

JACK M. BALKIN

*Living*  
Originalism

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**Jack M. Balkin**



**By Jack M Balkin *Living Originalism* Reprint Paperback:**

*Living Originalism* Jack M. Balkin, 2011-11-29 Originalism and living constitutionalism often seen as opposing views are not in conflict So argues Jack Balkin a leading constitutional scholar in this long awaited book Step by step Balkin shows how both liberals and conservatives play important roles in constitutional construction and offers a way past the angry polemics of our era

*An Argument Open to All* Sanford Levinson, 2015-11-24 In *An Argument Open to All* renowned legal scholar Sanford Levinson takes a novel approach to what is perhaps America's most famous political tract Rather than concern himself with the authors as historical figures or how *The Federalist* helps us understand the original intent of the framers of the Constitution Levinson examines each essay for the political wisdom it can offer us today In eighty five short essays each keyed to a different essay in *The Federalist* he considers such questions as whether present generations can rethink their constitutional arrangements how much effort we should exert to preserve America's traditional culture and whether *The Federalist's* arguments even suggest the desirability of world government

**The Second Creation** Jonathan Gienapp, 2018-10-09 Americans widely believe that the U S Constitution was almost wholly created when it was drafted in 1787 and ratified in 1788 Jonathan Gienapp recovers the unknown story of the Constitution's second creation in the decade after its adoption a story with explosive implications for current debates over constitutional originalism and interpretation

*Washington's Heir* Gerard N. Magliocca, 2022 Washington's Heir is the first published biography of Bushrod Washington George Washington's nephew and a Supreme Court Justice for over thirty years Justice Washington is one of the most underrated Founding Fathers He was Chief Justice John Marshall's right hand man in establishing the authority of the Supreme Court and wrote many influential opinions defining the fundamental rights of citizens and the structure of the Constitution Justice Washington's remarkable life story and his secret journal shed new light on George Washington John Marshall the Constitution and America's ongoing struggle to overcome its flaws and become a more perfect union

**Red, White, and Blue** Mark V. Tushnet, 2015-06-12 The first paperback edition of a classic of American constitutional theory The book is divided into two parts In Part I Professor Tushnet appraises the five major competing grand theories of constitutional law and interpretation and argues that none of them satisfy their own requirements for coherence and judicial constraint In Part II the author offers a descriptive sociology of constitutional doctrine and raises critical questions as to whether a grand theory is necessary is it possible to construct a coherent useful grand theory and is construction of an uncontroversial grand theory possible Professor Tushnet's new Afterword is organized in parallel fashion to the original text Part I offers a new survey of the contemporary terrain of constitutional interpretation Part II provides an extended discussion of the most prominent of contemporary efforts to provide an external analysis of constitutional law the idea of regime politics This includes discussion of major court decisions including *Bush v Gore* and *Citizens United*

*American Covenant* Philip Gorski, 2019-06-25 The long battle between exclusionary and inclusive versions of the American story Was America founded

as a Christian nation or a secular democracy Neither argues Philip Gorski in *American Covenant* What the founders envisioned was a prophetic republic that would weave together the ethical vision of the Hebrew prophets and the Western political heritage of civic republicanism In this eye opening book Gorski shows why this civil religious tradition is now in peril and with it the American experiment *American Covenant* traces the history of prophetic republicanism from the Puritan era to today providing insightful portraits of figures ranging from John Winthrop and W E B Du Bois to Jerry Falwell Ronald Reagan and Barack Obama Featuring a new preface by the author this incisive book demonstrates how half a century of culture war has drowned out the quieter voices of the vital center and demonstrates that if we are to rebuild that center we must recover the civil religious tradition on which the republic was founded *Memory and Authority* Jack M.

Balkin,2024-02-27 From one of the nation s preeminent constitutional scholars a sweeping rethinking of the uses of history in constitutional interpretation Fights over history are at the heart of most important constitutional disputes in America The Supreme Court s current embrace of originalism is only the most recent example of how lawyers and judges try to use history to establish authority for their positions Jack M Balkin argues that fights over constitutional interpretation are often fights over collective memory Lawyers and judges construct and erase memory to lend authority to their present day views they make the past speak their values so they can then claim to follow it The seemingly opposed camps of originalism and living constitutionalism are actually mirror images of a single phenomenon how lawyers use history to adapt an ancient constitution to a constantly changing world Balkin shows how lawyers and judges channel history through standard forms of legal argument that shape how they use history and even what they see in history He explains how lawyers and judges invoke history selectively to construct authority for their claims and undermine the authority of opposing views And he elucidates the perpetual quarrel between historians and lawyers showing how the two can best join issue in legal disputes This book is a sweeping rethinking of the uses of history in constitutional interpretation **Democracy and Dysfunction** Sanford

Levinson,Jack M. Balkin,2019-04-16 It is no longer controversial that the American political system has become deeply dysfunctional Today only slightly more than a quarter of Americans believe the country is heading in the right direction while sixty three percent believe we are on a downward slope The top twenty words used to describe the past year include chaotic turbulent and disastrous Donald Trump s improbable rise to power and his 2016 Electoral College victory placed America s political dysfunction in an especially troubling light but given the extreme polarization of contemporary politics the outlook would have been grim even if Hillary Clinton had won The greatest upset in American presidential history is only a symptom of deeper problems of political culture and constitutional design *Democracy and Dysfunction* brings together two of the leading constitutional law scholars of our time Sanford Levinson and Jack M Balkin in an urgently needed conversation that seeks to uncover the underlying causes of our current crisis and their meaning for American democracy In a series of letters exchanged over a period of two years Levinson and Balkin travel along with the rest of the country through the convulsions

of the 2016 election and Trump's first year in office. They disagree about the scope of the crisis and the remedy required. Levinson believes that our Constitution is fundamentally defective and argues for a new constitutional convention, while Balkin, who believes we are suffering from constitutional rot, argues that there are less radical solutions. As it becomes dangerously clear that Americans and the world will be living with the consequences of this pivotal period for many years to come, it is imperative that we understand how we got here and how we might forestall the next demagogue who will seek to beguile the American public.

*Religious Liberty and the American Founding* Vincent Phillip Muñoz, 2024-05-31. An insightful rethinking of the meaning of the First Amendment's protection of religious freedom. The Founders understood religious liberty to be an inalienable natural right. Vincent Phillip Muñoz explains what this means for church-state constitutional law, uncovering what we can and cannot determine about the original meanings of the First Amendment's Religion Clauses and constructing a natural rights jurisprudence of religious liberty. Drawing on early state constitutions, declarations of religious freedom, Founding-era debates, and the First Amendment's drafting record, Muñoz demonstrates that adherence to the Founders' political philosophy would lead neither to consistently conservative nor consistently liberal results. Rather, adopting the Founders' understanding would lead to a minimalist church-state jurisprudence that in most cases would return authority from the judiciary to the American people. Thorough and convincing, *Religious Liberty and the American Founding* is key reading for those seeking to understand the Founders' political philosophy of religious freedom and the First Amendment Religion Clauses.

*Framed* Sanford Levinson, 2012-04-03. In *Framed*, Levinson challenges our belief that the most important features of our constitutions concern what rights they protect. Instead, he focuses on the fundamental procedures of governance, such as congressional bicameralism, the selection of the President by the electoral college, or the dimensions of the President's veto power, not to mention the near impossibility of amending the United States Constitution. These seemingly settled and hardwired structures contribute to the now almost universally recognized dysfunctionality of American politics. Levinson argues that we should stop treating the United States Constitution as uniquely exemplifying the American constitutional tradition. We should be aware of the 50 state constitutions, often interestingly different and perhaps better than the national model. Many states have updated their constitutions by frequent amendment or by complete replacement via state constitutional conventions. California's ungovernable condition has prompted serious calls for a constitutional convention. This constant churn indicates that basic law often reaches the point where it fails and becomes obsolete. Given the experience of so many states, he writes, surely it is reasonable to believe that the U.S. Constitution merits its own updating.

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