Record Nr. UNINA9910812719003321 Autore Araiza William D. Titolo Enforcing the equal protection clause: Congressional power, judicial doctrine, and constitutional law / / William D. Araiza Pubbl/distr/stampa New York, NY:,: New York University Press,, [2016] ©2016 **ISBN** 1-4798-6224-X Edizione [1st ed.] Descrizione fisica 1 online resource (320 p.) Disciplina 342.7308/5 Soggetti Judicial review - United States Discrimination - Law and legislation - United States Legislative power - United States Equality before the law - United States Lingua di pubblicazione Inglese **Formato** Materiale a stampa Livello bibliografico Monografia Description based upon print version of record. Note generali Nota di bibliografia Includes bibliographical references and index. Nota di contenuto Front matter -- CONTENTS -- PREFACE. Introducing the Enforcement Power -- ACKNOWLEDGMENTS -- Introduction: Why the Enforcement Power, and Why Now? -- 1. Equal Protection before the Modern Era --2. The Rise and Fall of Carolene Products -- 3. A Historical Introduction to the Enforcement Power -- 4. The Modern Enforcement Power: Principles and Paradoxes -- 5. Constitutional Law and Legislative Policy -- 6. Refocusing Congruence and Proportionality -- 7. The Deference Question -- 8. An Aside on State Action -- 9. Irrationality, Animus, and Deference -- 10. Beyond Irrationality and Animus: The Enforcement Power in Other Contexts -- Conclusion: An Enforcement Power for a Twenty-First- Century Constitutional Democracy -- NOTES --BIBLIOGRAPHY -- INDEX -- ABOUT THE AUTHOR Sommario/riassunto For over a century, Congress's power to enforce the Fourteenth Amendment's guarantee of "the equal protection of the laws" has presented judges and scholars with a puzzle. What does it mean for Congress to "enforce" such a wide-ranging, open-ended provision when the Supreme Court has insisted on its own superiority in

interpreting the Fourteenth Amendment? In Enforcing the Equal Protection Clause, William D. Araiza offers a unique understanding of

Congress's enforcement power and its relationship to the Court's claim to supremacy when interpreting the Constitution. Drawing on the history of American thinking about equality in the decades before and after the Civil War, Araiza argues that congressional enforcement and judicial supremacy can co-exist, but only if the Court limits its role to ensuring that enforcement legislation reasonably promotes the core meaning of the Equal Protection Clause. Much of the Court's equal protection jurisprudence stops short of stating such core meaning, thus leaving Congress free (subject to appropriate judicial checks) to enforce the full scope of the constitutional guarantee. Araiza's thesis reconciles the Supreme Court's ultimate role in interpreting the Constitution with Congress's superior capacity to transform the Fourteenth Amendment's majestic principles into living reality. The Fourteenth Amendment's Enforcement Clause raises difficult issues of separation of powers, federalism, and constitutional rights. Araiza illuminates each of these in this scholarly, timely work that is both intellectually rigorous but also accessible to non-specialist readers.