



Recrafting the Rule of Law

The Limits of Legal Order

Edited by David Dyzenhaus

B L O O M S B U R Y

Recrafting The Rule Of Law The Limits Of Legal Order

Ramona Coman



Recrafting The Rule Of Law The Limits Of Legal Order:

Law and Morality David Dyzenhaus, Sophia Reibetanz Moreau, Arthur Ripstein, 2007-01-01 Since its first publication in 1996 Law and Morality has filled a long standing need for a contemporary Canadian textbook in the philosophy of law Now in its third edition this anthology has been thoroughly revised and updated and includes new chapters on equality judicial review and terrorism and the rule of law The volume begins with essays that explore general questions about morality and law surveying the traditional literature on legal positivism and contemporary debates about the connection between law and morality These essays explore the tensions between law as a protector of individual liberty and as a tool of democratic self rule and introduce debates about adjudication and the contribution of feminist approaches to the philosophy of law New material on the Chinese Canadian head tax case is also featured The second part of Law and Morality deals with philosophical questions as they apply to contemporary issues Excerpts from judicial decisions as well as essays by practicing lawyers are included to provide theoretically informed legal analyses of the issues Striking a balance between practical and more analytic philosophical approaches the volume s treatment of the philosophy of law as a branch of political philosophy enables students to understand law in its function as a social institution Law and Morality has proved to be an essential text in both departments of philosophy and faculties of law and this latest edition brings the debates fully up to date filling gaps in the previous editions and adding to the array of contemporary issues previously covered [The EU's Conceptualisation of the Rule of Law in its External Relations](#) Lisa Louwerse, 2023-09-04 This book explores the question of how the EU

understands the rule of law in its external relations with a particular focus on development cooperation and enlargement Although the EU s commitment to the rule of law is strong the relevant concept remains nebulous On the basis of a detailed analysis of two key EU external policy areas the main argument advanced is that the Union has adopted a mostly institutional approach to the concept by focussing largely on judicial reform By testing the relevant practice against the background of the constitutional traditions of the Member States and legal theory the book attests to the significance of developing a comprehensive approach to the rule of law in EU external relations **Opposing the Rule of Law** Nick

Cheesman, 2015-03-12 A striking new analysis of Myanmar s court system revealing how the rule of law is lexically present but semantically absent [Asian Discourses of Rule of Law](#) Randall P. Peerenboom, 2004 Rule of law one of the pillars of the modern world has emerged in Western liberal democracies This book considers how rule of law is viewed and implemented in the different cultural economic and political context of Asia **Reconceptualising the Rule of Law in Global**

Governance, Resources, Investment and Trade Photini Pazartzis, Maria Gavouneli, 2016-06-30 The relevance and importance of the rule of law to the international legal order cannot be doubted and was recently reaffirmed by the Declaration of the High level Meeting of the General Assembly on the Rule of Law at the National and International Level s solemn commitment to it on behalf of states and international organizations In this edited collection leading scholars and

practitioners from the fields of global governance resources investment and trade examine how the commitment to the rule of law manifests itself in the respective fields The book looks at cutting edge issues within each field and examines the questions arising from the interplay between them With a clear three part structure it explores each area in detail and addresses contemporary challenges while trying to assure a commitment to the rule of law The contributions also consider how the rule of law has been or should be reconceptualised Taking a multi disciplinary approach the book will appeal to international lawyers from across the spectrum including practitioners in the field of international investment and trade law

Law, Liberty, and the Rule of Law Imer B. Flores, Kenneth E. Himma, 2012-09-28 In recent years there has been a substantial increase in concern for the rule of law Not only have there been a multitude of articles and books on the essence nature scope and limitation of the law but citizens elected officials law enforcement officers and the judiciary have all been actively engaged in this debate Thus the concept of the rule of law is as multifaceted and contested as it s ever been and this book explores the essence of that concept including its core principles its rules and the necessity of defining or even redefining the basic concept *Law Liberty and the Rule of Law* offers timely and unique insights on numerous themes relevant to the rule of law It discusses in detail the proper scope and limitations of adjudication and legislation including the challenges not only of limiting legislative and executive power via judicial review but also of restraining active judicial lawmaking while simultaneously guaranteeing an independent judiciary interested in maintaining a balance of power It also addresses the relationship not only between the rule of law human rights and separation of powers but also the rule of law constitutionalism and democracy

Just Words Andrej Auersperger Matić, 2020-07-16 This book examines the role of the European Court of Human Rights in promoting standards of effective civil justice in Europe It defines judicial effectiveness as composed of three main components namely the length cost and predictability of proceedings Following a comprehensive review of the relevant case law the book argues that the legal standards established by the Court in these areas are rather modest and that the legal reasoning behind them is predominantly formalist Rather than developing an understanding of the relevant policy choices that determine the institutional framework of civil justice the Court bases its decisions on abstract concepts like reasonable time access to court and legal certainty By sidelining the key institutional issues such as resource allocation and incentives the Court has produced a largely theoretical case law that actually has little value for persons who wish to enforce their rights in courts

Constitutional Rights After Globalization Gavin Anderson, 2005-05-18 *Constitutional Rights after Globalization* juxtaposes the globalization of the economy and the worldwide spread of constitutional charters of rights The shift of political authority to powerful economic actors entailed by neo liberal globalization challenges the traditional state centred focus of constitutional law Contemporary debate has responded to this challenge in normative terms whether by reinterpreting rights or redirecting their ends e g to reach private actors However globalization undermines the liberal legalist epistemology on which these approaches rest by positing the existence of multiple sites of legal production e g

multinational corporations beyond the state This dynamic between globalization and legal pluralism on one side and rights constitutionalism on the other provides the context for addressing the question of rights constitutionalism s counterhegemonic potential This shows first that the interpretive and instrumental assumptions underlying constitutional adjudication are empirically suspect constitutional law tends more to disorder than coherence and frequently is an ineffective tool for social change Instead legal pluralism contends that constitutionalism s importance lies in symbolic terms as a legitimating discourse The competing liberal and new politics of definition the latter highlighting how neoliberal values and institutions constrain political action are contrasted to show how each advances different agenda A comparative survey of constitutionalism s engagement with private power shows that conceiving of constitutions in the predominant liberal legalist mode has broadly favoured hegemonic interests It is concluded that counterhegemonic forms of constitutional discourse cannot be effected within but only by unthinking the dominant liberal legalist paradigm in a manner that takes seriously all exercises of political power Legal Symbolism Jiří Přibáň,2007-01-01 Prib n s book contributes to the field of systems theory of law in the context of European legal and political integration and constitution making It puts recent European legislative efforts and policies especially the EU enlargement process in the context of legal theory and philosophy

Administrative Law and Judicial Deference Matthew Lewans,2016-01-28 In recent years the question whether judges should defer to administrative decisions has attracted considerable interest amongst public lawyers throughout the common law world This book examines how the common law of judicial review has responded to the development of the administrative state in three different common law jurisdictions the United Kingdom the United States of America and Canada over the past 100 years This comparison demonstrates that the idea of judicial deference is a valuable feature of modern administrative law because it gives lawyers and judges practical guidance on how to negotiate the constitutional tension between the democratic legitimacy of the administrative state and the judicial role in maintaining the rule of law

The Cambridge Companion to the Rule of Law Jens Meierhenrich,Martin Loughlin,2021-08-12 Introduces students scholars and practitioners to the theory and history of the rule of law Constitutionalising Secession David Haljan,2014-11-01 Constitutionalising Secession proceeds from the question What if anything does the law have to say about a secession crisis But rather than approaching secession through the optic of political or nationalist institutional accommodation this book focuses on the underpinnings to a constitutional order as a law making community underpinnings laid bare by secession pressures Relying on the corrosive effects of secession it explores the deep structure of a constitutional order and the motive forces creating and sustaining that order A core idea is that the normativity of law is best understood through a constitutional optic as an integrative associative force Constitutionalising Secession critically analyses conceptions of constitutional order implicit in the leading models of secession and takes as a leading case study the judicial and legislative response to secession in Canada The book therefore develops a concept of constitutionalism and law making

associative constitutionalism to describe their deep structure as a continuing integrative process of association This model of a dynamic process of value formation can address both the association and the disassociation of constitutional systems

Varieties of European Economic Law and Regulation Kai Purnhagen, Peter Rott, 2014-07-16 This is the first book to comprehensively analyze the work of Hans Micklitz one of the leading scholars in the field of EU economic law It brings together analysts academic friends and critics of Hans Micklitz and results in a unique collection of essays that evaluate his work on European Economic Law and Regulation The contributions discuss a wide range of Micklitz work from his theoretical work on private law beyond party autonomy with a special focus on its regulatory function to the illustration of how his work has built the basis for current solutions such as used in solving the financial crisis The book is divided into sections covering foundations of private law regulatory law competition and intellectual property law product safety law consumer contract law and the enforcement of law This book clearly shows the enormous impact of Hans Micklitz work on the EU legal system in both scholarship and practice

Turpin and Tomkins' British Government and the Constitution Alison L. Young, 2021-04-01 A lot has happened to the UK Constitution in the last seven years We've witnessed the UK's exit from the EU further devolution to Scotland and Wales a number of prominent cases by the Supreme Court two early parliamentary general elections major governmental defeats and two Prime Ministerial resignations Alison Young has built on the text of Colin Turpin and Adam Tomkins earlier edition keeping their unique historical and contextual approach whilst bringing the material up to date with more contemporary examples including references to Brexit the recent prorogation and Brexit case law and the Covid 19 pandemic The book continues to include substantial extracts from parliamentary and other political sources as well as from legislation and case law It also provides a full yet accessible account of the British constitution at the culmination of a series of dramatic events on the threshold of possible further constitutional reform

Human Dignity and the Foundations of International Law Patrick Capps, 2009-06-11 International lawyers have often been interested in the link between their discipline and the foundational issues of jurisprudential method but little that is systematic has been written on this subject In this book an attempt is made to fill this gap by focusing on issues of concept formation in legal science in general with a view to their application to the specific concerns of international law In responding to these issues the author argues that public international law seeks to establish and institutionalise a system of authoritative judgment whereby the conditions by which a community of states can co exist and co operate are ensured A state in turn must be understood as ultimately deriving legitimacy from the pursuit of the human dignity of the community it governs as well as the dignity of those human beings and states affected by its actions in international relations This argument is in line with a long and now resurgent Kantian tradition in legal and political philosophy The book shows how this approach is reflected in accepted paradigm cases of international law such as the United Nations Charter It then explains how this approach can provide insights into the theoretical foundations of these accepted

paradigms including our understanding of the sources of international law international legal personality and the design of global institutions **Asian Yearbook of International Law** B.S. Chimni,Miyoshi Masahiro,Li-ann Thio,2009-06-02

Launched in 1991 the Asian Yearbook of International Law is a major refereed publication dedicated to international law issues as seen primarily from an Asian perspective under the auspices of the Foundation for the Development of International Law in Asia DILA It is the first publication of its kind edited by a team of leading international law scholars from across Asia The Yearbook provides a forum for the publication of articles in the field of international law and other Asian international law topics written by experts from the region and elsewhere Its aim is twofold to promote international law in Asia and to provide an intellectual platform for the discussion and dissemination of Asian views and practices on contemporary international legal issues Each volume of the Yearbook normally contains articles and shorter notes a section on State practice an overview of Asian states participation in multilateral treaties succinct analysis of recent international legal developments in Asia an agora section devoted to critical perspectives on international law issues surveys of the activities of international organizations of special relevance to Asia and book review bibliography and documents sections It will be of interest to students and academics interested in international law and Asian studies **The Politics of the Rule of Law in**

the EU Polity Ramona Coman,2022-04-23 This book analyses the challenges facing the European Union through the frame of the rule of law It shows how over the last decades the increased dissensus and contestation of the rule of law has given rise to heightened tensions between national and EU institutions leading to the establishment of new soft and hard policy tools to safeguard it at the supranational level The book proposes a comprehensive and multifaceted analysis of the current state of debates by exploring how EU institutional actors seek to uphold the Union's values It shows that European integration in core state powers is the outcome of the clash between liberal and anti liberal ideas between dissensus and contestation over how collective problems should be solved in a community of voices featuring assent and dissent all of which give democracy its substance Beyond the analysis of the emerging EU's rule of law policy the book will help readers to better understand the EU's fragilities and resilience and the potential challenges for the future of EU integration 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 **Islam, Law and Identity** Marinou Diamantides, Adam Gearey, 2011-08-12 The essays brought together in *Islam Law and Identity* are the product of a series of interdisciplinary workshops that brought together scholars from a plethora of countries Funded by the British Academy the workshops convened over a period of two years in London Cairo and Izmir The workshops and the ensuing papers focus on recent debates about the nature of sacred and secular law and most engage case studies from specific countries including Egypt Israel Kazakhstan Mauritania Pakistan and the UK *Islam Law and Identity* also addresses broader and over arching concerns about relationships between religion human rights law and modernity Drawing on a variety of theoretical and empirical approaches the collection presents law as central to the complex ways in which different Muslim communities and institutions create and re create their identities around inherently ambiguous symbols of faith From their different perspectives the essays argue that there is no essential conflict between secular law and Shari'a but various different articulations of the sacred and the secular *Islam Law and Identity* explores a more nuanced and sophisticated understanding of the tensions that animate such terms as Shari'a law modernity and secularization [The Oxford Handbook of Comparative Administrative Law](#) Peter Cane, Herwig C H Hofmann, Eric C Ip, Peter L Lindseth, 2020-12-17 The comparative study of administrative law has a long history dating back more than 200 years It has enjoyed a renaissance in the past 15 years or so and now sits alongside fields such as comparative constitutional law and global administrative law as a well established area of scholarly research This book is the first to provide a broad and systematic view of the subject both in terms of the topics covered and the legal traditions surveyed In its various parts it surveys the historical beginnings of comparative administrative law scholarship discusses important methodological issues examines the relationship between administrative law and regime type analyses basic concepts such as administrative power and accountability and deals with the creation functions and control of administrative power and values of administration The final part looks to the future of this young sub discipline In this volume distinguished experts and leaders in the field discuss a wide range of issues in administrative law from a comparative perspective Administrative law is concerned with the conferral nature exercise and legal control of administrative or executive governmental power It has close links with other areas of public law notably constitutional law and international law It is of great interest and importance not only to lawyers but also to students of politics government and public policy Studying public law comparatively helps to identify both similarities and differences between the way government power and its control is managed in different countries and legal traditions

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