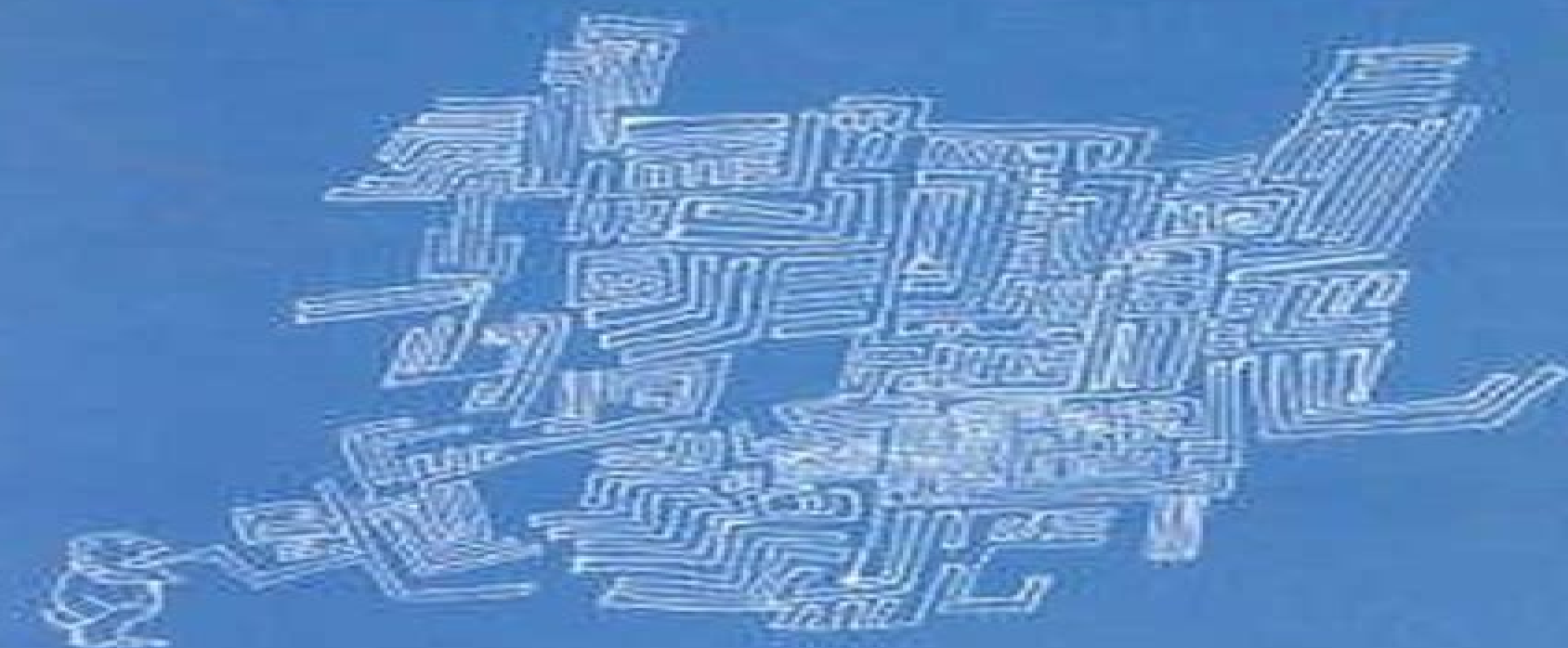


Edited by Willem J. Willemsen and Willem van der Burg

Rediscovering Fuller

Essays on Implicit Law
and Institutional Design



Amsterdam University Press

Rediscovering Fuller

Jutta Brunnée, Stephen J. Toope



Rediscovering Fuller:

Rediscovering Fuller W. J. Witteveen, Wibren van der Burg, 1999 Lon Fuller one of the great American jurists of this century is often remembered only for his stand on the morality of law in the Fuller Hart debate Rediscovering Fuller considers the full range of Fuller s writings from his early engagement with legal fictions and his critique of legal positivism to his later work on implicit law and the art of institutional design Contributors from the fields of both civil law and common law argue that Fuller s insights are highly relevant to contemporary concerns The book contains essays by K Winston D Dyzenhaus P Cliteur F Schauer Beyond the Fuller Hart Debate P Westerman W van der Burg D Luban Moralities of Law G Postema P Teachout Implicit Law R Macdonald W Witteveen J Allison M Hertogh K Soltan The Art of Institutional Design J Allan F Mootz J Vining Law s Dialogue and a preface by Ph Selznick At some point in the future when we become more open to the moral relevance of social inquiry more empirical in our study of philosophical issues more capable of uniting moral and social theory Lon Fuller s work will stand as a landmark This volume will help show the way Ph Selznick *The Oxford Handbook of Global Legal Pluralism* Paul Schiff Berman, 2020-06-01 This volume brings together leading scholars from around the world to analyze all aspects of legal pluralism offering defenses critiques and applications of legal pluralism to 21st century legal analysis Volume editor Paul Schiff Berman introduces every chapter framing the various approaches and perspectives The result is the first comprehensive review of Global Legal Pluralism scholarship ever produced The Dynamics of Law and Morality Wibren van der Burg, 2016-03-23 This book investigates the dynamic intertwinement of law and morality with a focus on new and developing fields of law Taking as its starting point the debates and mutual misunderstandings between proponents of different philosophical traditions it argues that this theoretical pluralism is better explained once law is accepted as an essentially ambiguous concept Continuing on the book develops a robust theory of law that increases our grasp on global legal pluralism and the dynamics of law This theory of legal interactionism inspired by the work of Lon Fuller and Philip Selznick also helps us to understand apparent anomalies of modern law such as international law the law of the European Convention on Human Rights and horizontal interactive legislation In an ecumenical approach legal interactionism does justice to the valuable core of truth in natural law and legal positivism Shedding new light on familiar debates between authors such as Fuller Hart and Dworkin this book is of value to academics and students interested in legal theory jurisprudence legal sociology and moral philosophy **Preservation of Ecosystems of International Watercourses and the Integration of Relevant Rules** Lee Jing, 2014-07-17 In Preservation of Ecosystems of International Watercourses and the Integration of Relevant Rules An Interpretative Mechanism to Address the Fragmentation of International Law Lee Jing takes an innovative approach to developing an international legal framework for preserving ecosystems Deploying Article 31 3 c of the 1969 Vienna Convention an analytical framework is devised that examines the ecosystem approach under international law through the prism of Article 20 of the UN Watercourses Convention The analysis

provides an enhanced normative scope and content for the UN Watercourses Convention's approach to the obligation to preserve taking into account contemporary developments in international law. The work demonstrates the full potential of the Vienna Convention's Article 31(3)(c) as an integration tool in addressing the fragmentation of international law.

Designing Government Pearl Eliadis, Margaret M Hill, Michael Howlett, 2005-02-14 How do governments govern today and how well do they do it? How do governments choose the tools or instruments they will use to get things done? In today's world how could these decisions be improved from the standpoint of efficiency, effectiveness, legitimacy and accountability? Designing Government brings together leading experts to examine the instrument choice perspective on government and public policy over the past two decades. The authors examine such issues as accountability, effectiveness, sustainability, legitimacy and the impact of globalization. The debate is enriched by contributors from several countries who provide a comparative context and most importantly help chart a course for the future. Moving beyond the traditional regulatory sphere and its preoccupations with deregulation and efficiency, the authors trace the complex relationships between instrument choices and governance. Designing Government encourages the reader to consider factors in the design of complex mixes such as issues of redundancy, context, the rule of law and accountability. These latter factors are especially central in today's world to the design and implementation of effective instrument choices by governments and ultimately to good governance. The authors conclude in fact that seeing instrument choice itself as part and parcel of designing government and achieving good governance is both the promise and the challenge for instrument based perspectives in the years ahead. Contributors include Hans Bressers University of Twente, Neil Gunningham Australian National University, John Hoornbeck University of Pittsburgh, Margaret Hill Infrastructure Canada, Michael Howlett Simon Fraser University, Bridget Hutter London School of Economics and Political Science, Pierre Issalys Universit Laval, Rjean Landry Laval University, Roderick A Macdonald McGill University, Larry O Toole University of Georgia, B Guy Peters University of Pittsburgh, Michael J Prince University of Victoria, Sean Rehaag University of Toronto, Arthur B Ringeling Erasmus University, Stephen J Toope McGill University, Michael J Trebilcock University of Toronto, Fr d ric Varone Universit Catholique de Louvain Belgium and Kernaghan Webb Carleton University.

Law, Society and Community Richard Nobles, David Schiff, 2016-04-22 This collection of socio-legal studies written by leading theorists and researchers from around the world offers original, perceptive and critical contributions to ideas and theories that have been expounded by Roger Cotterrell over a long and distinguished career. Engaging with many classic issues and theories of the sociology of law, the contributions are likely to become classics themselves as they tackle some of the most significant challenges that modern law faces. They do not shy away from what one of the contributors describes as the complexity and multiplicity of our contemporary legal world. The book is organized in three parts: socio-legal themes, methodological and jurisprudential themes, globalization, cultural and comparative law themes. Starting with a chapter that re-engages with the need to interpret legal ideas sociologically and ending with one that explores the global significance

of modern fascination with the idea of the rule of law this selection offers important additions to the oeuvre of Roger Cotterrell a list of whose academic writings is included in the book

Routledge Handbook of the Rule of Law Michael Sevel, 2024-10-24 This Handbook provides a state of the art survey of the study of the rule of law across law the humanities and social sciences as well as insights into the practice of building the rule of law within and among states Its 28 chapters are by many of the world s leading scholars of the rule of law as well as distinguished junior scholars from a dozen countries and representing a number of academic disciplines The chapters are ordered to progress first from theory to the practice of the rule of law and second from the rule of law within to beyond the state They divide into three parts The first part examines the concept history and value of the rule of law This section considers the importance of political and intellectual history in shaping the concept over the centuries and takes novel philosophical approaches to the connection between the rule of law and other important ideals such as justice equality and civil disobedience The second part transitions from theoretical studies to accounts of practical exercises in building the rule of law The chapters consider the challenges of rule of law reform including the use of local intermediaries facilitating interactions between international legal aid organizations and state governments the challenges of legal translation across vastly different societies the pathways of knowledge among the powerless about the protective potential of the rule of law as well as the possible future for artificial intelligence systems in helping to reinforce rule of law principles The third part examines the rule of law from a number of perspectives within particular supranational and national states such as the European Union China Singapore and South Africa among others and concludes by considering the prospects of the rule of law beyond the state both within and among international institutions such as the United Nations as well as non territorial spaces like the world s oceans This Handbook is aimed at rule of law scholars across law the humanities and the social sciences law and development practitioners policymakers and advanced students and researchers who seek a state of the art overview of the history theory and practice of the rule of law

Who is Afraid of the State? Gordon S. Smith, Gordon Scott Smith, Daniel Wolfish, 2001-01-01 The essays in this collection argue that contrary to some private sector populists the state is in the best position to lead in making policy in a rapidly changing world and should retain and refine this responsibility

Handbook on Global Constitutionalism Anthony F. Lang, Antje Wiener, 2023-11-03 This thoroughly revised Handbook presents an up to date political and philosophical history of global constitutionalism By exploring the constitutional like qualities of international affairs it provides key insight into the evolving world order

Architectures of Justice Henrik Palmer Olsen, Stuart Toddington, 2016-05-23 Law can be seen to consist not only of rules and decisions but also of a framework of institutions providing a structure that forms the conditions of its workable existence and acceptance In this book Olsen and Toddington conduct a philosophical exploration and critique of these conditions what they are and how they shape our understanding of what constitutes a legal system and the role of justice within it

Law and Morality Kenneth Einar Himma, 2017-07-05 This volume collects many of the key essays

exploring the possible relationships between the concepts of law and morality a central concern of contemporary philosophizing about law It is organized around five conceptual issues classical natural law theory legal positivism s separability thesis Ronald Dworkin s constructive interpretivism inclusive legal positivism s assertion that there can be legal systems with moral criteria of legality and the relevance of morality and moral theorizing in theorizing about the concept of law and associated legal concepts Each of the essays makes an important contribution toward addressing these issues

A Rule of Law for Our New Age of Anxiety Stephen J Toope, 2023-06 In an age of anxiety Toope makes the case for a revitalised rule of law to bolster collective resilience and restore our capacity to build healthier societies A pragmatic approach to the rule of law recognises its ability to chasten power while not disconnecting law from other sources of social action and human agency

Legitimacy and Legality in International Law Jutta Brunnée, Stephen J. Toope, 2010-08-05 It has never been more important to understand how international law enables and constrains international politics By drawing together the legal theory of Lon Fuller and the insights of constructivist international relations scholars this book articulates a pragmatic view of how international obligation is created and maintained First legal norms can only arise in the context of social norms based on shared understandings Second internal features of law or criteria of legality are crucial to law s ability to promote adherence to inspire fidelity Third legal norms are built maintained or destroyed through a continuing practice of legality Through case studies of the climate change regime the anti torture norm and the prohibition on the use of force it is shown that these three elements produce a distinctive legal legitimacy and a sense of commitment among those to whom law is addressed

New Waves in Philosophy of Law Maksymilian Del Mar, 2011-08-15 A collection of 11 cutting edge essays by leading young scholars challenging long held assumptions and offering new research paradigms in Philosophy of Law in five parts 1 methodology metatheory 2 reasoning evaluating 3 values the moral life 4 institutions the social life and 5 the global international dimension

The Importance of Ideals Wibren van der Burg, Sanne Taekema, 2004 Ideals are important in social reality but they have been neglected in theories of law politics and morality This book has the role of ideals as its central theme More specifically it argues that ideals are necessary to understand pluralism that they are key elements in controversy and debate and that they enable development It combines theoretical analysis of the concept of ideals with discussion of concrete debates and cases including philosophical debates about politics and equality sociological studies of the diverse interpretations of the rule of law and accounts of the development of environmental law and privacy law Thus the functioning of ideals is critically examined showing the merits and limitations of an ideal oriented approach

Interpretation in International Law Andrea Bianchi, Daniel Peat, Matthew Windsor, 2015-02-26 International lawyers have long recognised the importance of interpretation to their academic discipline and professional practice As new insights on interpretation abound in other fields international law and international lawyers have largely remained wedded to a rule based approach focusing almost exclusively on the Vienna Convention on the Law of

Treaties Such an approach neglects interpretation as a distinct and broader field of theoretical inquiry Interpretation in International Law brings international legal scholars together to engage in sustained reflection on the theme of interpretation The book is creatively structured around the metaphor of the game which captures and illuminates the constituent elements of an act of interpretation The object of the game of interpretation is to persuade the audience that one's interpretation of the law is correct The rules of play are known and complied with by the players even though much is left to their skills and strategies There is also a meta discourse about the game of interpretation playing the game of game playing which involves consideration of the nature of the game its underlying stakes and who gets to decide by what rules one should play Through a series of diverse contributions Interpretation in International Law reveals interpretation as an inescapable feature of all areas of international law It will be of interest and utility to all international lawyers whose work touches upon theoretical or practical aspects of interpretation

Modern Jurisprudence Sean Coyle, 2014-12-01 This book provides a concise and accessible guide to modern jurisprudence offering an examination of the major theories and systematic discussion of themes such as legality and justice It gives readers a better understanding of the rival viewpoints by exploring the historical developments which give modern thinking its distinctive shape and placing law in its political context A key feature of the book is that readers are not simply presented with opposing theories but are guided through the rival standpoints on the basis of a coherent line of reflection from which an overall sense of the subject can be gained Chapters on Hart Fuller Rawls Dworkin and Finnis take the reader systematically through the terrain of modern legal philosophy tracing the issues back to fundamental questions of philosophy and indicating lines of criticism that build to a fresh and original perspective on the subject

Encyclopedia of Ethics Lawrence C. Becker, Charlotte B. Becker, 2013-10-18 The editors working with a team of 325 renowned authorities in the field of ethics have revised expanded and updated this classic encyclopedia Along with the addition of 150 new entries all of the original articles have been newly peer reviewed and revised bibliographies have been updated throughout and the overall design of the work has been enhanced for easier access to cross references and other reference features New entries include Cheating Dirty hands Gay ethics Holocaust Journalism Political correctness and many more

Administrative Law Daniel L. Feldman, 2015-09-23 Administrative Law The Sources and Limits of Government Agency Power explains the sources of administrative agency authority in the United States how agencies make rules the rights of clients and citizens in agency hearings and agency interaction with other branches of government This concise text examines the everyday challenges of administrative responsibilities and provides students with a way to understand and manage the complicated mission that is governance Written by leading scholar Daniel Feldman the book avoids technical legal language but at the same time provides solid coverage of legal principles and exemplar studies which allows students to gain a clear understanding of a complicated and critical aspect of governance

Comparative Constitutionalism A.V. Dicey, 2013-10 The Oxford Edition of Dicey provides sources with which to reassess the extraordinary

authority and lasting influence of Dicey's canonical text Volume Two Comparative Constitutionalism provides a complement to Dicey's The Law of the Constitution These largely unpublished comparative constitutional lectures were written for different versions of a comparative constitutional book that Dicey began but did not finish prior to his death in 1922 The lectures were a pioneering venture into comparative constitutionalism and reveal an approach to legal education broader than Dicey is widely understood to have taken Topics discussed include English French American and Prussian constitutionalism the separation of powers representative government and federalism The volume begins with an editorial introduction examining the implications of these comparative lectures and Dicey's early foray into comparative constitutionalism for his general constitutional thought and the kinds of response it has elicited

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Table of Contents Rediscovering Fuller

1. Understanding the eBook Rediscovering Fuller
 - The Rise of Digital Reading Rediscovering Fuller
 - Advantages of eBooks Over Traditional Books
2. Identifying Rediscovering Fuller
 - Exploring Different Genres
 - Considering Fiction vs. Non-Fiction
 - Determining Your Reading Goals
3. Choosing the Right eBook Platform
 - Popular eBook Platforms
 - Features to Look for in an Rediscovering Fuller
 - User-Friendly Interface
4. Exploring eBook Recommendations from Rediscovering Fuller
 - Personalized Recommendations
 - Rediscovering Fuller User Reviews and Ratings
 - Rediscovering Fuller and Bestseller Lists

5. Accessing Rediscovering Fuller Free and Paid eBooks
 - Rediscovering Fuller Public Domain eBooks
 - Rediscovering Fuller eBook Subscription Services
 - Rediscovering Fuller Budget-Friendly Options
6. Navigating Rediscovering Fuller eBook Formats
 - ePub, PDF, MOBI, and More
 - Rediscovering Fuller Compatibility with Devices
 - Rediscovering Fuller Enhanced eBook Features
7. Enhancing Your Reading Experience
 - Adjustable Fonts and Text Sizes of Rediscovering Fuller
 - Highlighting and Note-Taking Rediscovering Fuller
 - Interactive Elements Rediscovering Fuller
8. Staying Engaged with Rediscovering Fuller
 - Joining Online Reading Communities
 - Participating in Virtual Book Clubs
 - Following Authors and Publishers Rediscovering Fuller
9. Balancing eBooks and Physical Books Rediscovering Fuller
 - Benefits of a Digital Library
 - Creating a Diverse Reading Collection Rediscovering Fuller
10. Overcoming Reading Challenges
 - Dealing with Digital Eye Strain
 - Minimizing Distractions
 - Managing Screen Time
11. Cultivating a Reading Routine Rediscovering Fuller
 - Setting Reading Goals Rediscovering Fuller
 - Carving Out Dedicated Reading Time
12. Sourcing Reliable Information of Rediscovering Fuller
 - Fact-Checking eBook Content of Rediscovering Fuller
 - Distinguishing Credible Sources
13. Promoting Lifelong Learning

- Utilizing eBooks for Skill Development
- Exploring Educational eBooks

14. Embracing eBook Trends

- Integration of Multimedia Elements
- Interactive and Gamified eBooks

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