On the Three Types of Juristic Thought

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Mariano Croce, Andrea Salvatore

On The Three Types Of Juristic Thought:

On the Three Types of Juristic Thought Carl Schmitt, 2004 The only English language translation of one of Schmitt's The Legacy of Pluralism Mariano Croce, Marco Goldoni, 2020-08-25 How should the state face most controversial works the challenge of radical pluralism How can constitutional orders be changed when they prove unable to regulate society Santi Romano Carl Schmitt and Costantino Mortati the leading figures of Continental legal institutionalism provided three responses that deserve our full attention today Mariano Croce and Marco Goldoni introduce and analyze these three towering figures for a modern audience Romano thought pluralism to be an inherent feature of legality and envisaged a far reaching reform of the state for it to be a platform of negotiation between autonomous normative regimes Schmitt believed pluralism to be a dangerous deviation that should be curbed through the juridical exclusion of alternative institutional formations Mortati held an idea of the constitution as the outcome of a basic agreement among hegemonic forces that should shape a shared form of life The Legacy of Pluralism explores the convergences and divergences of these towering jurists to take stock of their ground breaking analyses of the origin of the legal order and to show how they can help us cope with the current crisis of national constitutional systems The Political Discourse of Carl Schmitt Montserrat Herrero, 2015-08-06 Carl Schmitt is a key figure in modern political thought but discussion of his work often focuses upon specific elements or themes within his texts This book provides a wide ranging discussion of Carl Schmitt's discourse and provides a new perspective on his contribution presenting the idea of Nomos of the Earth as the key idea that organizes his political and legal discourse This book creates a reverse genealogy of Schmitt's theoretical system starting from his legal and political concept of nomos so as to reconstruct his understanding of order It connects the different topics the Carl Schmitt developed along his intellectual trajectory which have generally been approached in separate ways by scholars the legal theory the concept of the political the theory of international relations and political theology The text considers the whole of Carl Schmitt's work including writings that have been previously unknown to the English speaking academy old journals with just three or four pages newspaper articles manuscripts of conferences and Festschrifts Itprovides a balanced examination of the whole complex of Carl Schmitt's political discourse Carl Schmitt's Institutional Theory Mariano Croce, Andrea Salvatore, 2022-07-07 In 1922 Carl Schmitt penned Political Theology the celebrated essay in which he elaborated on the notorious theory that the heart of politics lies in the sovereign power to issue emergency measures that suspend the legal order Ever since Schmitt's thinking has largely been identified with this concept despite him renouncing it over time Offering a comprehensive analysis of Schmitt's writings Carl Schmitt's Institutional Theory provides an ambitious novel perspective on Carl Schmitt and his legal and political thinking By delving into Schmitt's output over his decades long career Mariano Croce and Andrea Salvatore explore Schmitt's varied and developing thoughts on exceptionalism societal pluralism and the law as the progenitor and enforcer of normality Challenging dominant interpretations Croce and Salvatore dethrone the false

centrality of certain key texts and instead provide a more unified coherent account of his institutional theory from across his long and controversial career The Legal Theory of Carl Schmitt Mariano Croce, Andrea Salvatore, 2013-10-11 The Legal Theory of Carl Schmitt provides a detailed analysis of Schmitt's institutional theory of law mainly developed in the books published between the end of the 1920s and the beginning of the 1930s By reading Schmitt's overall work through the lens of his institutional turn the authors offer a strikingly different interpretation of Schmitt's theory of politics law and the relation between these two domains The book argues that Schmitt's adhesion to legal institutionalism was a key theoretical achievement based on serious reconsideration of the main flaws of his own decisionist paradigm in the light of the French and Italian institutional theories of law In so doing the authors elucidate how Schmitt was able to unravel many of the impasses that affected his previous conceptual framework The authors also make comparisons between Schmitt and other leading legal theorists H Kelsen M Hauriou S Romano and C Mortati and explain why the current legal debate should take into serious account his legacy Carl Schmitt's State and Constitutional Theory Benjamin A. Schupmann, 2017 Can a constitutional democracy commit suicide Can an illiberal antidemocratic party legitimately obtain power through democratic elections and amend liberalism and democracy out of the constitution entirely In Weimar Germany these theoretical questions were both practically and existentially relevant By 1932 the Nazi and Communist parties combined held a majority of seats in parliament Neither accepted the legitimacy of liberal democracy Their only reason for participating democratically was to amend the constitution out of existence This book analyses Carl Schmitt's state and constitutional theory and shows how it was conceived in response to the Weimar crisis Right wing and left wing political extremists recognized that a path to legal revolution lay in the Weimar constitution's combination of democratic procedures total neutrality toward political goals and positive law Schmitt's writings sought to address the unique problems posed by mass democracy Schmitt's thought anticipated constrained or militant democracy a type of constitution that guards against subversive expressions of popular sovereignty and whose mechanisms include the entrenchment of basic constitutional commitments and party bans Schmitt's state and constitutional theory remains important the problems he identified continue to exist within liberal democratic states Schmitt offers democrats today a novel way to understand the legitimacy of liberal democracy and the limits of constitutional change The Contemporary Relevance of Carl Schmitt Matilda Arvidsson, Leila Brännström, Panu Minkkinen, 2015-08-20 What does Carl Schmitt have to offer to ongoing debates about sovereignty globalization spatiality the nature of the political and political theology Can Schmitt's positions and concepts offer insights that might help us understand our concrete present day situation Works on Schmitt usually limit themselves to historically isolating Schmitt into his Weimar or post Weimar context to reading him together with classics of political and legal philosophy or to focusing exclusively on a particular aspect of Schmitt's writings Bringing together an international and interdisciplinary range of contributors this book explores the question of Schmitt's relevance for an understanding of the contemporary world

Engaging the background and intellectual context in which Schmitt wrote his major works often with reference to both primary and secondary literature unavailable in English this book will be of enormous interest to legal and political theorists

Political Jurisprudence Martin Loughlin, 2017 Political jurisprudence is the branch of jurisprudence that treats law as an aspect of human experience called the political This is an approach that many contemporary jurists those whose work presupposes the autonomy of legal order tend to suppress In this book Martin Loughlin assesses the contribution made by political jurists and explains its contemporary significance Political jurists maintain that the essential characteristics of modern legal order can only be revealed by considering how political authority is constituted. The political is orientated to the fact that people are organized into territorially bounded units within which authoritative governing arrangements have been established but the authority of this way of viewing the world is strengthened only through institution building Law may be an aspect of the political but to perform its authority generating functions effectively it must operate relatively autonomously The political and the legal operate relationally without one being reduced to the other Loughlin introduces the rich literature of political jurisprudence through essays on innovative political jurists such as Hobbes Burke Constant Romano and Schmitt and on such central themes as political right institutionalism constitutional legality and reason of state Building on his earlier books The Idea of Public Law OUP 2003 and Foundations of Public Law OUP 2010 this collection extends his account of this influential strand of European legal thought **On Schmitt and Space** Claudio Minca, Rory Rowan, 2015-07-24 This book represents the first comprehensive study of the influential German legal and political thinker Carl Schmitt's spatial thought offering the first systematic examination from a Geographic perspective of one of the most important political thinkers of the twentieth century It charts the development of Schmitt's spatial thinking from his early work on secularization and the emergence of the modern European state to his post war analysis of the spatial basis of global order and international law whilst situating his thought in relation to his changing biographical and intellectual context controversial involvement in Weimar politics and disastrous support for the Nazi regime It argues that spatial concepts play a crucial structural role throughout Schmitt's work from his well known analyses of sovereign power and states of exception to his often overlooked spatial history of modernity Locating a fundamental relationship between space and the political lies at the core of his thought The book explores the critical insight that Schmitt's spatial thought bears on some of the key political questions of the twentieth century whilst tracking his profound and enduring influence on key debates on sovereignty international relations war and the nature of world order at the start of the twenty first century The ^AOxford Handbook of Carl Schmitt Jens Meierhenrich, Oliver Simons, 2016-12-13 The Oxford Handbook of Carl Schmitt collects thirty original chapters on the diverse oeuvre of one of the most controversial thinkers of the twentieth century Uniquely located at the intersection of law the social sciences and the humanities it brings together sophisticated yet accessible interpretations of Schmitt's sprawling thought and complicated biography State, Security, and Subject Formation Anna Yeatman, Magdalena

Zolkos, 2009-11-02 State Security and Subject Formation addresses the question of how to secure the conditions for a civil and peaceful life together It brings together leading scholars to examine democracy from two approaches peaceful coexistence and the secular state as public authority and the necessity of division between communities of faith that allows for a state that defends the values of the community This book aims to understand the rationality that informs both approaches interpreting the subjectivities within each To do so the interdisciplinary scholarly essays examine 17th century political thought and how it is caught up in debate about the relationship between faith and the state at a time when religious wars are endemic and profoundly destructive They also provide an in depth discussion of contemporary 21st and 20th century approaches to the question of security and the issue of subjective capacity for peaceful co existence Civil Order and Politics is the outcome of an intensive cross disciplinary cooperation and as such not only demonstrates the richness of relevant themes and issues but also brings to the fore challenges and problems associated with civil practice and theorizing of politics Through its thematic juxtaposition of state security and subjectivity within the framework of civil order and politics the book fills a gap in the contemporary political literature that will be of interest to anyone studying and researching these The Cambridge Handbook on the Material Constitution Marco Goldoni, Michael A. Wilkinson, 2023-01-05 issues Despite a long and venerable tradition the material constitution almost disappeared from constitutional scholarship after the Second World War Its marginalisation saw the rise of a normative and legalistic style in constitutional law that neglected the role of social reality and political economy This collection not only retrieves the history and development of the concept of the material constitution but it tests its theoretical and practical relevance in the contemporary world With essays from a diverse range of contributors the collection demonstrates that the material constitution speaks to several pressing issues from the significance of economic development in constitutional orders to questions of constitutional identity Offering original analyses supported by international case studies this book develops a new model of constitutional reality one that informs our understanding of the world in profound ways Carl Schmitt, Mao Zedong and the Politics of Transition Qi Zheng, 2015-10-22 This book develops a new way of reading and benefiting from Schmitt's legal and political theories It explores Schmitt's theories from the perspective of what I refer to as the politics of transition It also contributes to identifying the real theoretical relationship between Schmitt and Mao The Decisionist Imagination Daniel Bessner, Nicolas Guilhot, 2018-10-19 In the decades following World War II the science of decision making moved from the periphery to the center of transatlantic thought The Decisionist Imagination explores how decisionism emerged from its origins in prewar political theory to become an object of intense social scientific inquiry in the new intellectual and institutional landscapes of the postwar era By bringing together scholars from a wide variety of disciplines this volume illuminates how theories of decision shaped numerous techno scientific aspects of modern governance helping to explain in short how we arrived at where we are today **Constitutional Theory** Carl Schmitt, 2008-01-23 Carl Schmitt s magnum

opus written during the Weimar regime wherein Schmitt challenges the theories and practices of Western constitutional government claiming that classical conceptions of democracy cannot be transposed onto modern political lif What the Law Is Alexander Somek, 2021-08-26 This book provides a selective and somewhat cheeky account of prominent positions in legal theory such as American legal realism modern legal positivism sociological systems theory institutionalism and critical legal studies It presents a relational approach to law and a new perspective on legal sources The book explores topics of legal theory in a playful manner It is written and composed in a way that refutes the widespread prejudice that legal theory is a dreary subject with a cast of characters that occasionally interact in order to illustrate the claims of the book Legal experts claim to know what the law is Legal theory or jurisprudence explores whether such claims are warranted The discipline first emerged at the turn of the 20th century when the self confidence of both legal scholarship and judicial craftsmanship became severely shattered but the crisis continues to this day The Legal Order Santi Romano, 2017-07-14 First published in 1917 Part 1 and 1918 Part 2 with a second edition in 1946 this is the first English translation of Santi Romano s classic work L ordinamento giuridico The Legal Order The main focus of The Legal Order is the notion of institution which Romano considers to be both the core and distinguishing feature of law After criticising accounts of the nature of law centred on notions of rule coercion or authority he offers a compelling conception not merely of law as an institution but of the institution as the first original and essential manifestation of law Romano advances a definition of a legal institution as any group who share rules within a bounded context for example a family a firm a factory a prison an association a church an illegal organisation a state the community of states and so on Therefore this understanding of legal institutionalism at the same time provides a ground breaking theory of legal pluralism whereby there are as many legal orders as institutions The acme of a jurisprudential current long overlooked in the Anglophone environment Romano s work is highly regarded in France Germany Spain and South America as well as in Italy The Legal Order not only proposes what Carl Schmitt described as a very significant theory More importantly it offers precious insights for a thorough rethinking of the relationship between law and society in today s world Law, Liberty and State David Dyzenhaus, Thomas Poole, Thomas M. Poole, 2015-05-28 This book brings the three most important twentieth century theorists of the rule of law into debate with each other A Treatise of Legal Philosophy and General Jurisprudence Enrico Pattaro, Corrado Roversi, 2016-07-13 A Treatise of Legal Philosophy and General Jurisprudence is the first ever multivolume treatment of the issues in legal philosophy and general jurisprudence from both a theoretical and a historical perspective The work is aimed at jurists as well as legal and practical philosophers Edited by the renowned theorist Enrico Pattaro and his team this book is a classical reference work that would be of great interest to legal and practical philosophers as well as to jurists and legal scholar at all levels The work is divided in two parts The theoretical part published in 2005 consisting of five volumes covers the main topics of the contemporary debate the historical part consisting of six volumes Volumes 6 8 published in 2007

Volumes 9 and 10 published in 2009 Volume 11 published in 2011 and Volume 12 forthcoming in 2016 accounts for the development of legal thought from ancient Greek times through the twentieth century Volume 12 Legal Philosophy in the Twentieth Century The Civil Law World Volume 12 of A Treatise of Legal Philosophy and General Jurisprudence titled Legal Philosophy in the Twentieth Century The Civil Law World functions as a complement to Gerald Postema's volume 11 titled Legal Philosophy in the Twentieth Century The Common Law World and it offers the first comprehensive account of the complex development that legal philosophy has undergone in continental Europe and Latin America since 1900 In this volume leading international scholars from the different language areas making up the civil law world give an account of the way legal philosophy has evolved in these areas in the 20th century the outcome being an overall mosaic of civil law legal philosophy in this arc of time Further specialists in the field describe the development that legal philosophy has undergone in the 20th century by focusing on three of its main subjects namely legal positivism natural law theory and the theory of legal reasoning and discussing the different conceptions that have been put forward under these labels The layout of the volume is meant to frame historical analysis with a view to the contemporary theoretical debate thus completing the Treatise in keeping with its overall methodological aim namely that of combining history and theory as a necessary means by which to provide a comprehensive account of jurisprudential thinking

Unveiling the Energy of Verbal Beauty: An Mental Sojourn through On The Three Types Of Juristic Thought

In a global inundated with screens and the cacophony of quick transmission, the profound energy and emotional resonance of verbal beauty often diminish into obscurity, eclipsed by the constant assault of sound and distractions. However, nestled within the lyrical pages of **On The Three Types Of Juristic Thought**, a captivating perform of literary splendor that pulses with raw thoughts, lies an wonderful journey waiting to be embarked upon. Composed by way of a virtuoso wordsmith, this enchanting opus courses readers on an emotional odyssey, gently revealing the latent possible and profound impact stuck within the intricate web of language. Within the heart-wrenching expanse of the evocative evaluation, we can embark upon an introspective exploration of the book is key themes, dissect their captivating writing model, and immerse ourselves in the indelible impact it leaves upon the depths of readers souls.

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