

CHAPTER 3: THEORIES OF LAW

	NATURALIST	POSITIVIST	SOCIOLOGIST
THEORY	• a legal theory that recognises law of nature/ moral law • believes that laws must be good and just to govern human relation. • It's the nature of every human being to know from his conscience what is righteous and therefore lawful. • They believe that human laws are defined by morality, and not by an authority figure like a government king. • NATURALIST: OVERLAP THESIS • all forms of natural law theory supports the necessary relation between the concepts of law and morality.	• Positivists believe that only positive law is law. Positive laws are laws that have been established by the authority of the state (sovereign). • Positivists are blind to values. • Positive law has nothing to do with ideal or just law, it has no regard to goodness or badness or the law. • Recognize only positive facts and excludes considerations towards concepts of jurisprudence. • POSITIVIST: SEPARABILITY THESIS • Positivism is not concerned with whether law is moral, just or unfair.	• Law is wholly concerned with its effect and results on society rather than treating law as will of god or command of the sovereign as law exists for the needs of the society. • Main concern of socialist is interpreting the law in the social context, to bring good to the society. • Law regulates all kinds of relationships in a society and controls the behavior of its members. Hence, it is considered as a form of social control. • Law is not only about legality and punishment.
JURIST	→ BLACKSTONE ◆ Laws of nature dictated by god himself that are superior to any other	→ JOHN AUSTIN ◆ Law is a command made by a political sovereign. ◆ Rule is only legally valid	→ ROSCOE POUND ◆ Law is an instrument of social engineering. Its

Rights And Law Analysis And Theory

Reza Banakar



Rights And Law Analysis And Theory:

Rights and Law Andrew Halpin,1997 **Rights and Law, Analysis and Theory** Andrew Halpin,1997-07-19 Analyses the views of key jurisprudential thinkers on the subject of rights *Theory of Legal Personhood* Visa A. J. Kurki,2019 This work offers a new theory of what it means to be a legal person and suggests that it is best understood as a cluster property The book explores the origins of legal personhood the issues afflicting a traditional understanding of the concept and the numerous debates surrounding the topic *Rights in Context* Reza Banakar,2010 This collection offers a snapshot of how rights are debated and employed in public discourse to reshape legal and political relations at the beginning of the twenty first century They explore how rights are used to challenge the state of affairs by indiv *Redirecting Human Rights* A. Grear,2010-04-09 Against the backdrop of globalization and mounting evidence of the corporate subversion of the Universal Declaration of Human Rights paradigm Anna Grear interrogates the complex tendencies within law that are implicated in the emergence of corporate humanity Grear presents a critical account of legal subjectivity linking it with law s intimate relationship with liberal capitalism in order to suggest law s special receptivity to the corporate form She argues that in the field of human rights law particularly within the Universal Declaration of Human Rights paradigm human embodied vulnerability should be understood as the foundation of human rights and as a key qualifying characteristic of the human rights subject The need to redirect human rights in order to resist their colonization by powerful economic global actors could scarcely be more urgent The Anatomy of Administrative Law Joanna Bell,2020-05-28 Winner of the 2022 Inner Temple New Authors Book Prize This book seeks to further our understanding of the nature of administrative law doctrine and adjudication It has three main aims The first is to improve understanding of administrative law s anatomy by pulling the subject apart and exploring the nature of the legal structures at play in adjudication In doing so the book emphasises three main ways in which administrative law s anatomy is both complex and diverse namely administrative law doctrine interacts with a broad array of legislative frameworks administrative law adjudication seeks to accommodate a variety of legal values and administrative law is concerned with legal relationships of different kinds The second aim is to illustrate the importance of recognising the complexity and variety of administrative law s anatomy in three particular doctrinal contexts procedural review legitimate expectations and standing The third and final aim is to raise an important but under explored question is it plausible and useful to attempt to make sense of administrative law doctrine by reference to a singular organising concept or principle The overarching message of the book is one of cynicism The complexity and variety of administrative law s legal structures probably means that attempts to explain the field monistically while they may capture important themes will be unhelpfully reductionist Ambitious and thought provoking this is an important new statement on administrative law

Theories of Rights C.L. Ten,2017-05-15 To those who invoke them rights are powerful instruments for settling arguments in favour of the right holders But the nature provenance and justification of rights are uncertain and disputed and

there are doubts about whether rights should play a distinctive and fundamental role in moral and political discourse More recent disagreements have centred on group rights and on whether rights have a universal application across different cultures and moral traditions These and other related issues are explored in depth by the essays in this volume which are mostly drawn from a wide range of journals in philosophy politics and law *The Concept of Rights* George W.

Rainbolt,2006-07-08 Discussions of rights are ubiquitous One constantly hears things such as The Chinese are violating Tibetan rights Landlords have a right that their tenants pay their rent Students have a right to be graded fairly Animals have a right not to suffer merely to bring pleasure to humans Abortion violates a fetus right to life We violate the rights of future generations when we pollute the water These statements assert that Tibetans landlords students animals fetuses and future generations all have rights Tibetans landlords students animals fetuses and future generations do not seem to have much in common When one presses for clarity it is very difficult to say precisely what a right is What is it to have a right That is the question this book seeks to answer To paint with an overly broad brush previous answers to this question can be divided into two groups Some hold interest based theories of rights while others hold choice will theories of rights Perhaps the first person to propose an interest based theory was Jeremy Bentham Its most cited contemporary defender is Joseph Raz The seminal statement of the choice theory was made by H L A Hart Carl Wellman is perhaps the most able defender of a will theory of rights The debate between these two groups of theories has been a productive one **The Right to Equality in European**

Human Rights Law Charilaos Nikolaidis,2014-07-25 A right to equality and non discrimination is widely seen as fundamental in democratic legal systems But failure to identify the human interest that equality aims to uphold reinforces the argument of those who attack it as morally empty or unsubstantiated and weakens its status as a fundamental human right This book argues that an understanding of the human interest which equality aims to uphold is feasible within the jurisprudence of the European Court of Human Rights ECtHR and the European Court of Justice ECJ In comparing the evolution of the prohibition of discrimination in the case law of both Courts Charilaos Nikolaidis demonstrates that conceptual convergence within the European Convention on Human Rights ECHR and the EU on the issue of equality is not as far as it might appear initially While the two bodies of equality law are extremely divergent as to the requirements they impose their interpretation by the international judiciary might be properly analysed under a common light to emphasise the substantive dimension of equality in European Human Rights law The book will be of great use and interest to scholars and students of human rights discrimination law and European politics Women and International Human Rights Law Kelly

Dawn Askin,Doreen Koenig,2024-02-12 For in depth coverage of gender issues in human rights law from theory and cultural practices to legal instruments and the case law of international tribunals this major three volume work is without peer More than 100 leading authorities in the field offer trenchant analyses of problems and solutions crimes and abuses available remedies areas of empowerment the entire spectrum of women's rights discussed at a level of detail and legal awareness

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