



A SHORT HISTORY OF
WESTERN
LEGAL
THEORY



J.M. KELLY



Short History Of Western Legal Theory

Marko Novak



Short History Of Western Legal Theory:

A Short History of Western Legal Theory John Maurice Kelly, 1992 This unique publication outlines the development of legal theory from pre Roman times through the twentieth century It relates the evolution of legal theory to parallel developments in political theory and history This work also discusses the relevant contemporary events in politics economics and religion Each chapter begins with a synopsis of related historical background for the period going on to discuss how these events are related to political and legal theory as well as how they become an influence on one another Avoiding the conventional approach of traditions or schools of thought this work aims to anchor legal theory to contemporary general history

The Origins of the Western Legal Tradition Ellen Goodman, 1995 Ellen Goodman uses extensive extracts from original writings to highlight the main themes of the Western legal tradition The strength of the book is its clear focus on the heart of the tradition constitutionalism representative institutions and rule by law Goodman links Christianity to its origins in Greek philosophy and Judaism She delves into the position of the Roman Church as the tenuous Dark Ages conduit Feudalism lives and dies and the common law and parliament emerge The author accurately and vividly charts the main currents avoiding both the shoals and the myriad tributaries and so enables readers to have a clearer and deeper understanding of our present legal system

A Companion to Western Legal Traditions, 2023-12-28 This volume offers an extensive introduction to Western legal traditions from antiquity to the twentieth century Drawing from a variety of scholarly writings both in English and in translation thirteen leading scholars present the current state of western legal history research and pave the way for new debates and future study This is the ideal sourcebook for graduate students as it enables them to approach the key questions of the field in an accessible way Contributors are Aniceto Masferrer C H Remco van Rhee Se n P Donlan Stephan Dusil Gerald Schwedler Jean Louis Halp rin Jan Hallebeek Agust n Parise Heikki Pihlajam ki Dirk Heirbaut Bernd Kannowski Adolfo Giuliani Olivier Mor teau and Jacques Vanderlinden

A Real Mind Patricia Mindus, 2009-09-18 This comprehensive presentation of Axel H gerstr m 1868 1939 fills a void in nearly a century of literature providing both the legal and political scholar and the non expert reader with a proper introduction to the father of Scandinavian realism Based on his complete work including unpublished material and personal correspondence selected exclusively from the Uppsala archives A Real Mind follows the chronological evolution of H gerstr m s intellectual enterprise and offers a full account of his thought The book summarizes H gerstr m s main arguments while enabling further critical assessment and tries to answer such questions as If norms are neither true nor false how can they be adequately understood on the basis of H gerstr m s theory of knowledge Did the founder of the Uppsala school uphold emotivism in moral philosophy What consequences does such a standpoint have in practical philosophy Is he really the inspiration behind Scandinavian state absolutism A Real Mind places the complex web of issues addressed by H gerstr m within the broader context of 20th century philosophy stretching from epistemology to ethics His philosophy of law is examined in the core chapters of the book with emphasis on

the will theory and the relation between law and power The narrative is peppered with vignettes from Hegel's life giving an insightful and highly readable portrayal of a thinker who put his imprint on legal theory The appendix provides a selected bibliography and a brief synopsis of the major events in his life both private and intellectual **Judging from Experience**

Jeanne Gaakeer, 2018-12-19 Combining her expertise in legal theory and judicial practice in a continental European civil law system Jeanne Gaakeer explores the intertwinement of legal theory and practice to develop a humanities inspired methodology for both the academic interdisciplinary study of law and literature and for legal practice This volume addresses judgment and interpretation as a central concern within the field of law literature and humanities It is not only a study of law as praxis that combines academic legal theory with judicial practice but proposes both as central to humanistic jurisprudence and as a training in the conduct of public life Drawing extensively on philosophical and legal scholarship and through analysis of literary works from Gustave Flaubert Robert Musil Gertrude Achterberg Ian McEwan Michel Houellebecq and Juli Zeh Jeanne Gaakeer proposes a perspective on law as part of the humanities that will inspire legal professionals scholars and advanced students of law alike *Globalisation and the Western Legal Tradition* David B. Goldman, 2008-02-07 What can

globalisation teach us about law in the Western tradition This important new work seeks to explore that question by analysing key ideas and events in the Western legal tradition including the Papal Revolution the Protestant Reformations and the Enlightenment Addressing the role of law morality and politics it looks at the creation of orders which offer the possibility for global harmony in particular the United Nations and the European Union It also considers the unification of international commercial laws in the attempt to understand Western law in a time of accelerating cultural interconnections The title will appeal to scholars of legal history and globalisation as well as students of jurisprudence and all those trying to understand globalisation and the Western dynamic of law and authority **Comparative Law and Legal Traditions** George

Mousourakis, 2019-11-01 The primary aim of this book is to provide clear and reliable information on a number of central topics in comparative law At a time when global society is increasingly mobile and legal life is internationalized the role of comparative law is gaining importance While the growing interest in this field may well be attributed to the dramatic increase in international legal transactions this empirical parameter is only part of the explanation The other part and at least equally important has to do with the expectation of gaining a deeper understanding of law as a social phenomenon and a fresh insight into the current state and future direction of one's own legal system In response to the internationalization of legal practice and theory law schools around the world have expanded their comparative law programs Within the legal subjects that form the core of the curriculum there is a greater interest in comparative legal analysis as well as greater attention to how global developments and international actors and institutions affect domestic law Transnational legal education based on comparative reasoning is intended to help shape a new generation of lawyers public servants and other professionals who recognize and respect cultural diversity in an interconnected world The central topics discussed in this

book include the nature and scope of comparative legal inquiries the relationship of comparative law to other fields of legal study the aims and uses of comparative law the origins and historical development of comparative law and the evolution and defining features of some of the world's predominant legal traditions It also deals with selected theoretical aspects such as the problem of comparability of legal events the classification of legal systems into families of law and the topics of legal transplants harmonization and convergence of laws Chiefly intended for students the book also discusses a number of fundamental issues concerning the development of comparative law and devotes certain sections to reviewing the salient features of the relevant literature on definitional terminological methodological and historical issues **American Legal**

Thought from Premodernism to Postmodernism Stephen M. Feldman, 2000-01-20 The intellectual development of American legal thought has progressed remarkably quickly from the nation's founding through today Stephen Feldman traces this development through the lens of broader intellectual movements and in this work applies the concepts of premodernism modernism and postmodernism to legal thought using examples or significant cases from Supreme Court history Comprehensive and accessible this single volume provides an overview of the evolution of American legal thought up to the present Creon's Ghost Law Justice and the Humanities Tomain, 2009-02-16 Creon's Ghost examines the enduring problem of the relationship between man's law and a higher law from the perspective of core humanities texts and through discussion of hotly debated contemporary legal conundrums Today such issues as intelligent design in school curricula same sex marriage and faith based government grants are all examples of the interaction between man's law and some other set of moral principles As these debates are considered in this book the author uses texts such as Antigone and Plato's Republic and pairs them with the most important jurisprudence texts of the 20th century to explore different approaches to the contemporary conflict or court ruling under consideration Creon's Ghost demonstrates that the humanities can both illuminate our understanding of contemporary problems and that classic texts can be read alongside jurisprudential texts thus enriching our understanding of and appreciation for law The Making of Urban Customary Law in Medieval and Reformation England Esther Liberman Cuenca, 2025-02-27 Drawing on a quantitative analysis of hundreds of printed and archival sources from 77 towns The Making of Urban Customary Law in Medieval England is the first cross regional investigation into the history of urban customs since Mary Bateson's seminal two volume work Borough Customs 1904 1906 In contrast to English common law and church law which both had long institutional and academic traditions devoted to training men in their legal philosophies customary law constituted local practices that acquired the force of law over time Urban customary law regulated political officeholding trade property holding and even moral behaviour in English towns The Making of Urban Customary Law argues that urban customs which governed the lives of people in English towns were crucial to the development of a distinct bourgeois identity in England an evolution that this new study tracks from the early twelfth to the late sixteenth centuries In the years following the Black Death and especially during the Reformation period

this law became more concerned with defining political authority maintaining morality and articulating a consensus about the common good for townspeople This book makes two principal claims First customary law advanced the business interests of an urban oligarchy These were urban male elites who drafted laws and obtained privileges to enhance their wealth and assert their political independence from local lords and often made claims about the legitimacy of their privileges or laws by rooted them in history or some kind of ancestral past These lawmakers also made considerable efforts to establish their identities as morally upright and even handed patriarchs In so doing urban customary law played a central role in the development of a distinct bourgeois identity in medieval and Reformation England Second this law lent particular meanings to the common good in towns as it helped these lawmakers articulate policies that cohered to their vision of an ideal civic community

The Logic of Legal Argumentation Marko Novak,2024-02-26 Presents a thorough analysis of multi modal argumentation and its practicality within the law Takes both a descriptive and a normative approach Applicable in a variety of areas from Philosophy of Law to Communication Studies

Constitutionalism of Australian First Nations Maria Salvatrice Randazzo,2022-07-29 The book considers Australian First Nations constitutionalism by drawing on the chthonic constitutional traditions of three distinct Australian First Nations legal orders the Warlpiri Yolngu and Pintupi legal orders in the endeavour of identifying via a comparative analysis a core of similarities to be drawn upon and articulate an emergent legal theory common to the three legal orders The comparative analysis is undertaken at the most foundational levels of their legal traditions via the prism of a legal paradigm elaborated with reference to an Australian Indigenous cosmological ontological and epistemological standpoint The proposed legal theory comprises a broad overview general concepts normative principles and general working principles In so doing the book expounds how Australian First Nations constitutionalism unfolds into holistic orders of spiritual political and legal authority that are explainable in terms of legal theory At the most foundational level such elaboration may help delineate normative and legal constitutional patterns throughout Indigenous Australia

Philosophy of Law Mark Tebbit,2005-06-14 Philosophy of Law An Introduction provides an ideal starting point for students of philosophy and law as it assume no prior knowledge of either subject The book is structured around the key issues and themes in the philosophy of law including what is the law exploring the major legal theories of realism positivism and natural law the reach of the law covering authority rights liberty privacy and tolerance criminal responsibility and punishment including legal defenses crime diminished responsibility and theories of punishment The second edition is updated with important developments in English law the general impact of the Human Rights Act and the defence of necessity in relation to the Case of the Conjoined Twins Radical Marxism feminist critical legal studies and critical race theories are also explained against the background of controversy between postmodernism and defences of modernity New chapters assess the value of traditional legal theory and various critical perspectives and study questions at the end of each chapter help students explore the most important issues in philosophy of law

Scholars of the

Law Richard A. Cosgrove, 1996-04 Cosgrove's account begins with the emergence of the positivist belief that jurisprudence can solve the truly important social issues of the day and leads us through the gradual divorce of legal theory from legal history. Legal theory in the twentieth century argues Cosgrove has become narrow and abstract irrelevant to the daily practice of the law. Contemporary theory ever anxious to debunk elitism ironically has become elitist itself. *A Realistic Theory of Law* Brian Z. Tamanaha, 2017-04-24 This book articulates an empirically grounded theory of law applicable throughout history and across different societies. Unlike natural law theory or analytical jurisprudence which are narrow abstract ahistorical and detached from society Tamanaha's theory presents a holistic vision of law within society evolving in connection with social cultural economic political ecological and technological factors. He revives a largely forgotten theoretical perspective on law that runs from Montesquieu through the legal realists to the present. This book explains why the classic question what is law has never been resolved and casts doubt on theorists' claims about necessary and universal truths about law. This book develops a theory of law as a social institution with varying forms and functions tracing law from hunter gatherer societies to the modern state and beyond. Tamanaha's theory accounts for social influences on law legal influences on society law and domination multifunctional governmental uses of law legal pluralism international law and other legal aspects largely overlooked in jurisprudence. **Hugo Grotius and the Modern Theology of Freedom** Jeremy

Seth Gedder, 2017-02-24 Human rights are thought to guarantee pluralism by protecting individual liberty from imposed religious conceptions of virtue. Yet critics often argue that this secular focus on merely avoiding violations can also enable unfettered individualism and undermine appeals to the common good. This book uncovers in secular rights pioneer Hugo Grotius a rights theory that points toward the enlargement of individual responsibility. It grounds this connection in Grotius unexplored theological corpus which reveals a dual metaethics and jurisprudence. Here a deontological natural law undergirds a secular theory of rights that is self-aware of its own limitations. A teleological practical reason then guides the exercise of these rights so as not to compromise the political order that defends them. The book then illustrates this symbiosis of rights and responsibilities in five areas: consent theories of government rights of rebellion criminal punishment war and international responsibility and Atonement theology. This reassesses Grotius' legacy as a secularist opponent of classical political thought and suggests that modern liberalism and universal human rights are compatible with a world of resurgent religion. **The Right Relationship** John Borrows, Michael Coyle, 2017-03-17 The relationship between Canada's

Indigenous peoples and the Canadian government is one that has increasingly come to the fore. Numerous tragic incidents and a legacy of historical negligence combined with more vehement calls for action is forcing a reconsideration of the relationship between the federal government and Indigenous nations. In *The Right Relationship* John Borrows and Michael Coyle bring together a group of renowned scholars both Indigenous and non-Indigenous to cast light on the magnitude of the challenges Canadians face in seeking a consensus on the nature of treaty partnership in the twenty-first century. The diverse

perspectives offered in this volume examine how Indigenous people's own legal and policy frameworks can be used to develop healthier attitudes between First Peoples and settler governments in Canada. While considering the existing law of Aboriginal and treaty rights, the contributors imagine what these relationships might look like if those involved pursued our highest aspirations as Canadians and Indigenous peoples. This timely and authoritative volume provides answers that will help pave the way toward good governance for all.

Empire and Legal Thought Edward Cavanagh, 2020-05-25. Emphatic of the importance of legal thought to the rise and fall of empires, this book highlights the centrality of empires to the development of legal thought. Comprehension of the development of legal thought over time is necessary for any historical, philosophical, practical, or theoretical enquiry into the subject today. It is argued here that when seen against the background of broad geopolitical, diplomatic, administrative, intellectual, religious, and commercial changes, law begins to appear very resilient. It withstands the rise and fall of empires. It provides the framework for the establishment of new orders in the place of the old. Today, what analogies, principles, and authorities of law have survived these changes continue to inform much of the international legal tradition. Contributors are Clifford Ando, Lia Brazil, Joseph Canning, Edward Cavanagh, Zachary Chitwood, Emanuele Conte, Matthew Crow, Alberto Esu, Tiziana Faitini, Dante Fedele, Naveen Kanalu, Alexandre A. Loktionov, P. G. McHugh, Jordan Rudinsky, Mark Somos, Joshua Smeltzer, Lorenzo Veracini, Halcyon Weber, and Sarah Winter.

Law and the Christian Tradition in Modern Russia Paul Valliere, Randall Poole, 2021-09-15. This book, authored by an international group of scholars, focuses on a vibrant central current within the history of Russian legal thought: how Christianity and theistic belief generally has inspired the aspiration to the rule of law in Russia, informed Russian philosophies of law, and shaped legal practices. Following a substantial introduction to the phenomenon of Russian legal consciousness, the volume presents twelve concise, non-technical portraits of modern Russian jurists and philosophers of law whose thought was shaped significantly by Orthodox Christian faith or theistic belief. Also included are chapters on the role the Orthodox Church has played in the legal culture of Russia and on the contribution of modern Russian scholars to the critical investigation of Orthodox canon law. The collection embraces the most creative period of Russian legal thought, the century and a half from the later Enlightenment to the Russian emigration following the Bolshevik Revolution. This book will merit the attention of anyone interested in the connections between law and religion in modern times.

Understanding Jurisprudence Raymond Wacks, 2015. Perfect for the student new to jurisprudence, this book provides an illuminating introduction to the central questions of legal theory. An experienced teacher of jurisprudence, Professor Wacks' approach is both accessible and entertaining, providing the ideal base for further study.

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