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A Normative Analysis

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Principles Of Law A Normative Analysis

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Principles of Law M.E. Bayles, 2012-12-06 During the last half of the twentieth century legal philosophy or legal theory or jurisprudence has grown significantly It is no longer the domain of a few isolated scholars in law and philosophy Hundreds of scholars from diverse fields attend international meetings on the subject In some universities large lecture courses of five hundred students or more study it The primary aim of the Law and Philosophy Library is to present some of the best original work on legal philosophy from both the Anglo American and European traditions Not only does it help make some of the best work available to an international audience but it also encourages increased awareness of and interaction between the two major traditions The primary focus is on full length scholarly monographs although some edited volumes of original papers are also included The Library editors are assisted by an Editorial Advisory Board of internationally renowned scholars

Principles of Law Michael D. Bayles, 1990 Fundamental Principles of Law and Economics Alan Devlin, 2014-10-17 This textbook places the relationship between law and economics in its international context explaining the fundamentals of this increasingly important area of teaching and research in an accessible and straightforward manner In presenting the subject Alan Devlin draws on the neoclassical tradition of economic analysis of law while also showcasing cutting edge developments such as the rise of behavioural economic theories of law Key features of this innovative book include case law directives regulations and statistics from EU UK and US jurisdictions are presented clearly and contextualised for law students showing how law and economics theory can be understood in practice succinct end of chapter summaries highlight the essential points in each chapter to focus student learning further reading is provided at the end of each chapter to guide independent research Making use of tables and diagrams throughout to facilitate understanding this text provides a comprehensive overview of law and economics that is ideal for those new to the subject and for use as a course text for law and economics modules The Alexy-Poscher Debate on Legal Principles Robert Alexy, Ralf Poscher, 2025-06-12 This collective work provides a chronological and up to date reconstruction of the three round debate between Robert Alexy and Ralf Poscher The debate represents the German development of an enduring jurisprudential controversy over the concept and adjudicatory role of legal principles classically addressed by HLA Hart and Ronald Dworkin Alexy's principles theory which has initially defined legal principles as optimisation requirements currently argues that they express an ideal ought Poscher's critique challenges the soundness of Alexy's principles theory by questioning its ontological and epistemological commitments As legal principles are directly related to constitutional rights the Alexy Poscher debate has significant implications for constitutional adjudication For instance proportionality analysis which incorporates a highly controversial balancing test and the legitimate boundaries of judicial power hinge on the debate's two opposing views Yet despite the centrality and pervasiveness of this topic German contributions to the theoretical and practical impact of legal principles remain generally overlooked by English speaking scholars Concluding with David Duarte's critical and meticulous

assessment of the debate this collection bridges that important scholarly gap Whether or not conversant in the debate on legal principles legal researchers and advanced law students with interdisciplinary interests in jurisprudence and constitutional law will find in this book a timely and distinctive introduction to leading developments in German legal thinking

Introduction to Legal Research Method and Legal Writing Uzoma Ihugba, 2020-07-01 The book is written in a conversational style and the language is accessible and simple with flowing examples that users can relate with Practical legal questions are raised and application of individual research methods strategies approaches and philosophies are demonstrated The book starts with a clear definition of legal research method to justification and importance It spans the research process theoretical positions and justification for research the writing up process and the defence of research output either in seminars conferences or for PhD defence It also prepares researchers and academicians for discussion and interaction with peers at conferences and seminars

The United Nations Principles to Combat Impunity: A Commentary Frank Haldemann, Thomas Unger, 2018-03-16 The fight against impunity has become a growing concern of the international community Updated in 2005 the UN Set of Principles for the Protection and Promotion of Human Rights Through Action to Combat Impunity is the fruit of several years of study developed under the aegis of the UN Commission on Human Rights and then affirmed by the Human Rights Council These Principles are today widely accepted as constituting an authoritative reference point for efforts in the fight against impunity for gross human rights abuses and serious violations of international humanitarian law As a comprehensive attempt to codify universal accountability norms the UN Set of Principles marks a significant step forward in the debate on the obligation of states to combat impunity in its various forms Bringing together leading experts in the field this volume provides comprehensive academic commentary of the 38 principles The book is a perfect companion to the document setting out the text of the Principles alongside detailed analysis as well as a full introduction and a guide to the relevant literature and case law The commentary advances debates and clarifies complex legal issues making it an essential resource for legal academics students and practitioners working in fields such as human rights international criminal law and transitional justice

Theory of Administrative Contract Shi Jianhui (石建辉), 2024-08-24 Contract is not only a spirit and a concept but also a system and a method As a spirit and a concept it is very inclusive as a system and a method it is very practical Contract is a theory with a long history and fruitful practice The reform of administrative law starts with the contract The author is honored to be one of the first scholars in mainland China to introduce the concept and basic system of civil contracts into administrative law Although mainland China has not yet established the legality of administrative contracts through the legislative method of administrative procedure law the research and promotion of a group of scholars in mainland China including the author mainland China revised the Administrative Litigation Law at the 11th meeting of the Standing Committee of the 12th National People's Congress in 2014 and for the first time included administrative agreement disputes in the scope of administrative litigation The Supreme

People's Court Trial Committee also passed the judicial interpretation of the Provisions of the Supreme People's Court on Several Issues Concerning the Trial of Administrative Agreement Cases at the 1781st meeting on November 12 2019 which came into effect on January 1 2020 The great progress of administrative contracts in administrative justice is inseparable from the efforts of the first batch of administrative contract pioneers in mainland China including the author It is also a great affirmation and praise for which the author is deeply gratified

Purposive Interpretation in Law Aharon Barak, 2011-10-16 This book presents a comprehensive theory of legal interpretation by a leading judge and legal theorist Currently legal philosophers and jurists apply different theories of interpretation to constitutions statutes rules wills and contracts Aharon Barak argues that an alternative approach purposive interpretation allows jurists and scholars to approach all legal texts in a similar manner while remaining sensitive to the important differences Moreover regardless of whether purposive interpretation amounts to a unifying theory it would still be superior to other methods of interpretation in tackling each kind of text separately Barak explains purposive interpretation as follows All legal interpretation must start by establishing a range of semantic meanings for a given text from which the legal meaning is then drawn In purposive interpretation the text's purpose is the criterion for establishing which of the semantic meanings yields the legal meaning Establishing the ultimate purpose and thus the legal meaning depends on the relationship between the subjective and objective purposes that is between the original intent of the text's author and the intent of a reasonable author and of the legal system at the time of interpretation This is easy to establish when the subjective and objective purposes coincide But when they don't the relative weight given to each purpose depends on the nature of the text For example subjective purpose is given substantial weight in interpreting a will objective purpose in interpreting a constitution Barak develops this theory with masterful scholarship and close attention to its practical application Throughout he contrasts his approach with that of textualists and neotextualists such as Antonin Scalia pragmatists such as Richard Posner and legal philosophers such as Ronald Dworkin This book represents a profoundly important contribution to legal scholarship and a major alternative to interpretive approaches advanced by other leading figures in the judicial world

Principles and Methods of Law and Economics Nicholas L. Georgakopoulos, 2005-10-10 The book juxtaposes economic analysis with moral philosophy political theory egalitarianism and other methodological principles

The Principle of Legality Conor Crummey, 2025-03-07 It is a well known tenet of public law that judges must interpret a statute consistently with common law rights and principles unless that statute uses clear and express language to license their violation of such rights and principles This is the principle of legality But what rights and principles activate this rule of statutory construction How explicit must statutory language be to permit the violation of common law rights Is there a point at which a potential interference with common law principles is so egregious that even a clearly worded statute cannot license it The Principle of Legality A Moral Theory develops a theory to help us engage with and answer these questions Professor Conor Crummey challenges prevailing accounts of the principle of legality as a

presumption about the intentions of the legislature By engaging with debates in the philosophy of language and general jurisprudence the book reveals the shortcomings of these existing theories Through the lens of a non positivist theory of general jurisprudence The Principle of Legality demonstrates that judges when invoking the principle of legality are engaging in a complex process of moral reasoning This innovative approach provides clear satisfying answers to some of the most pressing and controversial questions in contemporary public law scholarship

The Interpretation of International Law by Domestic Courts Helmut Philipp Aust, Georg Nolte, 2016-01-21 The Interpretation of International Law by Domestic Courts assesses the growing role of domestic courts in the interpretation of international law It asks whether and if so to what extent domestic courts make use of the international rules of interpretation set forth in the Vienna Convention on the Law of Treaties Given the expectation that rules of international law are to have a uniform interpretation and application throughout the world the practice of domestic courts is considerably more diverse The contributions to this book analyse three key questions first whether international law requires a coherent interpretive approach by domestic courts Second whether a common or convergent methodological outlook can be found in domestic court practice Third whether a common interpretive approach is desirable from a normative perspective The book identifies a considerable tension between international law's ambition for universal and uniform application and a plurality of different approaches This tension between unity and diversity is analysed by a group of leading international lawyers from a wide range of geographical disciplinary and methodological approaches Drawing on domestic practice of number of jurisdictions including among others Colombia France Japan India Israel Mexico South Africa the United Kingdom and the United States the book puts the interpretative practice of domestic courts in a wider context Its chapters offer doctrinal practical as well as theoretical perspectives on a central question for international law

The Law and Economics of Intellectual Property in the Digital Age Niva Elkin-Koren, Eli Salzberger, 2012-11-27 This book explores the economic analysis of intellectual property law with a special emphasis on the Law and Economics of informational goods in light of the past decade's technological revolution In recent years there has been massive growth in the Law and Economics literature focusing on intellectual property on both normative and positive levels of analysis The economic approach to intellectual property is often described as a monolithic coherent approach that may differ only as it is applied to a particular case Yet the growing literature of Law and Economics in intellectual property does not speak in one voice The economic discourse used in legal scholarship and in policy making encompasses several strands each reflecting a fundamentally different approach to the economics of informational works and each grounded in a different ideology or methodological paradigm This book delineates the various economic approaches taken and analyzes their tenets It maps the fundamental concepts and the theoretical foundation of current economic analysis of intellectual property law in order to fully understand the ramifications of using economic analysis of law in policy making In so doing one begins to appreciate the limitations of the current frameworks in confronting

the challenges of the information revolution The book addresses the fundamental adjustments in the methodology and underlying assumptions that must be employed in order for the economic approach to remain a useful analytical framework for addressing IPR in the information age

Institutionalized Reason Matthias Klatt, 2012-02-23 This volume gathers leading figures from legal philosophy and constitutional theory to offer a critical examination of the work of Robert Alexy The contributions explore the issues surrounding the complex relations between rights law and morality and reflect on Alexy's distinctive work on these issues The focus across the contributions is on Alexy's main pre-occupations his anti-positivist views on the nature of law his approach to the nature of legal reasoning and his understanding of constitutional rights as legal principles In an extended response to the contributions in the volume Alexy develops his views on these central issues The volume's juxtaposition of Anglo-American and German perspectives brings into focus the differences as well as the prospect of cross-fertilization between Continental and Anglo-American work in jurisprudence

Equity and Equitable Principles in the World Trade Organization Anastasios Gourgourinis, 2015-07-24 This book analyses whether and how equity and equitable principles can be employed as juridical tools in the legal reasoning of judges and lawyers in World Trade Organization WTO disputes where there is interaction between norms derived from the multilateral trade regime and other international legal regimes Bringing the literature on equity and equitable principles in international law up to date this book tackles several legal problems which have emerged in WTO dispute settlement practice as well as engaging with the concept of the fragmentation of international law The book provides an original argument about the role and significance of equity and equitable principles in the debate over fragmentation by providing a coherent methodology for addressing conflicts and overlaps between WTO and non-WTO norms in the context of Dispute Settlement Body proceedings *The SAGE Encyclopedia of Business Ethics and Society* Robert W. Kolb, 2018-03-27 Spans the relationships among business ethics and society by including numerous entries that feature broad coverage of corporate social responsibility the obligation of companies to various stakeholder groups the contribution of business to society and culture and the relationship between organizations and the quality of the environment

Due Process in International Commercial Arbitration Matti Kurkela, Santtu Turunen, Helsingin yliopisto. Conflict Management Institute, 2010 Previous edition 1st published in 2005

International Law as a Profession Jean d'Aspremont, Tarcisio Gazzini, André Nollkaemper, Wouter Werner, 2017-04-06 International law is not merely a set of rules or processes but is a professional activity practised by a diversity of figures including scholars judges counsel teachers legal advisers and activists Individuals may in different contexts play more than one of these roles and the interactions between them are illuminating of the nature of international law itself This collection of innovative multidisciplinary and self-reflective essays reveals a bilateral process whereby on the one hand the professionalisation of international law informs discourses about the law and on the other hand discourses about the law inform the professionalisation of the discipline Intended to promote a dialogue between practice and scholarship this book is

a must read for all those engaged in the profession of international law **An Islamic Vision of Intellectual Property**

Ezieddin Elmahjub,2019-02-21 For over a century intellectual property IP regimes have been justified using Western philosophical theories rooted in the idea that IP must reward talent and maximize global stocks of knowledge and cultural products Reframing IP in a context of legal pluralism Ezieddin Elmahjub brings an Islamic and comparative narrative to the appropriate design and scope of IP rights and in doing so criticizes the dominance of Western influence on a global regime that impacts the ability of people to access medicine to read to imagine and to reshape popular culture The Islamic vision of IP which is based on a broad theory of social justice maintains that IP cannot simply be seen as a reward for effort or tool to maximize economic efficiency but as one legal right within a complicated distributive scheme affecting fundamental human rights equal opportunities and human capabilities

Principled Reasoning in Human Rights Adjudication Se-shauna Wheatle,2017-04-20 Implied constitutional principles form part of the landscape of the development of fundamental rights in common law jurisdictions affecting issues ranging from the remuneration of judges to the appropriation of property by the state Principled Reasoning in Human Rights Adjudication offers thematic analysis of the use of the implied constitutional principles of the rule of law and separation of powers in human rights cases The book examines the functions played by those principles in rights adjudication in Australia Canada the Commonwealth Caribbean and the United Kingdom It argues that a complete understanding of implied constitutional principles requires thoroughgoing analysis of the sources and methods of implication and of the specific roles played by such principles in the adjudicative process By disaggregating particular functions and placing those functions within their respective institutional contexts this book develops an understanding of the features of cases in which implied constitutional principles are invoked and the work done by those principles

The Ethics of War and Peace Terry Nardin,2020-12-08 A superb introduction to the ethical aspects of war and peace this collection of tightly integrated essays explores the reasons for waging war and for fighting with restraint as formulated in a diversity of ethical traditions religious and secular Beginning with the classic debate between political realism and natural law this book seeks to expand the conversation by bringing in the voices of Judaism Islam Christian pacifism and contemporary feminism In so doing it addresses a set of questions How do the adherents to each viewpoint understand the ideas of war and peace What attitudes toward war and peace are reflected in these understandings What grounds for war if any are recognized within each perspective What constraints apply to the conduct of war Can these constraints be set aside in situations of extremity Each contributor responds to this set of questions on behalf of the ethical perspective he or she is presenting The concluding chapters compare and contrast the perspectives presented without seeking to adjudicate their differences Because of its inclusive objective comparative and dialogic approach the book serves as a valuable resource for scholars journalists policymakers and anyone else who wants to acquire a better understanding of the range of moral viewpoints that shape current discussion of war and peace In addition to the editor the contributors are Joseph Boyle Michael

G Cartwright Jean Bethke Elshtain John Finnis Sohail H Hashmi Theodore J Koontz David R Mapel Jeff McMahan Richard B Miller Aviezer Ravitzky Bassam Tibi Sarah Tobias and Michael Walzer

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