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Reason and Law



Reason And Law Studies In Juristic Philosophy

Joshua Jowitt



Reason And Law Studies In Juristic Philosophy:

Reason and Law Morris Raphael Cohen, 1972 **ABA Journal** , 1950-10 The ABA Journal serves the legal profession. Qualified recipients are lawyers and judges, law students, law librarians, and associate members of the American Bar Association. *Reason and Law : Studies in Juristic Philosophy* Thomas J. Sheehan, 1972 Architect of Justice Dalia Tsuk Mitchell, 2007 A major figure in American legal history during the first half of the twentieth century, Felix Solomon Cohen (1907-1953) is best known for his realist view of the law and his efforts to grant Native Americans more control over their own cultural, political, and economic affairs. A second-generation Jewish American, Cohen was born in Manhattan where he attended the College of the City of New York before receiving a Ph.D. in philosophy from Harvard University and a law degree from Columbia University. Between 1933 and 1948, he served in the Solicitor's Office of the Department of the Interior where he made lasting contributions to federal Indian law, drafting the Indian Reorganization Act of 1934, the Indian Claims Commission Act of 1946, and as head of the Indian Law Survey, authoring *The Handbook of Federal Indian Law* (1941) which promoted the protection of tribal rights and continues to serve as the basis for developments in federal Indian law. In *Architect of Justice*, Dalia Tsuk Mitchell provides the first intellectual biography of Cohen, whose career and legal philosophy she depicts as being inextricably bound to debates about the place of political, social, and cultural groups within American democracy. Cohen, she finds, was deeply influenced by his own experiences as a Jewish American and discussions within the Jewish community about assimilation and cultural pluralism, as well as the persecution of European Jews before and during World War II. Dalia Tsuk Mitchell uses Cohen's scholarship and legal work to construct a history of legal pluralism, a tradition in American legal and political thought that has immense relevance to contemporary debates and that has never been examined before. She traces the many ways in which legal pluralism informed New Deal policymaking and demonstrates the importance of Cohen's work on behalf of Native Americans in this context, thus bringing federal Indian law from the margins of American legal history to its center. By following the development of legal pluralism in Cohen's writings, *Architect of Justice* demonstrates a largely unrecognized continuity in American legal thought between the Progressive Era and ongoing debates about multiculturalism and minority rights today. A landmark work in American legal history, this biography also makes clear the major contribution Felix S. Cohen made to America's legal and political landscape through his scholarship and his service to the American government. **Law, Morality and Judicial Reasoning** Thomas Bustamante, Saulo de Matos, André L. S. Coelho, 2024-08-28 This book provides a critical outlook on and an inquiry into the practical implications of the works of Professor W. J. Waluchow, one of the most important jurisprudence scholars of the early twenty-first century, while also reflecting on the interconnections between his legal theory and his theory of constitutional interpretation. It also features an interview with Waluchow in which he responds to some of the chapters and shares a first-person perspective on his main philosophical ideas, how they emerged, and how they can be further developed and applied. The book makes a valuable

contribution to contemporary legal philosophy by asking and providing different answers from prominent legal philosophers and newer scholars in the field to questions such as How does Waluchow s jurisprudence relate to his theories of legal reasoning and constitutional interpretation On what terms should we understand inclusive legal positivism Can inclusive legal positivism be reconciled with an interpretivist theory of adjudication How does it compare with Raz s model of legal authority Can Waluchow s notion of community constitutional morality be applied to contexts such as international law pluralist legal communities and indigenous laws and Is Waluchow s methodology equipped to provide interpretive directives in unstable and extremely unequal legal systems The chapters all written by experts on jurisprudence including some of the scholars who helped develop the tradition known as inclusive legal positivism offer a unique analysis of Waluchow s most complex and intriguing theses providing not only a valuable exegetical analysis of his work but also a range of answers to the challenge of interpreting legal and constitutional values as well as practical resolutions to persisting controversies in the philosophy of law

A New Introduction to Jurisprudence Paul Cliteur,Afshin Ellian,2019-03-28 A New Introduction to Jurisprudence takes one of the central problems of law and jurisprudence as its point of departure what is the law Adopting an intermediate position between legal positivism and natural law this book reflects on the concept of liberal democracy or constitutional democracy In five chapters the book analyses i the idea of higher law ii liberal democracy as a legitimate model for the state iii the separation of church and state or secularism as essential for the democratic state iv the universality of higher law principles v the history of modern political thought This interdisciplinary approach to jurisprudence is relevant for legal scholars philosophers political theorists public intellectuals historians and politicians

Legal Reasoning, Legal Theory and Rights Martin P. Golding,2017-07-05 This book is a selection of articles and chapters published over Martin Golding s academic career Golding s approach to the philosophy of law is that it contains conceptual and normative issues and in this volume logical issues in legal reasoning are examined and various theories of law are critically discussed Normative questions are dealt with regarding the rule of law and criminal law defenses and the concept of rights and the terminology of rights are analyzed Much of Golding s work is critical historical as well as constructive This volume will prove an informative and useful collection for scholars and students of the philosophy of law

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 **Law, Truth, and Reason** Raimo Siltala, 2011-07-29 This book is an innovative contribution to analytical jurisprudence. It is mainly based on the distinct premises of linguistic philosophy and Carnapian semantics but also addresses the issues of institutional philosophy, social pragmatism, and legal principles as envisioned by Dworkin among others. Wrblewski's three ideologies bound free legal and rational and Makkonen's three situations isomorphic semantically vague normative gap of judicial decision making are further developed by means of 10 frames of legal analysis as discerned by the author. With the philosophical theories of truth serving as a reference, the frames of legal analysis include the isomorphic theory of law, Wittgenstein, Makkonen, the coherence theory of law, Alexy, Peczenik, Dworkin, the new rhetoric and legal argumentation theory, Perelman, Aarnio, social consequentialism, Posner, natural law theory, Fuller, Finnis, and the sequential model of legal reasoning by Neil MacCormick and the Bielefelder Kreis. At the end, some key issues of legal metaphysics are addressed like the notion of legal systematics and the future potential of the analytical approach in jurisprudence.

The Bloomsbury Encyclopedia of Philosophers in America John R. Shook, 2016-02-11 For scholars working on almost any aspect of American thought, *The Bloomsbury Encyclopedia to Philosophers in America* presents an indispensable reference work. Selecting over 700 figures from the *Dictionary of Early American Philosophers* and the *Dictionary of Modern American Philosophers*, this condensed edition includes key contributors to philosophical thought. From 1600 to the present day, entries cover psychology, pedagogy, sociology, anthropology, education, theology, and political science before these disciplines came to be considered distinct from philosophy. Clear and accessible, each entry contains a short biography of the writer, an exposition and analysis of his or her doctrines and ideas, a bibliography of writings, and suggestions for further reading. Featuring a new preface by the editor and a comprehensive introduction, *The Bloomsbury Encyclopedia to Philosophers in America* includes 30 new entries on twenty-first century thinkers including Martha Nussbaum and Patricia Churchland. With in-depth overviews of Waldo Emerson, Margaret Fuller, Noah Porter, Frederick Rauch, Benjamin Franklin, Thomas Paine, and Thomas Jefferson, this is an invaluable one-stop research volume to understanding leading figures in American thought and the development of American intellectual history.

Dictionary Of Modern American Philosophers John R. Shook, 2005-05-15 The *Dictionary of Modern American Philosophers* includes both academic and non-academic philosophers and a large number of female and minority thinkers whose work has been neglected. It includes those intellectuals involved in the development of psychology, pedagogy, sociology, anthropology, education, theology, political science, and several other fields before these disciplines came to be considered distinct from philosophy in the late nineteenth century. Each entry contains a short biography of the writer, an exposition and analysis of his or her doctrines and ideas, a bibliography of writings, and suggestions for further reading. While all the major post-Civil War philosophers are present, the most valuable feature of this dictionary is its coverage of a huge range of less well-known writers including hundreds of presently obscure thinkers. In many cases, the *Dictionary of Modern American Philosophers*

offers the first scholarly treatment of the life and work of certain writers This book will be an indispensable reference work for scholars working on almost any aspect of modern American thought

Virtue, Emotion and Imagination in Law and Legal Reasoning Amalia Amaya, Maksymilian Del Mar, 2020-02-06 What is the role and value of virtue emotion and imagination in law and legal reasoning These new essays by leading scholars of both law and philosophy offer striking and exploratory answers to this neglected question The collection takes a holistic approach inquiring as to the connections and relations between virtue emotion and imagination In addition to the principal focus on adjudication essays in the collection also engage with a variety of different legal political and moral contexts eg criminal law sentencing the Black Lives Matter movement and professional ethics A number of different areas of the law are addressed eg criminal law constitutional law and tort law and the issues explored include the benefits and limits of empathy in legal reasoning the role of attention and perception in judicial reasoning the identification of judicial virtues such as compassion and humility and judicial vices such as callousness and partiality the values and dangers of certain imaginative devices eg personification and the interactive and social dimensions of virtue emotion and imagination

Law, Lawyering and Legal Education Charles Sampford, Hugh Breakey, 2016-10-04 Once a highly cosmopolitan profession law was largely domesticated by the demands of the Westphalian state But as the walls between sovereign states are lowered law is globalizing in a way that is likely to change law lawyering and legal education as much over the next 30 years when the students entering law schools today reach the peak of their profession as it has over the last 300 This book provides a sustained investigation of the theoretical and practical aspects of legal practice and education synthesizing and developing nearly thirty years of Professor Sampford's critical thought analysis and academic leadership The book features two major areas of investigation First it explains the significance of the critical theoretical and ethical dimensions of legal education and legal practice in making more effective practitioners placing ethics and values at the heart of the profession Second it explores the old new challenges and opportunities for ethical lawyers Challenges include those for lawyers working in large organisations dealing with issues from international tax minimisation to advising governments bent on war Opportunities range from the capacity to give clients ethical advice to playing a key role in the emergence of an international rule of law as they had to the domestic rule of law The book should stimulate great interest and occasional passion for legal practitioners students teachers and researchers of law lawyering legal practice and legal institutions Its interdisciplinary approaches should be of interest to those with interests in education theory international relations political science and government professional ethics sociology public policy and governance studies

The Limits of Legal Reasoning and the European Court of Justice Gerard Conway, 2012-01-12 Gerard Conway explains how judges of the ECJ should be understood as sharing the same interpretative perspective as the law maker

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 Practice Theory and Law Maciej Dybowski, Weronika Dzięgielewska, Wojciech Rzepiński, 2024-10-02 This book engages the field of practice theory in order to consider law as a social practice Taking up the theoretical concept of practices the contributors to this volume maintain that law can be fruitfully understood as one among other social practices Including perspectives from philosophers of language experts in practice theory linguists and legal philosophers the book examines the twin questions of what it means for law to be considered a practice and what law's place is among other social practices The book is comprised of three parts The first provides a broad methodological framework for discussing how the concept of practice is used in the social sciences and in law The second deals with specific problems arising from the use of the concept of practice in the legal context and from the intersection of different social practices The third part identifies and addresses the consequences of applying insights from practice theory to law Together they offer a comprehensive consideration of what is at stake in understanding law as a social practice This book will appeal to sociolegal scholars sociologists of law philosophers of language and action as well as philosophers of law and legal theorists Chapter 15 of this book is freely available as a downloadable Open Access PDF at <http://www.taylorfrancis.com> under a Creative Commons Attribution CC BY 4.0 license Chapter 8 of this book is freely available as a downloadable Open Access PDF at <http://www.taylorfrancis.com> under a Creative Commons Attribution ShareAlike CC BY SA 4.0 license **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 hardness 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

Jurisprudence in the Mirror Luka Burazin, 2024-08-28 There is something quite puzzling about the global conversation on jurisprudence On the one hand jurisprudence is supposed to deal with abstract questions concerning the nature structure and distinctive features of the law These questions are not tightly associated with or dependent on the particular legal practices in one jurisdiction or another But on the other hand it seems that jurists are tacitly affected by their background institutional context there is an evident divide between theorizing about the law in the civil law world and in the common law world *Jurisprudence in the Mirror The Common Law World Meets the Civil Law World* systematically presents the major achievements of contemporary civil law jurisprudence to the common law world and bridges the gap in analytic jurisprudence as it is currently practiced in the two traditions The volume seeks to bring different voices to the table and overcome the cultural and linguistic divides that have created barriers in philosophical exchanges The book's structure is dialogical it includes twelve essays written by prominent and influential jurists from the civil law world each followed by a response by a jurist from the common law world This approach highlights what the two worlds share where they part ways and why The varied contributions reveal how their respective legal traditions shape fundamental legal concepts and jurisprudential debates and will be invaluable to readers from both the civil and common law worlds Legal Reasoning and Briefing Jesse Franklin Brumbaugh, 1917 *Agency, Morality and Law* Joshua Jowitt, 2023-01-12 How does law possess the normative force it requires to direct our actions This book argues that this seemingly innocuous question is of central importance to the philosophy of law and by extension of the very concept of law itself It advances a position grounded in the secular natural law tradition and in doing so addresses the two success criteria for this position head on Firstly that commitment to the existence of a supreme moral principle is required Secondly that any supreme moral principle must be identifiable through human reason The book argues that these conditions are met by Alan Gewirth's Principle of Generic Consistency PGC which through a dialectically necessary argument locates the existence of universally applicable moral norms in the concept of agency Given the very purpose of law is to guide action legal norms must be located in a unified hierarchy of practical reason It follows that if law is to succeed in claiming to be capable of guiding our action moral permissibility with reference to the PGC is a necessary condition of a rule's legal validity This strong theory of natural law is defended throughout both against moral sceptics and positions within contemporary legal positivism

Reason And Law Studies In Juristic Philosophy Book Review: Unveiling the Magic of Language

In an electronic digital era where connections and knowledge reign supreme, the enchanting power of language has become more apparent than ever. Its capability to stir emotions, provoke thought, and instigate transformation is truly remarkable. This extraordinary book, aptly titled "**Reason And Law Studies In Juristic Philosophy**," written by a very acclaimed author, immerses readers in a captivating exploration of the significance of language and its profound effect on our existence. Throughout this critique, we shall delve into the book's central themes, evaluate its unique writing style, and assess its overall influence on its readership.

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