



Balancing Constitutional Rights: The Origins and Meanings of Postwar Legal Discourse (Cambridge Studies in Constitutional Law)

Jacco Bomhoff

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The language of balancing is pervasive in constitutional rights jurisprudence around the world. In this book, Jacco Bomhoff offers a comparative and historical account of the origins and meanings of this talismanic form of language, and of the legal discourse to which it is central. Contemporary discussion has tended to see the increasing use of balancing as the manifestation of a globalization of constitutional law. This book is the first to argue that 'balancing' has always meant radically different things in different settings. Bomhoff uses detailed case studies of early post-war US and German constitutional jurisprudence to show that the same unique language expresses both biting scepticism and profound faith in law and adjudication, and both deep pessimism and high aspirations for constitutional rights. An understanding of these radically different meanings is essential for any evaluation of the work of constitutional courts today.



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