

# Shaping Us Military Law Governing A Constitutional Military Justice International Law And Global Security

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## Military Law Review

### Military Review 2016

**Shaping US Military Law** Joshua E. Kastenberg 2016-04-01 Since the United States' entry into World War II, the federal judiciary has taken a prominent role in the shaping of the nation's military laws. Yet, a majority of the academic legal community studying the relationship between the Court and the military establishment argues otherwise providing the basis for a further argument that the legal construct of the military establishment is constitutionally questionable. Centering on the Cold War era from 1968 onward, this book weaves judicial biography and a historic methodology based on primary source materials into its analysis and reviews several military law judicial decisions ignored by other studies. This book is not designed only for legal scholars. Its intended audience consists of Cold War, military, and political historians, as well as political scientists, and, military and national security policy makers. Although the book's conclusions are likely to be favored by the military establishment, the purpose of this book is to accurately analyze the intersection of the later twentieth century's American military, political, social, and cultural history and the operation of the nation's armed forces from a judicial vantage.

**The George W. Bush Foreign Policy Reader** John W. Dietrich 2005-03-22 Supporters and critics of George W. Bush agree that the foreign policy of his administration has made a significant break with precedent and that its effects will be felt for decades to come. This carefully edited collection assembles the president's most important policy statements on issues including the war on terrorism; Iraq; global warming; and relations with countries in Europe, Asia, Latin America, Africa, and the Middle East. Each topical chapter opens with an original essay providing background history and information, tracing Bush's policy choices, and highlighting key policy debates. The book presents a balanced portrait of the 43rd president's actions and motivations, so that readers can reach their own judgments on his administration's policies and their implications for future U.S. policy.

**The Evolution of U. S. Military Policy from the Constitution to the Present** Sean M. Zeigler 2020-06-30 The authors show that there is no such thing as a "traditional" U.S. military policy. Rather, the laws that authorize, empower, and govern the U.S. armed forces emerged from long-standing debates and legislative compromises between 1903 and 1940.

**In a Time of Total War** Joshua E. Kastenberg 2016-03-17 This book is a judicial, military and political history of the period 1941 to 1954. As such, it is also a United States legal history of both World War II and the early Cold War. Civil liberties, mass conscription, expanded military jurisdiction, property rights, labor relations, and war crimes arising from the conflict were all issues to come before the federal judiciary during this period and well beyond since the Supreme Court and the lower courts heard appeals from the government's wartime decisions well into the 1970s. A detailed study of the judiciary during World War II evidences that while the majority of the justices and judges determined appeals partly on the basis of enabling a large, disciplined, and reliable military to either deter or fight a third world war, there was a recognition of the existence of a tension between civil rights and liberties on the one side and military necessity on the other. While the majority of the judiciary tilted toward national security and deference to the military establishment, the judiciary's recognition of this tension created a foundation for persons to challenge governmental narrowing of civil and individual rights after 1954. Kastenberg and Merriam present a clearer picture as to why the Court and the lower courts determined the issues before them in terms of external influences from both national and world-wide events. This book is also a study of civil-military relations in wartime so whilst legal scholars will find this study captivating, so will military and political historians, as well as political scientists and national security policy makers.

**The Evolution of U.S. Military Policy from the Constitution to the Present, Volume II** Sean M. Zeigler 2020-06-23 Tracing the evolution of the U.S. Army throughout American history, the authors of this four-volume series show that there is no such thing as a "traditional" U.S. military policy. Rather, the laws that authorize, empower, and govern the U.S. armed forces emerged from long-standing debates and a series of legislative compromises between 1903 and 1940. Volume II focuses on the laws enacted in the early 20th century that transformed the Army.

**A Confederate in Congress** Joshua E. Kastenberg 2016-10-14 In May 1865, the final month of the Civil War, the U.S. Army arrested and prosecuted a sitting congressman in a military trial in the border state of Maryland, though the federal criminal courts in the state were functioning. Convicted of aiding and abetting paroled Confederate soldiers, Benjamin Gwinn Harris of Maryland's Fifth Congressional District was imprisoned and barred from holding public office. Harris was a firebrand--effectively a Confederate serving in Congress--and had long advocated the constitutionality of slavery and the right of states to secede from the Union. This first-ever book-length analysis of the unusual trial examines the prevailing opinions in Southern Maryland and in the War Department regarding slavery, treason and the Constitution's guarantee of property rights and freedom of speech.

### Encyclopedia of U.S. Political History 2009

**Democratic Republic of Congo** Congressional Research Service 2017-03-05 War and humanitarian suffering in the Democratic Republic of Congo (DRC) have long preoccupied U.S. policymakers, including many Members of Congress. Since the 1990s, cyclical conflicts in eastern DRC have caused regional instability and impeded investment, becoming the focus of international attention toward the country. Since 2015, attention has turned toward DRC's political trajectory as President Joseph Kabila's efforts to remain in office past the end of his second elected term in 2016 (his last, under the constitution) have sparked unrest. Unable for now to amend constitutional term limits as other regional leaders have done, Congolese officials have delayed elections on various grounds, asserting that Kabila must remain in power in the meantime. In December 2016, under significant domestic and international pressure (including from the United States), the ruling party and opposition agreed to form a unity government and hold elections in 2017. However, the details and feasibility of implementation are in question. DRC has never experienced an electoral transfer of power between presidential administrations. In the east, political elites have displayed limited capacity or will to improve security and state administration, while neighboring states have periodically provided support to DRC-based rebel groups. In 2013, DRC and neighboring states agreed to a regional peace framework, and later that year, the Congolese military--backed by a United Nations (U.N.) "Intervention Brigade"--defeated a relatively formidable Rwandan-backed rebel group known as the M23. Despite a subsequent peace process between the government and the M23, however, rebel combatants were never fully demobilized, and some appeared to be reorganizing as of early 2017. New armed groups have also emerged in the central Kasai region, a political opposition stronghold. The United States has provided significant development aid, security assistance, and emergency humanitarian assistance to DRC, and is the largest financial contributor to the U.N. peacekeeping operation in DRC, MONUSCO. As a permanent, veto-capable member of the U.N. Security Council, the United States has shaped the scope of MONUSCO's mandate and of a U.N. sanctions regime. In 2016, for the first time, the United States issued unilateral targeted sanctions against several DRC government and military officials. The United States furthermore wields influence over the decisions of international financial institutions, from which the DRC government has requested budget support amid a recent economic downturn. Starting in 2013, the Obama Administration maintained a U.S. Special Envoy for the Great Lakes region, reporting to the Secretary of State, a position held by two former Members of Congress. Whether, and at what level, the envoy position might continue under the Trump Administration remains to be seen. Congress has helped shape U.S. policy toward DRC through legislation and oversight activities, often focusing on human rights and democracy issues. In the 114th Congress, the House and Senate, respectively, passed resolutions calling for punitive measures to deter President Kabila from clinging to power. Congress has also restricted certain types of aid to countries that, like DRC, have child soldiers in their military), although the Obama Administration largely waived such restrictions for DRC. Between 2012 and 2014, the Obama Administration suspended some military aid to Rwanda, citing its support for the M23 rebel group, consistent with both the child soldiers law and provisions in foreign aid appropriations measures at the time. Members of the 114th Congress separately focused significant attention on the DRC government's decision in 2013 to suspend its issuance of exit permits for internationally adopted children. Members continue to debate the impact of the Dodd-Frank Wall Street Reform and Consumer Protection Act regarding "conflict minerals" sourced in DRC and neighboring states

**The Ashgate Research Companion to Military Ethics** James Turner Johnson 2016-03-23 This Companion provides scholars and graduates, serving and retired military professionals, members of the diplomatic and policy communities concerned with security affairs and legal professionals who deal with military law and with international law on armed conflicts, with a comprehensive and authoritative state-of-the-art review of current research in the area of military ethics. Topics in this volume reflect both perennial and pressing contemporary issues in the ethics of the use of military force and are written by established professionals and respected commentators. Subjects are organized by three major perspectives on the use of military force: the decision whether to use military force in a given context, the matter of right conduct in the use of such force, and ethical responsibilities beyond the end of an armed conflict. Treatment of issues in each of these sections takes account of both present-day moral challenges and new approaches to these and the historical tradition of just war. Military ethics, as it has developed, has been a particularly Western concern and this volume reflects that reality. However, in a globalized world, awareness of similarities and differences between Western approaches and those of other major cultures is essential. For this reason the volume concludes with chapters on ethics and war in the Islamic, Chinese, and Indian traditions, with the aim of integrating reflection on these approaches into the broad consideration of military ethics provided by this volume.

**Encyclopedia of U.S. Political History** Andrew Robertson 2010-04-01 Encyclopedia of U.S. Political History explores the events, policies, activities, institutions, groups, people, and movements that have created and shaped political life in the United States. With contributions from scholars in the fields of history and political science, this seven-volume set provides students, researchers, and scholars the opportunity to examine the political evolution of the United States from the 1500s to the present day. With greater coverage than any other resource, the Encyclopedia of U.S. Political History identifies and illuminates patterns and interrelations that will expand the reader's understanding of American political institutions, culture, behavior, and change. Focusing on both government and history, the Encyclopedia brings exceptional breadth and depth to the topic with more than 100 essays for each of the critical time periods covered.

**Iraq Chibli Mallat 2009** Distinguished international scholar Chibli Mallat draws from his two-decade long experience with US policy-makers and Iraqi leaders for this breakthrough text. Iraq: Guide to Law and Policy offers timely coverage and incisive analysis of the American-Iraq experience in war and nation-building--examining the successes and failures of the law and policy implemented since the 2003 change of regime in Iraq. An essential tool for understanding the issues and choices required for well-informed policy decisions, Iraq: Guide to Law and Policy features: The creation of the Iraqi constitution--with a set of article-by-article commentaries, a special focus on the resulting electoral laws and the amendment process Up-to-date coverage of all areas of Iraqi policy, ranging from international law, oil and the economy to the constitution, security, and the judiciary. Thoughtful analysis of past mistakes, current choices and opportunities, and tactical and strategic courses of action in Iraq An ideal complement for courses on constitutional, international, or comparative law, Iraq: Guide to Law and Policy offers fascinating insight for anyone interested in the historical and contemporary issues, law, and policy that shape Iraq and the future of US- Iraqi relations.

**The Law as it Could Be** Owen Fiss 2003-10 The Law As It Could Be gathers Fiss's most important work on procedure, adjudication and public reason, introduced by the author and including contextual introductions for each piece--some of which are among the most cited in Twentieth Century legal studies. Fiss surveys the legal terrain between the landmark cases of *Brown v. Board of Education* and *Bush v. Gore* to reclaim the legal legacy of the Civil Rights Movement. He argues forcefully for a vision of judges as instruments of public reason and of the courts as a means of shaping society in the image of the Constitution. In building his argument, Fiss attends to topics as diverse as the use of the injunction to restructure social institutions; how law and economics have misunderstood the role of the judge; why the movement seeking alternatives to adjudication fails to serve the public interest; and why *Bush v. Gore* was not the constitutional crisis some would have us believe. In so doing, Fiss reveals a vision of adjudication that vindicates the public reason on which *Brown v. Board of Education* was founded.

**Japan's Contested Constitution** Glenn D. Hook 2001 "As the Constitutional Research Councils begin their deliberations, this timely book brings together for the first time, in English translation, four of the major proposals on constitutional reform. These are the proposals of the Yomiuri and Asahi newspaper groups, one of Japan's major publishing houses, Iwanami, and Ozawa Ichiro, president of the Liberal Party of Japan and a key player in Japanese politics. Hook and McCormack place these documents in their historical and contemporary context, providing a thorough analysis of their significance in the development of thought on the constitution." "Japan's Contested Constitution: Documents and Analysis presents extensive analysis of the evolution of constitutional government in Japan and examines differing interpretations of key clauses in the constitution. It is a resource for anyone with an interest in modern Japan, its politics, law and its international role."--BOOK JACKET.

### Professional Journal of the United States Army 1997

**The Meiji Constitution** Kazuhiro Takii 2007 "This book is a detailed examination of the intellectual and cultural history that gave birth to Japan's Meiji Constitution at the end of the nineteenth century. In this book, the author employs a cross-cultural perspective to analyze how modern Western ideas of constitutional government were assimilated and adapted by the newly established Meiji state. Japan's leaders had witnessed the piecemeal devouring of Qing-dynasty China by the Western powers, and were determined that Japan should not suffer the same fate. they staked the future of their nation on a concerted effort to understand the political and legal structures that appeared to be the source of the strength and dynamism of Western civilization. The author relates how key leaders of Meiji Japan experienced the west through fact-finding missions and extended overseas travel and research and show how their international experience shaped the policies and character of the nation that they helped build. He looks beyond the constitution as a legal document and demonstrates how its architects used it and the supplementary laws and institutions supporting it to catalyze the emergence of a modern nation-state." -- BOOK JACKET.

**Law Without Nations?** Jeremy A. Rabkin 2005 What authority does international law really have for the United States? When and to what extent should the United States participate in the international legal system? This forcefully argued book by legal scholar Jeremy Rabkin provides an insightful new look at this important and much-debated question. Americans have long asked whether the United States should join forces with institutions such as the International Criminal Court and sign on to agreements like the Kyoto Protocol. Rabkin argues that the value of international agreements in such circumstances must be weighed against the threat they pose to liberties protected by strong national authority and institutions. He maintains that the protection of these liberties could be fatally weakened if we go too far in ceding authority to international institutions that might not be zealous in protecting the rights Americans deem important. Similarly, any cessation of authority might leave Americans far less attached to the resulting

hybrid legal system than they now are to laws they can regard as their own. Law without Nations? traces the traditional American wariness of international law to the basic principles of American thought and the broader traditions of liberal political thought on which the American Founders drew: only a sovereign state can make and enforce law in a reliable way, so only a sovereign state can reliably protect the rights of its citizens. It then contrasts the American experience with that of the European Union, showing the difficulties that can arise from efforts to merge national legal systems with supranational schemes. In practice, international human rights law generates a cloud of rhetoric that does little to secure human rights, and in fact, is at odds with American principles, Rabkin concludes. A challenging and important contribution to the current debates about the meaning of multilateralism and international law, Law without Nations? will appeal to a broad cross-section of scholars in both the legal and political science arenas.

**HAIR AND JUSTICE** Carmen M. Cusack 2015-11-03 Hair and Justice discusses criminal acts, deviance, rebellion, and power in contexts demonstrating that hair is an intricate and important issue and piece of evidence in criminal justice, constitutional law, and public policy. The book demonstrates that the significance of hair in society is relative, in flux, and constantly being debated. The text argues that members of a culture and society share perceptions about hair that may be misunderstood or judged by outsiders and authorities. The book presents dozens of cases in which eyewitnesses have described perpetrators' and defendants' hair. However, eyewitness testimony is often unreliable and the value given to it may conflict with or further shape the extent to which society will tolerate misunderstandings or misperceptions about hair. Major sections include: religion; evidence; institutions; head shaving; gangs; animals; authority and power; crimes; Fourth Amendment; regulation, codes, and licenses; politics; and education. This very unique book will be a valuable resource for students and professionals in sociology, law, law enforcement, psychology, gang studies, criminal justice, criminology, social science, public administration, and related areas of study.

**Is It Treason? Or Not?** Susan M. Wendler 2015-06-19 With hostilities between political parties deepening and wars becoming more complex, it can be a challenge understanding what constitutes treason under the United States Constitution. Even if an action shocks you down to your red-white-and-blue bones, it doesn't mean it's really treason. It could be a lesser felony or not a crime at all. This book clarifies and simplifies what it means to commit a treasonable offense by examining what the Constitution states, what judges have decided, and how current events are shaping attitudes about treason. Excerpts from the Declaration of Independence, the U.S. Constitution, the Federalist Papers, the U.S. Code, Supreme Court Chief Justice John Marshall's famous Aaron Burr court opinion, and an examination of the case against abolitionist John Brown provide a deep understanding of the issue. Whether it's people leaving the United States to fight with terrorists, multinational corporations siding with foreign governments on important issues, or politicians yielding some of the nation's sovereign authority to international governing bodies, it's becoming increasingly important to know Is it Treason? Or Not?

**Law and the Shaping of the American Labor Movement** William E. Forbath 1991-05 Why did American workers, unlike their European counterparts, fail to forge a class-based movement to pursue broad social reform? Was it simply that they lacked class consciousness and were more interested in personal mobility? In a richly detailed survey of labor law and labor history, William Forbath challenges this notion of American "individualism." In fact, he argues, the nineteenth-century American labor movement was much like Europe's labor movements in its social and political outlook, but in the decades around the turn of the century, the prevailing attitude of American trade unionists changed. Forbath shows that, over time, struggles with the courts and the legal order were crucial to reshaping labor's outlook, driving the labor movement to temper its radical goals.

**The Power of Habeas Corpus in America** Anthony Gregory 2013-04-15 Despite its mystique as the greatest Anglo-American legal protection, habeas corpus' history features power plays, political hypocrisy, ad hoc jurisprudence, and failures in securing individual liberty. This book tells the story of the writ from medieval England to modern America, crediting the rocky history to the writ's very nature as a government power. The book weighs in on habeas' historical controversies - addressing its origins, the relationship between king and parliament, the US Constitution's Suspension Clause, the writ's role in the power struggle between the federal government and the states, and the proper scope of federal habeas for state prisoners and wartime detainees from the Civil War and World War II to the War on Terror. It stresses the importance of liberty and detention policy in making the writ more than a tool of power. The book presents a more nuanced and critical view of the writ's history, showing the dark side of this most revered judicial power.

**The Age of Deference** David Rudenstine 2016-07-20 In October 1948-one year after the creation of the U.S. Air Force as a separate military branch-a B-29 Superfortress crashed on a test run, killing the plane's crew. The plane was constructed with poor materials, and the families of the dead sued the U.S. government for damages. In the case, the government claimed that releasing information relating to the crash would reveal important state secrets, and refused to hand over the requested documents. Judges at both the U.S. District Court level and Circuit level rejected the government's argument and ruled in favor of the families. However, in 1953, the Supreme Court reversed the lower courts' decisions and ruled that in the realm of national security, the executive branch had a right to withhold information from the public. Judicial deference to the executive on national security matters has increased ever since the issuance of that landmark decision. Today, the government's ability to invoke state secrets privileges goes unquestioned by a largely supine judicial branch. David Rudenstine's The Age of Deference traces the Court's role in the rise of judicial deference to executive power since the end of World War II. He shows how in case after case, going back to the Truman and Eisenhower presidencies, the Court has ceded authority in national security matters to the executive branch. Since 9/11, the executive faces even less oversight. According to Rudenstine, this has had a negative impact both on individual rights and on our ability to check executive authority when necessary. Judges are mindful of the limits of their competence in national security matters; this, combined with their insulation from political accountability, has caused them in matters as important as the nation's security to defer to the executive. Judges are also afraid of being responsible for a decision that puts the nation at risk and the consequences for the judiciary in the wake of such a decision. Nonetheless, The Age of Deference argues that as important as these considerations are in shaping a judicial disposition, the Supreme Court has leaned too far, too often, and for too long in the direction of abdication. There is a broad spectrum separating judicial abdication, at one end, from judicial usurpation, at the other, and The Age of Deference argues that the rule of law compels the court to re-define its perspective and the legal doctrines central to the Age.

**Essential Supreme Court Decisions** John R. Vile 2014-03-21 Revised and now in its 16th edition, Essential Supreme Court Decisions: Summaries of Leading Cases in U.S. Constitutional Law is the most up-to-date and historically thorough guide to the American Supreme Court's most monumental rulings available today. The Supreme Court grapples every day with issues fundamental to our democracy - from religious expression to freedom of speech to cruel and unusual punishment rulings. Terrorism, profiling, same-sex marriage, police stop-and-search statutes, voting rights and our personal right to privacy, and recent landmark rulings regarding all of these issues are analyzed in this edition, showing us the modern iterations of debates that have raged in some shape or form in America throughout its history.

**Undeclared War** Edward Keynes 1982 "During the 20th century," this book contends, "aggressive Presidents and supine Congresses have transformed the President's constitutional authority to defend the nation against attack into a virtually unlimited power to initiate undeclared war and military hostilities." New theories therefore are needed to guide Congress, President, and courts in future struggles over the distribution of the war powers. White House spokesmen since the Truman administration have reiterated a constitutional theory that confers inherent power on the President to dispatch and commit armed forces without congressional approval or consultation. This tendency was not reversed by congressional attempts to limit presidential warmaking following the Vietnam War; it was encouraged by the Federal courts' position in Vietnam cases that only "prolonged, irreconcilable legislative-executive conflict should serve as an invitation to judicial intervention in war-powers controversies." A major feature of the book is a thorough analysis of all the legal challenges to the President's conduct of the Vietnam War. The Vietnam cases are examined in light of British constitutional history, the framing, of the American Constitution, and judicial decisions from 1800 through the Korean War. This analysis furnishes the basis for the author's contention that the Supreme Court has led the nation into the "twilight zone of concurrent power"--encouraging "the legislature and the executive to fuse their separate powers of war and defense into a national war power whose only standard is the extraconstitutional one of success on the battlefield." In the modern era of guerrilla wars, national liberation movements, and police actions, the author recognizes the inadequacy of traditional distinctions between defensive and offensive wars upon which the Framers of the American Constitution divided the congressional war powers from the office of commander in Chief. Keynes concludes that, although the courts can play a limited role in restraining presidential power to conduct undeclared war, only Congress can effectively limit the President's conduct by insisting on a prior consensus regarding military intervention.

**Factors Shaping Japan's Foreign Policy Toward the Senkaku Islands - Chinese Encroachments and Domestic Japanese Politics, Leaders Koizumi, Abe, Ishihara and Noda, Constitution and International Law** U. S. Military 2018-06-13 China's behavior regarding the Senkaku Islands has evolved from civilian fishing vessels entering territorial waters around the Islands to military vessels showing force in the region. Japan's usual response to China's behavior had been non-aggressive and proportional to China's actions. Such use of diplomacy, combined with minimal improvements to defense capabilities, can be labeled as cooperative engagement. But China's recent escalatory behavior has caused the Japanese government to change to a competitive, hard-hedge form of engagement, with greater focus on defense capabilities than on policy. This study argues that individual Japanese political leaders, domestic constraints, and international law have encouraged this moderate but significant shift of Japanese Senkakus policy toward more aggressive engagement. I. INTRODUCTION \* A. SINO-JAPANESE CONDITIONS \* 1. Chinese Encroachments \* 2. Benign Interactions \* 3. Japan's Institutional Interactions \* B. DOMESTIC POLITICS: INTEREST GROUPS AND POLITICAL LEADERS \* C. DOMESTIC CONSTRAINTS ON MILITARY POWER \* D. INTERNATIONAL LAW \* E. CONCLUSION \* II. POLITICAL LEADERS \* A. KOIZUMI \* B. ABE \* C. ISHIHARA AND NODA \* D. CONCLUSION \* III. DOMESTIC CONSTRAINTS \* A. CONSTITUTIONAL REINTERPRETATION \* 1. Gulf War (1990) \* 2. Anti-terrorism Special Measures Law (2001) \* 3. Iraq Reconstruction (2004-2006) \* 4. Collective Self Defense \* B. NATIONAL DEFENSE PROGRAM GUIDELINES \* C. CONCLUSION \* IV. INTERNATIONAL LAW \* A. INTRODUCTION \* B. CHINESE PERSPECTIVE \* C. JAPANESE PERSPECTIVE \* D. TERRITORIAL CASE STUDY \* E. CONCLUSION \* V. FINAL CONCLUSION

**Constitutional Law for a Changing America** Lee Epstein 2019-01-09 A host of political factors—both internal and external—influence the Court's decisions and shape the development of constitutional law. Among the more significant forces at work are the ways lawyers and interest groups frame legal disputes, the ideological and behavioral propensities of the justices, the politics of judicial selection, public opinion, and the positions that elected officials take, to name just a few. Combining lessons of the legal model with the influences of the political process, Constitutional Law for a Changing America shows how these dynamics shape the development of constitutional doctrine. The Tenth Edition offers rigorous, comprehensive content in a student-friendly manner. With meticulous revising and updating throughout, best-selling authors Lee Epstein and Thomas G. Walker streamline material while accounting for new scholarship and recent landmark cases—including key opinions handed down through the 2018 judicial session. Well-loved features keep students engaged by offering a clear delineation between commentary and opinion excerpts, a "Facts" and "Arguments" section before every case, a superb photo program, "Aftermath" and "Global Perspective" boxes, and a wealth of tables, figures, and maps. Students will walk away with an understanding that Supreme Court cases involve real people engaged in real disputes and are not merely legal names and citations.

**The Constitution and the Future of Criminal Justice in America** John T. Parry 2013-08-26 The Future of Criminal Justice in America brings together leading scholars from law, psychology, and criminology to address timely and important topics in U.S. criminal justice. The book tackles cutting-edge issues related to terrorism, immigration, and transnational crime, and to the increasingly important connections between criminal law and the fields of social science and neuroscience. It also provides critical new perspectives on intractable problems such as the right to counsel, race and policing, and the proper balance between security and privacy. By putting legal theory and doctrine into a concrete and accessible context, the book will advance public policy and scholarly debates alike. This collection of essays is appropriate for anyone interested in understanding the current state of criminal justice and its future challenges.

**Civil-military Relations in Israel** Yehuda Ben-Meir 1995 In Civil-Military Relations in Israel, Yehuda Ben Meir examines the reasons preventing Israel from becoming a "garrison state." A former deputy minister for foreign affairs and longtime member and analyst of the Israeli political scene, Ben Meir is uniquely qualified to give a behind-the-scenes picture of the intimate relationship between Israel's civilian and military leaders. Civil-Military Relations in Israel examines the changing face of the military over the years from an idealistic defense force to a professional army. Ben Meir also views the great divisiveness in Israeli politics as a threat to the unified strength of purpose that in the past characterized the nation's civil authority, and he examines present and future threats to continued civilian control of the military. The book also delves into the legal and constitutional foundations of Israel's civil-military relations, providing a valuable perspective on the organization and role of the current defense establishment, as well as the informal relationship between the key players in the system. In addition, Ben Meir pinpoints the areas in which the military is involved in key political decision making. Despite continuing efforts to resolve the pattern of violence and conflict in the Middle East, the long-standing hostility between Arab and Jew in the region is unlikely to disappear in the near future. And as long as such animosity lingers, Israel's military will remain a strong force in Israeli politics.

**Massacre in Minnesota** Gary Clayton Anderson 2019-10-17 In August 1862 the worst massacre in U.S. history unfolded on the Minnesota prairie, launching what has come to be known as the Dakota War, the most violent ethnic conflict ever to roil the nation. When it was over, between six and seven hundred white settlers had been murdered in their homes, and thirty to forty thousand had fled the frontier of Minnesota. But the devastation was not all on one side. More than five hundred Indians, many of them women and children, perished in the aftermath of the conflict; and thirty-eight Dakota warriors were executed on one gallows, the largest mass execution ever in North America. The horror of such wholesale violence has long obscured what really happened in Minnesota in 1862—from its complicated origins to the consequences that reverberate to this day. A sweeping work of narrative history, the result of forty years' research, Massacre in Minnesota provides the most complete account of this dark moment in U.S. history. Focusing on key figures caught up in the conflict—Indian, American, and Franco- and Anglo-Dakota—Gary Clayton Anderson gives these long-ago events a striking immediacy, capturing the fears of the fleeing settlers, the animosity of newspaper editors and soldiers, the violent dedication of Dakota warriors, and the terrible struggles of seized women and children. Through rarely seen journal entries, newspaper accounts, and military records, integrated with biographical detail, Anderson documents the vast corruption within the Bureau of Indian Affairs, the crisis that arose as pioneers overran Indian lands, the failures of tribal leadership and institutions, and the systemic strains caused by the Civil War. Anderson also gives due attention to Indian cultural viewpoints, offering insight into the relationship between Native warfare, religion, and life after death—a nexus critical to understanding the conflict. Ultimately, what emerges most clearly from Anderson's account is the outsize suffering of innocents on both sides of the Dakota War—and, identified unequivocally for the first time, the role of white duplicity in bringing about this unprecedented and needless calamity.

**Congress Resurgent** Randall B. Ripley 1993 An exploration of Congress's role in shaping American foreign policy

**Terrorism and the Limitation of Rights** Stefan Sottiaux 2008-02-29 Taking as a starting point the widely accepted view that states confronted with terrorism must find a proper equilibrium between their respective obligations of preserving fundamental rights and fighting terrorism effectively, this book seeks to demonstrate how the design and enforcement of a human rights instrument may influence the result of that exercise. An attempt is made to answer the question how a legal order's approach to the limitation of rights may shape decision-making trade-offs between the demands of liberty and the need to guarantee individual and collective security. In doing so, special attention is given to the difference between the adjudicative methods of balancing and categorisation. The book challenges the conventional wisdom that individual rights, in times of crisis, are better served by the application of categorical rather than flexible models of limitation. In addition, the work considers the impact of a variety of other factors, including the discrepancies in enforcing an international convention as opposed to a national constitution and the use of emergency provisions permitting derogations from human rights obligations in time of war or a public emergency. The research questions are addressed through a comparative study of the terrorism-related restrictions on five fundamental rights protected under the European Convention on Human Rights and the United States Constitution: the right to freedom of expression, the right to freedom of association, the right to personal liberty, the right to privacy, and the right to a fair trial. The book offers both a theoretical account of the paradoxical relationship between terrorism and human rights and a comprehensive comparative survey of the major decisions of the highest courts on both sides of the Atlantic.

**Pursuing Moral Warfare** Marcus Schulzke 2019-03-01 During combat, soldiers make life-and-death choices dozens of times a day. These individual decisions accumulate to determine the outcome of wars. This work examines the theory and practice of military ethics in counterinsurgency operations. Marcus Schulzke surveys the ethical traditions that militaries borrow from; compares ethics in practice in the US Army,

British Army and Royal Marines Commandos, and Israel Defense Forces; and draws conclusions that may help militaries refine their approaches in future conflicts. The work is based on interviews with veterans and military personnel responsible for ethics training, review of training materials and other official publications, published accounts from combat veterans, and observation of US Army focus groups with active-duty soldiers. Schulzke makes a convincing argument that though military ethics cannot guarantee flawless conduct, incremental improvements can be made to reduce war's destructiveness while improving the success of counterinsurgency operations.

Legislating the War on Terror Benjamin Wittes 2010-02-01 The events of September 11 and subsequent American actions irrevocably changed the political, military, and legal landscapes of U.S. national security. Predictably, many of the changes were controversial, and abuses were revealed. The United States needs a legal framework that reflects these new realities. Legislating the War on Terror presents an agenda for reforming the statutory law governing this new battle, balancing the need for security, the rule of law, and the constitutional rights that protect American freedom. The authors span a considerable swath of the political spectrum, but they all believe that Congress has a significant role to play in shaping the contours of America's confrontation with terrorism. Their essays are organized around the major tools that the United States has deployed against al Qaeda as well as the legal problems that have arisen as a result. • Mark Gitenstein compares U.S. and foreign legal standards for detention, interrogation, and surveillance. • Matthew Waxman studies possible strategic purposes for detaining people without charging them, while Jack Goldsmith imagines a system of judicially reviewed law-of-war detention. • Robert Chesney suggests ways to refine U.S. criminal law into a more powerful instrument against terrorism. • Robert Litt and Wells C. Bennett suggest the creation of a specialized bar of defense lawyers for trying accused terrorists in criminal courts. • David Martin explores the relationship between immigration law and counterterrorism. • David Kris lays out his proposals for modernizing the Foreign Intelligence Surveillance Act. • Justin Florence and Matthew Gerke outline possible reforms of civil justice procedures in national security litigation. • Benjamin Wittes and Stuart Taylor Jr. investigate ways to improve interrogation laws while clarifying the definition and limits of torture. • Kenneth Anderson argues for the protection of targeted killing as a counterterrorism tool. How should Congress authorize, regulate, and limit counterterrorism tools, and under what circumstances should it permit and encourage their use? The authors of this book share a commitment to pushing a reluctant Congress to play a more active role than it has to date in writing the rules of the road.

To Raise and Discipline an Army Joshua Kastenberg 2017-04-15 Major General Enoch Crowder served as the Judge Advocate General of the United States Army from 1911 to 1923. In 1915, Crowder convinced Congress to increase the size of the Judge Advocate General's Office—the legal arm of the United States Army—from thirteen uniformed attorneys to more than four hundred. Crowder's recruitment of some of the nation's leading legal scholars, as well as former congressmen and state supreme court judges, helped legitimize President Woodrow Wilson's wartime military and legal policies. As the United States entered World War I in 1917, the army numbered about 120,000 soldiers. The Judge Advocate General's Office was instrumental in extending the military's reach into the everyday lives of citizens to enable the construction of an army of more than four million soldiers by the end of the war. Under Crowder's leadership, the office was responsible for the creation and administration of the Selective Service Act, under which thousands of men were drafted into military service, as well as enforcement of the Espionage Act and wartime prohibition. In this first published history of the Judge Advocate General's Office between the years of 1914 and 1922, Joshua Kastenberg examines not only courts-martial, but also the development of the laws of war and the changing nature of civil-military relations. The Judge Advocate General's Office influenced the legislative and judicial branches of the government to permit unparalleled assertions of power, such as control over local policing functions and the economy. Judge advocates also altered the nature of laws to recognize a person's diminished mental health as a defense in criminal trials, influenced the assertion of US law overseas, and affected the evolving nature of the law of war. This groundbreaking study will appeal to scholars, students, and general readers of US history, as well as military, legal, and political historians.

Shaping Constitutional Values Neal Devins 1996 In the more than twenty years since *Roe v. Wade*, the executive and legislative branches of government have pursued a staggering number of initiatives relating to abortion. In this groundbreaking study, legal scholar Neal Devins shows how the Supreme Court, elected government, and private citizens together help to shape what the Constitution means. Central to his study is the question of how the Court and elected government influence each other. In addition to the abortion debate, Devins examines conflicts over federalism, race, religion, and separation of powers. These constitutional disputes, Devins contends, can be as constructive as they are inevitable. Without an ongoing dynamic that allows each side to win some of the time, Devins concludes, the Constitution would be less enduring.

The Constitution of Freedom Andrés Sajó 2017-10-26 Constitutional democracy is more fragile and less "natural" than autocracy. While this may sound surprising to complacent democrats, more and more people find autocracy attractive, because they were never forced to understand or imagine what despotism is. Generations who have lived in stabledemocracies with the promise that their enviable world will become the global "normal" find government rule without constitutionalism difficult to conceive. It is difficult, but never too late, to see one's own constitutional system as something that is fragile, or up for grabs and in need of constant attention and care. In this book, Andras Sajo and Renata Uitz explore how constitutionalism protects us and how it might be undone by its own means. Sajo and Uitz's intellectual history of the constitutional ideal is rich in contextual detail and informed by case studies that give an overview of both the theory and practice of constitutionalism worldwide. Classic constitutions are contrasted with twentieth-century and contemporary endeavours, and experimentations in checks and balances. Their endeavour is neither apologetic (and certainly not celebratory), nor purely defensive: this book demonstrates why constitutionalism should continue to matter. Between the rise of populist, anti-constitutional sentiment and the normalization of the apparatus of counter-terrorism, it is imperative that the political communities who seek to sustain democracy as freedom understand the importance of constitutionalism. This book is essential reading for students of law and general readers without prior knowledge of the field, as well as those in politics who believe they know how government works. It shows what is at stake in the debate on constitutionalism.

Shaping US Military Law Joshua E. Kastenberg 2016-04-01 Since the United States' entry into World War II, the federal judiciary has taken a prominent role in the shaping of the nation's military laws. Yet, a majority of the academic legal community studying the relationship between the Court and the military establishment argues otherwise providing the basis for a further argument that the legal construct of the military establishment is constitutionally questionable. Centering on the Cold War era from 1968 onward, this book weaves judicial biography and a historic methodology based on primary source materials into its analysis and reviews several military law judicial decisions ignored by other studies. This book is not designed only for legal scholars. Its intended audience consists of Cold War, military, and political historians, as well as political scientists, and, military and national security policy makers. Although the book's conclusions are likely to be favored by the military establishment, the purpose of this book is to accurately analyze the intersection of the later twentieth century's American military, political, social, and cultural history and the operation of the nation's armed forces from a judicial vantage.

State Security in South Africa James Michael Roherty 1992 This book is a study of civil-military relations in the Republic of South Africa during the period when Pieter Willem Botha was prime minister (1977-89). The author's thesis is that Prime Minister Botha, recognizing that his country had reached the historical juncture when it needed to establish a new political order encompassing all its diverse peoples, moved effectively to prepare the ground for fundamental constitutional change. What was needed above all were stabilization measures to assure the support of the white population for reform. Botha used the South African Defense Force as his primary instrument. By 1989, Professor Roherty maintains, a striking degree of stabilization had been achieved within the country and throughout southern Africa. The groundwork for epochal change had been prepared. The author makes use of exclusive interviews with scores of South Africans from the political, military, intelligence, corporate, and business worlds.

Liberalism and American Constitutional Law Rogers M. Smith 1985 'A major work in the field of American political and legal philosophy. Smith analyzes the liberal goals of the framers of the Constitution and the weaknesses of their political thought...This book will undoubtedly be the focus of debate in scholarly and legal circles for years to come...It is a work of grand scholarship.' -Thomas A. Karel, *Law Books in Review*