

1. Record Nr.	UNINA9910817339603321
Autore	Young Alison L.
Titolo	Parliamentary sovereignty and the Human Rights Act / / Alison L. Young
Pubbl/distr/stampa	Oxford ; Portland, Oregon, : Hart Publishing, 2009
ISBN	1-4725-6036-1 1-282-11897-8 9786612118975 1-84731-473-2
Edizione	[1st ed.]
Descrizione fisica	1 online resource (196 p.)
Classificazione	86.50
Disciplina	342.41085
Soggetti	Legislative power - Great Britain Constitutional history - Great Britain Human rights - Great Britain
Lingua di pubblicazione	Inglese
Formato	Materiale a stampa
Livello bibliografico	Monografia
Note generali	Description based upon print version of record.
Nota di bibliografia	Includes bibliographical references and index
Nota di contenuto	1 INTRODUCTION -- I. Defining Parliamentary Sovereignty: Dicey's Conception -- II. The Compatibility of the Human Rights Act 1998 with Dicey's Theory of Parliamentary Sovereignty -- III. Sovereignty Explored -- IV. In Defence of the Human Rights Act 1998 -- V. In Defence of Dicey -- 2 INTERPRETATION AND IMPLIED REPEAL -- I. Continuing Parliamentary Legislative Supremacy and the Doctrine of Implied Repeal: the Orthodox Account -- II. The Narrow Scope of Implied Repeal -- III. How to give Human Rights an 'Entrenchment Effect' -- IV. Conclusion -- 3 REDEFINITION AND THE RULE OF RECOGNITION -- I. Continuing and Self-embracing Parliamentary Legislative Supremacy -- II. Manner and Form and Redefinition -- III. Methods of Entrenchment -- IV. Conclusion -- 4 DEMOCRACY AND RIGHTS -- I. Dicey and Democracy -- II. Constitutional Rights -- III. Democratic Dialogue -- IV. Conclusion -- 5 DEMOCRATIC DIALOGUE AND THE HUMAN RIGHTS ACT 1998 -- I. Models of Dialogue -- II. Justification of Democratic Dialogue -- III. Justifications of the Human Rights Act 1998 -- IV. Dialogue and Institutional Competences -- V. Towards a Theory of Adjudication -- VI. Conclusion -- 6 A THEORY OF ADJUDICATION -- I.

The Current Legal Test -- II. A New Theory of Adjudication -- III. Conclusion -- 7 CONCLUSION -- I. A Modest Defence of Continuing Parliamentary Legislative Supremacy -- II. Conclusion

Sommario/riassunto

The Human Rights Act 1998 is criticised for providing a weak protection of human rights. The principle of parliamentary legislative supremacy prevents entrenchment, meaning that courts cannot overturn legislation passed after the Act that contradicts Convention rights. This book investigates this assumption, arguing that the principle of parliamentary legislative supremacy is sufficiently flexible to enable a stronger protection of human rights, which can replicate the effect of entrenchment. Nevertheless, it is argued that the current protection should not be strengthened. If correctly interpreted, the Human Rights Act can facilitate democratic dialogue that enables courts to perform their proper correcting function to protect rights from abuse, whilst enabling the legislature to authoritatively determine contestable issues surrounding the extent to which human rights should be protected alongside other rights, interests and goals of a particular society. This understanding of the Human Rights Act also provides a different justification for the preservation of Dicey's conception of parliamentary sovereignty in the UK Constitution
