



Modern Legal Theory Problems And Perspectives

Jana Norman



Modern Legal Theory Problems And Perspectives:

Modern Legal Theory Stephen C. Hicks, 1998-01-01 This book of readings was designed for an introductory course in the theory of modern Western law. The materials mine the depths of history, philosophy, politics, ethics to bring to view a certain story of the present past future condition of modern Western legal theory, namely that modern legal theory is reaching its end with the new millennium.

Modern Legal Theory & Judicial Impartiality Ofer Raban, 2012-09-10 This book argues that at the core of legal philosophy's principal debates there is essentially one issue: judicial impartiality. Keeping this issue to the forefront, Raban's approach sheds much light on many difficult and seemingly perplexing jurisprudential debates. *Modern Legal Theory and Judicial Impartiality* offers a fresh and penetrating examination of two of the most celebrated modern legal theorists: H.L.A. Hart and Ronald Dworkin. The book explains the relations between these two scholars and other theorists and schools of thought, including Max Weber, Lon Fuller, and the law and economics movement, offering both novices and experts an innovative and lucid look at modern legal theory. The book is written in an engaging and conversational style, tackling highly sophisticated issues in a concise and accessible manner. Undergraduates in jurisprudence and legal theory, as well as more advanced readers, will find it clear and challenging.

Legal Theory and the Legal Academy Maksymilian Del Mar, 2017-07-05 The third in a series of three volumes on Contemporary Legal Theory, this volume deals with four topics: 1. the role of legal theory in the legal curriculum; 2. the teaching of legal theory; 3. the relationship of legal theory to legal scholarship; and 4. the relationship of legal theory to comparative law. The focus of the first two topics is on the common law world, where the debates over the aims and proper place of legal theory in the study of law have traversed a good deal of ground since John Austin's 1828 lecture *The Uses and the Study of Jurisprudence*. These first two parts offer a selection of the most important papers, including surveys as well as pedagogical viewpoints and particular course descriptions, from analytical, critical, feminist, law and literature, and global perspectives. The last three decades have seen just as many changes for legal scholarship and comparative law. These changes, such as the rise of empirical legal scholarship, have often attracted the attention of legal theorists. Within comparative law, the last thirty years have witnessed intense methodological reflection within the discipline; the results of these reflections are themselves properly recognised as legal theoretical contributions. The volume collects the key papers, including those by Neil MacCormick, Mark Van Hoecke, Andrew Halpin, William Ewald, and Geoffrey Samuel.

Research Handbook on Modern Legal Realism Shaughin Talesh, Elizabeth Mertz, Heinz Klug, 2021-03-26 This insightful Research Handbook provides a definitive overview of the New Legal Realism (NLR) movement, reaching beyond historical and national boundaries to form new conversations. Drawing on deep roots within the law and society tradition, it demonstrates the powerful virtues of new legal realist research and its attention to the challenges of translation between social science and law. It explores an impressive range of contemporary issues, including immigration, policing, globalization, legal education, and access to justice, concluding with an examination of

how different social science disciplines intersect with NLR Law, Institution and Legal Politics Ota Weinberger, 2012-12-06

It gives me great pleasure to offer this foreword to the present work of my admired friend and respected colleague Ota Weinberger. Apart from the essays of his which were published in our joint work *An Institutional Theory of Law* New Approaches to Legal Positivism in 1986 relatively little of Weinberger's work is available in English. This is the more to be regretted since his is work of particular interest to jurists of the English speaking world both in view of its origins and in respect of its content. As to its origins Weinberger was reared as a student of the Pure Theory of Law a theory which in its Kelsenian form has aroused very great interest and has had considerable influence among anglophone scholars perhaps even more than in the Germanic countries. Less well known is the fact that the Pure Theory itself divided into two schools that of Vienna and that of Brno. It was in the Brno school of Frantisek Weyr that Weinberger's legal theory found its early formation and perhaps from that early influence one can trace his continuing insistence on the dual character of legal norms both as genuinely normative and yet at the same time having real social existence **A Modern Perspective on Type Theory** F.D. Kamareddine, T. Laan, Rob Nederpelt, 2006-03-10 This book provides an overview of type theory. The first part of the book is historical yet at the same time places historical systems in the modern setting. The second part deals with modern type theory as it developed since the 1940s and with the role of propositions as types or proofs as terms. The third part proposes new systems that bring more advantages together Postmodern Philosophy and Law Douglas E. Litowitz, 1997 The author presents a two tiered analysis that views postmodern legal thought as both a collective intellectual movement and as the work of particular theorists notably Friedrich Nietzsche Michel Foucault Jacques Derrida Francois Lyotard and Richard Rorty. He concludes that even though postmodern thought does not give rise to a normative theory of right that can be used as a framework for deciding cases it can focus attention on genealogy and discourse and can empower those who have been denied a voice in the legal system. Annotation copyrighted by Book News Inc Portland OR Current Publications in Legal and Related Fields , 1998 **Kazimierz Opalek Selected Papers in Legal Philosophy** Jan Wolenski, 2013-06-29 Philosophical aspects of law and jurisprudence are investigated from various points of view. This collection represents the analytic approach to legal philosophy. However this approach is not extreme in the sense that it is limited exclusively to linguistic matters. The concept of norm as a directive of conduct is the central category analyzed in particular essays. The structure of directives as well as their semantic and pragmatic roles are studied. Pragmatic functions of directives are linked with their functioning as speech acts. Moreover existence and validity of norms are analyzed. The author also touches on general methodological problems of legal theory and philosophy particularly their relations to social sciences. The collection covers material interesting for philosophers lawyers and social scientists *On Crime, Society, and Responsibility in the Work of Nicola Lacey* Iyiola Solanke, 2021 Few contemporary scholars have done more in their work to develop the idea of responsibility than Nicola Lacey. She ranks alongside thinkers and writers such as HLA Hart and Antony Honor in developing

approaches to understanding responsibility Like these authors the influence of her work has spread beyond academia to change the perception of responsibility amongst practitioners Both Hart and Honore have during their lifetime had volumes dedicated to their work This book does the same for Nicola Lacey marking her ongoing influence and accomplishments in the common law world through a collection of essays by leading international scholars reflecting and interrogating her contribution to understanding criminal responsibility Additionally the book aims to promote the best legal scholarship on responsibility in the common law world and inspire the brightest legal scholars through a collection of essays designed to mark Professor Lacey's ongoing contribution to the understanding of criminal responsibility The role of Professor Lacey's work in this area as well as others cannot be overlooked her scholarship includes not only a prize winning biography of HLA Hart himself but numerous articles and tomes on the subject culminating with her most recent work *In Search of Criminal Responsibility: Ideas, Interests and Institutions* OUP 2016 This Festschrift one of few common law publications to pay homage to the erudition of a female jurist can be seen as a continuation of the themes in this book via reflection and interrogation of her work by leading scholars on the topic The Festschrift will therefore not only be a celebration of her work but also an attempt to take forward intellectual engagement with the topic of responsibility by continued engagement with her ideas Each author brings new ideas to bear on her work touching upon important aspects of responsibility that are current in the scholarship categorization frameworks for understanding criminal responsibility and the relationships between them women in criminal law the history of criminal law blameworthiness and ascriptions of responsibility moral responsibility the role of politics and political economy Nicola Lacey is a School Professor of Law Gender and Social Policy From 1998 to 2010 she held a Chair in Criminal Law and Legal Theory at the LSE she returned to the LSE in 2013 after spending three years as Senior Research Fellow at All Souls College and Professor of Criminal Law and Legal Theory at the University of Oxford She has held a number of visiting appointments most recently at Harvard Law School and the Australian National University She is an Honorary Fellow of New College Oxford and University College Oxford and a Fellow of the British Academy In 2011 she was awarded the Hans Sigrist Prize by the University of Bern for outstanding scholarship on the function of the rule of law in late modern societies and in 2018 an Honorary Doctorate by the University of Edinburgh In 2017 she was awarded a CBE for services to Law Justice and Gender Politics

Man, Law and Modern Forms of Life Eugenio Bulygin, Jean-Louis Gardies, I. Niiniluoto, 1985-06-30 Proceedings of the 11th IVR World Congress on Philosophy of Law and Social Philosophy held on August 14-20 1983 in Helsinki Introd

The Law in Philosophical Perspectives Luc J. Wintgens, 2013-04-17 In this age of collections that is ours many volumes of collections are published They contain contributions of several well known authors and their aim is to present a selective overview of a relevant field of study This book has the same purpose Its aim is to introduce students scholars and all those interested in current problems of legal theory and legal philosophy to the work of the leading scholars in this field The large number of publications both books and articles that have been produced

over recent decades makes it quite difficult however for those who are making their first steps in this domain to find firm guidelines The book is new in its genre because of its method The choice was made not to reprint an example of contributors earlier basic articles or a part of one of their books This would only give a partial view of the rich texture of their work Rather the authors were asked to make an original synthesis of their own contributions to the field of legal theory and legal philosophy Brought together in this volume they constitute a truly author ised view of their work This book is also new in that each essay is complemented with bibliographical information in order to encourage further research on the author s self selected work This will help the reader rapidly to become familiar with the whole of the published work of the contributors

Analysis of Dis/agreement - with particular reference to Law and Legal Theory S. Eng,2013-03-09 In order to determine whether two participants in a discussion are in real dis agreement one must compare their propositions Comparison presupposes yardsticks in common Analysis of Dis agreement thematises such yardsticks in that it demonstrates the existence content and factual significance of a relatively well delimited set of proposition types and proposition patterns with their accompanying tenability criteria and motivating interests The book is a work in the field of legal theory by virtue of its demonstrating how lawyers power of judgement is constituted in and through these yardsticks The book is interdisciplinary by virtue of its demonstrating how the same yardsticks come into play more generally in argumentation formulated in everyday language i e independently of law And the book is a work in the field of philosophy by virtue of its demonstrating the existence and factual significance of language and argumentation actions with a certain independence in relation to the level of controversial fundamental philosophical positions **Epistemic Uncertainty and Legal Theory** Brian

Burge-Hendrix,2016-12-05 Crossing the usual boundaries of abstract legal theory this book considers actual charter systems legal systems with explicitly posited moral political rights such as those of Canada and the United States as well as cases in constitutional adjudication It shows the worth of careful reflection on methodological and meta theoretical issues for a comprehensive account of a present day legal system which is fast becoming the norm The author explicitly connects the ongoing Methodology Debate within legal philosophy to constitutional adjudication and Canadian law By drawing out the implications of the Methodology Debate and the challenge of giving a proper account of constitutional adjudication in a general theory of law the study examines how a descriptive morally and politically neutral legal theory can deal with epistemic uncertainty uncertainty about the actual status of moral political legal provisions and their jurisprudential function in a thoroughgoing manner It also demonstrates the merits of a minimalist version of Legal Positivism with regard to the practical importance of charters in charter systems and societies **Dictionary of Modern American Philosophers** John

R. Shook,2005-01-01 The Dictionary of Modern American Philosophers includes both academic and non academic philosophers anda large number of female and minority thinkers whose work has been neglected It includes those intellectualsinvolved in the development of psychology pedagogy sociology anthropology education theology politicalscience

and several other fields before these disciplines came to be considered distinct from philosophy in the late nineteenth century. Each entry contains a short biography of the writer, an exposition and analysis of his or her doctrines and ideas, a bibliography of writings, and suggestions for further reading. While all the major post-Civil War philosophers are represented, the most valuable feature of this dictionary is its coverage of a huge range of less well-known writers, including hundreds of presently obscure thinkers. In many cases, the Dictionary of Modern American Philosophers offers the first scholarly treatment of the life and work of certain writers. This book will be an indispensable reference work for scholars working on almost any aspect of modern American thought.

Posthuman Legal Subjectivity Jana Norman, 2021-08-12. This book provides a reimagining of how Western law and legal theory structures the human-earth relationship. As a complement to contemporary efforts to establish rights of nature and non-human legal personhood, this book focuses on the other subject in the human-earth relationship: the human. Critical ecological feminism exposes the dualistic nature of the ideal human legal subject as a key driver in the dynamic of instrumentalism that characterises the human-earth relationship in Western culture. This book draws on conceptual fields associated with the new sciences, including new materialism, posthuman critical theory, and Big History, to demonstrate that the naturalised hierarchy of humans over nature in the Western social imaginary is anything but natural. It then sets about constructing a counter-narrative. The proposed Cosmic Person as alternative non-dualised human legal subject forges a pathway for transforming the Western cultural understanding of the human-earth relationship from mastery and control to ideal co-habitation. Finally, the book details a case study highlighting the practical application of the proposed reconceptualisation of the human legal subject to contemporary environmental issues. This original and important analysis of the legal status of the human in the Anthropocene will be of great interest to those working in legal theory, jurisprudence, environmental law, and the environmental humanities, as well as those with relevant interests in gender studies, cultural studies, feminist theory, critical theory, and philosophy.

The Institutional Problem in Modern International Law Richard Collins, 2016-11-03. Modern international law is widely understood as an autonomous system of binding legal rules. Nevertheless, this claim to autonomy is far from uncontroversial. International lawyers have faced recurrent scepticism as to both the reality and efficacy of the object of their study and practice. For the most part, this scepticism has focussed on international law's peculiar institutional structure, with the absence of centralised organs of legislation, adjudication, and enforcement, leaving international legal rules seemingly indeterminate in the conduct of international politics. Perception of this institutional problem has therefore given rise to a certain disciplinary angst or self-defensiveness, fuelling a need to seek out functional analogues or substitutes for the kind of institutional roles deemed intrinsic to a functioning legal system. The author of this book believes that this strategy of accommodation is, however, deeply problematic. It fails to fully grasp the importance of international law's decentralised institutional form in securing some measure of accountability in international relations. It thus misleads through functional analogy, and in doing so, potentially exacerbates legitimacy deficits. There are

enough conceptual weaknesses and blindspots in the legal theoretical models against which international law is so frequently challenged to show that the perceived problem arises more in theory than in practice

EU Citizenship: Towards a Postmodern Conception of Citizenship? Sanja Ivic, 2019-03-15 The modern liberal idea of citizenship is constructed by a fixed notion of identity which gains meaning through a number of binary oppositions such as we they citizen foreigner self other and so forth Defined by these binaries where the first term is perceived as dominant because it is considered to be derived from reason the fixed notion of identity inevitably produces exclusion and marginalization Importantly the postmodern concept of citizenship stems from a critique of these essentialist and universalist conceptions of identity Exploring European identity and European citizenship from a philosophical perspective this book reveals the discursive construction of these two concepts whilst at the same time attempting to define them as either modernist or postmodernist categories Dr Ivic takes a hermeneutic approach in her interpretation of European citizenship and identity through a close reading of European treaties and other official documents Through her detailed analysis Dr Ivic is able to present the reader with well informed and concrete examples of modern and postmodern concepts of identity within Europe Moreover this book explores the impact that contemporary issues such as Brexit the migration crisis in Europe and the proliferation of nationalist discourses have on European citizenship and identity Where existing research literature has failed this book offers a dynamic and textual analysis of citizenship that takes into account the complex philosophical legal political and theoretical background of Europe Dealing with issues that have not yet been sufficiently explored EU Citizenship is an important contribution to the field of philosophical analysis Aimed at university students this book will also provide a baseline and set of reference points for researchers and practitioners of European studies that are working with projects that look at European citizenship

Jurisprudence or Legal Science Sean Coyle, George Pavlakos, 2005-05-31 Modern jurisprudence embodies two distinct traditions of thought about the nature of law The first adopts a scientific approach which assumes that all legal phenomena possess universal characteristics that may be used in the analysis of any type of legal system The main task of the legal philosopher is to disclose and understand such characteristics which are thought to be capable of establishment independently of any moral or political values which the law might promote and of any other context dependent features of legal systems Another form of jurisprudential reflection views the law as a complex form of moral arrangement which can only be analysed from within a system of reflective moral and political practices Rather than conducting a search for neutral standpoints or criteria this second form of theorising suggests that we uncover the nature and purpose of the law by reflecting on the dynamic properties of legal practice Can legal philosophy aspire to scientific values of reasoning and truth Is the idea of neutral standpoints an illusion Should legal theorising be limited to the analysis of particular practices Are the scientific and juristic approaches in the end as rigidly distinct from one another as some have claimed In a series of important new essays the authors of Jurisprudence or Legal Science attempt to answer these and other questions about the

nature of jurisprudential thinking whilst emphasising the connection of such methodological concerns to the substantive legal issues which have traditionally defined the core of jurisprudential speculation The list of contributors includes R Alexy S Coyle J Gorman C Heidemann P Leith J Morison G Pavlakos and V Rodriguez Blanco **Islamic Legal Theory** Mashood A. Baderin, 2017-03-02 Islamic legal theory us l al fiqh is literally regarded as the roots of the law whilst Islamic jurists consider it to be the basis of Islamic jurisprudence and thus an essential aspect of Islamic law This volume addresses the sources methods and principles of Islamic law leading to an appreciation of the skills of independent juristic and legal reasoning necessary for deriving specific rulings from the established sources of the law The articles engage critically with relevant traditional views to enable a diagnostic understanding of the different issues covering both Sunn and Sh perspectives on some of the issues for comparison The volume features an introductory overview of the subject as well as a comprehensive bibliography to aid further research Islamic legal theory is a complex subject which challenges the ingenuity of any expert and therefore special care has been taken to select articles for their clarity as well as their quality variety and critique to ensure an in depth engaging and easy understanding of what is normally a highly theoretical subject

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Table of Contents Modern Legal Theory Problems And Perspectives

1. Understanding the eBook Modern Legal Theory Problems And Perspectives
 - The Rise of Digital Reading Modern Legal Theory Problems And Perspectives
 - Advantages of eBooks Over Traditional Books
2. Identifying Modern Legal Theory Problems And Perspectives
 - 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 Modern Legal Theory Problems And Perspectives
 - User-Friendly Interface
4. Exploring eBook Recommendations from Modern Legal Theory Problems And Perspectives
 - Personalized Recommendations
 - Modern Legal Theory Problems And Perspectives User Reviews and Ratings
 - Modern Legal Theory Problems And Perspectives and Bestseller Lists
5. Accessing Modern Legal Theory Problems And Perspectives Free and Paid eBooks
 - Modern Legal Theory Problems And Perspectives Public Domain eBooks
 - Modern Legal Theory Problems And Perspectives eBook Subscription Services
 - Modern Legal Theory Problems And Perspectives Budget-Friendly Options
6. Navigating Modern Legal Theory Problems And Perspectives eBook Formats

- ePub, PDF, MOBI, and More
- Modern Legal Theory Problems And Perspectives Compatibility with Devices
- Modern Legal Theory Problems And Perspectives Enhanced eBook Features
- 7. Enhancing Your Reading Experience
 - Adjustable Fonts and Text Sizes of Modern Legal Theory Problems And Perspectives
 - Highlighting and Note-Taking Modern Legal Theory Problems And Perspectives
 - Interactive Elements Modern Legal Theory Problems And Perspectives
- 8. Staying Engaged with Modern Legal Theory Problems And Perspectives
 - Joining Online Reading Communities
 - Participating in Virtual Book Clubs
 - Following Authors and Publishers Modern Legal Theory Problems And Perspectives
- 9. Balancing eBooks and Physical Books Modern Legal Theory Problems And Perspectives
 - Benefits of a Digital Library
 - Creating a Diverse Reading Collection Modern Legal Theory Problems And Perspectives
- 10. Overcoming Reading Challenges
 - Dealing with Digital Eye Strain
 - Minimizing Distractions
 - Managing Screen Time
- 11. Cultivating a Reading Routine Modern Legal Theory Problems And Perspectives
 - Setting Reading Goals Modern Legal Theory Problems And Perspectives
 - Carving Out Dedicated Reading Time
- 12. Sourcing Reliable Information of Modern Legal Theory Problems And Perspectives
 - Fact-Checking eBook Content of Modern Legal Theory Problems And Perspectives
 - 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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