

NEW ESSAYS
IN THE LEGAL
AND POLITICAL
THEORY OF
PROPERTY

Edited by
STEPHEN R. MUNZER

CAMBRIDGE STUDIES IN
PHILOSOPHY AND LAW

New Essays In The Legal And Political Theory Of Property

Gowri Nanayakkara



New Essays In The Legal And Political Theory Of Property:

New Essays in the Legal and Political Theory of Property Stephen R. Munzer, 2001-06-18 This collection of essays examines central issues of property theory from a variety of perspectives

Property and Practical Reason Adam J. MacLeod, 2015-04-30 Property and Practical Reason makes a moral argument for common law property institutions and norms and challenges the prevailing dichotomy between individual rights and state interests and its assumption that individual preferences and the good of communities must be in conflict One can understand competing intuitions about private property rights by considering how private property enables owners and their collaborators to exercise practical reason consistent with the requirements of reason and thereby to become practically reasonable agents of deliberation and choice who promote various aspects of the common good The plural and mediated domains of property ownership though imperfect have moral benefits for all members of the community They enable communities and institutions of private ordering to pursue plural and incommensurable good ends while specifying the boundaries of property rights consistent with basic moral requirements

What's Wrong with Copying? Abraham Drassinower, 2015-04-09 Abraham Drassinower presents a new way to balance the needs of creators and users of authored works Disentangling copyright theory from its focus on the economic value of a work as a commodity he views a work instead as a communicative act Infringement according to this perspective is an unauthorized appropriation of another's speech

Trade Secrets Legal Protection Luc Desautettes-Barbero, 2023-06-10 Despite the economic relevance of trade secrets their legal protection is not based on a robust theoretical corpus and a large uncertainty remains regarding how they should be legally apprehended The present book investigates the foundations of their legal protection by assessing its justifications and aims to define how this legal apprehension should be organized The book starts with a comparative analysis of the US and the EU legal frameworks It demonstrates the parentship existing between the two systems of protection and highlights that the incremental structuring of trade secrets protection has led to legal systems lacking broad based conceptual foundations In both legal orders trade secrets rely on blurred protection formally anchored in unfair competition the strength of which however comes closer to that offered by intellectual property law In this convoluted architecture the judiciary is required to play a decisive role especially at the enforcement stage However the absence of clarity concerning the telos of trade secrets protection leads to legal uncertainty potentially incoherent enforcement and all in all to inefficient outcomes from a welfare perspective The book then explores a theoretical framework based on a distinction between two legal objects the undertakings secret sphere and secret pieces of information Securing the undertakings secret sphere appears as a condition for the competition process to happen in an economy working under structural uncertainty It requires objective regulations enforced by public authorities On the other hand the legal apprehension of secret pieces of information should be considered as falling within the realm of immaterial goods regulation aiming to solve the deficit of marketability of this type of good This might call after

conducting a careful policy trade off for the establishment of relative i.e. inter partes subjective rights

The Idea of Property Laura S. Underkuffler, 2003 Legal scholars and philosophers have long been engaged in studying the secret of the internal structure of property in law This text aims to advance our understanding of property as an idea and the power that claimed property rights should have against competing public interests

Performers' Rights in Sri Lanka Gowri Nanayakkara, 2019-04-13 This book explores whether global music copyright law and the performers rights regime PRR have been able to improve the economic position of artists as they were originally intended to The author investigates whether this regime effectively addresses contemporary issues regarding royalty payments and cover songs in Sri Lankan music drawing on the empirical findings of a case study she conducted on the Sinhala music industry She finds that the PRR developed internationally and implemented in Sri Lanka is predicated on a particular view of the role of performers and their relationships with other actors in the music industry although this view can be found in the USA UK and India it does not seem to reflect the established practices and relationships within Sri Lanka's contemporary music industry While providing a socio historical and legal analysis of these differing industrial settings and investigating the manner in which they impact the PRR's in ability to deliver improved economic security for Sinhala singers the book also offers policymakers recommendations on how to supplement current national copyright law and the PRR in order to provide a secure economic position for music artists in Sri Lanka

An Introduction to Property Theory Gregory S. Alexander, Eduardo M. Peñalver, 2012-04-09 This book surveys the leading modern theories of property Lockean libertarian utilitarian law and economics personhood Kantian and human flourishing and then applies those theories to concrete contexts in which property issues have been especially controversial These include redistribution the right to exclude regulatory takings eminent domain and intellectual property The book highlights the Aristotelian human flourishing theory of property providing the most comprehensive and accessible introduction to that theory to date The book's goal is neither to cover every conceivable theory nor to discuss every possible facet of the theories covered Instead it aims to make the major property theories comprehensible to beginners without sacrificing accuracy or sophistication The book will be of particular interest to students seeking an accessible introduction to contemporary theories of property but even specialists will benefit from the book's lucid descriptions of contemporary debates

Property in the Margins A J van der Walt, 2009-05-29 Having its origins in the process of transformation and land reform that began to take shape in South Africa at the end of the last century this strikingly original analysis of property starts from deep inside the property regime and not from a distant or abstract perspective on property rules and practices Focusing on issues of stability and change in a transformative setting and on the role of tradition and legal culture in that context the book argues that a property regime including the system of property holdings and the rules and practices that entrench and protect them tends to insulate itself against change through the security and stability seeking tendency of tradition and legal culture including the deep assumptions about security and

stability embedded in the rights paradigm rhetoric and logic that dominate current legal culture The rights paradigm tends to stabilise the current distribution of property holdings by securing extant property holdings on the assumption that they are lawfully acquired socially important and politically and morally legitimate This function of the rights paradigm tends to resist or minimise change including change brought about by morally politically and legally legitimate and authorised reform or transformation efforts The author's goal is to gauge the lasting power of the rights paradigm by investigating its effects in the margins of property law and of society by establishing the actual efficacy and power of reformist or transformative anti eviction policies and legislation aimed at the protection of marginalised and weak land users and occupiers in areas such as landlord tenant law eviction of unlawful occupiers of land and other restrictions on the landowner's power to enforce a stronger right to exclusive possession Ultimately the book's aim is to explore the possibility of opening up theoretical space where justice inspired changes to or transformation of the extant property regime can be imagined and discussed more or less fruitfully from an unusual perspective a perspective from the margins which is valuable for any theoretical consideration or discussion of property

The Idea of Authorship in Copyright Lior Zemer, 2017-03-02 As information flows become increasingly ubiquitous in our post digital environment the challenges to traditional concepts of intellectual property and the practices deriving from them are immense The romantic understanding of the lone author as an endless source of new creations has to face these challenges In order to do so this work presents a collectivist model of intellectual property rights The core argument is that since copyright works enjoy profit from significant public contribution they should not be privately owned but considered to be a joint enterprise made real by both the public and author It is argued that every copyright work depends on and is reflective of the author's exposure to externalities such as language culture and the various social events and processes that occur in the public domain therefore copyright works should not be regarded as exclusive private property The study takes its organizing principle from John Locke defining and proving the fatal flaw inherent in debates on copyright on the one hand the copyright community is eager to arm authors with a robust property right over their creation while on the other this community totally ignores the fact that the exposure of the individual to externalities is what makes him or her capable of creating material that is copyrightable Just as Locke was against the absolute authority of kings the expressed view of the study is against the exclusive right an author can claim

The Global Health Crisis Thana Cristina de Campos, 2017-03-30 Proposing a new view of global justice based on natural law this book presents a discussion of the key ethical values in contemporary medicine and health notably in relation to neglected diseases like malaria Ebola and Zika The lack of treatments for such diseases points to a global health crisis Thana Cristina de Campos provides a general framework based on global commutative justice for discussion of the ethical responsibilities of international stakeholders mapping the varying duties they have and their content and force She also addresses the urgent need for reforms to the international legal rules on bioethics notably the system of intellectual property rights These ideas will be of interest to those who are looking

for a more nuanced view of the human right to health than that provided by advocates in the globalist mainstream *The SAGE Handbook of Intellectual Property* Matthew David, Debora Halbert, 2014-11-18 This Handbook brings together scholars from around the world in addressing the global significance of controversies over and alternatives to intellectual property IP today It brings together over fifty of the leading authors in this field across the spectrum of academic disciplines from law economics geography sociology politics and anthropology This volume addresses the full spectrum of IP issues including copyright patent trademarks and trade secrets as well as parallel rights and novel applications In addition to addressing the role of IP in an increasingly information based and globalized economy and culture it also challenges the utility and viability of IP today and addresses a range of alternative futures **Harvard Law Review: Volume 125, Number 3 - January**

2012 Harvard Law Review, 2012-01-13 The Harvard Law Review is offered in a digital edition for ereaders featuring active Table of Contents linked footnotes and cross references legible tables and proper ebook formatting This issue is Jan 2012 Volume 125 Number 3 Featured articles in this issue are from such recognized scholars as Rebecca Tushnet reimagining copyright law for images instead of the usual frame of text and words and Carol Steiker reviewing David Garland's new book on capital punishment under the idea of contingency Student contributions explore the law relating to conversion modified video games the Second Amendment and gun rights patent law environmental law and extending the debt ceiling Finally the issue includes several Book Notes **Engaging the Everyday** John M. Meyer, 2015-03-13 Meyer pioneers a uniquely

political approach to environmental social criticism that follows from a startling central proposition that it is not outright oppression and denialism that are the most significant impediments but what he aptly terms the resonance dilemma This is the failure of climate and environmental challenges however important we may grant that they are to strike us as integral everyday concerns This lively eloquent accessible volume models the very style of social criticism that it calls for in response to this dilemma a resonant environmental criticism that works on rather than against everyday practices Lisa Disch Department of Political Science University of Michigan Ann Arbor author of *Hannah Arendt and the Limits of Philosophy*

The Human Right to Property Douglas Maxwell, 2022-07-14 This is an excellent work It is deeply researched and the analysis of case law will prove very valuable to practitioners and academics seeking a synthesis of the law on an issue The Rt Hon Lord Justice Green Judge of the Court of Appeal of England and Wales and Chair of the Law Commission A valuable contribution to the jurisprudence on Article 1 Protocol No 1 and of much interest to both property and human rights lawyers Professor Sarah Nield University of Southampton The pervasiveness of A1P1 through contemporary property law makes this a serious and comprehensive study This book masterfully interweaves theory and doctrinal law It is both timely and necessary for academics and practitioners working in this area David Sawtell 39 Essex Chambers and Cambridge University This book provides a highly detailed practical analysis of Article 1 of Protocol No 1 A1P1 and its implications in the United Kingdom A1P1 prescribes a qualified right to the peaceful enjoyment of possessions This right corresponds to a negative limit

on legislators and public authorities to rationalise interferences with possessions and where necessary to strike a fair balance often requiring just compensation Through lively and rigorous commentary on the latest advances made by the European Court of Human Rights and domestic courts The Human Right to Property enriches current understanding of the peaceful enjoyment of property since the enactment of the Human Rights Act 1998 Exploring the theoretical and political foundations of A1P1 the book guides the reader through the relevant case law from the earliest developments in Strasbourg to the present day The Human Right to Property concludes that the most significant impacts of A1P1 are that it forces States to justify interferences limits radical redistributions of property and casts a wider shadow over legislative choice and public body decision making

Research Handbook on Intellectual Property and Artificial Intelligence Ryan Abbott, 2022-12-13 This incisive Handbook offers novel theoretical and doctrinal insights alongside practical guidance on some of the most challenging issues in the field of artificial intelligence and intellectual property Featuring all original contributions from a diverse group of international thought leaders including top academics judges regulators and eminent practitioners it offers timely perspectives and research on the relationship of AI to copyright trademark design patent and trade secret law

Property and Human Rights in a Global Context Ting Xu, Jean Allain, 2016-03-24 Property as a human rights concern is manifested through its incorporation in international instruments and as a subject of the law through property related cases considered by international human rights organs Yet for the most part the relationship between property and human rights has been discussed in rather superficial terms lacking a clear substantive connection or common language That said the currents of globalisation have witnessed a new era of interrelation between these two areas of the law including the emergence of international intellectual property law and the recognition of indigenous claims which in fundamental ways speak to an engagement with human rights law This collection starts the conversation between human rights lawyers and property lawyers and explores analytical approaches to the increasing relationship between property and human rights in a global context The chapters engage with key theoretical and policy debates and range across three main themes The re-evaluation of the public private divide in the law the tensions between the market and social justice in development and the balance between the rights of individuals and those of communities The chapters adopt a global comparative perspective and engage in case studies from countries including India Philippines Brazil the United States the United Kingdom and includes various regions of Africa and Europe

Online Music Distribution - How Much Exclusivity Is Needed? Nikita Malevanny, 2019-08-30 This book analyzes regulatory models established in the field of online music distribution and examines their consistency with the overarching objectives of copyright law In order to do so the book takes a deep dive into the provisions of international treaties EU Directives as well as the German and US copyright systems and case law It subsequently scrutinizes the identified regulatory models from the standpoint of the copyright s objectives with regard to incentives rewards a level playing field and dissemination Lastly it endorses the improved market based statutory license as a

preferable instrument in the online music field The book is intended for all readers with an interest in music copyright law Part I will especially benefit copyright scholars and practitioners seeking in depth insights into the current legal situation regarding streaming and downloading In turn Part II will above all appeal to scholars interested in law and economics and in the theoretical foundations of online music copyright Policy recommendations can be found in Part III

The Southern Middle Class in the Long Nineteenth Century Jonathan Daniel Wells, Jennifer R. Green, 2011-12-12 The Southern Middle Class in the Long Nineteenth Century provides a series of provocative essays reflecting innovative original research on professional and commercial interests in a region often seen as composed of just two classes planters and slaves This study shows however that the active middle class devoted to cultural and economic modernization of the region worked in tandem with its northern counterpart and independently to bring reforms to the South

Digitization, Copyright and the Law Ettore M. Lombardi, 2024-09-13 This book discusses copyleft and its impact on the traditional way to conceive of property It is specifically focused on the European and international juridical framework Analysing the impact of digitalization on copyright and the potential effect of copyleft in the European market and within a European and international juridical framework this book explores the complex evolutionary framework which charts the reduction of physical property and the progressive expansion of intangible assets Although digitalization enables more accessibility than ever before this impacts traditional intellectual property frameworks Evaluating common traits of ownership structure the book considers the challenges that intangible property open source and creative commons present to the current legal system Examining the impact of copyleft on copyright and the law of ownership the book considers the rights of authors and creators legal limits and complications arising from these new forms of ownership of intangible assets The book is grounded in the European potential regulatory framework of copyleft through movements like open source software The book will be of interest to students academics and practitioners with an interest in contract law property law and intellectual property law

Property and the Law in Energy and Natural Resources Aileen McHarg, 2010 The law of energy and natural resources has always had a strong focus on property as one of its components but there are relatively few comparative book length treatments of both property law and energy and natural resources law The aim of this edited collection is to explore the multiple dimensions of the contemporary relationship between property and energy and natural resources law Its genesis was the growing resurgence of global interest in questions of property in energy and resources and how it manifests itself across legal regimes around the world With an international and comparative character the collection seeks to capture differences in the meaning of property and the different views about the role it should play in a diverse range of contexts civil law and common law the law of indigenous communities public law and private law and national and international law Key issues discussed include private rights and common property situations privatization and regulation competition for land use and resources the role of property rights in environmental protection and the balance between national sovereignty and the security of foreign investment The collection

thus has relevance for a wide readership interested in the legal dimensions of property as an increasingly important aspect of the law for energy and resources across diverse countries and at the international level The contributors are established experts in the energy and natural resources law field and the collection builds upon a body of previous collaborative work in this area

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