

Recent Trends in U.S. Constitutional Theory

Takashi Kanazawa

Summary

In recent decades, a lot of prominent constitutional theorists in the U.S. have been trying to resolve a conundrum, so-called “countermajoritarian difficulty”, by constructing a grand unified theory of constitutional law, which builds all of constitutional law from a single foundational idea (foundationalism) and can successfully guide judges to every constitutional question. This article will develop a critique through discussions of the three grand theories—Originalism, Populism and Moral Reading of the Constitution—and finally argues that they all doom to failure because no single grand theory can provide determinate answers to all constitutional questions and only an amalgam of theories will do.