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Jaap C. Hage

Reasoning with Rules

An Essay on Legal Reasoning and
Its Underlying Logic

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Reasoning With Rules An Essay On Legal Reasoning And Its Underlying Logic

Jaap Hage



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Reasoning with Rules Jaap Hage, 1996-11-30 Rule applying legal arguments are traditionally treated as a kind of syllogism Such a treatment overlooks the fact that legal principles and rules are not statements which describe the world but rather means by which humans impose structure on the world Legal rules create legal consequences they do not describe them This has consequences for the logic of rule and principle applying arguments the most important of which may be that such arguments are defeasible This book offers an extensive analysis of the role of rules and principles in legal reasoning which focuses on the close relationship between rules principles and reasons Moreover it describes a logical theory which assigns a central place to the notion of reasons for and against a conclusion and which is especially suited to deal with rules and principles

Reasoning with Rules Jaap C. HAGE, 1997 **Reasoning with Rules** Jaap Hage, 2013-04-17 Rule applying legal arguments are traditionally treated as a kind of syllogism Such a treatment overlooks the fact that legal principles and rules are not statements which describe the world but rather means by which humans impose structure on the world Legal rules create legal consequences they do not describe them This has consequences for the logic of rule and principle applying arguments the most important of which may be that such arguments are defeasible This book offers an extensive analysis of the role of rules and principles in legal reasoning which focuses on the close relationship between rules principles and reasons Moreover it describes a logical theory which assigns a central place to the notion of reasons for and against a conclusion and which is especially suited to deal with rules and principles

Handbook of Legal Reasoning and Argumentation Giorgio Bongiovanni, Gerald Postema, Antonino Rotolo, Giovanni Sartor, Chiara Valentini, Douglas Walton, 2018-07-02 This handbook addresses legal reasoning and argumentation from a logical philosophical and legal perspective The main forms of legal reasoning and argumentation are covered in an exhaustive and critical fashion and are analysed in connection with more general types and problems of reasoning Accordingly the subject matter of the handbook divides in three parts The first one introduces and discusses the basic concepts of practical reasoning The second one discusses the general structures and procedures of reasoning and argumentation that are relevant to legal discourse The third one looks at their instantiations and developments of these aspects of argumentation as they are put to work in the law in different areas and applications of legal reasoning

Methods of Legal Reasoning Jerzy Stelmach, Bartosz Brozek, 2006-09-03 Anyone reflecting on the methodology of legal reasoning faces a difficult task The number of methodological theories in jurisprudence and the vast literature on the subject are not the only problems that have to be taken into account Perhaps the most striking difficulty concerning the methodology of legal argument is the heated debate between jurists legal theorists and philosophers of law that has been recurring since at least nineteenth century Therefore a justification is needed for writing yet another book concerning the methods of legal reasoning a book that aims to cover a lot of what has already been proposed in legal theory We believe that there is such a justification First the perspective that we

adopt in the present book is unique at least in some respects We venture to look at the methodology of legal reasoning from the outside i e from a more general philosophical perspective while taking into account the hard reality of law This perspective enables us to ask questions about the justification for the methods of legal argument presented Second we do not want to defend one paradigmatic conception of legal reasoning On the contrary we put forward the thesis that there is a plurality of argumentative methods The plurality however does not lead to relativism in legal decision making Third we reject any hierarchy of the methods of legal reasoning and take the view that one can speak only of the precision and flexibility of different methodologies

Legal Institutions D.W. Ruiter, 2013-03-14 Building on his contributions to institutional legal theory in *Institutional Legal Facts* of 1993 Law and Philosophy Library volume 18 the author presents a comprehensive theory of legal institutions To that end the initial theoretical approach which mainly concentrated on problems connected with legal powers and legal acts acts in law is widened to allow for the development of a theory of legal judgements capable of accounting not only for enacted but also unwritten law legal principles and customary law With the use of the concept of institutional legal facts the structure of legal institutions is analyzed in detail In addition to that a classification of legal institutions is provided Extensive attention is given to logical as well as doctrinal problems connected with a conception of legal validity as the mode of existence of legal conditions rather than as a value of legal norms similar to the truth of propositions The study results in an elaborate conceptual framework for institutional analysis of positive law In a final chapter the analytical potential of the framework is put to the test by applying it to the branch of public international law known as the law of treaties Readership Specialists in legal theory and lawyers interested in theoretical issues particularly in linguistic approaches and questions related to the institutional nature of law

Legal Reductionism and Freedom Martin V.B.P.M. van Hees, 2012-12-06 Martin van Hees presents a new approach to the study of law legal reductionism which combines elements of legal positivism new institutionalism and decision theory From legal positivism Van Hees derives some fundamental insights into the nature of legal systems but he also revises some of its key tenets He argues that law can be reduced to facts moreover he re-establishes the relation between law and morality by arguing that law and positive morality are inherently related He subsequently uses decision theoretic tools to develop and defend his reductionist methodology The second part of the study applies the resulting approach to an analysis of legal freedom By showing that legal reductionism allows us to analyse the value of liberal legal systems Van Hees makes a forceful case for including the study of law in moral and political philosophy The book is accessible to a wide readership including legal and moral philosophers political theorists and social scientists

The Invisible Origins of Legal Positivism W.E. Conklin, 2012-12-06 Conklin's thesis is that the tradition of modern legal positivism beginning with Thomas Hobbes postulated different senses of the invisible as the authorising origin of humanly posited laws Conklin re-reads the tradition by privileging how the canons share a particular understanding of legal language as written Leading philosophers who have espoused the tenets of the tradition have

assumed that legal language is written and that the authorising origin of humanly posited rules norms is inaccessible to the written legal language Conklin's re-reading of the tradition teases out how each of these leading philosophers has postulated that the authorising origin of humanly posited laws is an unanalysable externality to the written language of the legal structure As such the authorising origin of posited rules norms is inaccessible or invisible to their written language What is this authorising origin Different forms include an originary author an a priori concept and an immediacy of bonding between person and laws In each case the origin is unwritten in the sense of being inaccessible to the authoritative texts written by the officials of civil institutions of the sovereign state Conklin sets his thesis in the context of the legal theory of the polis and the pre polis of Greek tribes The author claims that the problem is that the tradition of legal positivism of a modern sovereign state excises the experiential or bodily meanings from the written language of the posited rules norms thereby forgetting the very pre legal authorising origin of the posited norms that each philosopher admits as offering the finality that legal reasoning demands if it is to be authoritative

AI Approaches to the Complexity of Legal Systems Pompeu Casanovas, Ugo Pagallo, Giovanni Sartor, Gianmaria Ajani, 2010-10-19 Annotation This volume assembles 15 refereed and revised papers selected from two workshops organized at the XXIV World Congress of Philosophy of Law and Social Philosophy and at JURIX 09 The papers are organized in sections on language and complex systems in law ontologies and the representation of legal knowledge argumentation and logics

Knowledge-Based Intelligent Information and Engineering Systems Ignac Lovrek, 2008-09-20 The three volume set LNAI 5177 LNAI 5178 and LNAI 5179 constitutes the refereed proceedings of the 12th International Conference on Knowledge Based Intelligent Information and Engineering Systems KES 2008 held in Zagreb Croatia in September 2008 The 316 revised papers presented were carefully reviewed and selected The papers present a wealth of original research results from the field of intelligent information processing in the broadest sense topics covered in the second volume are artificial intelligence driven engineering design optimization biomedical informatics intelligent information management from nanomedicine to public health communicative intelligence computational intelligence for image processing and pattern recognition computational intelligence in human cancer research computational intelligence techniques for Web personalization computational intelligent techniques for bioprocess modelling monitoring and control intelligent computing for Grid intelligent security techniques intelligent utilization of soft computing techniques reasoning based intelligent systems relevant reasoning for discovery and prediction spatio temporal database concept support for organizing virtual earth advanced knowledge based systems chance discovery innovation oriented knowledge management platform knowledge based creativity support systems knowledge based interface systems knowledge based multi criteria decision support and knowledge based systems for e business

Political Friendship and the Good Life Gianfrancesco Zanetti, 2002-07-31 The main subject of this book is the rather fascinating link between an acceptable concept of political whole and its legal and moral implications When we face this problem we find that widespread categories like

happiness and friendship are at the same time necessary and dangerous crucial and elusive In order to make the case against the so called Legal Enforcement of Morals and to grasp the complex relationship between law and morality from a liberal point of view it is not enough to reject a pattern of happiness or of human flourishing from which to draw normative instructions for men and women it must be recognized that integration of individuals in the comprehensive groups as well as in the political whole itself is not the only valuable option The fragile value of a relative lack of integration a right to unhappiness turns out to be eventually what makes the weak but decisive moral primacy of liberal societies **Logical**

Models of Legal Argumentation H. Prakken,Giovanni Sartor,2012-12-06 In the study of forms of legal reasoning logic and argumentation theory long followed separate tracks Legal logicians tended to focus on a deductive reconstruction of justifying a decision disregarding the dialectical process leading to the chosen justification Others instead emphasized the adversarial and discretionary nature of legal reasoning involving reasonable evaluation of alternative choices and the use of analogical reasoning Recently however developments in Artificial Intelligence and Law have paved the way for overcoming this separation Logic has widened its scope to defensible argumentation and informal accounts of analogy and dialectics have inspired the construction of computer programs Thus the prospect is emerging of an integrated logical and dialectical account of legal argument adding to the understanding of legal reasoning and providing a formal basis for computer tools that assist and mediate legal debates while leaving room for human initiative This book presents contributions to this development From a logical point of view it covers topics such as evaluating conflicting arguments weighing reasons modelling legal disputes as a dialogue game the role of the burden of proof the relation between principles rules reasons and facts and the relation between deductive and nondeductive arguments Written by leading scholars in the field and building on recent developments in logic and Artificial Intelligence the chapters provide a state of the art account of research on the logical aspects of legal argument **Privacy and Identity Management for Life** Jan Camenisch,Bruno Crispo,Simone

Fischer-Hübner,Ronald Leenes,Giovanni Russello,2012-06-28 This book constitutes the thoroughly refereed post conference proceedings of the 7th IFIP WG 9 2 9 6 11 7 11 4 11 6 International Summer School held in Trento Italy in September 2011 The 20 revised papers were carefully selected from numerous submissions during two rounds of reviewing The book also contains two invited talks The papers are organized in topical sections on privacy metrics and comparison policies privacy transparency in the age of cloud computing privacy for mobile applications consumer privacy privacy for online communities privacy for eHealth and eID applications privacy attacks and problems and ethics **Judicial Applications of Artificial**

Intelligence Giovanni Sartor,L. Karl Branting,2013-04-17 The judiciary is in the early stages of a transformation in which AI Artificial Intelligence technology will help to make the judicial process faster cheaper and more predictable without compromising the integrity of judges discretionary reasoning Judicial decision making is an area of daunting complexity where highly sophisticated legal expertise merges with cognitive and emotional competence How can AI contribute to a

process that encompasses such a wide range of knowledge judgment and experience Rather than aiming at the impossible dream or nightmare of building an automatic judge AI research has had two more practical goals producing tools to support judicial activities including programs for intelligent document assembly case retrieval and support for discretionary decision making and developing new analytical tools for understanding and modeling the judicial process such as case based reasoning and formal models of dialectics argumentation and negotiation Judges squeezed between tightening budgets and increasing demands for justice are desperately trying to maintain the quality of their decision making process while coping with time and resource limitations Flexible AI tools for decision support may promote uniformity and efficiency in judicial practice while supporting rational judicial discretion Similarly AI may promote flexibility efficiency and accuracy in other judicial tasks such as drafting various judicial documents The contributions in this volume exemplify some of the directions that the AI transformation of the judiciary will take

Law and Legal Theory Thom Brooks,2013-11-07 What is the relation between law and democracy and how might it be improved What values should inform the body of laws that govern us all How should we determine crimes from non crimes What justifies state punishment if anything Law and Legal Theory brings together some of the most important essays in the area of the philosophy of law written by leading international scholars and offering significant contributions to how we understand law and legal theory to help shape future debates Contributors include Christopher Bennett Samantha Besson Thom Brooks Brian Butler Sean Coyle Rowan Cruft Leonard Kahn Richard Lippke Andrew March Matt Matravers Adina Preda Maria Cristina Redondo Hanoch Sheinman and Leo Zaibert

Constitutional Justice, East and West Wojciech Sadurski,2002-12-31 How can the power of constitutional judges to overturn parliamentary choices on the basis of their own reading of the constitution be reconciled with fundamental democratic principles which assign the supreme role in the political system to parliaments This time honoured question acquired a new significance when the post communist countries of Central and Eastern Europe without exception adopted constitutional models in which constitutional courts play a very significant role at least in theory Can we learn something about the relationship between democracy and constitutionalism in general from the meteoric rise of constitutional tribunals in the post communist countries Can the discussions and controversies relating to constitutional review which have been going on for decades in more established democracies illuminate the sources of the strength of constitutional courts in Central and Eastern Europe These questions lie at the center of this book which focuses on the question of constitutional review in postcommunist states from a theoretical and comparative perspective The chapters contained in the book outline the conceptual framework for analyzing the sources the role and the legitimacy of constitutional justice in a system of political democracy From this perspective it assesses the experience of constitutional justice in the West where the model originated and in Central and Eastern Europe where the model has been implanted after the fail of Communism

Living Lawfully Z. Bankowski,2013-04-17 The aim of this book is to explore what it means to live a life under the law Does a life of

law preclude love and does a life of love preclude law Part of the theme of the book is that social questions also raise individual moral and ethical questions that to live lawfully implies both a question of how I should live in my relations with my fellows and how society should be organised These questions must be looked at together The book explores these questions and in looking at the articulation of law and love touches upon debates in personal morality aesthetics epistemology social and political organisation institutional design and the form and substance of law It raises questions that are of interest to students and those working in law theology and social and political theory *Mutual Expectations* Govert Hartogh, 2002-05-31 The law persists because people have reasons to comply with its rules What characterizes those reasons is their interdependence each of us only has a reason to comply because he or she expects the others to comply for the same reasons The rules may help us to solve coordination problems but the interaction patterns regulated by them also include Prisoner's Dilemma games Division problems and Assurance problems In these games the rules can only persist if people can be expected to be moved by considerations of fidelity and fairness not only of prudence This book takes a fresh look at the perennial problems of legal philosophy the source of obligation to obey the law the nature of authority the relationship between law and morality and the nature of legal argument from the perspective of this conventionalist understanding of social rules It argues that since the resilience of such rules depends on cooperative dispositions conventionalism properly understood does not imply positivism *Justifying Taxes* Agustín José Menéndez, 2013-03-14 Justifying Taxes offers readers some of the elements of a democratic tax law considered within its political and philosophical context in order to determine the extent of legitimate tax obligations The objective is to revisit some of the issues in the dogmatics of tax law from the viewpoint of a critical citizen always ready to ask questions about the justification underlying her obligations and especially about her paramount burden viz the payment of certain amounts of money Within this purview special attention is paid to the general principles of taxation The argument is complemented by a detailed reconstruction of constitutional reasoning in tax matters close attention being paid to the jurisprudence of the Spanish Tribunal Constitucional Readership Legal scholars political scientists and philosophers Especially recommended to graduate and undergraduate students of Tax Law Constitutional Law Jurisprudence Philosophy of Law and Political Theory **The Logic of Legal Requirements** Jordi Ferrer Beltrán, Giovanni Battista Ratti, 2012-09-13 Does the law contain implicit exceptions to its own rules If so what consequence does that have for understanding the relationship between law and morality This collection gathers leading legal philosophers to analyse the logical structure of legal norms advancing the understanding of the general philosophy of law

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