
A TREATISE OF LEGAL PHILOSOPHY
AND GENERAL JURISPRUDENCE

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Volume 11

**Legal Philosophy in the
Twentieth Century:
The Common Law World**

by

Gerald J. Postema



Springer

Nice Treatise Legal Philosophy General Jurisprudence

M. Zaenul Muttaqin



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Philosophy of Law from the Ancient Greeks to the Scholastics 2nd revised edition edited by Fred D Miller Jr and Carrie Ann Biondi Volume 6 is the first of the Treatise's historical volumes following the five theoretical ones and is dedicated to the philosophers philosophy of law from ancient Greece to the 16th century The volume thus begins with the dawning of legal philosophy in Greek and Roman philosophical thought and then covers the birth and development of European medieval legal philosophy the influence of Judaism and the Islamic philosophers the revival of Roman and Christian canon law and the rise of scholastic philosophy in the late Middle Ages which paved the way for early modern Western legal philosophy This second revised edition comes with an entirely new chapter devoted to the later Scholastics Chapter 14 by Annabel Brett and an epilogue by Carrie Ann Biondi on the legacy of ancient and medieval thought for modern legal philosophy as well as with updated references and indexes

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Pattaro, 2007-10-08 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 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 2012 2013 accounts for the development of legal thought from ancient Greek times through the twentieth century The entire set will be completed with an index Volume 1 The Law and the Right a Reappraisal of the Reality that ought to be by Enrico Pattaro This work brings out and recovers the normative dimension of law called the reality that ought to be placing within this reality the idea of what is right Part I reconstructs the current as well as the traditional civil law conception of the reality that ought to be and raises some critical theoretical issues Part II introduces some basic concepts on language and behaviour and presents a conception of norms as beliefs Part III aims to find explanations for the idea of a reality that ought to be Part IV consists of inquiries focussed on Homeric epic the natural law school and the normativistic view of positive law

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Volume 11 the sixth of the historical volumes

of *A Treatise of Legal Philosophy and General Jurisprudence* offers a fresh philosophically engaged critical interpretation of the main currents of jurisprudential thought in the English speaking world of the 20th century. It tells the tale of two lectures and their legacies: Oliver Wendell Holmes Jr's *The Path of Law* 1897 and H. L. A. Hart's *Holmes Lecture: Positivism and the Separation of Law and Morals* 1958. Holmes's radical challenge to late 19th century legal science gave birth to a rich variety of competing approaches to understanding law and legal reasoning from realism to economic jurisprudence to legal pragmatism from recovery of key elements of common law jurisprudence and rule of law doctrine in the work of Llewellyn Fuller and Hayek to root and branch attacks on the ideology of law by the Critical Legal Studies and Feminist movements. Hart simultaneously building upon and transforming the undations of Austinian analytic jurisprudence laid in the early 20th century introduced rigorous philosophical method to English speaking jurisprudence and offered a reinterpretation of legal positivism which set the agenda for analytic legal philosophy to the end of the century and beyond. A wide ranging debate over the role of moral principles in legal reasoning sparked by Dworkin's fundamental challenge to Hart's theory generated competing interpretations of and fundamental challenges to core doctrines of Hart's positivism including the nature and role of conventions at the foundations of law and the methodology of philosophical jurisprudence.

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The Treatise of legal philosophy and general jurisprudence, 2003

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The Oxford Handbook of Islamic Law Anver M. Emon, Rume Ahmed, 2018. A comprehensive guide to Islamic legal scholarship, this Handbook offers a direct and accessible introduction to Islamic law and the academic debates within the field. Topics include textual sources and authority, institutions, substantive legal areas, Islamic legal philosophy and Islamic law in the Muslim World and in Muslim minority countries.

Reciprocity in International Law Shahrad Nasrolahi Fard, 2015-12-22. In international relations, reciprocity describes an environment in which States support one another for

short or long term advantage through the balancing of rights duties and interests This book examines reciprocity in the context of international law It considers the role reciprocity plays in the creation and development of international law as well as in the interpretation and application of international law The book illuminates the reciprocal framework of international law and international relations by examining the role reciprocity plays in different types of States obligations including bilateral bilateralisable multilateral non bilateralisable multilateral and obligations erga omnes The book examines how reciprocity is intertwined with the principle of equality as the rights and obligations of States are equal irrespective of size and economic or military strength and the beneficial effects of reciprocity in creating stability and cooperation amongst States

State Administrative Law in Indonesia M. Zaenul Muttaqin, 2024-12-16 This book examines Indonesian laws regulating state administration in other words the relationship between the Indonesian government and its citizens This book uses public administration science to explain state administrative law It covers the historical evolution of state administrative law in Indonesia the political and legal acceptance of the Universal Declaration of Human Rights in Indonesia as well as the ratification of the 2020 Omnibus Law reforms It evaluates both the benefits and drawbacks of establishing laws through the Omnibus Law model and the challenges of its adoption by the Indonesian statutory system The book also examines state administrative law in other Southeast Asian countries to provide a more nuanced understanding of how human rights implementation occurs in the respective legal regimes Covering the legal reforms and changes to state administrative law in Indonesia this book will be of keen interest to scholars of state administrative law public administration and constitutional law

Idea and Methods of Legal Research P. Ishwara Bhat, 2019-09-05 Legal research examines subject matter enshrouded in social circumstances in order to conceptualize theories and prepare a future course of action This dynamic inter disciplinary and labyrinthine character of legal research requires researchers to be fluid eclectic and analytical in their approach Idea and Methods of Legal Research unearths how the thinking process is to be streamlined in research how a theme is built on the basis of comprehensive and intensive study and the paths through which notions of objectivity feminism ethics and purposive character of knowledge are to be understood The book first explains the meaning evolution and scope of legal research and discusses objectivity and ethics in legal research It engages with the requirements advantages and limits of various doctrinal and non doctrinal methods and tools and the points to be considered in selecting a suitable method or combination of methods It highlights analytical historical philosophical comparative qualitative and quantitative methods of legal research The book then goes on to discuss the use of multi method legal research policy research action research and feminist legal research and finally reflects on research based critical legal writing as opposed to client related legal writing This book thus is a comprehensive answer to key questions one faces in legal research

Modern Legal Interpretation Marko Novak, Vojko Strahovnik, 2019-01-24 Legalism or legal formalism usually depicts judges as resolving cases by allegedly merely applying pre existing legal rules They do not seem to legislate exercise discretion balance or pursue policies and they

definitely do not look outside of conventional legal texts for guidance in deciding new cases For them the law is an autonomous domain of knowledge and technique What they follow are the maxims of clarity determinacy and coherence of law This perception of law and adjudication is sometimes designated as an orthodox lawyering However at least in certain cases it is very difficult to say that legalism is not an inappropriate theory or a method of legal interpretation Different theories have attested that legal interpretation is much more than just legalism which appears to be far too na ve In the framework of modern legal interpretation the following questions can be raised Is it possible to integrate legalism in a coherent theory of legal interpretation Is legalism as a distinctive theory of legal interpretation still a feasible theory of interpretation How can such a formalist approach withstand a critique from Dworkinian moral interpretivism or accusations of being a myth masking political preferences from legal realists These and many other issues about legal interpretation are discussed in this book by prominent legal philosophers and legal theorists *Self-sufficiency of Law* Mariano

Croce, 2012-06-02 The book investigates the role of law and legal experts in the organisational dynamics of a population demonstrating that law is a stable practice among those who in virtue of the special knowledge they master are called upon to select the normative facts of a population i e the interactional standards that are proclaimed as binding for the entire population by the publicly recognised legal experts whose peremptory judgments can be only revised by peers It proposes an integration of the recent research outcomes achieved in three different areas of study legal positivism legal institutionalism and legal pluralism and examines the notions of rule coercion institution practice elaborated by significant theorists in the mentioned areas and illumine both their merits and flaws Furthermore it advances a notion of law and a description of the legal field which are able to account for the nature of the legal field as the cradle of the social order new back cover copy In an era characterized by a streaking global pluralism the collapse of many state agencies the emergence of multiple sources of law and the rise of informal justice the idea of a unitary and homogenous legal system seems old fashioned But philosophers sociologists and anthropologists still hold many debates on the nature of law and its function which is that law represents an institution that characterizes any orderly social context of human beings and this book plunges into the center of those debates *Self sufficiency of Law A Critical institutional Theory of Social Order* investigates the role of law and legal experts in the organizational dynamics of a population It demonstrates that law is a stable practice among those who are called upon to select the normative facts of a population that is the interactional standards that are proclaimed as binding for the entire population by the publicly recognized legal experts To do this the author proposes an integration of the recent research outcomes achieved in three different areas of study legal positivism legal institutionalism and legal pluralism He examines the notions of rule coercion institution and practice elaborated on by significant theorists in these fields highlighting both the merits and flaws and ultimately advancing a notion of law and a description of the legal field which are able to account for the nature of the legal field as the cradle of social order This text covers key guidelines for empirical

research and political activities in Western and non Western countries **Russian Legal Realism** Bartosz Brożek, Julia Stanek, Jerzy Stelmach, 2019-01-07 This edited volume explores ideas of legal realism which emerge through the works of Russian legal philosophers Apart from the well known American and Scandinavian versions of legal realism there also exists a Russian one readers will discover fresh perspectives and that the collection of early twentieth century ideas on law discussed in Russia can be understood as a unified school of legal thought as Russian legal realism These chapters by renowned European and Eastern European legal philosophers add to ongoing discussions about the nature of law especially in the context of developments around our scientific knowledge about the mind and behaviour Analyses of legal phenomena carried out by legal realists in Russia offer novel arguments in favour of embracing psychological and sociological perspectives on the law The book includes analysis of the St Petersburg school of legal philosophy and Leon Petra ycki s psychological theory of law This original and multifaceted research on Russian realists is of considerable value to an international audience Researchers and postgraduate students of law legal theory and legal ethics will find the book particularly appealing but it will also interest those investigating the philosophy or sociology of law or legal history

International Agreements between Non-State Actors as a Source of International Law Melissa Loja, 2022-09-22 This book examines whether international agreements between non state actors can be identified as a source of international law using objective criteria It asks whether beyond Article 38 of the Statute of the International Court of Justice there is a system of rules processes beliefs or semantics by which these agreements can be objectively identified as a source of international law Departing from the more usual state centric analysis it adopts postmodern legal positivism as its analytical tool This allows for the reality that international law making takes place in subjective social landscapes To test the effectiveness of this approach it is applied to agreements between petroleum agencies and corporations which allow two or more states to exploit disputed resources across boundaries looking in particular at arrangements involving China Vietnam and the Philippines By so doing it illustrates an alternative way that states can manage disputes without having to resort to conflict It will appeal to both scholars and practitioners of public international law as well as civil servants Migrants' Rights, Populism and Legal Resilience in Europe Vladislava Stoyanova, Stijn Smet, 2022-06-02 Identifies paths for legal resilience against restrictions of migrants rights introduced by the forces of authoritarian populism Common Law and Enlightenment in England, 1689-1750 Julia Rudolph, 2013 The book demonstrates how the common law mind was able to meet the various challenges posed by Enlightenment rationalism and civic and commercial discourse revealing that the common law played a much wider role beyond the legal world in shaping Enlightenment concepts Research Handbook on Legal Semiotics Anne Wagner, Sarah Marusek, 2023-11-03 This comprehensive Research Handbook explores the wide variety of work conducted in legal semiotics to provide a broad understanding of how the law works through signs and symbols Demonstrating that law is a strategical system of fluctuating signs contributors critically analyse the ever evolving conceptualisations of law and legal

discourse **The Hague Judgments Convention and Commonwealth Model Law** Abubakri Yekini, 2021-08-12 This book undertakes a systematic analysis of the 2019 Hague Judgments Convention the 2005 Hague Choice of Court Convention 2005 and the 2017 Commonwealth Model Law on recognition and Enforcement of Foreign Judgments from a pragmatic perspective The book builds on the concept of pragmatism in private international law within the context of recognition and enforcement of judgments It demonstrates the practical application of legal pragmatism by setting up a toolbox pragmatic goals and methods that will assist courts and policymakers in developing an effective and efficient judgments enforcement scheme at national bilateral and multilateral levels Practitioners national courts policymakers academics students and litigants will benefit from the book s comparative approach using case law from the United Kingdom and other leading Commonwealth States the United States and the Court of Justice of the European Union The book also provides interesting findings from the empirical research on the refusal of recognition and enforcement in the UK and the Commonwealth statutory registration schemes respectively

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