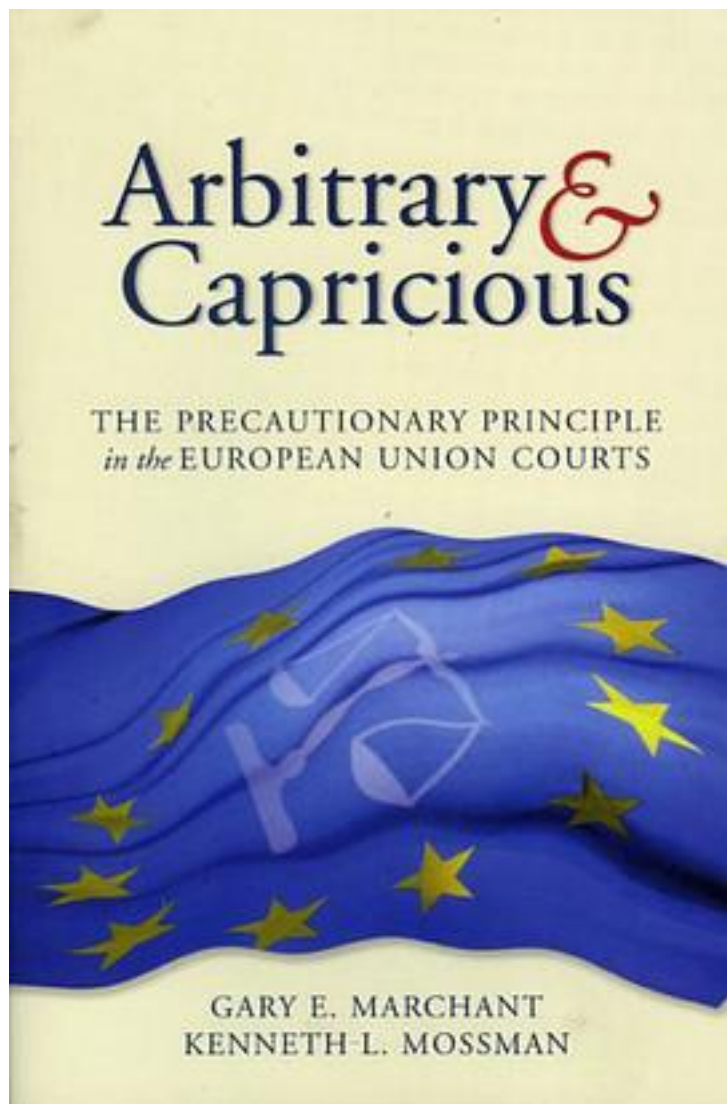


Arbitrary and Capricious



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Justice Marshall once remarked that if people knew what he knew about the death penalty, they would reject it overwhelmingly. Foley elucidates Marshall's claim that fundamental flaws exist in the implementation of the death penalty. He guides us through the history of the Supreme Court's death penalty decisions, revealing a constitutional quagmire the Court must navigate to avoid violating the fundamental tenant of equal justice for all. Nearly 100 influential Supreme Court capital punishment-related cases from 1878-2002 are examined, beginning with "Wilkerson v. Utah," which question not the legitimacy of capital punishment, but the methods of execution. Over time, focus shifted from the constitutionality of certain methods to the fairness of who was being sentenced for capital crimes--and why. The watershed 1972 ruling "Furman v. Georgia" reversed the Court's stand on capital punishment, holding that the arbitrary and capricious imposition of the death penalty is cruel and unusual punishment, and therefore unconstitutional. Furman clarified that any new death penalty legislation must contain sentencing procedures that avoid the arbitrary infliction of a life-ending verdict, which led to the current complex tangle of issues surrounding the death penalty and its constitutional viability.

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