

CHAPTER 3: THEORIES OF LAW

	NATURALIST	POSITIVIST	SOCIOLOGIST
THEORY	• a legal theory that recognises law of nature/ moral law • believes that laws must be good and just to govern human relation. • It's the nature of every human being to know from his conscience what is righteous and therefore lawful. • They believe that human laws are defined by morality, and not by an authority figure like a government king. • NATURALIST: OVERLAP THESIS • all forms of natural law theory supports the necessary relation between the concepts of law and morality.	• Positivists believe that only positive law is law. Positive laws are laws that have been established by the authority of the state (sovereign). • Positivists are blind to values. • Positive law has nothing to do with ideal or just law, it has no regard to goodness or badness or the law. • Recognize only positive facts and excludes considerations towards concepts of jurisprudence. • POSITIVIST: SEPARABILITY THESIS • Positivism is not concerned with whether law is moral, just or unfair.	• Law is wholly concerned with its effect and results on society rather than treating law as will of god or command of the sovereign as law exists for the needs of the society. • Main concern of socialist is interpreting the law in the social context, to bring good to the society. • Law regulates all kinds of relationships in a society and controls the behavior of its members. Hence, it is considered as a form of social control. • Law is not only about legality and punishment.
JURIST	→ BLACKSTONE ◆ Laws of nature dictated by god himself that are superior to any other	→ JOHN AUSTIN ◆ Law is a command made by a political sovereign. ◆ Rule is only legally valid	→ ROSCOE POUND ◆ Law is an instrument of social engineering. Its

Rights And Law Analysis And Theory

LAVERNE BURCHFIELD



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Rights and Law Andrew Halpin, 1997 **Rights and Law** Andrew Halpin, 2001 Theory of Legal Personhood Visa A. J. Kurki, 2019 This work offers a new theory of what it means to be a legal person and suggests that it is best understood as a cluster property The book explores the origins of legal personhood the issues afflicting a traditional understanding of the concept and the numerous debates surrounding the topic *Legal Reasoning, Legal Theory and Rights* Martin P. Golding, 2017-07-05 This book is a selection of articles and chapters published over Martin Golding s academic career Golding s approach to the philosophy of law is that it contains conceptual and normative issues and in this volume logical issues in legal reasoning are examined and various theories of law are critically discussed Normative questions are dealt with regarding the rule of law and criminal law defenses and the concept of rights and the terminology of rights are analyzed Much of Golding s work is critical historical as well as constructive This volume will prove an informative and useful collection for scholars and students of the philosophy of law *New Essays on the Nature of Rights* Mark McBride, 2017-08-24 This original collection of jurisprudential essays furthers our understanding of the nature of rights In Part 1 Halpin considers the value of Hohfeldian neutrality when theorising about law in general and legal rights in particular and Kurki focuses on Hohfeld s operative notion of power In Part 2 Kramer rebuts Wenar s objections to his Interest Theory of rights and May provides a comparative defence of the Interest Theory against Wenar s Kind Desire theory of claim rights Penner then pursues legal doctrine focusing on whether judges hold the powers of their office as rights an issue over which Wenar and Kramer have clashed Sreenivasan utilising a novel test case involving pure public goods argues that the third party beneficiary objection to the Interest Theory is fatal McBride builds on Sreenivasan s Hybrid Theory of claim rights to construct his new Tracking Theory of rights Cruft then argues that the best extant versions of the Interest and Will Theories of rights cannot avoid a form of circularity and Van Duffel argues that meeting four adequacy constraints which he proposes counts in favour of any theory of rights In Part 3 Andersson proposes a tie breaking procedure for rights conflicts in the applied realm of politics and Steiner concludes by alleging that Kant s principle of right a standard of corrective justice has distributive implications A fine collection of cutting edge essays on the most important normative concept of modernity Professor Leif Wenar King s College London This important collection proceeds much beyond the famous 1998 A Debate Over Rights which sets the stage for the debates concerning rights since then It explores three aspects of rights First it re examines the Hohfeldian classification and highlights its importance and relevance Second it investigates and develops the debates between the interest and the will theory It includes essays by the main established proponents of these two positions as well as essays by newcomers to this field The different essays in this part address each other in ways which sharpen and clarify the disagreements and provide new original arguments for the contending views Last it provides a new perspective on the debates concerning conflicts of rights and the ways to overcome them This collection will no doubt dominate the future

conceptual discussions concerning the nature of rights and their role in political theory Professor Alon Harel The Hebrew University of Jerusalem *The Architecture of Rights* David Frydrych, 2021-10-13 What is a right What if anything makes rights different from other features of the normative world such as duties standards rules or principles Do all rights serve some ultimate purpose In addition to raising these questions philosophers and jurists have long been aware that different senses of a right abound To help make sense of this diversity and to address the above questions they developed two types of accounts of rights models and theories This book explicates rights modelling and theorising and scrutinises their methodological underpinnings It then challenges this framework by showing why the theories ought to be abandoned In addition to exploring structural concerns the book also addresses the various ways that rights can be used It clarifies important differences between rights exercise enforcement remedying and vindication and identifies forms of legal rights claiming and rights invoking outside of institutional contexts Criminology and Political Theory Dr Anthony

Amatrudo, 2009-07-09 A lucid sophisticated and timely vindication of the importance of Marxist feminist and other radical perspectives on the state and political economy to the analysis of crime control and justice It offers a valuable guide to issues of political philosophy for students and teachers of criminology critically deconstructing the taken for granted categories of law and criminal justice Professor Robert Reiner London School of Economics UK This clear and concise book sets out the relationship between political theory and criminology It critically analyzes key theories and debates within criminology and addresses the major political ideas that lie beneath them Organized around key criminological concepts and issues the book covers power and ideology the nature of the state social control and policing punishment economics and criminal activity morality The book has been carefully developed to support practical teaching and learning and contains chapter summaries further reading and a comprehensive glossary which combine to provide a full understanding of the themes **THE**

THEORY OF AMERICAN INTERNATIONAL LAW: ANALYSIS AND CRITICISM. LAVERNE BURCHFIELD, 1928

Rights in Context Reza Banakar, 2010 This collection offers a snapshot of how rights are debated and employed in public discourse to reshape legal and political relations at the beginning of the twenty first century They explore how rights are used to challenge the state of affairs by indiv *The Methodology of Legal Theory* Michael Giudice, Wil

Waluchow, 2017-07-05 The last decade has witnessed a particularly intensive debate over methodological issues in legal theory The publication of Julie Dickson s *Evaluation and Legal Theory* 2001 was significant as were collective returns to H L A Hart s Postscript to *The Concept of Law* While influential articles have been written in disparate journals no single collection of the most important papers exists This volume the first in a three volume series aims not only to fill that gap but also propose a systematic agenda for future work The editors have selected articles written by leading legal theorists including among others Leslie Green Brian Leiter Joseph Raz Ronald Dworkin and William Twining and organized under four broad categories 1 problems and purposes of legal theory 2 the role of epistemology and semantics in theorising about the

nature of law 3 the relation between morality and legal theory and 4 the scope of phenomena a general jurisprudence ought to address

Whispering the Techniques of Language: An Psychological Quest through **Rights And Law Analysis And Theory**

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