifices they are called upon to make for the common good? Ackerman argues that there is more at stake in the present wave of litigation than even the future shape of environmental law in the United States. To frame an adequate response, lawyers must come to terms with an analytic conflict that implicates the nature of modern legal thought itself. Ackerman expresses this conflict in terms of two opposed ideal types--Scientific Policymaking and Ordinary Observing--and sketches the very different way in which these competing approaches understand the compensation question. He also tries to demonstrate that the confusion of current compensation doctrine is a product of the legal profession's failure to choose between these two modes of legal analysis. He concludes by exploring the large implications of such a choice--relating the conflict between Scientific Policymaking and Ordinary Observing to fundamental issues in economic analysis, political theory, metaethics, and the philosophy of language. Self-described populist leaders around the world are dismantling their nation's constitutions. This has led to a widespread view that populism as such is inconsistent with constitutionalism. This book proposes that some forms of populism are inconsistent with constitutionalism, while others aren't. Context and detail matter. Power to the People offers a thin definition of constitutionalism that people from the progressive left to the conservative right should be able to agree on even if they would supplement the thin definition within other more partisan ideas. This is followed by a similarly

basic definition of populism. Comparing the two, this book argues that one facet of populism -its suspicion of institutions that are strongly entrenched against change by political majorities-is sometimes inconsistent with constitutionalism's thinly understood definition. The book provides a series of case studies, some organized by nation, others by topic, to identify, more precisely, when and how populist programs are inconsistent with constitutionalism-and, importantly, when and how they are not. Concluding with a discussion of the possibilities for a deeper, populist democracy, the book examines recent challenges to the idea that democracy is a good form of government by exploring possibilities for new, albeit revisable, institutions that can determine and implement a majority's views without always threatening constitutionalism. Consociations are power-sharing arrangements, increasingly used to manage ethno-nationalist, ethno-linguistic, and ethno-religious conflicts. Current examples include Belgium, Bosnia, Northern Ireland, Burundi, and Iraq. Despite their growing popularity, they have begun to be challenged before human rights courts as being incompatible with human rights norms, particularly equality and non-discrimination. Courts and Consociations examines the use of power-sharing agreements, their legitimacy, and their compatibility with human rights law. Key questions include to what extent, if any, consociations conflict with the liberal individualist preferences of international human rights institutions, and to what extent consociational power-sharing may be justified to preserve peace and the integrity of political settlements. In three critical cases, the European Court of Human Rights has considered equality challenges to important consociational practices, twice in Belgium and then in Sejdic and Finci v Bosnia regarding the constitution established for Bosnia Herzegovina under the Dayton Agreement. The Court's decision in Sejdic and Finci has significantly altered the approach it previously took to judicial review of consociational arrangements in Belgium. This book accounts for this change and assess its implications. The problematic aspects of the current state of law are demonstrated. Future negotiators in places riven by potential or actual bloody ethnic conflicts may now have less flexibility in reaching a workable settlement, which may unintentionally contribute to sustaining such conflicts and make it more likely that negotiators will consider excluding regional and international courts from reviewing these political settlements. Providing a clear, accessible introduction to both the political use of power-sharing settlements and the human rights law on the issue, this book is an invaluable guide to all academics, students, and professionals engaged with transitional

justice, peace agreements, and contemporary human rights law. It has long been contended that the Indian Constitution of 1950, a document in English created by elite consensus, has had little influence on India's greater population. Drawing upon the previously unexplored records of the Supreme Court of India, A People's Constitution upends this narrative and shows how the Constitution actually transformed the daily lives of citizens in profound and lasting ways. This remarkable legal process was led by individuals on the margins of society, and Rohit De looks at how drinkers, smugglers, petty vendors, butchers, and prostitutes—all despised minorities—shaped the constitutional culture. The Constitution came alive in the popular imagination so much that ordinary people attributed meaning to its existence, took recourse to it, and argued with it. Focusing on the use of constitutional remedies by citizens against new state regulations seeking to reshape the society and economy, De illustrates how laws and policies were frequently undone or renegotiated from below using the state's own procedures. De examines four important cases that set legal precedents: a Parsi journalist's contestation of new alcohol prohibition laws, Marwari petty traders' challenge to the system of commodity control, Muslim butchers' petition against cow protection laws, and sex workers' battle to protect their right to practice prostitution. Exploring how the Indian Constitution of 1950 enfranchised the largest population in the world, A People's Constitution considers the ways that ordinary citizens produced, through litigation, alternative ethical models of citizenship. During two decades encompassing three epochal events - the collapse of European communism in 1989, NATO membership in 1999, and accession to the European Union in 2004 - the legal system of Poland has emerged with remarkable maturity and stability. In an exemplary blend of its democratic heritage from the era between the World Wars, proven effective legislation from the communist era, and the vibrant 1997 Constitution, Polish law dramatically reflects new social, economic and political realities. With eleven lucid chapters written by fifteen academic experts from the Warsaw University School of Law and Administration, each in his or her respective field of law, this deeply informed but succinct and practical volume is the ideal starting point for research whenever a question of Polish law arises. The authors clearly explain the legal concepts, customs and rules surrounding such essential elements as the following:principles and practices of constitutional law;administrative law and procedure;civil procedure;courts and special judicial bodies;judicial review;enforcement of foreign judgments;family, succession and inheritance matters;formation and

conduct of corporations and partnerships;contract formation, interpretation and termination; environmental protection;harmonizing Polish economic law with EU standards; competition law and regulatory framework of market processes; special regulation of energy, telecommunications and financial markets; copyrights, patents, utility models and industrial designs; licence agreements;the labour relationship and types of employment contracts; andcriminal law and procedure. Each chapter includes its own detailed bibliography. English-speaking legal practitioners and academics have here an ideal introduction to the basic institutions, principles and rules of Polish law. Encompassing all the major fields of legal practice, Introduction to Polish Law provides an essential understanding of the Polish legal system, so that users can become familiar with law and legal processes in Poland and pursue further research on specific Polish legal matters. Practitioners will find it of great value for both counselling and courtroom use. How India's Constitution came into being and instituted democracy after independence from British rule. Britain's justification for colonial rule in India stressed the impossibility of Indian self-government. And the empire did its best to ensure this was the case, impoverishing Indian subjects and doing little to improve their socioeconomic reality. So when independence came, the cultivation of democratic citizenship was a foremost challenge. Madhav Khosla explores the means India's founders used to foster a democratic ethos. They knew the people would need to learn ways of citizenship, but the path to education did not lie in rule by a superior class of men, as the British insisted. Rather, it rested on the creation of a self-sustaining politics. The makers of the Indian Constitution instituted universal suffrage amid poverty, illiteracy, social heterogeneity, and centuries of tradition. They crafted a constitutional system that could respond to the problem of democratization under the most inhospitable conditions. On January 26, 1950, the Indian Constitution—the longest in the world—came into effect. More than half of the world's constitutions have been written in the past three decades. Unlike the constitutional revolutions of the late eighteenth century, these contemporary revolutions have occurred in countries characterized by low levels of economic growth and education, where voting populations are deeply divided by race, religion, and ethnicity. And these countries have democratized at once, not gradually. The events and ideas of India's Founding Moment offer a natural reference point for these nations where democracy and constitutionalism have arrived simultaneously, and they remind us of the promise and challenge of self-rule today. How can societies still grappling

over the common values and shared vision of their state draft a democratic constitution? This is the central puzzle of Making Constitutions in Deeply Divided Societies. While most theories discuss constitution-making in the context of a moment of revolutionary change, Hanna Lerner argues that an incrementalist approach to constitution-making can enable societies riven by deep internal disagreements to either enact a written constitution or function with an unwritten one. She illustrates the process of constitution-writing in three deeply divided societies - Israel, India and Ireland - and explores the various incrementalist strategies deployed by their drafters. These include the avoidance of clear decisions, the use of ambivalent legal language and the inclusion of contrasting provisions in the constitution. Such techniques allow the deferral of controversial choices regarding the foundational aspects of the polity to future political institutions, thus enabling the constitution to reflect a divided identity. A bold call to reclaim an American tradition that argues the Constitution imposes a duty on government to fight oligarchy and ensure broadly shared wealth. Oligarchy is a threat to the American republic. When too much economic and political power is concentrated in too few hands, we risk losing the "republican form of government" the Constitution requires. Today, courts enforce the Constitution as if it has almost nothing to say about this threat. But as Joseph Fishkin and William Forbath show in this revolutionary retelling of constitutional history, a commitment to prevent oligarchy once stood at the center of a robust tradition in American political and constitutional thought. Fishkin and Forbath demonstrate that reformers, legislators, and even judges working in this "democracy of opportunity" tradition understood that the Constitution imposes a duty on legislatures to thwart oligarchy and promote a broad distribution of wealth and political power. These ideas led Jacksonians to fight special economic privileges for the few, Populists to try to break up monopoly power, and Progressives to fight for the constitutional right to form a union. During Reconstruction, Radical Republicans argued in this tradition that racial equality required breaking up the oligarchy of slave power and distributing wealth and opportunity to former slaves and their descendants. President Franklin Roosevelt and the New Dealers built their politics around this tradition, winning the fight against the "economic royalists" and "industrial despots." But today, as we enter a new Gilded Age, this tradition in progressive American economic and political thought lies dormant. The Anti-Oligarchy Constitution begins the work of recovering it and exploring its profound implications for our deeply unequal society and badly damaged democracy.

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