

Moral and Legal Reasoning



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Larry Alexander



Moral And Legal Reasoning:

Moral and Legal Reasoning Samuel J. Stoljar, 1980-06-18 **Justice, Law, and Argument** Ch. Perelman, 2012-12-06

This collection contains studies on justice juridical reasoning and argumentation which contributed to my ideas on the new rhetoric My reflections on justice from 1944 to the present day have given rise to various studies The first of these was published in English as *The Idea of Justice and the Problem of Argument* Routledge Kegan Paul London 1963 The others of which several are out of print or have never previously been published are reunited in the present volume As justice is for me the prime example of a confused notion of a notion which like many philosophical concepts cannot be reduced to clarity without being distorted one cannot treat it without recourse to the methods of reasoning analyzed by the new rhetoric In actuality these methods have long been put into practice by jurists Legal reasoning is fertile ground for the study of argumentation it is to the new rhetoric what mathematics is to formal logic and to the theory of demonstrative proof It is important then that philosophers should not limit their methodological studies to mathematics and the natural sciences They must not neglect law in the search for practical reason I hope that these essays lead to a better understanding of how law can enrich philosophical thought

CH P *Moral and Legal Reasoning* Samuel Jacob Stoljar, 1980 [Reasoning in Ethics and Law](#) Albert W. Musschenga, Wim J. van der Steen, 2017-03-02

Legal and moral reasoning share much methodology and they address similar problems This volume charts two shared problems the relation between theory principles and particular judgments and the role of facts and factual assertions in normative settings The relation between theory and practice and between principle and particular judgment has become the subject of much debate in moral philosophy In the ongoing debate some moral philosophers refer to legal philosophy for a support of their views on the primacy of practice over theory According to them legal philosophy should have a more balanced view in that relation In the contributions to Part One this claim is critically analysed The role of the facts is underestimated in discussions on legal reasoning and legal theory as well as moral reasoning and ethical theory Factual statements enter into moral and legal discussions not only because they link the conclusion with a rule They also play a role as background assumptions in supporting a theory Its focus on the role of facts in normative reasoning makes this book of special interest to scholars of legal and moral argumentation

Justice, law, and argument. essays on moral and legal reasoning Chaim Perelman, 1980 **Moral Theory and Legal Reasoning** Scott Brewer, 1998 [Demystifying Legal Reasoning](#) Larry Alexander, Emily Sherwin, 2008-06-16

Demystifying Legal Reasoning defends the proposition that there are no special forms of reasoning peculiar to law Legal decision makers engage in the same modes of reasoning that all actors use in deciding what to do open ended moral reasoning empirical reasoning and deduction from authoritative rules This book addresses common law reasoning when prior judicial decisions determine the law and interpretation of texts In both areas the popular view that legal decision makers practise special forms of reasoning is false

Legal Reasoning Martin P. Golding, 2001-03-02 In a book that is a blend of text and readings Martin

P Golding explores legal reasoning from a variety of angles including that of judicial psychology The primary focus however is on the logic of judicial decision making How do judges justify their decisions What sort of arguments do they use In what ways do they rely on legal precedent Golding includes a wide variety of cases as well as a brief bibliographic essay updated for this Broadview Encore Edition *The Universal and the Particular in Legal Reasoning* Zenon Bankowski, James MacLean, 2006 It is twenty five years since the publication of Neil MacCormick's book *Legal Reasoning and Legal Theory* a book that has been in print continuously since its first publication This book looks at how examining legal reasoning can bring up important theoretical and ethical issues as MacCormick revisits the issues anew in his current work *Personal Identity in Moral and Legal Reasoning* Richard Prust, Jeffery Geller, 2019-10-31 Many questions about moral and legal judgments hinge on how we understand the identity of the agents The intractability of many of these questions stems this book argues from ignoring how we actually connect actions with agents When making everyday judgments about the morality or legality of actions we do not use Aristotelian logic but what is termed character logic The difference is crucial because implicit in character logic is an understanding of personal identity that is both coherent and intuitively familiar A person as we conceptualize him in moral and legal contexts is a character of resolve By unpacking what it means to be a character of resolve this book reveals what underwrites our most fundamental beliefs about a person's rights and responsibilities It also provides a new and useful perspective on a variety of issues about rights and responsibilities that perennially occupy philosophers This book discusses the following How we can make better sense of human rights if we think of them as personal rights How the right to be civilly disobedient in contrast with ordinary law breaking can be justified as a personal right What basis we have for holding that someone's responsibility is diminished How it makes sense to hold someone responsible for acting irresponsibly How it makes sense to distinguish a juvenile offender from someone who should be tried in criminal court What kind of correction we should expect from our correctional institutions and how we should design them to achieve that By making explicit the axioms of character logic and exploring their origins and justification the book provides a conceptually powerful tool for interpreting the protocols of a person respecting society **Objectivity in Law and Legal Reasoning** Jaakko Husa, Mark Van Hoecke, 2013-01-28 Legal theorists consider their discipline as an objective endeavour in line with other fields of science Objectivity in science is generally regarded as a fundamental condition informing how science should be practised and how truths may be found Objective scientists venture to uncover empirical truths about the world and ought to eliminate personal biases prior commitments and emotional involvement However legal theorists are inevitably bound up with a given legal culture Consequently their scholarly work derives at least in part from this environment and their subtle interaction with it This book questions critically in novel ways and from various perspectives the possibilities of objectivity of legal theory in the twenty first century It transpires that legal theory is unavoidably confronted with varying conceptions of law underlying ideologies approaches to legal method argumentation and

discourse etc which limit the possibilities of objectivity in law and in legal reasoning The authors of this book reveal some of these underlying notions and discuss their consequences for legal theory *Constitutionalism and Legal Reasoning* Massimo La Torre, 2007-04-10 This book which consist of three chapters and two appendices is intended to connect subjects that have usually been considered as detached or not strongly connected constitutionalism legal argumen tion and legal ethics Its main contention is that contemporary consti tionalism pushes towards a new style of legal reasoning which needs to take into account moral criteria and principles and that eventually the interpretative and moralist approach will lead to a somewhat unort dox and less authoritarian concept of law A constitution to be taken seriously and as a distinct and superior source of law will end up referring to some sort of constitutional justice or judicial review And constitutional reasoning and justice need to make recourse to principles but principles to be given an operative content should be elaborated through some form of moral reasoning This r soning however if it does not want to betray the spirit of constitutional democracy and the very idea of a constitution as a special moment of self determination could not be just Platonism a cognitivism without roots in the practice of public discourse and deliberation So that cons tutionalism will not really do without a public sphere and some activism of the latter But if this is so the traditional concept of law based on hi archy commands prescription sanction and in the last instance violence becomes obsolete A law which is a command cannot be congruent with a practice ruled by discourse that is I argue with constitution *Moral Skepticism and Legal Reasoning* Jeffrey Denys Goldsworthy, 1991 **Responsibility in Law and Morality** Peter Cane, 2002-04-17 Lawyers who write about responsibility tend to focus on criminal law at the expense of civil and public law while philosophers tend to treat responsibility as a moral concept and either ignore the law or consider legal responsibility to be a more or less distorted reflection of its moral counterpart This book aims to counteract both of these biases By adopting a comparative institutional approach to the relationship between law and morality it challenges the common view that morality stands to law as critical standard to conventional practice It shows how law and morality interact symbiotically and how careful study of legal concepts of responsibility can add significantly to our understanding of responsibility more generally Central to this project is a distinction between two paradigms of responsibility the criminal law paradigm and the civil law paradigm Whereas theoretical discussions of responsibility tend focus on conduct and agency taking account of civil law reveals the importance of outcomes and the interests of victims and society to ideas of responsibility The book examines from a distinctively legal point of view central philosophical questions about responsibility such as its relationship with culpability challenging the common view that moral responsibility requires fault causation and personality It explores the relevance of sanctions and problems of proof and enforcement to ideas of responsibility as well as the relationship between responsibility and distributive justice and the role of concepts of responsibility in public law At the heart of this book lie two questions what does it mean to say we are responsible and what are our responsibilities Its aim is not to answer these questions but to

challenge some traditional approaches to answering them and more importantly to suggest fruitful alternative approaches that take law seriously

The Philosophy of Legal Reasoning, 1998 Demystifying Legal Reasoning Larry Alexander, 2008 Demystifying Legal Reasoning defends the proposition that there are no special forms of reasoning peculiar to law Legal decision makers engage in the same modes of reasoning that all actors use in deciding what to do open ended moral reasoning empirical reasoning and deduction from authoritative rules This book addresses common law reasoning when prior judicial decisions determine the law and interpretation of texts In both areas the popular view that legal decision makers practise special forms of reasoning is false

"Ought Implies Can" in Moral & Legal Reasoning Andrew Nicol (LL. M.), 2008 Essays on the Doctrinal Study of Law Aulis Aarnio, 2011-07-10 Essays on the Doctrinal Study of Law is a summary of the author's 40 years of research in the fields of civil law and the philosophy of law The main focus is on the two main tasks in the doctrinal study of law the interpretation and systematisation of legal norms In this regard Professor Aarnio deals with the theory of argumentation as well as with its foundations i e with the ontology epistemology and methodology of legal thinking and develops the ideas that were first presented in The Rational as Reasonable Kluwer 1987 in all of these dimensions The work includes an updated discussion on the writings of Robert Alexy Jürgen Habermas Ronald Dworkin and Alf Ross A focal point of view concerns the distinction between positivism and non positivism in which the core of the criticism focuses on Scandinavian realism

Legal Reasoning and Legal Theory Neil MacCormick, 1994-08-11 What makes an argument in a law case good or bad Can legal decisions be justified by purely rational argument or are they ultimately determined by more subjective influences These questions are central to the study of jurisprudence and are thoroughly and critically examined in Legal Reasoning and Legal Theory now with a new and up to date foreword Its clarity of explanation and argument make this classic legal text readily accessible to lawyers philosophers and any general reader interested in legal processes human reasoning or practical logic

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