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Richard Bellamy , Jeff King
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THE CAMBRIDGE HANDBOOK OF CONSTITUTIONAL THEORY

This Handbook brings together contributions from leading scholars of constitutional theory, with backgrounds in law, philosophy and political science. Its sixty chapters not only offer an exceptional survey of the field but also provide a major contribution to it. The book explores three main areas. First, the values upheld by a constitution, including rights, freedom, equality, dignity and well-being. Second, the modalities of a constitutional system, such as the separation of powers, democratic representation and the rule of law. Finally, the institutions through which it operates, both legal and political, including courts, elections, parliaments and international organisations. It also considers the challenges confronting constitutional arrangements from growing inequality, populism, climate change and migration.

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The Cambridge Handbook of Constitutional Theory

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Bentham House Conference, 'Foundational Concepts in Constitutional Theory' held at the Faculty of Laws, University College London, 10–12 July 2019.

From Left to Right:

Front row: Jacob Levy, Nadia Urbinati, Helen Brown Coverdale, Lea Ypi, David Dyzenhaus.

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Preface and Acknowledgements

Scholarly and political reflection on constitutions and constitutionalism has undergone considerable upheaval in recent decades. Following the rights revolution in the early 1990s, faith in judicially enforced constitutional rights became widespread. Often regarded as the crowning achievement of liberal democratic government, this faith wavered as judicial review came in for trenchant and sometimes familiar critique. At the same time, various testing political storms were brewing or in full swing. These included rapid globalisation, new theatres for terrorism, worsening economic inequality, the advent of post-liberal political populism and well-founded fears about the consequences of climate and technological changes. In the midst of these developments, a tremendous amount of scholarly work has been done on the meaning and implications of a broader range of constitutional values, concepts and institutions. The preoccupation with rights and judicial review has become less all-consuming than it was, and work by constitutional lawyers has begun to tilt towards the more political features of constitutional orders. At the same time, increasingly specialised work in political theory and political science has resulted in a new degree of depth that such hedgehog-like concentration necessarily produces.

This Handbook is the result of a discussion between us that there was a need for a compendious exploration of the central and foundational concepts in constitutional government. It should reflect the broad view of the values, principles and institutions linked to constitutional government, as well as the disciplinary ecumenism that characterises our own interests. And it should be guided by the kind of intellectual openness that underlines the collaboration, given the differences between our views. Our hope is that such a Handbook will prove resourceful to students and to scholars interested in diverse and sometimes remote areas of constitutional theory. To give effect to the idea, we hatched plans for convening a gathering of an improbably high-quality group of constitutional theorists at the Faculty of Laws, UCL, for a Bentham House Conference. Held in July 2019, most of the scholars with chapters in Parts I and II of the Handbook attended, and the papers were subject to scrutiny not only by the other contributors and panellists but also by a range of other theorists based at UCL at the time. Alas, our plans to host further conferences for

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authors contributing to Parts III and IV were trounced by the advent in March 2020 of the COVID-19 pandemic. That pandemic also resulted in delays in finalising the manuscript(s) for various contributors and us editors, particularly those with school-aged children. Despite the inauspicious timing, we are immensely proud of the result. Our editorial approach was time-consuming but rewarding. We each read and commented individually on the chapters before meeting to discuss them for an hour, and later returning to authors jointly composed comments. We feel the approach helped to contribute to a very high quality volume, which we are pleased to shepherd to publication.

We owe deep debts to various persons who helped bring the project to fruition and to a close. Karolina Kopcyznska-Grobelny provided outstanding research assistance in the first two years of the project, helping us keep track of the paper flow. Ashley Denny Petch of the UCL Laws events team allowed us to hold an outstandingly well-organised conference at which everything was in good working order. We are highly indebted to colleagues at the UCL Faculty of Laws, and in particular to those who awarded us the privilege of hosting the Bentham House Conference on this topic. Their judicious advice on the application was instrumental to how the process was carried out. We would also like to thank the team at Cambridge University Press, including Finola O'Sullivan, who was our original editor for the project but who had moved on at the time the book went to press. Marianne Nield was very helpful at every stage of the process, and we appreciate the flexibility shown about the inevitable delays resulting from the COVID-19 pandemic.

We would also like to thank the scholars who participated in the July 2019 Bentham House Conference but who did not contribute chapters to the volume. These persons chaired sessions or commented on papers by contributing authors. They include T. R. S. Allan, Kimberlee Brownlee, Helen Coverdale, Amanda Greene, Jeffrey Howard, Prince Saprai, Adam Swift, Kevin Toh, Paul Tucker and Albert Weale. They were a vital part of the brain trust for those crucial two days.

We single out in particular the extraordinary contribution of Cosmin Vraciu, whose assistance in the second half of the project was crucial for moving it forwards and getting it over the line. He copy-edited every chapter in the volume and made dozens of valuable observations and suggestions which only the most discerning reader would notice. The precise form of the final volume depends, in no small part, on his rare combination of critical judgment and tireless attention to detail.

Jeff King would like to thank the Leverhulme Trust, whose Philip Leverhulme Prize funded teaching relief that was critical in completing this volume; the UCL Faculty of Laws for a relevant period of sabbatical leave, and for its superb collegiality and support for parents; and in particular his wife and eternal collaborator Julika Erfurt, whose wisdom guides any of his successful pursuits. He offers no apologies to his children for suffering his absence, because they rightly suffered none. Richard Bellamy thanks both the European University Institute, where he was Director

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of the Max Weber Programme at the time of the Bentham Conference, and the Political Science department at UCL, for providing funds for both the conference and for research assistance with the volume. He is also grateful as ever to Sandra Kröger for her forbearance and intellectual and emotional support over the course of the editorial marathon required to bring this project to fruition.

Richard Bellamy & Jeff King
London, October 2023

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