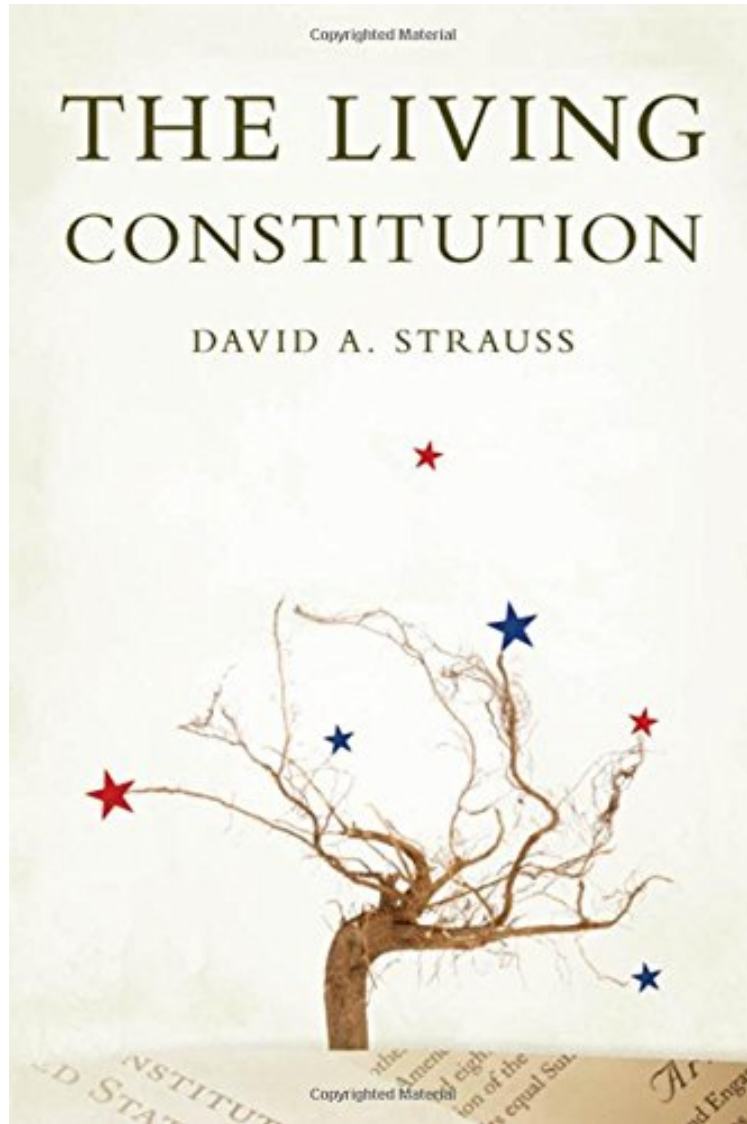


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## The Living Constitution (INALIENABLE RIGHTS)

David A. Strauss

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**David A. Strauss : The Living Constitution (INALIENABLE RIGHTS)** before purchasing it in order to gage whether or not it would be worth my time, and all praised The Living Constitution (INALIENABLE RIGHTS):

0 of 0 people found the following review helpful. Excellent!!!By Chris MortonA wonderfully refreshing argument for "the living constitution". Most surprisingly is that much of the argument is based in the philosophy of Edmund Burke, father of modern conservatism.1 of 1 people found the following review helpful. Clear, cogent, and illuminatingBy garyniniClear, cogent, and illuminating explanation of the difference between two approaches to interpreting the Constitution: originalism and the Living Constitution2 of 3 people found the following review helpful. The

Constitution: A Living or Static Document  
By Frederick S. Goethel  
There has been a debate over the past several decades on whether the US Constitution is a living document that should be interpreted according to current mores and standards or whether it is a static document that should be interpreted using only the meaning found in the original wording of the document. The author, in this book, makes the case that the Constitution is, in fact, a living document that should be interpreted by modern standards and by using principles of common law. There are examples given that, quite frankly, are very persuasive. For instance, if the Constitution were interpreted using original language, we would not have the freedom of speech that we now enjoy. A careful reading of the First Amendment will show that only Congress was prohibited from making laws that abridged free speech. There were no constraints on the states or on other governmental bodies. Whether or not you agree with the author on how the Constitution should be interpreted, this book will make for some though provoking reading and interesting discussion. The book was well written, fairly easy to understand and should be read by all who are concerned about where the Supreme Court is now and where it is headed.

Supreme Court Justice Antonin Scalia once remarked that the theory of an evolving, "living" Constitution effectively "rendered the Constitution useless." He wanted a "dead Constitution," he joked, arguing it must be interpreted as the framers originally understood it. In *The Living Constitution*, leading constitutional scholar David Strauss forcefully argues against the claims of Scalia, Clarence Thomas, Robert Bork, and other "originalists," explaining in clear, jargon-free English how the Constitution can sensibly evolve, without falling into the anything-goes flexibility caricatured by opponents. The living Constitution is not an out-of-touch liberal theory, Strauss further shows, but a mainstream tradition of American jurisprudence--a common-law approach to the Constitution, rooted in the written document but also based on precedent. Each generation has contributed precedents that guide and confine judicial rulings, yet allow us to meet the demands of today, not force us to follow the commands of the long-dead Founders. Strauss explores how judicial decisions adapted the Constitution's text (and contradicted original intent) to produce some of our most profound accomplishments: the end of racial segregation, the expansion of women's rights, and the freedom of speech. By contrast, originalism suffers from fatal flaws: the impossibility of truly divining original intent, the difficulty of adapting eighteenth-century understandings to the modern world, and the pointlessness of chaining ourselves to decisions made centuries ago. David Strauss is one of our leading authorities on Constitutional law--one with practical knowledge as well, having served as Assistant Solicitor General of the United States and argued eighteen cases before the United States Supreme Court. Now he offers a profound new understanding of how the Constitution can remain vital to life in the twenty-first century.

From Publishers Weekly  
The concept of a living Constitution that evolves over time is not a formula for untethered judicial activism but a necessary and venerable mode of interpretation, argues this scintillating treatise. University of Chicago law prof Strauss mounts a devastating attack on originalism (the doctrine most vociferously advocated by Supreme Court Justice Antonin Scalia) that constitutional law should hew to the written Constitution and the intent of its framers; such an approach, Strauss argues, is rife with contradictions, fraudulent history (it's often impossible to know what the framers meant or how they might think about modern-day issues), and ideological bias. The more fruitful and historically dominant interpretive school of living constitutionalism, he contends, follows a tacit common-law approach focused less on the text than on judicial precedent and changing notions of fairness and sound policy. Strauss offers meticulous accounts of how common-law processes revolutionized the consensus on core constitutional issues like freedom of speech and civil rights; indeed, he insists, they can transform our understanding of the Constitution more profoundly than formal amendments do. Writing in prose that laymen will find lucid and inviting, Strauss makes the usually fuzzy idea of a living Constitution rigorous and substantive. (May) Copyright Reed Business Information, a division of Reed Elsevier Inc. All rights reserved. "If David Strauss's marvelous book doesn't convince Justice Scalia to accept rather than abhor the idea of a living constitution, nothing will." --William Wargo, *The Vermont Bar Journal* "Writing in prose that laymen will find lucid and inviting, Strauss makes the usually fuzzy idea of a living Constitution rigorous and substantive." --Publishers Weekly "Succinct and elegant" --Steve Chapman, *Chicago Tribune* "Strauss keeps a low public profile but legal scholars know him to be a first-class mind. This book, written for the general reader, shows that he is also a master stylist, whose prose is Orwellian in the good sense: clear as a pane of glass." --*The New Republic* "Whatever one may think of these issues, it is clear that Strauss has provided a great service to both academics and the general reading public. He has produced a short, accessible, well-written, thoughtful, and incisive defense of living constitutionalism, one which can also serve as a valuable introduction to foundational debates about the nature of constitutional interpretation." --*The Law Politics Book* "Timely and important...a novel and creative contribution to the ongoing debate about the nature of the U.S. Constitution, and will influence the dialogue for years to come." --*Harvard Law* "I regard *The Living Constitution* to be a tremendous success. It deserves to be widely read by students, lay people, and specialists." --*Notre Dame Philosophical* s  
About the Author  
David A. Strauss is the Gerald Ratner Distinguished Service Professor of Law at the University of Chicago, and one of the nation's leading constitutional law scholars. He has also served as Special Counsel to the United States

Senate Judiciary Committee and Assistant Solicitor General of the United States, and argued eighteen cases before the United States Supreme Court. David Strauss is an editor of the Supreme Court .