

Democratic Rights The Substance Of Self Government

Martin O'Neill, Thad Williamson



Democratic Rights The Substance Of Self Government:

Democratic Rights Corey Lang Brettschneider, 2007 When the Supreme Court in 2003 struck down a Texas law prohibiting homosexual sodomy it cited the right to privacy based on the guarantee of substantive due process embodied by the Constitution But did the court act undemocratically by overriding the rights of the majority of voters in Texas Scholars often point to such cases as exposing a fundamental tension between the democratic principle of majority rule and the liberal concern to protect individual rights Democratic Rights challenges this view by showing that in fact democracy demands many of these rights Corey Brettschneider argues that ideal democracy is comprised of three core values political autonomy equality of interests and reciprocity with both procedural and substantive implications These values entitle citizens not only to procedural rights of participation e g electing representatives but also to substantive rights that a pure procedural democracy might not protect What are often seen as distinctly liberal substantive rights to privacy property and welfare can then be understood within what Brettschneider terms a value theory of democracy Drawing on the work of John Rawls and deliberative democrats such as Jürgen Habermas he demonstrates that such rights are essential components of rather than constraints on an ideal democracy Thus while defenders of the democratic ideal rightly seek the power of all to participate they should also demand the rights that are the substance of self government *Democratic Rights* Corey

Brettschneider, 2010-10-10 When the Supreme Court in 2003 struck down a Texas law prohibiting homosexual sodomy it cited the right to privacy based on the guarantee of substantive due process embodied by the Constitution But did the court act undemocratically by overriding the rights of the majority of voters in Texas Scholars often point to such cases as exposing a fundamental tension between the democratic principle of majority rule and the liberal concern to protect individual rights Democratic Rights challenges this view by showing that in fact democracy demands many of these rights Corey Brettschneider argues that ideal democracy is comprised of three core values political autonomy equality of interests and reciprocity with both procedural and substantive implications These values entitle citizens not only to procedural rights of participation e g electing representatives but also to substantive rights that a pure procedural democracy might not protect What are often seen as distinctly liberal substantive rights to privacy property and welfare can then be understood within what Brettschneider terms a value theory of democracy Drawing on the work of John Rawls and deliberative democrats such as Jürgen Habermas he demonstrates that such rights are essential components of rather than constraints on an ideal democracy Thus while defenders of the democratic ideal rightly seek the power of all to participate they should also demand the rights that are the substance of self government Democratic Theory and Mass Incarceration Albert Dzur, Ian Loader, Richard Sparks, 2016-09-26 The United States leads the world in incarceration and the United Kingdom is persistently one of the European countries with the highest per capita rates of imprisonment Yet despite its increasing visibility as a social issue mass incarceration and its inconsistency with core democratic ideals rarely surfaces in contemporary Anglo

American political theory Democratic Theory and Mass Incarceration seeks to overcome this puzzling disconnect by deepening the dialogue between democratic theory and punishment policy This collection of original essays initiates a multi disciplinary discussion among philosophers political theorists and criminologists regarding ways in which contemporary democratic theory might begin to think beyond mass incarceration Rather than viewing punishment as a natural reaction to crime and imprisonment as a sensible outgrowth of this reaction the volume argues that crime and punishment are institutions that reveal unmet demands for public oversight and democratic influence Chapters explore theoretical paths towards de carceration and alternatives to prison suggest ways in which democratic theory can strengthen recent reform movements and offer creative alternatives to mass incarceration Democratic Theory and Mass Incarceration offers guideposts for critical thinking about incarceration examining ways to rebuild crime control institutions and create a healthier more just society

Confucian Constitutionalism Sungmoon Kim,2023 In Confucian Constitutionalism Sungmoon Kim presents a constitutional theory of democratic self government that is normatively appealing and politically practicable in East Asia s historically Confucian societies which are increasingly pluralist multicultural and rights sensitive While Confucian political theorists are preoccupied with how to build a Confucianism inspired institution that would make a given polity more meritorious Kim offers a robust normative theory of Confucian constitutionalism what he calls Confucian democratic constitutionalism with special attention to value pluralism and moral disagreement Aiming to contribute to both political theory and comparative law Confucian Constitutionalism explains how Confucian democratic constitutionalism differs from and improves upon liberal legal constitutionalism political constitutionalism and Confucian meritocratic constitutionalism

Property-Owning Democracy Martin O'Neill,Thad Williamson,2014-03-03 Property Owning Democracy Rawls and Beyond features a collection of original essays that represent the first extended treatment of political philosopher John Rawls idea of a property owning democracy Offers new and essential insights into Rawls s idea of property owning democracy Addresses the proposed political and economic institutions and policies which Rawls s theory would require Considers radical alternatives to existing forms of capitalism Provides a major contribution to debates among progressive policymakers and activists about the programmatic direction progressive politics should take in the near future

Legitimacy Gap Vincent Depaigne,2017-08-25 This book provides an account and explanation of a fundamental dilemma facing secular states the legitimacy gap left by the withdrawal of religion as a source of legitimacy Legitimacy represents a particular problem for the secular state The secular in all its manifestations is very much linked to the historical rise of the modern state It should not be seen as a category that separates culture and religion from politics but rather as one that links these different dimensions In the first part of the book Depaigne explains how modern constitutional law has moved away from a substantive legitimacy based in particular on natural law towards a procedural legitimacy based on popular sovereignty and human rights Depaigne examines three case studies of constitutional responses to legitimacy challenges

which articulate the three main sources of procedural legitimacy people rights and culture in different ways the neutral model constitutions based on the displacement of culture the multicultural model constitutions based on diversity and pluralism and the asymmetric model constitutions based on tradition Even if secularization can be considered European in its origin it is best seen today as a global phenomenon which needs to be approached by taking into account the particular cultural dimension in which it is rooted Depaigne s detailed study shows how secularization has moved either towards nationalization linked to a particular national identity as in France and to some extent in India or towards de secularization whereby secularism is displaced by particular cultural norms as in Malaysia

Popular Punishment Jesper Ryberg, Julian V. Roberts, 2014 Should public opinion determine or even influence sentencing policy and practice Should the punishment of criminal offenders reflect what the public regards as appropriate These deceptively simple questions conceal complex theoretical and methodological challenges to the administration of punishment In the West politicians have often answered these questions in the affirmative penal reforms have been justified with direct reference to the attitudes of the public This is why the contention that politicians should bridge the gap between the public and criminal justice practice has widespread resonance Criminal law scholars for their part have often been more reluctant to accept public input in penal practice and some have even held that the idea of consulting public opinion constitutes a populist approach to punishment The purpose of this book is to examine the moral significance of public opinion for penal theory and practice For the first time in a single volume the editors Jesper Ryberg and Julian V Roberts have assembled a number of respected criminologists philosophers and legal theorists to address the various aspects of why and how public opinion should be reflected in the way the criminal justice system deals with criminals The chapters address the myriad complexities surrounding this issue by first weighing the justifications for incorporating public views into punishment practices and then considering the various ways this might be achieved through juries prosecutors restorative justice programs and other means

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 *Yale Law Journal: Volume 121, Number 6 - April 2012* Yale Law Journal,2012-04-26 One of the world s leading law journals is available in quality ebook formats such editions include active Contents for the issue and for individual articles linked footnotes linked cross references in notes and text active URLs in notes and proper digital presentation from the original bound edition This issue of The Yale Law Journal the 6th issue of Volume 121 academic year 2011 2012 features articles and essays by several notable scholars Principal contributors include Daryl Levinson on votes and rights Michelle Wilde Anderson on dissolving cities and Patricia Bella on WikiLeaks and national security The issue also features student contributions on elected prosecutors in legal history and on execution of the mentally retarded as an issue under section 1983 civil rights law *A Theory of Militant Democracy* Alexander S. Kirshner,2014-01-07 How should pro democratic forces safeguard representative government from anti democratic forces By granting rights of participation to groups that do not share democratic values democracies may endanger the very rights they have granted but denying these rights may also undermine democratic values Alexander Kirshner offers a set of principles for determining when one may reasonably refuse rights of participation and he defends this theory through real world examples ranging from the far right British Nationalist Party to Turkey s Islamist Welfare Party to America s Democratic Party during Reconstruction *On the People's Terms* Philip Pettit,2012-12-06 According to republican theory we are free persons to the extent that we are protected and secured in the same fundamental choices on the same public basis as one another But there is no public protection or security without a coercive state Does this mean that any freedom we enjoy is a superficial good that presupposes a deeper political form of subjection Philip Pettit addresses this crucial question in *On the People's Terms* He argues that state coercion will not involve individual subjection or domination insofar as we enjoy an equally shared form of control over those in power This claim may seem utopian but it is supported by a realistic model of the institutions that might establish such democratic control Beginning with a fresh articulation of republican ideas Pettit develops a highly original account of the rationale of democracy breathing new life into democratic theory *Constitutional Dialogue* Geoffrey Sigalet,Grégoire Webber,Rosalind Dixon,2019-05-02 Identifies how and why dialogue can describe and evaluate institutional interactions over constitutional questions concerning democracy and rights *Democracy after Virtue* Sungmoon Kim,2018-05-11 Is Confucianism compatible with democracy Ongoing debates among political theorists revolve around the question of whether the overarching goal of Confucianism serving the people s moral and material well being is attainable in modern day politics without broad democratic participation and without relying on a one person one vote system One side of the debate voiced by traditional Confucian meritocrats argues that only certain people are equipped with the moral character needed to lead and ensure broad public well being They

emphasize moral virtue over civic virtue and the family over the state as the quintessential public institution Moreover they believe that a system of rule headed by meritorious elites can better handle complex modern public affairs than representative democracy The other side voiced by Confucian democrats argues that unless all citizens participate equally in the public sphere the kind of moral growth Confucianism emphasizes cannot be fully attained Despite notable differences in political orientation scholars of both positions acknowledge that democracy is largely of instrumental value for realizing Confucian moral ends in modern society It would seem that Confucians of both types have largely dismissed democracy as a political system that can mediate clashing values and political views or even that Confucian democracy is a system marked by pluralism In this book Sungmoon Kim lays out a normative theory of Confucian democracy pragmatic Confucian democracy to address questions of the right to political participation instrumental and intrinsic values of democracy democratic procedure and substance punishment and criminal justice social and economic justice and humanitarian intervention As such this project is not only relevant to the much debated topic of Confucian democracy as a cultural alternative to Western style liberal democracy in East Asia but it further investigates the philosophical implications of the idea and institution of Confucian democracy in normative democratic theory criminal justice distributive justice and just war Ultimately Kim shows us that the question is not so much about the compatibility of Confucianism and democracy but of how the two systems can benefit from each other

Being Social Kimberley Brownlee, David Jenkins, Adam Neal, 2022-09-08 Human rights capture what people need to live minimally decent lives Recognised dimensions of this minimum include physical security due process political participation and freedom of movement speech and belief as well as more controversially for some subsistence shelter health education culture and community Far less attention has been paid to the interpersonal social dimensions of a minimally decent life including our basic needs for decent human contact and acknowledgement for interaction and adequate social inclusion and for relationship intimacy and shared ways of living as well as our competing interests in solitude and associative freedom This pioneering collection of original essays aims to remedy the neglect of social needs and rights in human rights theory and practice by exploring the social dimensions of the human rights minimum The essays subject enumerated social human rights and proposed social human rights to philosophical scrutiny and probe the conceptual normative and practical implications of taking social human rights seriously The contributors to this volume demonstrate powerfully how important this undertaking is despite the thorny theoretical and practical challenges that social rights present *Being Social* is the first in depth and polyphonic philosophical treatment of social rights qua human rights in the English language It explains how social rights are rights to participate and not only to being in society but also even more importantly it uncovers the social and interactional dimension of all human rights A must read for international human rights lawyers concerned about the critique of human rights individualism Professor Samantha Besson International Law of Institutions Chair Coll ge de France Paris Professor of Public International Law and European Law University of Fribourg

Switzerland Every human being has deep needs for sociality for contact connection intimacy inclusion recognition and community In this pioneering volume leading experts explore how social human rights can help fulfil these needs in our homes workplaces cities nations and virtual worlds Since a human life is a life with others human rights must include social rights too Leif Wenar Olive H Palmer Professor in Humanities Stanford University Confucian Political Philosophy Robert A. Carleo III, Yong Huang, 2021-11-08 This book debates the values and ideals of Confucian politics harmony virtue freedom justice order and what these ideals mean for Confucian political philosophy today The authors deliberate these eminent topics in five debates centering on recent innovative and influential publications in the field Challenging and building on those works the dialogues consider the roles of benevolence family determination public reason distributive justice and social stability in Confucian political philosophy In response the authors defend their views and evaluate their critics in turn Taking up a broad range of crucial issues autonomy liberty democracy political legitimacy human welfare these author meets critic debates will appeal to scholars interested in political comparative and East Asian philosophy Their interlaced themes weave a portrait of what is at stake in discussing Confucian values and theory Most importantly they engage and develop the state of the field of Confucian political philosophy today

Free Market Fairness John Tomasi, 2013-05-05 A provocative new vision of free market capitalism that achieves liberal ends by libertarian means Can libertarians care about social justice In Free Market Fairness John Tomasi argues that they can and should Drawing simultaneously on moral insights from defenders of economic liberty such as F A Hayek and advocates of social justice such as John Rawls Tomasi presents a new theory of liberal justice This theory free market fairness is committed to both limited government and the material betterment of the poor Unlike traditional libertarians Tomasi argues that property rights are best defended not in terms of self ownership or economic efficiency but as requirements of democratic legitimacy At the same time he encourages egalitarians concerned about social justice to listen more sympathetically to the claims ordinary citizens make about the importance of private economic liberty in their daily lives In place of the familiar social democratic interpretations of social justice Tomasi offers a market democratic conception of social justice free market fairness Tomasi argues that free market fairness with its twin commitment to economic liberty and a fair distribution of goods and opportunities is a morally superior account of liberal justice Free market fairness is also a distinctively American ideal It extends the notion prominent in America s founding period that protection of property and promotion of real opportunity are indivisible goals Indeed according to Tomasi free market fairness is social justice American style Provocative and vigorously argued Free Market Fairness offers a bold new way of thinking about politics economics and justice one that will challenge readers on both the left and right

Human Rights and Constituent Power Illan Wall, 2013-03 Engaging the current political and jurisprudential thought on constituent power with a radical political re thinking of human rights Ilan Rua Wall develops the idea that human rights must be considered as a non metaphysical process of right ing The Oxford Handbook of Citizenship Ayelet Shachar, Rainer

Bauboek, Irene Bloemraad, Maarten Vink, 2017-08-03 Contrary to predictions that it would become increasingly redundant in a globalizing world citizenship is back with a vengeance The Oxford Handbook of Citizenship brings together leading experts in law philosophy political science economics sociology and geography to provide a multidisciplinary comparative discussion of different dimensions of citizenship as legal status and political membership as rights and obligations as identity and belonging as civic virtues and practices of engagement and as a discourse of political and social equality or responsibility for a common good The contributors engage with some of the oldest normative and substantive quandaries in the literature dilemmas that have renewed salience in today's political climate As well as setting an agenda for future theoretical and empirical explorations this Handbook explores the state of citizenship today in an accessible and engaging manner that will appeal to a wide academic and non academic audience Chapters highlight variations in citizenship regimes practiced in different countries from immigrant states to non western contexts from settler societies to newly independent states attentive to both migrants and those who never cross an international border Topics include the selling of citizenship multilevel citizenship in between statuses citizenship laws post colonial citizenship the impact of technological change on citizenship and other cutting edge issues This Handbook is the major reference work for those engaged with citizenship from a legal political and cultural perspective Written by the most knowledgeable senior and emerging scholars in their fields this comprehensive volume offers state of the art analyses of the main challenges and prospects of citizenship in today's world of increased migration and globalization Special emphasis is put on the question of whether inclusive and egalitarian citizenship can provide political legitimacy in a turbulent world of exploding social inequality and resurgent populism

Reconstructing Democracy and Citizenship Education Beata Krzywosz-Rynkiewicz, Kerry J Kennedy, 2022-07-18 This book compares the current status of democracy in selected Eastern European countries The focus is on young people's attitudes towards and experiences of democracy including active political engagement In many of these countries democracy has been hard won and may well need to be defended again in the future The contributors collectively reflect on young adults exercising their civic rights and how they can influence the political system at both formal and informal levels The chapters present different issues that arise in unique contexts but overall reflect the changing status of democracy and its effects on young people's citizenship activity and education The volume compares perspectives of three groups of Eastern European countries with different traditions and past histories of democracy and citizenship Central European countries Poland Czech Hungary Baltic countries Lithuania Latvia and Estonia and post soviet republics Ukraine Moldova These countries differ in the status given to democracy citizenship action traditions and education At the same time many countries have experienced recent turbulence related to democracy and different kinds of actions by young people Comparing them leads to conclusions about omissions made in current citizenship education provision and what needs to be done for a better understanding of the needs of citizenship education in these difficult times This volume will be of interest to students and scholars in citizenship

and civic education sociology political science and Eastern European Studies **The Right of the People** Osita Nwanevu, 2025-08-12 A bold case for reimagining the American project and making American democracy real from a formidable new voice in political journalism The first thing I've read that provides a rigorous vision of how to refound this nation if we manage to survive the current threats to these core values Chris Hayes 1 New York Times bestselling author of *The Sirens Call* Frustrated with our political dysfunction wearied by the thinness of contemporary political discourse and troubled by the rise of anti democratic attitudes across the political spectrum journalist Osita Nwanevu has spent the Trump era examining the very meaning of democracy in search of answers to questions many have asked in the wake of the 2024 election Are our institutions fundamentally broken How can a country so divided govern itself Does democracy even work as well as we believe *The Right of the People* offers us challenging answers while democracy remains vital American democracy is an illusion we must make real by transforming not only our political institutions but the American economy In a text that spans democratic theory the American Founding our aging political system and the dizzying inequalities of our new Gilded Age Nwanevu makes a visionary case for a political and economic agenda to fulfill the promise of American democracy and revive faith in the American project Nearly two hundred fifty years ago the men who founded America made a fundamental break not just from their old country but from the past casting off an order that had subjugated them with worn and weak ideas for the promise of true self governance and greater prosperity in a new republic Nwanevu writes With exactly their sense of purpose and even higher more righteous ambitions for America than they themselves had we should do the same now work as hard as we can in the decades ahead to institute new Government for the benefit of all and not just the few

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