

**NICHOLAS BARBER**  
**PROFESSOR OF CONSTITUTIONAL LAW AND THEORY**

**PUBLICATION LIST**

*Books (sole author)*

1. The United Kingdom Constitution: An Introduction (Oxford University Press, Clarendon Law Series, 2021)

‘Nicholas Barber's excellent new book is published at a time of great flux in the constitution of the United Kingdom. The book is wide ranging in its approach; it covers all of the main dimensions of the constitution in a relatively modest 360 pages, and it does so in a multi-layered approach that combines empirical exposition, doctrinal analysis, theoretical sophistication and carefully argued critical reflection.... [T]he book can be described as a measured reflection by a senior academic, pausing after a number of years of study and scholarship, to offer a considered overview of his subject. In applying himself to this task Barber wears his not inconsiderable erudition lightly, but it is very much evident in the subtlety and exactness of his prose. In Barber's precise but engaging style I was reminded of Bernard Crick's *In Defence of Politics*; the quality of the writing bears such a comparison.’ *Stephen Tierney, I-CONnect*

‘Hardly surprising, given its author, that this is a truly excellent introduction to the UK Constitution [...] I strongly recommend this book.’ *Mark Tushnet, Balkinization*

2. The Principles of Constitutionalism (Oxford University Press, 2018)

Short-listed for the Inner Temple Book Prize, 2022.

‘Nick Barber's book is part of an ambitious project to present a conceptual account of the state and the principles which should govern its functioning. His account is highly sophisticated and shows great sensitivity to the ways in which the constitutional order operates in practice, and how different elements of it impact on each other’ *Philip Sales, Justice of the Supreme Court of the United Kingdom, The American Journal of Jurisprudence*

‘In his latest book, *The Principles of Constitutionalism*, Nick Barber offers readers a distinctive, philosophically grounded account of constitutionalism. Recognizing that constitutionalism is an important but slippery concept, Barber presents an analysis of constitutionalism rooted in the theory of the state ... Barber has presented a fascinating contribution to the literature on constitutionalism that moves the debate forward by credibly reconceptualizing many of the key issues. The focus on empowered and effective constitutional government, rooted in a positive theory of the state, is coherently presented and at times compelling. That is more than enough to recommend *The Principles of Constitutionalism* to any reader interested in constitutional theory.’ *Edward Willis, Journal of Legal Philosophy*

'Barber's account of these principles is a pleasure to read. The book is elegantly written, immensely learned and brimming with insight. It can serve as a sophisticated yet highly readable introduction to fundamental principles. At the same time, it also makes a forthright contribution to constitutional theory by seeking to reorient scholarship away from a mistaken 'negative' understanding of constitutionalism towards a 'positive' understanding.' *Adrienne Stone and Lael K Weis, The Oxford Journal of Legal Studies*

'I find Barber's approach compelling, and I think that he has made a significant contribution to constitutional theory' *Timothy Endicott, The American Journal of Jurisprudence*

'Barber's book is a fine instance of constitutional scholarship that is sensitive to the purposes of the state, understood as the moral need for state structures to realize justice in community. It provides excellent insights about the law's role in facilitating the self-direction of those it empowers, by delimiting their scope of action.' *Maris Köpcke Tinturé, The American Journal of Jurisprudence*

'*The Principles of Constitutionalism* is in my view one of the most important works in constitutional theory in recent decades. For a political theorist, one of its principal virtues lies in its taking very seriously indeed the role that political institutions perform in ensuring that the state can perform its main function, that of promoting the well-being of its citizenry. Thus, on Barber's view, institutions such as those of civil society, that have been left out of the modern accounts of constitutionalism of which I am aware, are here part of the constitutional armature of the modern state. And so are not just the *principles* of democracy, but also the *institutions* of democracy, institutions such as those of the political representative, and of the political party.' *Daniel Weinstock, The Jerusalem Review of Legal Studies*

'a worthy successor to A.V. Dicey's classic, *Introduction to the Study of the Law of the Constitution*' *Malcolm Feeley, The Jerusalem Review of Legal Studies*

'*The Principles of Constitutionalism* is an ambitious magnificent book' *Rivka Weill, The Jerusalem Review of Legal Studies*

'[S]ubtle, intricate, stimulating and powerfully argued study of constitutional principle. This fine book will be essential reading for anyone working in constitutional theory for many years to come.' *Richard Ekins, Law Quarterly Review*

'Si tratta di un altro contributo importante alla teoria costituzionale e dello Stato, capace di coniugare in maniera brillante filosofia politica, storia e diritto pubblico.' [Another important contribution to constitutional theory, brilliantly combining political philosophy, history, and public law.] *Luigi Lacche, Giornale di storia costituzionale.*

'Capace di spaziare oltre l'analisi strettamente giuridica, Barber si conferma come autore versatile, in grado di arricchire la propria argomentazione con elementi di psicologia sociale, teoria dei giochi e analisi economica del diritto. Rispetto a quest'ultimo punto è da segnalare il suo sapiente uso dei meccanismi della mano invisibile, cui è dedicata anche una brillante appendice.' [Able to range beyond strictly legal analysis, Barber confirms himself as a versatile author, enriching his argument with elements of social psychology, game theory, and economic analysis of law. With respect to this last point, it is worth mentioning his wise use of the mechanisms of the invisible hand, to which a brilliant appendix is dedicated.] *Francesco Pipicella, Teoria e Critica Della Regolazione Sociale* (forthcoming).

### 3. The Constitutional State (Oxford University Press, 2010)

Short-listed for the Peter Birks Prize 2011.

‘Boy, if there ever were a book that would have merited the ‘fast track’ this would be it [...] What Barber does so successfully and so importantly and so refreshingly is to focus, first and foremost, on society, on the social, on sociality – on the human context in which and on which constitutionalism takes its grip. It presents as a result a much more interesting interplay between is and ought in thinking of constitutionalism and the state.’ *Joseph Weiler, The European Journal of International Law*

‘In his thought-provoking *The Constitutional State*, Nick Barber sets out to explain a social and political reality by attending to the reasons which call for its existence, and to show how some core defining features of that reality render it capable of responding to those reasons...it is a knowledgeable, wide-ranging and inspiring contribution, in particular thanks to a skillful and effective use of examples that help translate abstract points into real-life concerns without loss in argumentative power.’ *Maris Köpcke Tinturè, The American Journal of Jurisprudence*

‘The *Constitutional State* is unfailingly intelligent and provocative, and should be welcomed by students of constitutional theory, constitutional law, political science, and legal philosophy [...] The book's breadth and interdisciplinarity leads to many unexpected discoveries. [The book includes an] opening chapter that addresses methodology in constitutional theory - a free-standing essay that ought to be required reading for any serious student of constitutional theory’ *Bradley Miller, Constitutional Commentary*

‘Barber's success can be ascribed in part to his care and attention in outlining what he is doing, and why [...] By applying the methods and sources of traditional Oxford jurisprudence to constitutional theory, Barber potentially does the discipline a much-needed favour. In the clarity of its aims, its arguments and its conclusions, the book lays down a marker.’ *Paul Scott, Edinburgh Law Review*

‘...*The Constitutional State* represents a major addition to legal and constitutional theory because of its originality.’ *Agustin Jose Menendez, Political Studies Review*

‘The author provides a constitutional theory of the state grounded in a particular conception of social rules, which is ultimately derived from H.L.A. Hart's work (particularly *The Concept of Law*) but with significant modifications. Some of these are due to the influence of John Finnis (and ultimately of Aristotle), especially in relation to the ethical evaluation of legal and political institutions. Despite these influences, this is much more than merely a synthesis of others' views but is, instead, an important and provocative contribution to the analysis of the state, constitutional law and constitutional conventions.’ *John O'Dowd, The Irish Jurist*

#### *Books (Edited Collections)*

### 1. The Rise and Fall of the European Constitution (edited with M. Cahill and R. Ekins) (Hart Publishing, 2019)

‘[T]his “ripe” collection of recollections and reflections on the most essential and controversial issues that let the EU's constitutional moment be bygone presents an inspiring, critical and yet affirmative account on the rise and resurgence of the European Constitution.’ *Andriy Tyushka, Journal of Common Market Studies*

‘[W]orthwhile reading not only by EU law and political science scholars, but also by a broader public.’  
*Jacques Ziller Common Market Law Review*

2. Lord Sumption and the Limits of the Law (edited with R. Ekins and P. Yowell)  
(Hart Publishing, 2015)

‘...this is a stimulating and provocative book. The informed and penetrating discussion of the issues will be of great interest to lawyers generally, particularly to those concerned with public law.’  
*Sir Anthony Mason Hong Kong Law Journal*

‘...a rich feast of disagreements... [The] commentary advances the human rights debate at a time when the continuation of the 1998 constitutional settlement is no longer assured.’  
*Jonathan Morgan Law Quarterly Review*

*Articles*

1. In Defence of the Common Good (2023) *American Journal of Jurisprudence* (forthcoming)
2. Peoples, Principles, and Finality (2021) *American Journal of Jurisprudence* 145
3. Sovereignty, Parties, and Principles: A Partial Reply (2021) 23 *Jerusalem Review of Legal Studies* 113
4. Populist Leaders and Political Parties (2019) *German Law Journal* 129
5. Reflections on *Miller* (with J. King and T. Hickman) in D. Clarry (ed), *Supreme Court Yearbook 2018*
6. Situating Subsidiarity (with Richard Ekins) (2016) 61 *American Journal of Jurisprudence* 5
7. The Exceptional Role of the Courts in the Constitutional Order (with Adrian Vermeule) (2016) *Notre Dame Law Review* 817
8. Why Entrench? (2016) 14 *International Journal of Constitutional Law* 325
9. The Significance of the Common Understanding in Legal Theory (2016) *Oxford Journal of Legal Studies* 799

10. Constitutionalism: Negative and Positive (2015) *Dublin University Law Review* 249
11. Self-Defence for Institutions (2013) 72 *Cambridge Law Review* 555
12. The Separation of Powers in the British Constitution (in Russian) (2012) *Law: The Journal of the Higher School of Economics* 3
13. The Afterlife of Parliamentary Sovereignty (2011) *International Journal of Constitutional Law* 144
14. Laws and Constitutional Conventions (2009) 125 *Law Quarterly Review* 294
15. Against a Written Constitution (2008) *Public Law* 11
16. The Constitution, The State and The European Union (2007) *Cambridge Yearbook of European Studies* 37
17. Legal Pluralism and the European Union (2006) *European Law Journal* 306
18. The Limited Modesty of Subsidiarity (2005) *European Law Journal* 308
19. Subsidiarity in the Draft Constitution (2005) *European Public Law* 197
20. Must Legalistic Conceptions of the Rule of Law Have a Social Dimension? (2004) *Ratio Juris* 474
21. The *Rechtsstaat* and the Rule of Law (2003) *University of Toronto Law Journal* 443
22. The Rise of Prospective Henry VIII Clauses and their Implications for Sovereignty (with Alison L. Young) (2003) *Public Law* 112
23. Citizenship, Nationalism and the European Union (2002) *European Law Review* 241
24. Prelude to the Separation of Powers (2001) 60 *Cambridge Law Journal* 59
25. Sovereignty Re-examined: The Courts, Parliament and Statutes (2000) 21 *Oxford Journal of Legal Studies* 130

## *Chapters*

1. Why Precedent Works in T. Endicott, H. Kristjansson, S. Lewis (eds), *Philosophical Foundations of Precedent* (Oxford University Press 2023)
2. Accommodation and Resolution in the Good Constitution in Vicki Jackson and Yasmin Dawood (eds), *Constitutionalism and a Right to Effective Government* (Cambridge University Press 2022)
3. Entrenchment in R Bellamy and J King (eds), *The Cambridge Handbook of Constitutional Theory* (Cambridge University Press 2022)
4. The Point of the State and the Point of Public Law in E. Fisher, J. King, and A. L. Young (eds), *The Fundamentals and Future of Public Law* (Oxford University Press 2019)
5. The Two Europes in N. W. Barber, M. Cahill, and R. Ekins (eds), *The Rise and Fall of the European Constitution* (Hart Publishing 2019)
6. Legal Inconsistency and the Emergence of States in H. P. Glenn and L. Smith (eds), *Law and the New Logics* (Cambridge University Press 2016)
7. Legal Realism, Pluralism, and Their Challengers in Ulla Neergaard and Ruth Nielsen (eds), *European Legal Method – towards a New European Legal Realism?* (DJOEF Publishing 2013)
8. Suwerennosc Panstw a Relacje : Prawo Europejskie - Narodowe Konstytucje (in Polish) in D. Bunikowskiego and K. Dobrzenieckiego (eds), *Pluralizm Pranwny: Tradycja, Transformacje, Wyzwania* (Torun Press 2009), 207
9. A Right to Privacy? in K. Ziegler ed., *Human Rights, Private Law and Privacy*, (2006 Oxford: Hart Publishing), 67
10. Citizenship, Nationalism, and the European Union in M. Inglesias ed. *Globalisation, Democracy and Citizenship* (2003 Berlin: Humbolt)

## *Book Reviews and Case-notes*

1. The Constitution of China: A Contextual Analysis (2013) 129 *Law Quarterly Review* 132

2. *The New Separation of Powers* (2011) *Public Law* 482
3. Two Meditations on the Thoughts of Many Minds (2009-2010) 88 *Texas Law Review* 807
4. *The Sovereignty of Law* (2008) 68 *Cambridge Law Journal* 426
5. *The Paradox of Constitutionalism* (2008) 124 *Law Quarterly Review* 160
6. Professor Loughlin's Idea of Public Law (2005) *Oxford Journal of Legal Studies* 157
7. State Liability Under *Francovich* for Decisions of National Courts (with Helen Scott) (2004) 120 *Law Quarterly Review* 403
8. *European Constitutionalism Beyond the State* (2004) *Public Law* 195
9. A Right to Privacy? (2003) *Public Law* 602
10. Parliamentary Immunity and Human Rights (2003) 119 *Law Quarterly Review* 557
11. A Question of Taste (2002) 118 *Law Quarterly Review* 530
12. The Academic Mythologists (2001) 22 *Oxford Journal of Legal Studies* 369
13. The Doctrine of State Necessity and Revolutionary Legality in Fiji (2001) 117 *Law Quarterly Review* 370
14. Political Libels in New Zealand (with Alison L. Young) (2001) 117 *Law Quarterly Review* 175
15. The Doctrine of State Necessity in Pakistan (2000) 116 *Law Quarterly Review* 569
16. *Recrafting the Rule of Law* (2000) 116 *Law Quarterly Review* 332
17. Privacy and the Police: *Ex. p. A.B.* (1998) *Public Law* 15

*Internet Publications*

1. Efficient Secrets Podcast: Constitutions, Human Rights, Democracy (2022) Oxford Constitutional Studies Forum
2. Essay Writing: One Secret and Three Tips (2022) The Law Prof
3. Norms and Narratives in the Constitution of the United Kingdom (2022) CEU Democracy Institute Podcast
4. Panel Discussion on Written Constitution (2022) The UK in a Changing Europe
5. Forward (Public Law) (2021) The Oxford Undergraduate Law Journal
6. After Parliamentary Sovereignty (2020) Putney Debates
7. Verfassungsblog Interview (2020) Verfassungsblog
8. Playing Hardball with the Queen (2019) Oxford Human Rights Hub
9. Prorogation, Prerogative, and the Supreme Court (2019) Harvard Law Review Blog
10. The Legal Academic in the Internet Age (2017) United Kingdom Constitutional Law Association Blog United Kingdom Constitutional Law Association Blog
11. In Defence of Miller (with Jeff King) (2016) United Kingdom Constitutional Law Blog
12. Pulling the Article 50 'Trigger': Parliament's Indispensable Role (with Jeff King and Tom Hickman) (2016) United Kingdom Constitutional Law Association Blog (accessed over 200,000 times and triggered the *Miller* litigation)
13. The Brexiteers: Right Answer, Wrong Question (2016) International Journal of Constitutional Law Blog
14. 'Institutional Cures for Cognitive Ailments' (2015) The New Rambler
15. If Scotland Had Voted Yes... (2014) *United Kingdom Constitutional Law Blog*
16. After the Vote: The Citizenship Question (2014) *United Kingdom Constitutional Law Blog*



17. After the Vote: Regulating Future Referendums (2014) *United Kingdom Constitutional Law Blog*
18. After the Vote: If Scotland Votes Yes (2014) *United Kingdom Constitutional Law Blog*
19. Can Royal Assent Be Refused on the Advice of the Prime Minister? (2013) *United Kingdom Constitutional Law Blog*
20. The Constitutional Inheritance of the Royal Baby: A Speculation (2013) *United Kingdom Constitutional Law Blog*
21. Does China Enjoy Greater Legitimacy Than Any Western State? (2012) *United Kingdom Constitutional Law Blog*
22. House of Lords Reform: A Look in the Long Grass (2012) *United Kingdom Constitutional Law Blog*
23. The Virtues of Advisory Referendums (2012) *United Kingdom Constitutional Law Blog*
24. Scottish Independence and the Role of the United Kingdom (2012) *United Kingdom Constitutional Law Blog*
25. The Sophick Constitution (2012) *United Kingdom Constitutional Law Blog*
26. A Good Word for the Bill of Rights Commission (2011) *United Kingdom Constitutional Law Blog*
27. The Decline of Mercy (2011) *United Kingdom Constitutional Law*
28. The Special Advisor Who Wasn't (2011) *United Kingdom Constitutional Law Blog*

## **OXFORD APPOINTMENTS**

### *Current*

- 2019- Associate Dean (Research)
- 2017- Professor of Constitutional Law and Theory

- 2015- Co-director, Programme for the Foundations of Constitutional Law and Government.
- 2002 - Fellow, Trinity College, Oxford (and C.U.F. Lecturer in Law)

*Previous*

- 2021-2022 Vice-President, Trinity College
- 2014-2017 Associate Professor
- 2013-2014 Director of Exchange Programs for the Oxford Law Faculty
- 2010-2013 Member of Law Board
- 2009-2010 Dean, Trinity College. Responsible for student discipline.
- 2007-2013 Chair, Management Committee of the Institute for European and Comparative Law
- 2005-2007 Member of the Law Faculty's Graduate Studies Committee.
- 1998-2002 Fellow, Brasenose College, Oxford
- 1996-1998 Lecturer, Exeter College, Oxford

**QUALIFICATIONS**

- 1995 Called to the Bar
- 1993 BCL Oxford, Pass
- 1992 BA (Jurisprudence) Oxford, First Class (Converted to MA, 1997)

## **REPRESENTATIVE LECTURES AND WORKSHOPS (FROM 2011 TO PRESENT)**

1. Dutch Constitutional Law Association, 2<sup>nd</sup> December 2023, Keynote Address
2. University of Barcelona, 20<sup>th</sup> April 2023, ‘Changes in the UK Constitution’ and ‘What is Constitutional Ideology?’
3. Portuguese Supreme Court, 3<sup>rd</sup> March 2023, ‘Separation of Powers’
4. Université Paris II-Panthéon Assas, 2<sup>nd</sup> June 2022, ‘Dicey and the Rule of Law’
5. Strathmore University, Kenya, 12<sup>th</sup> March 2019, ‘Written Constitutions’
6. Harvard University, May 2<sup>nd</sup> 2019, panel on constitutionalism
7. Hong Kong University, September 8<sup>th</sup> 2018, ‘Legal Pluralism and Constitutional Pluralism’
8. Brisbane University, September 1<sup>st</sup> 2018, ‘Parliamentary Sovereignty’
9. Renmin University, Beijing, 5<sup>th</sup> September 2015, ‘Magna Carta’
10. Hebrew University, Jerusalem, 2<sup>nd</sup> June 2015, ‘Constitutionalism’
11. Trinity College Dublin, 15<sup>th</sup> November 2014, ‘Constitutionalism’
12. International Association of Constitutional Lawyers, University of Oslo, June 16<sup>th</sup> 2014, ‘Separation of Powers’
13. Harvard University, 12<sup>th</sup> March 2014, ‘Self-Defence for Institutions’
14. United Kingdom Constitutional Law Group, University College London, 17<sup>th</sup> January 2014, ‘Constitutional Developments of 2013’
15. Strathclyde University, 13<sup>th</sup> November 2013, charring session on a written constitution for Scotland
16. Renmin University, Beijing, September 2<sup>nd</sup>-6<sup>th</sup>, UK-China Public Law Conference (co-organised with Jeff King)
17. Renmin University, Beijing, August 26<sup>th</sup>-30<sup>th</sup>, Course on British Constitutional Law

18. Manchester University, June 25<sup>th</sup> 2013, Panel Discussion on Teaching Public Law
19. Tsinghua University, Peking University, and Renmin University, Beijing, April 2013, co-taught a course on the British Constitution
20. Cornell University, 13<sup>th</sup> March 2013, 'Separation of Powers as a Constitutional Principle'
21. University College London, 8<sup>th</sup> March 2013, 'Legal Pluralism and Legal Realism'
22. University of Copenhagen, 23<sup>rd</sup> November 2012, 'Legal Pluralism and Constitutional Pluralism in Europe'
23. Renmin University, Beijing, September 2012, course on British Constitutional Law and Theory
24. Edinburgh University, 30<sup>th</sup> May 2012, 'Sovereignty and the British Constitution'
25. University College Dublin, 29<sup>th</sup> March 2012, 'Self Defence for Institutions'
26. Edinburgh University, 15<sup>th</sup> February 2012, Panel discussion on *The Constitutional State*.
27. University College London, 13<sup>th</sup> January 2012, Panel discussion on A. Vermeule, *The System of the Constitution*
28. Interdisciplinary Centre (IDC) Herzliya, Israel, 14<sup>th</sup> December 2011, 'Boycotts and the State'
29. Hebrew University, Jerusalem, 12<sup>th</sup> December 2011, Seminar on *The Constitutional State*.
30. University College London, 30<sup>th</sup> November 2011, Panel Discussion on *The Constitutional State*.
31. Society of Legal Scholars, Cambridge University, 5<sup>th</sup> September 2011, Panel discussion on *The Constitutional State*.
32. Renmin University, Beijing, 11<sup>th</sup> July-16<sup>th</sup> July 2011, 'Seminars on the Theory and Practice of the British Constitution'

33. Peking University, Beijing, 9<sup>th</sup> July 2011, 'Soft Law in the United Kingdom'

34. Hague Institute for the Internationalisation of Law, 17<sup>th</sup> June 2011, 'Law, Logic, and Legal Pluralism'

#### **EDITORIAL WORK**

- 2022- Editorial Board, Journal of Constitutional History
- 2019- Editorial Board, Indian Law Review
- 2016- Editorial Board, Oxford Journal of Jurisprudence
- 2011-2015 Founding Editor, United Kingdom Constitutional Law Group Blog
  
- 2004-2010 Book Review Editor, Public Law.

#### **TEACHING**

##### **Graduate Teaching**

- 2003- Constitutional Theory.
  
- 2002-2010 Invited Lectures in Constitutional Theory.