

NEW DIRECTIONS IN PRIVATE LAW THEORY

**EDITED BY
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Private Law Theory

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Private Law Theory:

Oxford Studies in Private Law Theory: Volume II Paul B. Miller, John Oberdiek, 2023 Oxford Studies in Private Law Theory is a biennial forum for some of the best new work in private law theory by scholars from around the world The essays range widely over issues in general private law theory as well as specific fields including the theoretical analysis of tort law property law contract law fiduciary law trust law remedies and restitution and the law of equity OSPLT will be essential reading for academic lawyers philosophers political scientists economists and historians who wish to keep up with the latest developments in the flourishing field of private law theory Volume II ranges widely over a diverse array of topics including the standing to enforce private rights the power constraining role of equity the grounds and limits of repair dimensions of liability the fiduciary duties of lawyers as well as broader questions concerning the place of autonomy and democracy in private law and the justification of private law itself *Private Law Theory* Jules L. Coleman, 1994 **Research Handbook**

on Private Law Theory Hanoch Dagan, Benjamin C. Zipursky, 2020-12-25 This comprehensive Research Handbook provides an unparalleled overview of contemporary private law theory Featuring original contributions by leading experts in the field its extensive examinations of the core areas of contracts property and torts are complemented by an exploration of a breadth of topics that cross the divide between private and public law including labor law and corporate law *Oxford Studies in*

Private Law Theory: Volume I Paul B Miller, John Oberdiek, 2020-11-20 Oxford Studies in Private Law Theory is a biennial forum for some of the best new work in private law theory by scholars from around the world The essays range widely over issues in general private law theory as well as specific fields including the theoretical analysis of tort law property law contract law fiduciary law trust law remedies and restitution and the law of equity OSPLT will be essential reading for academic lawyers philosophers political scientists economists and historians who wish to keep up with the latest developments in the flourishing field of private law theory **New Private Law Theory** Stefan Grundmann, Hans-W. Micklitz, Moritz Renner, 2021-03-18 New Private Law Theory opens a new pathway to private law theory through a pluralistic approach Such a theory needs a broad and stable foundation which the authors have built here through a canon of nearly seventy texts of reference This book brings these different texts from different disciplines into conversation with each other grouping them around central questions of private law and at the same time integrating them with the legal doctrinal analysis of example cases This book will be accessible to both experienced and early career scholars working on private law

Private Law and Practical Reason Haris Psarras, Sandy Steel, 2023-03-15 The contributions to this edited volume engage with John Gardner's philosophical work on private law The content is divided into three parts The first part gathers contributions on general theoretical issues that bear upon private law The second part is concerned with Gardner's well known views on responding to wrongs and the justification of reparative duties an issue that spans all of private law The third part turns to theoretical issues within particular areas of private law Its focus is Gardner's focus tort law but it also

includes chapters on contract law and equity The primary aim of *Private Law and Practical Reason* is to facilitate a critical assessment of the private law thinking of one of the most important legal philosophers of the last fifty years Gardner's contributions to private law theory are recognised to be amongst the most significant and philosophically rich This work assembles a group of contributors with diverse theoretical commitments many of whom have not directly engaged previously with Gardner's work and is intended to act as a reference point for central debates in private law theory such as the role of moral duties the justification of reparative obligations and more broadly the role of reasons in private law

Methodology in Private Law Theory, 2024-01-02 *Methodology in Private Law Theory* Between New Private Law and Rechtsdogmatik represents a first of its kind dialogue between leading lights in German and American private law theory The chapters in this volume build upon established traditions of scholarship in German private law and harness resurgent scholarly interest in private law in the United States inviting readers to question how private law functions on both sides of the Atlantic In the context of the cross fertilization of legal scholarship the transnationalization of law and the historical ties between US and German debates on methodology the volume encourages reasoned engagement with private law doctrines and institutions It further invites reflexive consideration of diverse ways in which methods of legal analysis influence social practices where law is given received asserted and negotiated Leading methodologies of the past and present are subject to fresh elucidation and insightful criticism including those of legal formalism legal conceptualism legal realism law and economics legal philosophy legal history empirical jurisprudence Rechtsdogmatik and other varieties of doctrinal scholarship Providing the necessary background for understanding different legal cultures and traditions in private law *Methodology in Private Law Theory* is a must read for anyone working within the field

Private Law Theory Steven Hedley, 2016-06-09 Private law is a foundational part of the law But what is it and why does it take the form it does Many authors offer theoretical accounts drawing on very different intellectual traditions some base private law on economics some on social policy some on particular schools of moral philosophy some on the traditions of the common law We do not lack theory if anything we have too much Worse many writers have sought to theorise individual parts of private law in isolation from the remainder so that the law's inter connectedness and seamless fluidity have begun to fade from view The forest of theoretical literature has become vast and tangled This book provides a path through the forest It argues that the theory of private law is a coherent topic of enquiry and that the many theoretical contributions to it can be seen as rival attempts to answer its core questions which are How do we characterise the main institutions of private law the What question and How do we justify those institutions the Why question The aim of the book is to survey this broad field to explore common themes and to guide its readers through the various issues and debates to date

Relational Justice Hanoch Dagan, Avihay Dorfman, 2024-09-05 What makes private law private What is its domain What are the values it promotes *Relational Justice A Theory of Private Law* addresses these foundational questions in a robust analysis of the key doctrines of private law including torts contracts and restitution

Discarding the vision of private law as a bastion of negative duties of non interference or efficiency maximization this book reframes private law in terms of what it calls relational justice reciprocal respect for self determination and substantive equality By vindicating self determination private law can forge the horizontal interactions vital to the ability to shape and implement a conception of the good life By structuring these interactions in terms requiring parties to respect one another for who they are private law can cast them as interactions between equals In the book s first part the authors set out a normative position they term relational justice whereby the rules of private law abide by the fundamental maxim of reciprocal respect for self determination and substantive equality The second part of the book applies this framework to an analysis of familiar private law doctrinal areas followed by a third part charting newer areas including workplace safety poverty discrimination and implications for international law Throughout the authors show how relational justice theory provides a normative vocabulary for evaluating core features of existing private law while suggesting directions for necessary or desirable reforms

New Directions in Private Law Theory Fabiana Bettini ,Martin Fischer ,Charles Mitchell,Prince Saprai ,2023-10-16 New Directions in Private Law Theory brings together some of the best new work on private law theory reflecting the breadth of this increasingly important field The contributions interrogate a wide range of topics including aspects of private law doctrine its development ordering and application The authors adopt a variety of different approaches and contribute to ongoing and important debates about the moral foundations of private law the individuation of areas of private law and the connections between private law and everyday moral experience Questions addressed include Does the diversity identified amongst claims in unjust enrichment mean that the category is incoherent Are claims in tort law always about compensating for wrongs How should we understand parties agreement in contract The contributions shed new light on these and other topics and the ways in which they intersect and open up new lines of scholarly enquiry The book will be of interest to researchers working in private law and legal theory but it will also appeal to those outside of law most notably researchers with an interest in moral and political philosophy economics and history

Reconstructing American Legal Realism & Rethinking Private Law Theory Hanoch Dagan,2013-09-19 In the myriad choices of interpretation judges face when confronted with rules and cases legal realists are concerned with how these doctrinal materials carry over into judicial outcomes What can explain past judicial behavior and predict its future course How can law constrain judgments made by unelected judges How can the distinction between law and politics be maintained despite the collapse of law s autonomy in its positivist rendition In *Reconstructing American Legal Realism Rethinking Private Law Theory* Hanoch Dagan provides an innovative and useful interpretation of legal realism He revives the legal realists rich account of law as a growing institution accommodating three sets of constitutive tensions power and reason science and craft and tradition and progress and demonstrates how the major claims attributed to legal realism fit into this conception of law Dagan seeks to rein in realist descendants who have become fixated on one aspect of the big picture and to dispel the misconceptions that those gone

astray represent the tradition accurately or that realism is now merely a historical signpost He draws upon the realist texts of Oliver Wendell Holmes Karl Llewellyn and others to explain how legal realism offers important and unique jurisprudential insights that are not just a part of legal history but are also relevant and useful for a contemporary understanding of legal theory Building on this realist conception of law and enriching its texture Dagan addresses more particular jurisprudential questions He shows that the realist achievement in capturing law s irreducible complexity is crucial to the reinvigoration of legal theory as a distinct scholarly subject matter and is also inspiring for a host of other more specific theoretical topics such as the rule of law the autonomy and taxonomy of private law the relationships between rights and remedies and the pluralism and perfectionism that typify private law *Oxford Studies in Private Law Theory: Volume II* Paul B. Miller, John Oberdiek, 2023-05-11 Oxford Studies in Private Law Theory is a biennial forum for some of the best new work in private law theory by scholars from around the world The essays range widely over issues in general private law theory as well as specific fields including the theoretical analysis of tort law property law contract law fiduciary law trust law remedies and restitution and the law of equity OSPLT will be essential reading for academic lawyers philosophers political scientists economists and historians who wish to keep up with the latest developments in the flourishing field of private law theory Volume II ranges widely over a diverse array of topics including the standing to enforce private rights the power constraining role of equity the grounds and limits of repair dimensions of liability the fiduciary duties of lawyers as well as broader questions concerning the place of autonomy and democracy in private law and the justification of private law itself

Private Law and Practical Reason Haris Psarras, 2023 This edited volume engages with John Gardner s philosophical work on private law It assembles a group of contributors with diverse theoretical commitments and acts as a reference point for central debates in private law theory such as the role of moral duties the justification of reparative obligations and the role of reasons in private law [Two Questions for Private Law Theory](#) Felipe Jiménez, 2019 How should we build theories of private law This article claims that in answering this question we should keep in mind the distinction between wholesale questions about the best interpretation or justification of legal institutions and retail questions about their internal operation in other words the distinction between questions about legal institutions and questions within them This distinction has been obscured in recent private law theory In this article I argue that if we want to make progress in understanding private law we should reclaim the distinction *Reconstructing American Legal Realism & Rethinking Private Law Theory* Hanoch Dagan, 2013-09 This book demonstrates how legal realism offers important and unique jurisprudential insights that are not just a part of legal history but are also relevant and useful for a contemporary understanding of legal theory *Private Law in Theory and Practice* Michael Bryan, 2007-03-12 Private Law in Theory and Practice explores important theoretical issues in tort law the law of contract and the law of unjust enrichment and relates the theory to judicial decision making in these areas of private law Topics covered include the politics and philosophy of tort law reform the role of good faith in contract law

comparative perspectives on setting aside contracts for mistake and the theory and practice of proprietary remedies in the law of unjust enrichment Contributors to the book bring a variety of theoretical approaches to bear on the analysis of private law They include economic analysis corrective justice theory comparative analysis of law socio legal inquiry social history political theory as well as doctrinal analysis of the law In all cases the theoretical approaches are applied to recent case law developments in England Australia and Canada or in the case of tort law proposals in all these jurisdictions to reform the law The book presents the theory of private law and the application of theory to practical legal problems in an accessible form to teachers and students of tort contract and the law of unjust enrichment legal researchers and law reformers

Private Law and the Rule of Law Lisa M. Austin, Dennis Klimchuk, 2014 The rule of law is widely perceived to be a public law doctrine concerned with the way in which governmental authority conforms to the dictates of law The goal of this book is to challenge this presumption The chapters in this volume all consider the idea that the rule of law concerns the nature of law generally and the conditions under which any relationship that among citizens as well as that between citizens and the state becomes subject to law Addressing two major questions they ask if our understanding of the rule of law is enriched by considering how and to what degree it is expressed or realized in private law and whether our understanding of the private law is enriched by adding the principles of the rule of law to the traditional list of core private law concepts Bringing together leading philosophers of private and public law this volume examines key questions in a little explored field and will be essential reading for all those interested in the rule of law and in private law theory

The Oxford Handbook of the New Private Law Andrew S. Gold, John C. P. Goldberg, Daniel B. Kelly, Emily Sherwin, Henry E. Smith, 2020-11-06 The Oxford Handbook of the New Private Law promises to help redefine and reinvigorate the subject of private law a domain that includes property contract and tort law as well as intellectual property unjust enrichment and equity It emphasizes cross cutting perspectives and relations between areas of private law with special attention to the doctrines and structures of the law an approach now known as the New Private Law This perspective includes explanation justification and criticism of existing law reflecting the conviction of the editors that it makes sense to know what the law is in order to be in a position to criticize and reform it The Handbook will be an essential resource for legal scholars interested in the future of this important field

Standing in Private Law Timothy Liao, 2023 This book develops the idea that standing is a distinct and separable private law concept that can and should be distinguished more clearly from the more dominant concept of a right By recognising standing's distinctiveness debates within private law theory including torts unjust enrichment and trusts are informed and contributed to

Reconstructing American Legal Realism and Rethinking Private Law Theory Hanokh Dagan, 2013 The author revives the legal realists' rich account of law as a growing institution accommodating three sets of constitutive tensions power and reason science and craft and tradition and progress and demonstrates how the major claims attributed to legal realism fit into this conception of law The book seeks to rein in realist descendants who have become fixated on one aspect of the big

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dad your little girl misses you every day when you were with us we used to celebrate like festival and as you are in heaven i am sending angels to celebrate your birthday happy birthday may this day give you tons of happiness and hope you are safe wherever you are in the heaven lots of love hugs and kisses from your little girl

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