

What would be the problem, really, if commitment to certain substantive social and economic rights were to be integral to the ethics of citizenship?

If there are substantive rights that are not properly matters of statutory legislation—e.g., "the pursuit of happiness," "security," "justice"—because

If any formative provision can be morally authorized, finally, only by "implying some ultimate substantive terms by appeal to which it can be validated" (1012), why should it be included in the specific provisions of a constitution, while all substantive provisions

The picture that keeps forming in my mind is something like this:

Politics has two levels: constituent and governmental.

What does it mean to say, x implies y ?

It may mean either of two things: either that x *presupposes* y , in the sense that x requires y by *a specific and definite necessity*; or that x *anticipates* y , in the sense that x requires y by only *a generic and indefinite necessity*. (Perhaps another way of explaining what is meant by the two things that implication may mean—i.e., presupposition and anticipation—is to say that, whereas the implication rightly distinguished as "presupposition" is *unconditional*, the implication rightly distinguished as "anticipation" is *conditional*.)

What Gamwell seems to want to say about a proper democratic constitution, which as such is merely formative, is two things: both that it necessarily implies certain substantive religious, moral, and political first principles, in the sense that it necessarily *presupposes* such first principles; and that it necessarily implies certain further, more specific, substantive principles (procedures, policies, and practices, and so on), in the sense that it necessarily *anticipates* such further principles.

Whatever else democracy may be said to be, it may be said to be the way of reason specified to politics, both constituent (or constitutional) and governmental (or statutory). Put in a more Habermasian way, democracy may be said to be communicative action specified to politics, again, at both levels, constituent and governmental.