

Rule of law

The **rule of law** is a political [ideal](#) that all people and institutions within a country, state, or community are accountable to the same [laws](#), including lawmakers and leaders. ^{[2][3]} It is sometimes stated simply as "no one is above the law". ^[4] The term **rule of law** is closely related to [constitutionalism](#) as well as [Rechtsstaat](#). It refers to a political situation, not to any specific legal rule. ^{[5][6][7]} The rule of law is defined in the [Encyclopædia Britannica](#) as "the mechanism, process, institution, practice, or norm that supports the equality of all citizens before the law, secures a nonarbitrary form of government, and more generally prevents the arbitrary use of power".^[8]



A mosaic representing both the judicial and legislative aspects of law. The woman on the throne holds a sword to chastise the guilty and a [palm branch](#) to reward the meritorious. [Glory](#) surrounds her head, and the [aegis](#) of [Minerva](#) signifies the armor of righteousness and wisdom. ^[1]

Use of the phrase can be traced to 16th-century Britain. In the following century, Scottish theologian [Samuel Rutherford](#) employed it in arguing against the [divine right of kings](#).^[9] [John Locke](#) wrote that freedom in society means being subject only to laws written by a legislature that apply to everyone, with a person being otherwise free from both governmental and private restrictions on his liberty. "The rule of law" was further popularized in the 19th century by British jurist [A. V. Dicey](#). However, the principle, if not the phrase itself, was recognized by ancient thinkers. [Aristotle](#) wrote: "It is more proper that law should govern than any one of the citizens: upon the same principle, if it is

Rule Of Law Ideal Or Ideology

David Dyzenhaus



Rule Of Law Ideal Or Ideology:

The Rule of Law Allan C. Hutchinson, Patrick Monahan, 1987-01-01 essays from a conference held at Osgoode Hall Law School York University Toronto in April 1984 Pref

On the Rule of Law Brian Z. Tamanaha, 2004-11-18 The rule of law is the most important political ideal today yet there is much confusion about what it means and how it works This 2004 book explores the history politics and theory surrounding the rule of law ideal beginning with classical Greek and Roman ideas elaborating on medieval contributions to the rule of law and articulating the role played by the rule of law in liberal theory and liberal political systems The author outlines the concerns of Western conservatives about the decline of the rule of law and suggests reasons why the radical Left have promoted this decline Two basic theoretical streams of the rule of law are then presented with an examination of the strengths and weaknesses of each The book examines the rule of law on a global level and concludes by answering the question of whether the rule of law is a universal human good

Law's Rule Gerald J. Postema, 2022 The rule of law once widely embraced and emulated now faces serious threats to its viability To answer these fundamental threats we first must return to its foundational principles This book articulates a coherent framework and foundation for thinking about the rule of law and planning strategies for building and defending it against serious challenges to its intelligibility relevance and normative force

Judging in Good Faith Steven J. Burton, 1994-11-25 This book offers an original theory of adjudication focused on the ethics of judging in courts of law It offers two main theses The good faith thesis defends the possibility of lawful judicial decisions even when judges have discretion The permissible discretion thesis defends the compatibility of judicial discretion and legal indeterminacy with the legitimacy of adjudication in a constitutional democracy Together these two theses oppose both conservative theories that would restrict the scope of adjudication unduly and leftist critical theories that would liberate judges from the rule of law

Investment Protection Standards and the Rule of Law August Reinisch, Stephan W. Schill, 2023 This edited volume explores the connection between the rule of law and substantive standards of treatment in international investment agreements It also analyses to what extent these standards of treatment can be understood as positive expressions of the rule of law

The Rule of Law Under Fire? Raymond Wacks, 2021-10-21 Does the rise of populism authoritarianism and nationalism threaten the welfare of the rule of law Is this fundamental democratic ideal under siege In this timely and important book Raymond Wacks examines the philosophical roots of the rule of law and its modern often contentious interpretation He then investigates 16 potential ideological economic legal and institutional dangers to the rule of law They range from the exercise of judicial and administrative discretion and parliamentary sovereignty to the growth of globalisation the war on terror and the disquieting power of Big Tech He also considers the enactment and enforcement in several countries of Draconian measures to curtail the spread of COVID 19 which has generated fears that these emergency powers may outlive the pandemic and become a permanent feature of the legal landscape thereby impairing the rule of law Wacks identifies which issues among this extensive array

pose genuine risks to the rule of law and suggests how they might be confronted to ensure its defence and preservation

The Cambridge Companion to the Philosophy of Law John Tasioulas, 2020-07-02 What is the nature of law as a form of social order What bearing do values like justice human rights and the rule of law have on law Which values should law serve and what limits must it respect in serving them Are we always morally bound to obey the law What are the philosophical problems that arise in specific areas of law from criminal and tort law to contract law and public international law The book provides an accessible comprehensive and high quality introduction to the major themes of legal philosophy written by a stellar international cast of contributors including John Finnis Martha Nussbaum Fred Schauer Onora O'Neill and Antony Duff The volume is an exceptional teaching tool that provides a critical introduction to cutting edge work in the philosophy of law

Routledge Handbook of the Rule of Law Michael Sevel, 2024-10-24 This Handbook provides a state of the art survey of the study of the rule of law across law the humanities and social sciences as well as insights into the practice of building the rule of law within and among states Its 28 chapters are by many of the world's leading scholars of the rule of law as well as distinguished junior scholars from a dozen countries and representing a number of academic disciplines The chapters are ordered to progress first from theory to the practice of the rule of law and second from the rule of law within to beyond the state They divide into three parts The first part examines the concept history and value of the rule of law This section considers the importance of political and intellectual history in shaping the concept over the centuries and takes novel philosophical approaches to the connection between the rule of law and other important ideals such as justice equality and civil disobedience The second part transitions from theoretical studies to accounts of practical exercises in building the rule of law The chapters consider the challenges of rule of law reform including the use of local intermediaries facilitating interactions between international legal aid organizations and state governments the challenges of legal translation across vastly different societies the pathways of knowledge among the powerless about the protective potential of the rule of law as well as the possible future for artificial intelligence systems in helping to reinforce rule of law principles The third part examines the rule of law from a number of perspectives within particular supranational and national states such as the European Union China Singapore and South Africa among others and concludes by considering the prospects of the rule of law beyond the state both within and among international institutions such as the United Nations as well as non territorial spaces like the world's oceans This Handbook is aimed at rule of law scholars across law the humanities and the social sciences law and development practitioners policymakers and advanced students and researchers who seek a state of the art overview of the history theory and practice of the rule of law

Rights, Emergencies, and Judicial Review Imtiaz Omar, 1996-04-24 This book makes a significant contribution to the understanding of issues of comparative constitutionalism in emergent politics Recurrent states of emergency in Malaysia Sri Lanka and Bangladesh provide the background for a comparative examination of constitutional emergency powers individual rights and judicial review This work examines the

extent to which the Court in these countries has performed its expected role identifies problems in approaches to interpretation which have been adopted and suggests alternatives to constitutional interpretation and judicial review The alternatives explored are drawn from contemporary western jurisprudence including those of Ronald Dworkin and writers of the Critical Legal Studies tradition The juxtaposition of western jurisprudential development to issues of constitutionalism in the countries under survey is a bold attempt to seek some common ground in conceptualizing rights and techniques of juristic interpretation in western and eastern legal cultures The theoretical framework of the study is well perceived the arguments convincing This carefully researched work makes a valuable and scholarly contribution to the study of comparative constitutional law and jurisprudence

Recrafting the Rule of Law David Dyzenhaus, 1999-07-01 This collection of essays on the rule of law focuses on the traditional question whether the rule of law is necessarily the rule of moral principles the question of the legitimacy of law Essays by lawyers philosophers and political theorists illuminate and take forward both that question and debate about issues to do with the reach of the rule of law which complicate its answer The essays are divided into sections which deal first with legal orders where the rule of law is under severe stress second with the question of the value of the rule of law as a conceptual problem and third with the question of the limits of legal order Contributors Richard Abel Jody Freeman Robert Alexy Neil MacCormick Kenneth Winston Andras Sajó Alon Harel Anton Fagan Anthony Sebok Christine Sypnowich Allan Hutchinson Bill Scheuerman John MacCormick Julian Rivers Henry Richardson David Dyzenhaus

Law after Modernity Sionaidh Douglas-Scott, 2013-04-30 How can we characterise law and legal theory in the twenty first century Law After Modernity argues that we live in an age after Modernity and that legal theory must take account of this fact The book presents a dynamic analysis of law which focusses on the richness and pluralism of law on its historical embeddedness its cultural contingencies as well as acknowledging contemporary law s global and transnational dimensions However Law After Modernity also warns that the complexity fragmentation pluralism and globalisation of contemporary law may all too easily perpetuate injustice In this respect the book departs from many postmodern and pluralist accounts of law Indeed it asserts that the quest for justice becomes a crucial issue for law in the era of legal pluralism and it investigates how it may be achieved The approach is fresh contextual and interdisciplinary and unusually for a legal theory work is illustrated throughout with works of art and visual representations which serve to re enforce the messages of the book

Unpacking Normativity Kenneth Einar Himma, Miodrag Jovanovic, Bojan Spaic, 2018-11-01 This book provides a new and wide ranging study of law s normativity examining conceptual descriptive and empirical dimensions of this perennial philosophical issue It also contains essays concerned with among other issues the relationship between semantic and legal normativity methodological concerns pertaining to understanding normativity normativity and legal interpretation and normativity as it pertains to transnational law The contributors come not only from the usual Anglo American and Western European community of legal theorists but also from Latin American and Eastern

European communities representing a diversity of perspectives and points of view including essays from both analytic and continental methodologies With this range of topics the book will appeal to scholars in transnational law legal sociology normative legal philosophy concerned with problems of state legitimacy and practical rationality as well as those working in general jurisprudence It comprises a highly important contribution to the study of law s normativity *The Arc of Due Process in American Constitutional Law* E. Thomas Sullivan,Toni M. Massaro,2013-07-04 In *The Arc of Due Process in American Constitutional Law* Sullivan and Massaro identify the historical underpinnings of due process while describing the evolution of the American due process doctrine

The Cambridge Companion to Comparative Constitutional Law Roger Masterman,Robert Schütze,2019-10-03 Comparing constitutions allows us to consider the similarities and differences in forms of government as well as the normative philosophies behind constitutional choices The objective behind this Companion is to present the reader with a succinct yet wide ranging companion to a modern comparative constitutional law course

The West Versus the Rest and The Myth of Western Exceptionalism Imad A. Moosa,2023-02-28 In this book the author attempts to debunk some myths about Western exceptionalism and to evaluate critically the characteristics that make the West superior to the Rest The author suggests that the West does not represent a homogenous group of countries and that the most common characteristic of the core Western countries is imperialism The author goes on to provide a detailed critique of the proclaimed characteristics of Western countries including democracy human rights judicial independence transparency the rule of law and exclusive contribution to science and technology A critique is presented of the views expressed by Samuel Huntington Francis Fukuyama and Niall Ferguson arguing that they do not recognize the historical fact that civilizations rise and fall It is argued that the Western economic system which is based on neoliberalism has adverse consequences for democracy morality and peace as well as inequality poverty and homelessness Written in a simple but powerful language this book is a must read for those interested in international relations and anyone interested in current affairs

Proportionality in EU Digital Law Jan Czarnocki,Przemyslaw Palka,2024-10-03 This book addresses the interplay between the proportionality principle and EU digital law Does EU digital law provide a fair balance of rights and interests How does proportionality limit legislation in the digital economy How can it be used to balance competing rights and interests Diving into the dialectics of law and technology the book analyses the relevance of the proportionality principle in regulating the digital world and as a vital tool for balancing competing rights and interests The chapters analyse how conflicting rights and interests are resolved in EU digital law through the proportionality principle and critically reflect on its application They scrutinise recent EU regulatory initiatives such as the GDPR AI Act Copyright Directive DSA and more They reflect on the unique context of AI systems regulation digital marketing and data protection illuminating the application and impact of proportionality in these arenas Providing an in depth examination of legal actors and real life conflicts resolved by applying EU digital law the book explains the pivotal role of the principle of proportionality in achieving an optimal balance

of rights in our digital era Complicity and the Law of State Responsibility Helmut Philipp Aust, 2011-09-01 This systematic analysis of State complicity in international law focuses on the rules of State responsibility Combining a theoretical perspective on complicity based on the concept of the international rule of law with a thorough analysis of international practice Helmut Philipp Aust establishes what forms of support for wrongful conduct entail responsibility of complicit States and sheds light on the consequences of complicity in terms of reparation and implementation Furthermore he highlights how international law provides for varying degrees of responsibility in cases of complicity depending on whether peremptory norms have been violated or special subject areas such as the law of collective security are involved The book shows that the concept of State complicity is firmly grounded in international law and that the international rule of law may serve as a conceptual paradigm for today's international legal order *The Remaking of the Courts* Dr Sarah Murray, 2014-03-21 The Remaking of the Courts Less Adversarial Practice and the Constitutional Role of the Judiciary in Australia centres on the changing nature of courts within the Australian constitutional context In essence the monograph explores the degree to which less adversarial innovations and the remodelling of the judicial role can be accommodated within Australia's constitutional framework The work draws upon comparative principles separation of powers jurisprudence and the theoretical perspectives of constitutionalism and neo institutionalism By examining Chapter III of the Commonwealth Constitution and applying Chapter III approaches to less adversarial case studies traversing state and federal fields the book argues that less adversarial judicial practices can be broadly accommodated by the Australian constitutional framework However the book asserts that the clarity and suitability of the Chapter III constitutional approaches employed would be significantly improved by the adoption of a contextual incompatibility methodology which would protect the constitutional role of the courts while not forestalling constitutionally compatible reform Questioning the Assumptions of Political Discourse John Hasnas, 2025-06-30 Much of our contemporary political discourse rests on unquestioned assumptions This book questions these underlying assumptions and then offers new unconventional answers Disputes over how to use government power assume that the use of government power is morally justified Arguments over voting and the scope of democratic government assume that democracy is coherent form of government Disputes over whether certain actions violate the rule of law assume that the rule of law is a genuine political value Arguments over the scope of discrimination and affirmative action assume that there is an anti discrimination principle that applies to all parties And arguments over how to punish corporations assume that corporations can and should be punished Each chapter of the book addresses one of these assumptions and each is designed to serve both an educational and an argumentative purpose Each begins with the educational aspect by providing the reader with necessary background information and a description of the current state of intellectual debate on the relevant subject The chapter then proceeds to the argumentative stage by identifying the assumption upon which this debate rests presenting reasons to believe that it is false and presenting an alternative resolution

to the debate **The Form of Legislation and the Rule of Law** Ronan Cormacain, 2022-12-22 What does the rule of law mean in practical terms for the way that legislation is prepared drafted and presented It is a cornerstone of the UK legal order and requires certain things from the legal system such as that the law must be intelligible predictable and accessible This book examines what those requirements mean for the form that legislation must take Using the rule of law as the starting point the author uses deductive reasoning to determine what flows from this in terms of the form of legislation Each element of the rule of law is analysed to establish principles about the form that legislation ought to take and the book examines how each principle can be given concrete effect The originality lies in the nexus between the rule of law and the form of legislation Much has been written about the nature and content of the rule of law but relatively little has been devoted to jurisprudence the theory and practice of legislation This book now draws these two subjects together in a detailed and innovative way

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