

Jurisprudence Theory And Context Carolina Academic Press

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BRYLEE BOWERS

The Methodology of Legal Theory OUP Oxford

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.

Teaching Migration and Asylum Law Routledge

Fifty years on from its original publication, HLA Hart's *The Concept of Law* is widely recognized as the most important work of legal philosophy published in the twentieth century, and remains the starting point for most students coming to the subject for the first time. In this third edition, Leslie Green provides a new introduction that sets the book in the context of subsequent developments in social and political philosophy, clarifying misunderstandings of Hart's project and highlighting central tensions and problems in the work.

Constitutional Law in Context Cambridge University Press

John T. Roberts presents and defends a radical new theory of laws of nature. His *Measurability Account* affirms that there is an important sense in which laws govern the universe, rather than simply describing it economically. He argues that what is essential to laws is that they guarantee the reliability of methods of measuring natural quantities.

Professional Responsibility Springer Science & Business Media

This book contributes to the literature on jurisprudence and theology by arguing for the role of a theoretically robust Christian theology in a legal community dominated by secular and liberal ideology. It is not a doctrinal or empirical analysis, but a theoretical exposition of the way in which modern law has contingently drifted from its theological origins. As a result, the legal system and the ideal of individual and communal relationship it envisages is characterised by antagonism and alienation, or more broadly, violence. The book contends that the way to restore a legal community of peace is to return to a Christian theology which is informed by Trinitarian thinking or the notion of unity in diversity, and reunites faith with reason. Returning reason to its ground in being allows peaceful persuasion by the revelation of God's perfect being through the Trinity and Incarnation, which models and enables the peaceful coexistence of difference through self-sacrificing love. This in turn produces the law of love - to love your neighbour as yourself. Since love does no wrong to a neighbour, a legal community operating by the law of love can fulfil the obligations of law by going beyond merely what is required by law and love individuals as part of a community.

Understanding Property Law Cambridge University Press

A Revisionist History of Tort Law explodes the myths of modern tort historiography. It challenges both the methodology and the conclusions of Oliver Wendell Holmes, Jr., America's first and most influential tort historian. It contends that Holmes' jurisprudence corrupted his view of history, and that his historiography corrupted the outlook of his successors. Yet Revisionist History offers much more than simple deconstruction. It identifies the principles for historical analysis and uses those principles to propose a revolutionary new history of tort law. As a social science, history requires deep, comprehensive and unbiased investigation. Thus, Revisionist History does not trace the

development of any specific tort doctrine. Rather, it uncovers the political, philosophical, social, and moral influences which gave the law its life. Moreover, this book does not simply reinterpret the law's primary sources. Instead, it marshals a vast array of secondary authorities which place those sources in context. Finally, Revisionist History does not set its focus on a single, isolated epoch. Rather, it traces the law's entire intellectual history -- from its earliest beginnings to its emergence in the modern era. Enriched by its broadened scope, *A Revisionist History of Tort Law* provides revelations about the law's past and opens insights into its present and future. It disproves the notion that early tort law was primitive and thoughtless, locating its origins in the intellectual revival of the twelfth century renaissance. It debunks the view that tort law fluctuated with changing notions of public policy, arguing, conversely, that the law's structure and content remained consistently grounded in classical principles of liberalism, naturalism, and rationalism. Finally, it refutes the theory that tort law switched from strict liability to liability based on fault, revealing instead a system remarkably steadfast in its commitment to the timeless dictates of reasonableness. "This book is highly recommended for all tort scholars, legal philosophers, and legal historians." -- Michael Rustad in *The Law and Politics Book Review* vol. 15, no. 5, May 2005
 "...Intriguing, original..." -- *Alberta Law Review*

A Scientific Theory of Culture and Other Essays Palibrio

This book presents a unified set of arguments about the nature of jurisprudence and its relation to the jurist's role. It explores contemporary challenges that create a need for social scientific perspectives in jurisprudence, and it shows how sociological resources can and should be used in considering juristic issues. Its overall aim is to redefine the concept of sociological jurisprudence and outline a new agenda for this. Supporting this agenda, the book elaborates a distinctive juristic perspective that recognises law's diversity of cultural meanings, its extending transnational reach, its responsibilities to reflect popular aspirations for justice and security, and its integrative tasks as a general resource of regulation for society as a whole and for the individuals who interact under law's protection. Drawing on and extending the author's previous work, the book will be essential reading for students, researchers and academics working in jurisprudence, law and society, socio-legal studies, sociology of law, and comparative legal studies.

That Every Man be Armed Springer Science & Business Media

In *Law in a Market Context* Robin Paul Malloy examines the way in which people, as social beings, experience the intersection of law, markets, and culture. Through case examples, illustrative fact patterns, and problems based on hypothetical situations he demonstrates the implications and the ambiguities of law in a market society. In his analysis he provides a complete and accessible introduction to a vast array of economic terms, concepts, and ideas--making this book a valuable primer for anyone interested in understanding the use of market concepts in legal reasoning.

A General Jurisprudence of Law and Society Routledge

The idea of human dominion over nature has become entrenched by the dominant rights-based interpretation of private property. Accordingly, nature is not attributed any inherent value and becomes merely the matter of a human property relationship. *Earth Jurisprudence: Private Property and the Environment* explores how an alternative conception of property might be instead grounded in the ecocentric concept of an Earth community. Recognising that human beings are deeply interconnected with and dependent on nature, this concept is proposed as a standard and measure for human law. This book argues that the anthropocentric institution of private property needs to be reconceived; drawing on international case law, indigenous views of property and the land use practices of agrarian communities, Peter Burdon considers how private property can be reformulated in a way that fosters duties towards nature. Using the theory of earth jurisprudence as a guide, he outlines an alternative ecocentric description of private property as a relationship between and among members of the Earth community. This book will appeal to those researching in

law, justice and ecology, as well as anyone pursuing an interest more particularly in earth jurisprudence.

Law in Theory and History Cambridge University Press

The book re-orientates jurisprudence and develops an empirically informed theory of law that applies throughout history and across different societies.

A Realistic Theory of Law Cambridge University Press

Interrogating the concepts of allegiance and identity in a globalised world involves renewing our understanding of membership and participation within and beyond the nation-state. Allegiance can be used to define a singular national identity and common connection to a nation-state. In a global context, however, we need more dynamic conceptions to understand the importance of maintaining diversity and building allegiance with others outside borders. Understanding how allegiance and identity are being reconfigured today provides valuable insights into important contemporary debates around citizenship. This book reveals how public and international law understand allegiance and identity. Each involves viewing the nation-state as fundamental to concepts of allegiance and identity, but they also see the world slightly differently. With contributions from philosophers, political scientists and social psychologists, the result is a thorough appraisal of allegiance and identity in a range of socio-legal contexts.

The Concept of Law Bloomsbury Publishing

Therapeutic Jurisprudence is a special issue (Volume 20 No 2) of the journal *Law in Context*. The contents are listed below. You can read the abstract for each chapter by clicking on its title. You can purchase a single copy of this issue through this page, or subscribe to the journal from the journal page.

Sociological Jurisprudence Cambridge University Press

"A revised and updated edition of Halbrook's 1984 book discussing the Second Amendment and the individual right to bear arms"--Provided by publisher.

Law in a Therapeutic Key Routledge

Law in a Therapeutic Key is an anthology of works written by authors from a variety of backgrounds. This book illustrates some of the best and most provocative new therapeutic jurisprudence work in fields ranging from mental health law to correctional law, criminal law, family and juvenile law, evidence law, labor arbitration law, and many more. "[A] rich compendium of the best of what David Wexler and Bruce Winick have wrought... a mature and reflective work, and the most comprehensive treatment of the therapeutic paradigm to date." -- John Monahan, University of Virginia "The crucial insight embedded in these essays is that all law, ranging from contracts to criminal law, can promote or retard the psychological well-being of persons who become involved with the legal system. Unless we acknowledge these therapeutic considerations in the law-making process, we risk fostering individual--and therefore societal--dysfunction." -- Paul Appelbaum, University of Massachusetts Medical Center

The Law-Governed Universe Oxford Socio-Legal Studies

This collection of original essays brings together leading legal historians and theorists to explore the oft-neglected but important relationship between these two disciplines. Legal historians have often been sceptical of theory. The methodology which informs their own work is often said to be an empirical one, of gathering information from the archives and presenting it in a narrative form. The narrative produced by history is often said to be provisional, insofar as further research in the archives might falsify present understandings and demand revisions. On the other side, legal theorists are often dismissive of historical works. History itself seems to many theorists not to offer any jurisprudential insights of use for their projects: at best, history is a repository of data and examples, which may be drawn on by the theorist for her own purposes. The aim of this collection is to invite participants from both sides to ask what lessons legal history can bring to legal theory, and what legal theory can bring to history. What is the theorist to do with the empirical data generated by archival research? What theories should drive the historical enterprise, and what wider lessons can be learned from it? This collection brings together a number of major theorists and legal historians to debate these ideas.

Jurisprudence Oxford University Press

"A broad overview of the main topics and central issues in legal theory, Jurisprudence provides students with an informative introduction. Academically challenging and often controversial ideas are pre"

General Jurisprudence UNM Press

Professor Rodes defines Jurisprudence as "the legal profession's account of what law is about." Since they--lawyers, judges, and legislators doing their work--are all looking at the same phenomenon, writers on Jurisprudence must all draw from the same limited body of material in constructing their theories. In this book, Rodes examines these materials and then classifies the various schools of Jurisprudence according to which of the materials they use and how they use them. In describing the available materials, Rodes looks first at what he calls the "internal account": legal work considered in itself, the definition and scope of the enterprise. He then takes up the non-legal disciplines that are or have been used in legal decision-making, and the values that are or have been considered

suitable for legal implementation. The rest of the book is devoted to taking up fifteen actual schools of jurisprudence one by one, classifying them in accordance with how each one defines and limits the work of the legal profession, what other disciplines each one uses in describing or applying law, and which values each one seeks to implement through law. The aim is to be exhaustive. All the old familiar schools are included--Analytical Positivism, Natural Law, and the rest. So are more recent arrivals such as Critical Legal Studies, and ideological schools such as Marxism on the one side and Wealth Maximization on the other. Rodes's presentation is clear and as free from technical language as possible in covering the subject. He is often critical, but he is careful to describe the doctrines of the different schools fairly before criticizing them. Readers, whether or not they agree with the author, will be able to learn from this book. People who wish to choose among the jurisprudential doctrines on the market will find them all displayed here, and people who wish to make up their own jurisprudential doctrine will find here all the material they need for doing so.

Universals of Legal Reasoning by Judges Oxford University Press

This highly topical book demonstrates the theoretical and practical importance of the study of migration law. It outlines approaches that may be taken in the design, delivery and monitoring of this study in law schools and universities to ensure an optimum level of learning. Drawing on examples of best practice from around the world, this book uses a theoretical framework and examples from real clients to simulations to help promote the learning and teaching of the law affecting migrants. It showcases contributions from over 30 academics and practitioners experienced in asylum and immigration law and helps to unpick how to teach the complex international laws and procedures relating to migration between different countries and regions. The various sections of the book explore educational best practice, what content can be covered, models for teaching and learning, strategies to deal with challenges and ways forward. The book will appeal to scholars, researchers and practitioners of migration and asylum law, those teaching migration law electives and involved in curriculum design, as well as students of international, common and civil law.

Law in a Market Context Routledge

This book explores how globalisation influences the understanding of law. Adopting a broad concept of law and a global perspective, it critically reviews mainstream Western traditions of academic law and legal theory. Its central thesis is that most processes of so-called 'globalisation' take place at sub-global levels and that a healthy cosmopolitan discipline of law should encompass all levels of social relations and the legal ordering of these relations. It illustrates how the mainstream Western canon of jurisprudence needs to be critically reviewed and extended to take account of other legal traditions and cultures. Written by the one of the foremost scholars in the field, this important work presents an exciting alternative vision of jurisprudence. It challenges the traditional canon of legal theorists and guides the reader through a field undergoing seismic changes in the era of globalisation. This is essential reading for all students of jurisprudence and legal theory.

Towards the True Law Aspen Publishing

In an examination of Southern slave law between 1810 and 1860, Mark Tushnet reveals a structured dichotomy between slave labor systems and bourgeois systems of production. Whereas the former rest on the total dominion of the master over the slave and necessitate a concern for the slave's humanity, the latter rest on the purchase by the capitalist of a worker's labor power only and are concerned primarily with economic interest. Focusing on a wide range of issues that include contract and accident law as well as criminal law and the law of manumission, he shows how Southern slave law had to respond to the competing pressures of humanity and interest. Beginning with a critical evaluation of slave law, the author develops the conceptual framework for his own perspective on the legal system, drawing on the works of Marx and Weber. He then examines four appellate court cases decided in three different states, from civil-law Louisiana to commonlaw North Carolina, at widely separated times, from 1818 to 1858. Professor Tushnet finds that the cases display a continuing but never wholly successful attempt at distinguish between law and sentiment as modes of regulating social interactions involving slaves. Also, the cases show that the primary method of accommodating law and sentiment was an attempt to use rigid categories to confine the law of slavery to what was thought its proper sphere. Mark Tushnet is Professor of Law at the University of Wisconsin. Originally published in 1981. The Princeton Legacy Library uses the latest print-on-demand technology to again make available previously out-of-print books from the distinguished backlist of Princeton University Press. These editions preserve the original texts of these important books while presenting them in durable paperback and hardcover editions. The goal of the Princeton Legacy Library is to vastly increase access to the rich scholarly heritage found in the thousands of books published by Princeton University Press since its founding in 1905.

A Chinese Theory of International Law Edinburgh : Green

How do judges influence the development of law in Germany and should their behaviour set a precedent for others to follow? This book explores whether or not German judicial methods should serve as a model for the development of European law, both by the European courts and by the courts of other European member states.