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New Waves In Philosophy Of Law

Amalia Amaya, Hock Lai Ho



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New Waves in Philosophy of Law Maksymilian Del Mar, 2011-08-15 A collection of 11 cutting edge essays by leading young scholars challenging long held assumptions and offering new research paradigms in Philosophy of Law in five parts 1 methodology metatheory 2 reasoning evaluating 3 values the moral life 4 institutions the social life and 5 the global international dimension

New Waves in Philosophy of Language Sarah Sawyer, 2010 Advances in Experimental Philosophy of Law Karolina Prochownik, Stefan Magen, 2023-05-18 Only recently have philosophers and psychologists begun to consider empirical research methods to inform questions and debates in legal philosophy With the field ripe for further experimental inquiry this collection explores the most topical empirical developments and anticipates future research directions Bringing together legal scholars psychologists and philosophers chapters address questions such as Do people share a stable set of intuitions about what the law is What are common perceptions about causation intentionality and culpability and are they consistent with the corresponding legal concepts To what extent can experimental research methods advance theoretical debates in legal philosophy about the nature of law With fascinating implications for legal philosophy ethics and moral psychology Advances in Experimental Philosophy of Law sets the agenda for the emerging field of experimental jurisprudence and will be of interest to both researchers and practitioners alike Virtue, Emotion and

Imagination in Law and Legal Reasoning Amalia Amaya, Maksymilian Del Mar, 2020-02-06 What is the role and value of virtue emotion and imagination in law and legal reasoning These new essays by leading scholars of both law and philosophy offer striking and exploratory answers to this neglected question The collection takes a holistic approach inquiring as to the connections and relations between virtue emotion and imagination In addition to the principal focus on adjudication essays in the collection also engage with a variety of different legal political and moral contexts eg criminal law sentencing the Black Lives Matter movement and professional ethics A number of different areas of the law are addressed eg criminal law constitutional law and tort law and the issues explored include the benefits and limits of empathy in legal reasoning the role of attention and perception in judicial reasoning the identification of judicial virtues such as compassion and humility and judicial vices such as callousness and partiality the values and dangers of certain imaginative devices eg personification and the interactive and social dimensions of virtue emotion and imagination **Concepts of Law** Lukas Heckendorn

Urscheler, 2016-05-23 Debates surrounding the concept of law are not new For a wide variety of reasons and in a wide variety of ways the meaning of law has long been an important part of Western thought both within legal scholarship and beyond The contributors to *Concepts of Law* are international experts from the fields of comparative law legal philosophy and the social sciences Combining theoretical analyses with case studies they explore various legal concepts and contexts from diverse national and disciplinary perspectives Legal and normative pluralism is a theme throughout Some chapters discuss the development of state law and legal systems Others wrestle with law's rhetoric and the potential utility of alternative

vocabularies e.g. governance and governmentality Others reveal the rich polyjurality of the present from the local to the global The result is a rich picture of both present scholarship on laws and norms and the state of contemporary legal complexity each crossing traditional boundaries

Philosophical Foundations of the Nature of Law Wil Waluchow, Stefan Sciaraffa, 2013-03-14 In recent years we have witnessed major developments in philosophical inquiry concerning the nature of law and with the continuing development of international and transnational legal institutions in the phenomenon of law itself This volume gathers leading writers in the field to take stock of current debates on the nature of law and the aims and methods of legal philosophy The volume covers four broad themes The essays within the first theme address and develop the traditional debates between legal positivism natural law theory and Dworkinian interpretivism Papers within the second theme focus on the power of coercion often overlooked in contemporary legal philosophy The third set of papers addresses the aims and methods of legal theory and the role of conceptual analysis The final section explores new methods and issues in the subject and offers fresh starting points for future work in the field Gathering many leading and up and coming writers in the subject the volume offers a snapshot of the best current work in general jurisprudence

The Cambridge Companion to Natural Law Jurisprudence George Duke, Robert P. George, 2017-06-16 This collection provides an intellectually rigorous and accessible overview of key topics in contemporary natural law jurisprudence an influential yet frequently misunderstood branch of legal philosophy It fills a gap in the existing literature by bringing together leading international experts on natural law theory to provide perspectives on some of the most pressing issues pertaining to the nature and moral foundations of law Themes covered include the history of the natural law tradition the natural law account of practical reason normativity and ethics natural law approaches to legal obligation and authority and constitutional law Creating a dialogue between leading figures in natural law thought the Companion is an ideal introduction to the main commitments of natural law jurisprudence whilst also offering a concise summary of developments in current scholarship for more advanced readers

Rethinking the Relationship between International, EU and National Law Lando Kirchmair, 2024-03-14 The interdisciplinary embedding and novel conceptual approach offered in the book to address the relationship between legal orders offers a significant and original contribution to the literature The first part of the book provides a critical account of dominant approaches to explain this relationship where theories of Kelsenian monism dualism legal pluralism and constitutionalism are criticized In the second part Kirchmair engages with an innovative idea by applying insights from social contract theory to the relationship between international EU and Member State law and establishes his theoretical approach Consent Based Monism The book focuses on the most important structural characteristics of the external relations law of the EU as well as the primacy of EU law in lieu of national constitutional identity which is demonstrated in part three

The Faces of Virtue in Law Amalia Amaya, Claudio Michelon, 2020-06-09 This book gathers together leading voices in virtue theory an increasingly influential aspect of legal theory in the 21st century to take stock of

virtue jurisprudence's evolution and suggest ways in which this approach can be further developed. The contributions address the three main axes along which virtue jurisprudence has unfolded in the past decades: the quest to provide a suitable virtue-based foundation for the law in general or for some aspects of it in particular but not exclusively criminal law; the investigation of the role played by character traits in legal decision making; and the investigation of how the law can be part of a virtuous life. As will become apparent for readers of this volume, those lines are converging and as they do so a general virtue-based approach to the study of law is starting to emerge. Crucial in addressing problems with legal experience for which the resources of traditional legal theory are insufficient, this book's investigation of virtue theory and virtue jurisprudence will be of interest to all of those studying legal decision making and the philosophy of law as well as those studying virtue ethics more widely. It was originally published as a special issue of *Jurisprudence*. **The Tapestry of Reason**

Amalia Amaya, 2015-04-30. In recent years, coherence theories of law and adjudication have been extremely influential in legal scholarship. These theories significantly advance the case for coherentism in law. Nonetheless, there remain a number of problems in the coherence theory in law. This ambitious new work makes the first concerted attempt to develop a coherence-based theory of legal reasoning and in so doing addresses or at least mitigates these problems. The book is organized in three parts. The first part provides a critical analysis of the main coherentist approaches to both normative and factual reasoning in law. The second part investigates the coherence theory in a number of fields that are relevant to law: coherence theories of epistemic justification; coherentist approaches to belief revision and theory choice in science; coherence theories of practical and moral reasoning; and coherence-based approaches to discourse interpretation. Taking this interdisciplinary analysis as a starting point, the third part develops a coherence-based model of legal reasoning. While this model builds upon the standard theory of legal reasoning, it also leads to rethinking some of the basic assumptions that characterize this theory and suggests some lines along which it may be further developed. Thus, ultimately, the book not only improves upon the current state of coherence theory in law but also contributes to the larger debate about how to articulate a theory of legal reasoning that results in better decision making. **Natural Law and the Nature of Law**

Jonathan Crowe, 2019-04-25. Presents a systematic contemporary defence of the natural law outlook in ethics, politics, and jurisprudence.

Understanding the Nature of Law Michael Giudice, 2015-06-29. *Understanding the Nature of Law* explores methodological questions about how best to explain law. Among these questions, one is central: is there something about law which determines how it should be theorized? This novel book explains the importance of *The Constitutional Dimension of*

Contract Law Luca Siliquini-Cinelli, Andrew Hutchison, 2017-04-06. One of the hallmarks of the present era is the discourse surrounding Human Rights and the need for the law to recognise them. Various national and supranational human rights instruments have been developed and implemented in order to transition society away from atrocity and callousness toward a more just and inclusive future. In some countries, this is done by means of an overarching constitution, while in others

international conventions or ordinary legislation hold sway Contract law plays a pivotal role in this context According to many this is done through the much debated civilising mission of the contract a notion which itself constitutes the canon of the Western liberal principle of civilised economy The movement away from the belief in the absolute freedom of contract which reached its zenith in the nineteenth century to the principles of fairness and justice that underpin contract law today is often deemed to be a testament to this civilising influence Delving into the interplay between human rights policies constitutional law and contract law from both theoretical and practical perspectives this first volume of a two book collection offers a totally new reappraisal of the subject by gathering a collection of essays written by contract law scholars from Europe South Africa Canada and Australia Instead of providing the reader with a sterile compilation of positivistic norms and policies on the impact of fundamental rights and constitutional law issues on contract law s development the authors build on their personal experience to analyse specific topics related to contracting that include a constitutional dimension The book fills an important void in comparative law scholarship and in so doing represents the starting point for further debate on the subject

Static and Evolutive Treaty Interpretation Christian Djefal, 2016 How should international treaties be interpreted over time This book addresses what evolutive interpretation looks like in reality

Moral Change Cecilie Eriksen, 2020-12-14 How does moral change happen What leads to the overthrow or gradual transformation of moral beliefs ideals and values Change is one of the most striking features of morality yet it is poorly understood In this book Cecilie Eriksen provides an illuminating map of the dynamics structure and normativity of moral change Through eight narratives inspired by the legal domain and in dialogue with modern moral philosophy Eriksen discusses moral bias conflict progress and revolutions She develops a context sensitive understanding of ethics and shows how we can harvest a knowledge of the past that will enable us to build a better future

Law, Virtue and Justice Amalia Amaya, Hock Lai Ho, 2012-12-20 This book explores the relevance of virtue theory to law from a variety of perspectives The concept of virtue is central in both contemporary ethics and epistemology In contrast in law there has not been a comparable trend toward explaining normativity on the model of virtue theory In the last few years however there has been an increasing interest in virtue theory among legal scholars Virtue jurisprudence has emerged as a serious candidate for a theory of law and adjudication Advocates of virtue jurisprudence put primary emphasis on aretaic concepts rather than on duties or consequences Aretaic concepts are on this view crucial for explaining law and adjudication This book is a collection of essays examining the role of virtue in general jurisprudence as well as in specific areas of the law Part I puts together a number of papers discussing various philosophical aspects of an approach to law and adjudication based on the virtues Part II discusses the relationship between law virtue and character development with some of the essays selected analysing this relationship by combining both eastern perspectives on virtue and character with western approaches Parts III and IV examine problems of substantive areas of law more specifically criminal law and evidence law from within a virtue based framework Last Part V discusses the relevance of

empathy to our understanding of justice and legal morality The Nature of International Law Miodrag A. Jovanović, 2019-04-25 The Nature of International Law provides a comprehensive analytical account of international law within the prototype theory of concepts **God and Moral Law** Mark C. Murphy, 2011-11-17 Does God's existence make a difference to how we explain morality Mark C Murphy critiques the two dominant theistic accounts of morality natural law theory and divine command theory and presents a novel third view He argues that we can value natural facts about humans and their good while keeping God at the centre of our moral explanations The characteristic methodology of theistic ethics is to proceed by asking whether there are features of moral norms that can be adequately explained only if we hold that such norms have some sort of theistic foundation But this methodology fruitful as it has been is one sided God and Moral Law proceeds not from the side of the moral norms so to speak but from the God side of things what sort of explanatory relationship should we expect between God and moral norms given the existence of the God of orthodox theism Mark C Murphy asks whether the conception of God in orthodox theism as an absolutely perfect being militates in favour of a particular view of the explanation of morality by appeal to theistic facts He puts this methodology to work and shows that surprisingly natural law theory and divine command theory fail to offer the sort of explanation of morality that we would expect given the existence of the God of orthodox theism Drawing on the discussion of a structurally similar problem that of the relationship between God and the laws of nature Murphy articulates his new account of the relationship between God and morality one in which facts about God and facts about nature cooperate in the explanation of moral law A Secular Europe: Law and Religion in the European Constitutional Landscape Lorenzo Zucca, 2012-10-11 How to accommodate diverse religious practices and laws within a secular framework is one of the most pressing and controversial problems facing contemporary European public order In this provocative contribution to the subject Lorenzo Zucca argues that traditional models of secularism focusing on the relationship of state and church are out dated and that only by embracing a new picture of what secularism means can Europe move forward in the public reconciliation of its religious diversity The book develops a new model of secularism suitable for Europe as a whole The new model of secularism is concerned with the way in which modern secular states deal with the presence of diversity in the society This new conception of secularism is more suited to the European Union whose overall aim is to promote a stable peaceful and unified economic and political space starting from a wide range of different national experiences and perspectives The new conception of secularism is also more suited for the Council of Europe at large and in particular the European Court of Human Rights which faces growing demands for the recognition of freedom of religion in European states The new model does not defend secularism as an ideological position but aims to present secularism as our common constitutional tradition as well as the basis for our common constitutional future Legal Interpretation and Scientific Knowledge David Duarte, Pedro Moniz Lopes, Jorge Silva Sampaio, 2019-09-25 This book discusses the question of whether legal interpretation is a scientific activity The law's dependency on language at

least for the usual communication purposes not only makes legal interpretation the main task performed by those whose work involves the law but also an unavoidable step in the process of resolving a legal case This task of decoding the words and sentences used by normative authorities while enacting norms carried out in compliance with the principles and rules of the natural language adopted is prone to all of the difficulties stemming from the uncertainty intrinsic to all linguistic conventions In this context seeking to determine whether legal interpretation can be scientific or in other words can comply with the requirements for scientific knowledge becomes a central question In fact the coherent application of the law depends on a knowledge regarding the meaning of normative sentences that can be classified at least as being structured systematically organized and tendentially objective Accordingly this book focuses on analyzing precisely these problems its respective contributions offer a range of revealing perspectives on both the problems and their ramifications

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