

THE LEGAL THEORY OF ETHICAL POSITIVISM

TOM D. CAMPBELL

The Legal Theory Of Ethical Positivism Applied

David S. Clark



The Legal Theory Of Ethical Positivism Applied:

The Legal Theory of Ethical Positivism Tom D. Campbell, 2016-12-05 The Legal Theory of Ethical Positivism re establishes some of the dogmas of classical legal positivism regarding the separation of legislation and adjudication and the feasibility of institutionalizing the morally neutral application of rules as an ideal capable of significant realization This is supplemented by an analysis of the formal similarities of the morally and legally adjudicative points of view which offers the prospects of attributing a degree of moral authority to positivistic rule application in particular cases These theories are worked through in their application to specific problem areas particularly freedom of communication The Legal Theory of Ethical Positivism Tom Campbell, 1996 **Judicial Power, Democracy and Legal Positivism** Tom D. Campbell, Jeffrey Goldsworthy, 2017-03-02 In this book a distinguished international group of legal theorists re examine legal positivism as a prescriptive political theory and consider its implications for the constitutionally defined roles of legislatures and courts The issues are illustrated with recent developments in Australian constitutional law **Prescriptive Legal Positivism** Tom Campbell, 2024-11-01 Tom Campbell is well known for his distinctive contributions to legal and political philosophy over three decades In emphasizing the moral and political importance of taking a positivist approach to law and rights he has challenged current academic orthodoxies and made a powerful case for regaining and retaining democratic control over the content and development of human rights This collection of his essays reaches back to his pioneering work on socialist rights in the 1980s and forward from his seminal book *The Legal Theory of Ethical Positivism* 1996 An introductory essay provides an historical overview of Professor Campbell's work and argues for the continuing importance of democratic positivism at a time when it is again becoming clear that courts are ineffective protectors of human rights *Current Legal Problems* 1998 M. D. A. Freeman, 2000 This book is the fifty first volume of *Current Legal Problems* and contains the now customary selection of high quality essays by a group of outstanding scholars This volume gathers together a particularly valuable and broad ranging set of contributions which makes for a stimulating study of legal theory at the end of the millennium

Choose Life John Goodrich, Jeanette Hagen Pifer, 2022-05-03 You re pro life But can you explain why You already believe in choosing life But when the counterarguments are coming at you from every angle legal biological medical ethical moral philosophical and biblical how do you defend the pro life view And as you defend it how do you speak with wisdom humility and compassion Now more than ever the times call for a balance of truth and mercy There are good wise and thoughtful rebuttals of every claim made by pro abortion advocates Collected here in one place Choose Life offers you reasonable responses from leading experts in their respective fields The authors are accomplished women and men from all walks of life They ll help you know what to say and why to say it when you re faced with claims like The courts have already settled the issue The fetus is not a person My body my choice I shouldn't have to raise an unwanted child My circumstances justify ending my pregnancy Abortions are helpful to women and society The pro life movement doesn't care about social justice It's

time to set aside the strident fist shaking and hurled insults Learn to make the pro life case with intelligent arguments and compassionate love just the way a Christian should *Pilgrims in Medicine: Conscience, Legalism and Human Rights* Thomas Alured Faunce, 2005-01-01 This arrestingly novel work develops a normative synthesis of medical humanities virtue ethics medical ethics health law and human rights It presents an ambitious complex and coherent argument for the reconceptualisation of the doctor patient relationship and its regulation utilising approaches often thought of as being separate if not opposed virtue based ethics and universal human rights The case is argued gracefully with moderation but also with respect for opposing positions The book s analysis of the foundational professional virtue of therapeutic loyalty is an original departure from the traditional discourse of patient autonomy and the ethical and legal duties of the medical practitioner The central argument is not merely presented as bookends in the introduction and conclusion It is cogently represented in each chapter and section and measured against the material considered A remarkable feature is the use of aptly selected canonical literature to inform the argument These references run from Hesse s *The Glass Bead Game* in the abstract to Joyce s *Ulysses* in the conclusion They include excerpts from and discussion about Bergman Borges Boswell Tolstoy de Beauvoir Chekhov Dostoevsky Samuel Johnson Aristotle Orwell Osler Chaucer Schweitzer Shakespeare Thorwalds Kafka and William Carlos Williams Such references are used not merely as an artistic and decorative leitmotif but become a critical narrative element and another complex and rich layer to this work The breadth and quality of the references are testimony to the author s clear understanding of the modern law and literature movement This work provides the basis of a medical school course As many medical educators as possible should also be encouraged to read this work for the insights it will give them into using their own personal life narratives and those of their patients to inform their decision making process This thesis will also be of value to the judiciary whose members are often called upon to make normatively difficult judgments about medical care and medical rules The human rights material leads to a hopeful view of an international movement toward a universal synthesis between medical ethics and human rights in all doctor patient relationships **The Legacy of**

John Austin's Jurisprudence Michael Freeman, Patricia Mindus, 2012-09-12 This is the first ever collected volume on John Austin whose role in the founding of analytical jurisprudence is unquestionable After 150 years time has come to assess his legacy The book fills a void in existing literature by letting top scholars with diverse outlooks flesh out and discuss Austin s legacy today A nuanced vibrant and richly diverse picture of both his legal and ethical theories emerges making a case for a renewal of interest in his work The book applies multiple perspectives reflecting Austin s various interests stretching from moral theory to theory of law and state from Roman Law to Constitutional Law and it offers a comparative outlook on Austin and his legacy in the light of the contemporary debate and major movements within legal theory It sheds new light on some central issues of practical reasoning the relation between law and morals the nature of legal systems the function of effectiveness the value free character of legal theory the connection between normative and factual inquiries in the law the

role of power the character of obedience and the notion of duty

The Logic of Legal Requirements Jordi Ferrer

Beltrán, Giovanni Battista Ratti, 2012-09-13 When a legal rule requires us to drive on the right notarize our wills or refrain from selling bootleg liquor how are we to describe and understand that requirement In particular how does the logical form of such a requirement relate to the logical form of other requirements such as moral requirements or the requirements of logic itself When a general legal rule is applied or distinguished in a particular case how can we describe that process in logical form Such questions have come to preoccupy modern legal philosophy as its methodology drawing on the philosophy of logic becomes ever more sophisticated This collection gathers together some of the most prominent legal philosophers in the Anglo American and civil law traditions to analyse the logical structure of legal norms They focus on the issue of defeasibility which has become a central concern for both logicians and legal philosophers in recent years The book is divided into four parts The first section is devoted to unravelling the basic concepts related to legal defeasibility and the logical structure of legal norms focusing on the idea that law or its components are liable to implicit exceptions which cannot be specified before the law's application to particular cases Part two aims to disentangle the main relations between the issue of legal defeasibility and the issue of legal interpretation exploring the topic of defeasibility as a product of certain argumentative techniques in the law Section 3 of the volume is dedicated to one of the most problematic issues in the history of jurisprudence the connections between law and morality Finally section 4 of the volume is devoted to analysing the relationships between defeasibility and legal adjudication

Law in the Age of Pluralism Andrei Marmor, 2007-12-31

Law in the Age of Pluralism contains a collection of essays on the intersection of legal and political philosophy Written within the analytical tradition in jurisprudence the collection covers a wide range of topics such as the nature of law and legal theory the rule of law the values of democracy and constitutionalism moral aspects of legal interpretation the nature of rights economic equality and more The essays in this volume explore issues where law morality and politics meet and discuss some of the key challenges facing liberal democracies Marmor posits that a liberal state must first and foremost respect people's personal autonomy and their differing though reasonable conceptions of the good and the just This basic respect for pluralism is shown to entail a rather skeptical attitude towards grand theories of law and state such as contemporary constitutionalism or Dworkin's conception of law as integrity The values of pluralism and respect for autonomy however are also employed to justify some of the main aspects of a liberal state such as the value of democracy the rule of law and certain conceptions of equality The essays are organized in three groups the first considers the rule of law democracy and constitutionalism The second group consists of several essays on the nature of law legal theory and their relations to morality Finally the collection concludes with essays on the nature of rights the limits of rights discourse and the value of economic equality

Encyclopedia of Law and Society David S. Clark, 2007-07-10

This work will be very valuable for academic and public libraries supporting prelaw law social and cultural studies Summing Up Highly recommended Upper level

undergraduates through professionals practitioners general readers CHOICE There are two aspects of scholarship about the legal systems of our day that are especially salient one being for the first time there is a fair amount of genuine research on legal systems and two that this research is increasingly global As soon as you cross a jurisdictional line even if it separates countries that are very similar you enter a different legal system It cannot be assumed that any particular rule doctrine or practice is the same in any two jurisdictions regardless of how close these jurisdictions are in terms of history and tradition The Encyclopedia of Law and Society is the largest comprehensive and international treatment of the law and society field With an Advisory Board of 62 members from 20 countries and six continents the three volumes of this state of the art resource represent interdisciplinary perspectives on law from sociology criminology cultural anthropology political science social psychology and economics By globalizing the Encyclopedia s coverage American and international law and society will be better understood within its historical and comparative context Key Features Includes more than 700 biographical entries that are historical comparative topical thematic and methodological Presents the rich diversity of European Latin American Asian African and Australasian developments for the first time in one place to reveal the truly holistic interdisciplinary virtues of law and society Examines how and why legal systems grow and change how and why they respond or fail to respond to their environment how and why they impact the life of society and how and why the life of society impacts in turn these legal systems With borders more porous than ever before this Encyclopedia reflects the paradoxical reality of modern life including legal life This valuable resource aims to present research along with the theories on which it is grounded fairly and comprehensively and is a must have for all academic libraries **Law, Liberty, and the Rule of Law** Imer B.

Flores,Kenneth E. Himma,2012-09-28 In recent years there has been a substantial increase in concern for the rule of law Not only have there been a multitude of articles and books on the essence nature scope and limitation of the law but citizens elected officials law enforcement officers and the judiciary have all been actively engaged in this debate Thus the concept of the rule of law is as multifaceted and contested as it s ever been and this book explores the essence of that concept including its core principles its rules and the necessity of defining or even redefining the basic concept Law Liberty and the Rule of Law offers timely and unique insights on numerous themes relevant to the rule of law It discusses in detail the proper scope and limitations of adjudication and legislation including the challenges not only of limiting legislative and executive power via judicial review but also of restraining active judicial lawmaking while simultaneously guaranteeing an independent judiciary interested in maintaining a balance of power It also addresses the relationship not only between the rule of law human rights and separation of powers but also the rule of law constitutionalism and democracy *Human Rights* David Kinley,Wojciech Sadurski,Kevin Walton,2013-11-29 Encouraging new thinking about conventional understandings of human rights this book will strongly appeal to international lawyers legal and political philosophers as well as graduate students and upper level undergraduate students in law and philos Law and Administration Carol Harlow,Richard Rawlings,2009-08-20 A

contextualised study setting out the foundations of administrative law with discussion of case law and legislation to show practical application

Globalisation and Equality Keith Horton, Haig Patapan, 2004-07-31 Is globalisation creating a more unequal world Is it creating new forms of inequality Does it make certain pre existing forms of inequality more morally or politically significant than they would otherwise have been Globalisation and Equality examines these and related questions exploring the way increasing globalisation is challenging our conceptions of equality The contributors explore these themes from both theoretical and empirical perspectives Some adopt a more abstract approach exploring foundational questions concerning the meaning of equality its social and political dimensions and more specifically its moral implications in a global context Others engage the general themes of globalisation and equality by focusing on specific topics such as welfare citizenship gender culture and the environment Original in the questions it poses and interdisciplinary in its approach this collection of essays will appeal to all those with an interest in globalisation and equality

Relocating the Rule of Law Gianluigi Palombella, Neil Walker, 2008-12-18 In this set of interdisciplinary essays leading scholars discuss the future of the Rule of Law a concept whose meaning and import has become ever more topical and elusive Historically the term denoted the idea of government limited by law It has also come to be equated more broadly with certain goods suggested by the idea of legality as such including the preservation of human dignity and other individual and social benefits predicated upon or conducive to a rule based social order But in both its narrow and broader senses the Rule of Law remains a much contested concept These essays seek to capture the main areas and levels of controversy by relocating the Rule of Law not just at the philosophical level but also in its main contemporary arenas of application both national and increasingly supranational and international

International Anti-Money Laundering and Soft Law Emmanuel Ebikake, 2023-11-16 Adopting a mixed methods approach this book assesses the role of soft law as a technique to repress and prevent money laundering The consequence of the combination of a non traditional subject matter with the limitations of traditional international law instruments has meant that lawmakers seeking international solutions to the problems of money laundering have had to innovate This book addresses two fundamental issues in the context of existing international and domestic responses to the problem of money laundering that have hitherto been neglected These include the nature of the treaty obligations to criminalise money laundering and the role of soft law as a technique to regulate it globally The book concludes that international legal harmonisation and approximation of domestic anti money laundering law through soft law remains helpful in addressing this pressing problem The book will be of interest to academics researchers and policy makers working in the areas of Financial Crime Anti Money Laundering Law Regulation International Soft Law and Comparative Law

Human Rights with Modesty: The Problem of Universalism András Sajó, 2013-12-11 This volume considers the problem of legal universals at the level of the rule of law and human rights which have fundamentally different pedigrees and attempts to come to terms with the new unease arising from the universal application of human rights Given the juridicization of

human rights rule of law and human rights expectations have become significantly intertwined human rights are enforced with the instruments of the rule of law and are thus limited by the restricted reach thereof The first section of this volume considers the difficulties of universalistic claims and offers a number of possible solutions for adapting universal expectations to specific contexts The second section considers problems of human rights politics sections three and four present empirical studies about the appearance and disappearance of the rule of law and fundamental rights in Western and non Western societies Special attention is paid to the problems of developing countries with a specific focus on past and present developments in Iran These empirical studies indicate that the acceptance of human rights and the rule of law is historically contingent and cannot simply be considered as a matter of culture

Contemporary Challenges to EU Legality Claire Kilpatrick, Joanne Scott, 2021 The Academy of European Law is housed at the European University Institute in Florence Italy The Academy holds annual advanced level summer courses focusing on topical cutting edge issues in Human Rights Law and The Law of the European Union The courses are taught by highly qualified scholars and practitioners in a highly interactive environment General courses involve the examination of the field as a whole through a particular thematic conceptual or philosophical lens or look at a theme in the context of the overall body of law Specialized courses bring together a number of speaker exploring a specific theme in depth Together they are published as monographs and edited volumes in the Collected Courses of the Academy of European Law series The Collected Courses series has been published by Oxford University Press since 2000 The series contains publications on both foundational and pressing issues in human rights law and the law of the European Union Book jacket

Philosophy of Law Andrei Marmor, 2014-12-21 In *Philosophy of Law* Andrei Marmor provides a comprehensive analysis of contemporary debates about the fundamental nature of law an issue that has been at the heart of legal philosophy for centuries What the law is seems to be a matter of fact but this fact has normative significance it tells people what they ought to do Marmor argues that the myriad questions raised by the factual and normative features of law actually depend on the possibility of reduction whether the legal domain can be explained in terms of something else more foundational in nature In addition to exploring the major issues in contemporary legal thought *Philosophy of Law* provides a critical analysis of the people and ideas that have dominated the field in past centuries It will be essential reading for anyone curious about the nature of law

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