Fidelity to Our Imperfect Constitution: For Moral Readings and Against Originalisms

Professor James Fleming's latest book published by Oxford University Press.

In recent years, some have asked "Are we all originalists now?" and many have assumed that originalists have a monopoly on concern for fidelity in constitutional interpretation. In Fidelity to Our Imperfect Constitution, James Fleming rejects originalisms—whether old or new, concrete or abstract, living or dead. Instead, he defends what Ronald Dworkin called a "moral reading" of the United States Constitution, or a "philosophic approach" to constitutional interpretation. He refers to conceptions of the Constitution as embodying abstract moral and political principles—not codifying concrete historical rules or practices—and of interpretation of those principles as requiring normative judgments about how they are best understood—not merely historical research to discover relatively specific original meanings.

Through examining the spectacular concessions that originalists have made to their critics, he shows the extent to which even they acknowledge the need to make normative judgments in constitutional interpretation. Fleming argues that fidelity in interpreting the Constitution as written requires a moral reading or philosophic approach. Fidelity commits us to honoring our aspirational principles, not following the relatively specific original meanings (or original expected applications) of the founders. Originalists would enshrine an imperfect Constitution that does not deserve our fidelity. Only a moral reading or philosophic approach, which aspires to interpret our imperfect Constitution so as to make it the best it can be, gives us hope of interpreting it in a manner that may deserve our fidelity.

Praise for Fidelity to Our Imperfect Constitution

"Fleming picks up the torch laid down by the late great Ronald Dworkin as the leading champion of a moral reading of the Constitution. He is a worthy successor."
— Michael C. Dorf, Robert S. Stevens Professor of Law, Cornell University Law School

"This remarkable book is a powerful statement of Fleming's moral reading of the Constitution and an excellent guide to contemporary constitutional theory."
— Jack M. Balkin, Knight Professor of Constitutional Law and the First Amendment, Yale Law School

"The book is a welcome elucidation of neo-Dworkinian constitutional analysis, from a generous and thoughtful critic of our seeming rush to the false comfort of the authority of the Constitution's framers."
— Robin West, Frederick Haas Professor of Law, Georgetown University Law Center

About the Author:

Join us September 24 for a symposium celebrating Professor Fleming's book (/law/events/upcoming/#Fidelity).

Fidelity to Our Imperfect Constitution, by James Fleming

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- [Constitution Day Symposium celebrating Fidelity to Our Imperfect Constitution (/law/events/upcoming/#Fidelity)](/law/events/upcoming/#Fidelity)
- [Fidelity to Our Imperfect Constitution](https://global.oup.com/academic/product/fidelity-to-our-imperfect-constitution-9780199793372?cc=us&lang=en&)
- [Constitutional Interpretation: The Basic Questions](https://global.oup.com/academic/product/constitutional-interpretation-9780195328585?cc=us&lang=en&)

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