

# CONTENTS

<i>Acknowledgments</i>	page xi
<i>Table of constitutions</i>	xiii
<i>Table of cases</i>	xiv
1 Human dignity and public law	1
1.1 Dignity's dilemma	3
1.2 The antinomy of public law	10
1.3 Dignity's dimensions	14
1.4 Dignity: the concept and the word	23
<b>PART I The normative dimension</b>	<b>35</b>
2 Authority, justice, and public law	37
2.1 Hart's middle path	41
2.2 The principle of authority	47
2.3 The principle of justice	57
2.4 Between anarchism and quietism	65
3 Public authority and private violence	76
3.1 Radbruch and Alexy on the limits of legality	78
3.2 The pathologies of public law	86
3.3 The public meaning of the principle of authority	91
3.4 The barbarism of Nazi power	99
4 Toward public justice	108
4.1 Rawls on ideal and nonideal theory	109

4.2	Hart's reformist project	116
4.3	Public justice as an ideal and as a duty	119
4.4	Progress and particularity	127
	<b>PART II The constitutional dimension</b>	<b>135</b>
5	The modern constitutional state	137
5.1	The problem of accountability	141
5.2	A new form of government	147
5.3	Assessing commonwealth constitutionalism	160
5.4	A reply to Waldron	167
	<b>PART III The doctrinal dimension</b>	<b>177</b>
6	Constitutional reform	179
6.1	The rise of eternity clauses	184
6.2	Against the basic structure doctrine	193
6.3	Eternity clauses: a justification	200
6.4	Defending constituent power	205
7	The moral structure of proportionality	215
7.1	Constitutional conflicts	218
7.2	Proportionality as a justificatory sequence	223
7.3	Alexy and his critics	234
7.4	Rights as trumps: an alternative?	245
	Conclusion: public law in postwar theory and practice	253
	<i>Bibliography</i>	272
	<i>Index</i>	294