



The US Supreme Court and the Modern Common Law Approach

Simona Grossi

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This book studies the U.S. Supreme Court and its current common law approach to judicial decision making from a national and transnational perspective. The Supreme Court's modern approach appears detached from and inconsistent with the underlying fundamental principles that ought to guide it, an approach that often leads to unfair and inefficient results. This book suggests the adoption of a judicial decision-making model that proceeds from principles and rules and treats these principles and rules as premises for developing consistent unitary theories to meet current social conditions. This model requires that judicial opinions be informed by a wide range of considerations, beginning with established legal standards - but also including the insights derived from deductive and inductive reasoning, the lessons learned from history and custom - and ending with an examination of the social and economic consequences of the decision. Under this model, the considerations taken to reach a specific result should be articulated through a process that considers various hypotheses, arguments, confutations, and confirmations, and they should be shared with the public.



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