

# **Modern Legal Theory and Judicial Impartiality**

Ofer Raban

# Modern Legal Theory And Judicial Impartiality

**Justine N Stefanelli**



## **Modern Legal Theory And Judicial Impartiality:**

**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.

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[The Methodology of Legal Theory](#) Michael Giudice, Wil Waluchow, 2017-07-05 The last decade has witnessed a particularly intensive debate over methodological issues in legal theory. The publication of Julie Dickson's *Evaluation and Legal Theory* (2001) was significant, as were collective returns to H.L.A. Hart's *Postscript to The Concept of Law*. While influential articles have been written in disparate journals, no single collection of the most important papers exists. This

volume the first in a three volume series aims not only to fill that gap but also propose a systematic agenda for future work The editors have selected articles written by leading legal theorists including among others Leslie Green Brian Leiter Joseph Raz Ronald Dworkin and William Twining and organized under four broad categories 1 problems and purposes of legal theory 2 the role of epistemology and semantics in theorising about the nature of law 3 the relation between morality and legal theory and 4 the scope of phenomena a general jurisprudence ought to address

### **The Culture of Judicial Independence**

Shimon Shetreet, Christopher Forsyth, 2011-11-11 This volume analyzes the development of a culture of Judicial Independence in comparative perspectives to offer an examination of the conceptual foundations of the principle of judicial independence and to discuss in detail the practical challenges facing judiciaries in different jurisdictions

Assessing the Effectiveness of International Courts Yuval Shany, 2014 During the last 20 years the world has experienced a sharp rise in the number of international courts and tribunals and a correlative expansion of their jurisdictions This book draws on social sciences to provide a clear goal orientated assessment of their effectiveness and a critical evaluation of the quality of their performance

*Philosophy of Law* Mark Tebbit, 2005-06-14 Philosophy of Law An Introduction provides an ideal starting point for students of philosophy and law as it assumes no prior knowledge of either subject The book is structured around the key issues and themes in the philosophy of law including what is the law exploring the major legal theories of realism positivism and natural law the reach of the law covering authority rights liberty privacy and tolerance criminal responsibility and punishment including legal defenses crime diminished responsibility and theories of punishment The second edition is updated with important developments in English law the general impact of the Human Rights Act and the defence of necessity in relation to the Case of the Conjoined Twins Radical Marxism feminist critical legal studies and critical race theories are also explained against the background of controversy between postmodernism and defences of modernity New chapters assess the value of traditional legal theory and various critical perspectives and study questions at the end of each chapter help students explore the most important issues in philosophy of law

### **Judicial Review of Immigration**

**Detention in the UK, US and EU** Justine N Stefanelli, 2020-01-23 Immigration detention is considered by many states to be a necessary tool in the execution of immigration policy Despite the apparently key role it plays in immigration enforcement the law on immigration detention is often vague especially in relation to determining the circumstances under which prolonged detention remains lawful As a result the courts are frequently called upon to adjudicate these matters with scant legal tools at their disposal Though there have been some significant judgments on the legality of detention at the constitutional level the extent to which these judgments have had an impact at the lower end of the judiciary is unclear Indeed it is the lower courts which are tasked with judging the legality of detention through habeas corpus or judicial review proceedings This book examines the way this has occurred in the lower courts of two jurisdictions the UK and the US and contrasts this practice not only in those jurisdictions but with judgments rendered by the Court of Justice of the European

Union a constitutional court at the other end of the judicial spectrum whose judgments are applied by courts and tribunals in the EU Member States Although these three jurisdictions use similar tests to evaluate the legality of detention case outcomes significantly differ Many factors contribute to this divergence but key among them is the role that fundamental rights protection plays in each jurisdiction Through a forensic evaluation of 191 judgments this book compares the laws on detention in the UK US and EU and makes recommendations to these jurisdictions for improvement **The Judicial**

**Function** Joe McIntyre, 2019-09-16 Judicial systems are under increasing pressure from rising litigation costs and decreased accessibility from escalating accountability and performance evaluation expectations from shifting burdens of case management and alternative dispute resolution roles and from emerging technologies For courts to survive and flourish in a rapidly changing society it is vital to have a clear understanding of their contemporary role and a willingness to defend it This book presents a clear vision of what it is that courts do how they do it and how we can make sure that they perform that role well It argues that courts remain a critical relevant and supremely well adjusted institution in the 21st century The approach of this book is to weave together a range of discourses on surrounding judicial issues into a systemic and coherent whole It begins by articulating the dual roles at the core of the judicial function third party merit based dispute resolution and social normative governance By expanding upon these discrete yet inter related aspects it develops a language and conceptual framework to understand the judicial role more fully The subsequent chapters demonstrate the explanatory power of this function examining the judicial decision making method reframing principles of judicial independence and impartiality and re conceiving systems of accountability and responsibility The book argues that this function driven conception provides a useful re imagining of some familiar issues as part of a coherent framework of foundational yet interwoven principles This approach not only adds clarity to the analysis of those concepts and the concrete mechanisms by which they are manifest but helps make the case of why courts remain such vital social institutions Ultimately the book is an entreaty not to take courts for granted nor to readily abandon the benefits they bring to society Instead by understanding the importance and legitimacy of the judicial role and its multifaceted social benefits this books challenge us to refresh our courts in a manner that best advances this underlying function **Justice Denied: Exploring Inequities in the Legal**

**System** Ed Johnston, Claire-Michelle Smyth, 2025-08-15 This volume focuses on injustice in the Criminal Justice System in England and Wales and discusses the barriers to achieving justice The book draws on contributions from established and emerging scholars as well as insight from professional practice to provide insight into the contemporary challenges in distinct areas of injustice through original analysis and argument Topics covered include the theory of punishment criminal justice access to justice climate justice migrant justice and barriers to justice The volume will be of interest to researchers academics and policy makers working in the areas of Criminal Law Criminology Sociology of Law and Human Rights Law Focused on the legal system of England and Wales the issues raised are relevant for an international readership *The*

*Intermediary in the Criminal Justice System* John Taggart, 2025-07-25 This book undertakes a sociolegal examination of the intermediary role within the criminal justice system The intermediary special measure is one of the most innovative and controversial developments in the history of English criminal procedure But what does the role actually involve That is the central question explored in this book Despite increased academic attention into this new criminal justice actor the content of the intermediary role remains unclear Based centrally on empirical data gathered in England and Wales and Northern Ireland but also drawing upon comparative material from other jurisdictions the book examines how those executing the intermediary role understand its work and how other criminal justice actors perceive it The book then uses this as the basis for generating a theory of the intermediary role and its scope and content It also considers the future of the role and its integration into the criminal justice system This book will appeal to those researching and studying in the areas of sociolegal studies criminal law and criminology as well as lawyers judges intermediaries and policy makers working in relevant areas

**Yearbook of the European Convention on Human Rights/Annuaire de la convention europeenne des droits de l'homme, Volume 46 (2003)** Council of Europe/Conseil de l'Europe, 2004-08-07 This volume of the Yearbook of the European Convention on Human Rights prepared by the Directorate of Human Rights of the Council of Europe relates to 2003 Part one contains information on the Convention Part two deals with the control mechanism of the European Convention on Human Rights selected judgments of the European Court of Human Rights and human rights DH resolutions of the Committee of Ministers part three groups together the other work of the Council of Europe in the field of human rights and includes the work of the Committee of Ministers the Parliamentary Assembly and the Directorate General of Human Rights part four is devoted to information on national legislation and extracts from national judicial decisions concerning rights protected by the Convention Appendix A contains a bibliography on the Convention and Appendix B the biographies of the new judges elected to the European Court of Human Rights

**A Matter of Dispute** Christopher J. Peters, 2011 This work canvasses fundamental problems within the diverse disciplines of legal philosophy democratic theory philosophy of adjudication and public law theory and suggests a unified approach to unraveling them It also addresses practical questions of law and government in a way that should appeal to anyone interested in the complex and often troubled relationship among morality democracy and the rule of law

**European Legal Book Index**, 2003

**The Legal Aspects of Shaming: An Ancient Sanction in the Modern World** Meital Pinto, Guy Seidman, 2023-09-06 Offering an original legal definition of shaming this incisive book argues for greater attention to shaming by legal scholars and practitioners Suggesting nuanced procedures to regulate shaming in diverse areas of law it seeks to make shaming by legal entities legitimate and effective and to use legal mechanisms to limit inappropriate shaming in non legal contexts

Research Handbook on Critical Legal Theory Emiliios Christodoulidis, Ruth Dukes, Marco Goldoni, 2019 Critical theory characteristically linked with the politics of theoretical engagement covers the manifold of the connections between theory and praxis This

thought provoking Research Handbook captures the broad range of those connections as far as legal thought is concerned and retains an emphasis both on the politics of theory and on the notion of theoretical engagement The first part examines the question of definition and tracks the origins and development of critical legal theory along its European and North American trajectories The second part looks at the thematic connections between the development of legal theory and other currents of critical thought such as Feminism Marxism Critical Race Theory varieties of post modernism as well as the various turns ethical aesthetic political of critical legal theory The third and final part explores particular fields of law addressing the question how the field has been shaped by critical legal theory or what critical approaches reveal about the field with the clear focus on opportunities for social transformation

*International Trade and Business Law Review: Volume XI* Gabriel Moens, Roger Jones, 2012-11-12 The International Trade and Business Law Review publishes leading articles comments and case notes as well as book reviews dealing with international trade and business law arbitration law foreign law and comparative law It provides the legal and business communities with information knowledge and understanding of recent developments in international trade business and international commercial arbitration The Review contributes in a scholarly way to the discussion of these developments while being informative and having practical relevance to business people and lawyers It also devotes a section to the Willem C Vis International Commercial Arbitration Moot and publishes the memoranda prepared by teams coached by Professor Gabri l A Moens The Review is edited at the Murdoch University School of Law in Perth Australia The Editors in Chief are Mr Roger Jones Partner Latham Watkins LLP Chicago and Gabri l A Moens Dean and Professor of Law Murdoch Law School It is an internationally refereed journal The Review is supervised by an international board of editors that consists of leading international trade law practitioners and academics from the European Union the United States Asia and Australia The Student Editors for Volume XI are Adam Totaro and Peter Clay from the Murdoch Law School

*The English Legal System* David Kelly, 2017-07-14 Slapper and Kelly s The English Legal System explains and critically assesses how our law is made and applied Trusted by generations of academics and students this authoritative textbook clearly describes the legal rules of England and Wales and their collective influence as a sociocultural institution This latest edition of The English Legal System has been substantially updated Slapper Kelly can always be relied upon for accurate and reliable coverage of all of the latest developments which impact on the legal system in England and Wales Key learning features include useful chapter summaries which act as a good check point for students food for thought questions at the end of each chapter to prompt critical thinking and reflection sources for further reading and suggested websites at the end of each chapter to point students towards further learning pathways an online skills network including how tos practical examples tips advice and interactive examples of English law in action Relied upon by generations of students Slapper and Kelly s The English Legal System is a permanent fixture in this ever evolving subject

*African Legal Theory and Contemporary Problems* Oche Onazi, 2013-11-26 The book is a collection of essays which aim to

situate African legal theory in the context of the myriad of contemporary global challenges from the prevalence of war to the misery of poverty and disease to the crises of the environment Apart from being problems that have an indelible African mark on them a common theme that runs throughout the essays in this book is that African legal theory has been excluded under explored or under theorised in the search for solutions to such contemporary problems The essays make a modest attempt to reverse this trend The contributors investigate and introduce readers to the key issues questions concepts impulses and problems that underpin the idea of African legal theory They outline the potential offered by African legal theory and open up its key concepts and impulses for critical scrutiny This is done in order to develop a better understanding of the extent to which African legal theory can contribute to discourses seeking to address some of the challenges that confront African and non African societies alike

*The Jewish Legal Tradition* Ari Mermelstein, Suzanne Last Stone, Yair Lorberbaum, 2025-02-28

This book provides an in depth exploration of the Jewish legal tradition or halakhah through the lens of modern legal philosophy The interdisciplinary approach of the book makes complex ideas accessible offering insights into how Jewish legal thought both parallels and diverges from modern legal theory By examining primary sources through a contemporary legal theoretical framework the volume offers a pedagogical approach to halakhah Readers will gain a nuanced understanding of the deep structure of Jewish law through the rigorous application of modern legal philosophy The book s structured approach dividing chapters into conceptual discussions primary source analyses and synthetic reflections provides a comprehensive guide for exploring Jewish legal thought The collection not only enhances the study of halakhah but also contributes to broader discussions in legal theory and philosophy making it a valuable resource for diverse audiences The book is intended for scholars and students of Jewish law legal theory and Jewish studies It is also designed for law schools Judaic studies programs and lay readers interested in the philosophical dimensions of religious legal systems



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