

Introduction to the English Legal System

Thursday, 1 September 2022

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Chapter 2

Law and Society : the purposes and functions of the law

Definitions

Macro functions - relating to the general role law plays in the running and ordering of society.

Micro functions - derive from those macro functions, relate to more specific uses to which law is put.

2.2 Macro functions of law : law and orders

"The role of law in society - to maintain order."

The **problems** with this response would be :

- Extremely **ambiguous**, there is no single concept of order, but rather a variety of orders in relation to which law may play a role including : public order, political order, social order and many others.
- The relationship between law and each of these types of order is extremely **complex**. The ability of law to shape these different orders is not unconstrained but is subject to wider political and social forces.

The relationship between law and orders in any given society **cannot** be understood without understanding the **political, social, and economic ideologies** that underpin that society.

2.2.1 Law and public order

- Many argue that a **primary function** of law is the **preservation of public order**. But maintaining public order is not exclusively a task for law ; many other factors such as **pressure from family or friends or work colleagues or individuals' philosophical beliefs**, play an important part.
- The law sets the boundaries of acceptable behaviour and prescribes sanctions for breaches of those boundaries.
- The preservation of **public order** allows people to have the ability to **argue freely** about their **beliefs** including going on political marches or joining in demonstrations.
- However limits are set to **prevent the use of harmful and threatening** language being used to **insult** another person.

The Concept Of A Legal System An Introduction To The Theory Of Legal System

Pablo E. Navarro, Jorge L. Rodríguez



The Concept Of A Legal System An Introduction To The Theory Of Legal System:

The Concept of a Legal System Joseph Raz, 1970

The Continuity of Legal Systems in Theory and Practice

Benjamin Spagnolo, 2015-10-22 The Continuity of Legal Systems in Theory and Practice examines a persistent and fascinating question about the continuity of legal systems when is a legal system existing at one time the same legal system that exists at another time The book's distinctive approach to this question is to combine abstract critical analysis of two of the most developed theories of legal systems those of Hans Kelsen and Joseph Raz with an evaluation of their capacity in practice to explain the facts attitudes and normative standards for which they purport to account That evaluation is undertaken by reference to Australian constitutional law and history whose diverse and complex phenomena make it particularly apt for evaluating the theories explanatory power In testing whether the depiction of Australian law presented by each theory achieves an adequate fit with historical facts the book also contributes to the understanding of Australian law and legal systems between 1788 and 2001 By collating the relevant Australian materials systematically for the first time it presents the case for reconceptualising the role of Imperial laws and institutions during the late nineteenth and early twentieth centuries and clarifies the interrelationship between Colonial State Commonwealth and Imperial legal systems both before and after Federation

God and the Secular Legal System Rafael Domingo, 2016-09-29 This timely book offers a theistic approach to secular legal systems and demonstrates that these systems are neither agnostic nor atheist Critical but succinct in its approach this book focuses on an extensive range of liberal legal approaches to religious and moral issues and subjects them to critical scrutiny from a secular perspective Expertly written by a leading scholar the author offers a rare combination of profundity of ideas and simplicity of expression It is a ringing defense of the theistic conception of secular legal systems and an uncompromising attack on the agnostic and atheist conception

The Idea of a Pure Theory of Law Christoph Kletzer, 2018-01-25 Most contemporary legal philosophers tend to take force to be an accessory to the law According to this prevalent view the law primarily consists of a series of demands made on us force conversely comes into play only when these demands fail to be satisfied This book claims that this model should be jettisoned in favour of a radically different one according to the proposed view force is not an accessory to the law but rather its attribute The law is not simply a set of rules incidentally guaranteed by force but it should be understood as essentially rules about force The book explores in detail the nature of this claim and develops its corollaries It then provides an overview of the contemporary jurisprudential debates relating to force and violence and defends its claims against well known counter arguments by Hart Raz and others This book offers an innovative insight into the concept of Pure Theory In contrast to what was claimed by Hans Kelsen the most eminent contributor to this theory the author argues that the core insight of the Pure Theory is not to be found in the concept of a basic norm or in the supposed absence of a conceptual relation between law and morality but rather in the fundamental and comprehensive reformulation of how to model the functioning of the law intended as an ordering of force and violence

The Concept of an International Organization in International Law Lorenzo Gasbarri, 2021 The aim of this series is to publish important and original pieces of research on all aspects of international law Topics that are given particular prominence are those which while of interest to the academic Lawyer also have important bearing on issues which touch the actual conduct of international relations Nonetheless the series is wide in scope and includes monographs on the history and philosophical foundations of international law Book jacket

The Oxford Handbook of Global Legal Pluralism Paul Schiff Berman, 2020-06-01 Over the past two decades Global Legal Pluralism has become one of the leading analytical frameworks for understanding and conceptualizing law in the 21st century Wherever one looks there is conflict among multiple legal regimes Some of these regimes are state based some are built and maintained by non state actors some fall within the purview of local authorities and jurisdictional entities and some involve international courts tribunals and arbitral bodies and regulatory organizations Global Legal Pluralism has provided first and foremost a set of useful analytical tools for describing this conflict among legal and quasi legal systems At the same time some pluralists have also ventured in a more normative direction suggesting that legal systems might sometimes purposely create legal procedures institutions and practices that encourage interaction among multiple communities These scholars argue that pluralist approaches can help foster more shared participation in the practices of law more dialogue across difference and more respect for diversity without requiring assimilation and uniformity Despite the veritable explosion of scholarly work on legal pluralism conflicts of law soft law global constitutionalism the relationships among relative authorities transnational migration and the fragmentation and reinforcement of territorial boundaries no single work has sought to bring together these various scholarly strands place them into dialogue with each other or connect them with the foundational legal pluralism research produced by historians anthropologists and political theorists Paul Schiff Berman one of the world's leading theorists of Global Legal Pluralism has gathered over 40 diverse authors from multiple countries and multiple scholarly disciplines to touch on nearly every area of legal pluralism research offering defenses critiques and applications of legal pluralism to 21st century legal analysis Berman also provides introductions to every part of the book helping to frame the various approaches and perspectives The result is the first comprehensive review of Global Legal Pluralism scholarship ever produced This book will be a must have for scholars and students seeking to understand the insights of legal pluralism to contemporary debates about law At the same time this volume will help energize and engage the field of Global Legal Pluralism and push this scholarly trajectory forward into another two decades of innovation

The Theory, Practice, and Interpretation of Customary International Law Panos Merkouris, Jörg Kammerhofer, Noora Arajärvi, 2022-05-26 Although customary international law CIL has been central to international law from its inception it is often misunderstood This edited volume remedies that problem by tracing the history of CIL and provides an in depth study of its theory practice and interpretation Its chapters tackle the big questions which surround this source of international law such as what are the rules that regulate the functioning of CIL as a source of

international law Can CIL be interpreted Where do lines between identification interpretation application and modification of a rule of CIL lie Using recent developments this volume revisits old debates and resolves them by proffering new and innovative solutions With detailed examples from international and national courts it places CIL in a range of settings to explain explore and reflect upon this developing and highly significant field This title is also available as Open Access on Cambridge Core

Deontic Logic and Legal Systems Pablo E. Navarro, Jorge L. Rodríguez, 2014-09-29 A considerable number of books and papers have analyzed normative concepts using new techniques developed by logicians however few have bridged the gap between the English legal culture and the Continental i.e. European and Latin American tradition in legal philosophy This book addresses this issue by offering an introductory study on the many possibilities that logical analysis offers the study of legal systems The volume is divided into two sections the first covers the basic aspects of classical and deontic logic and its connections advancing an explanation of the most important topics of the discipline by comparing different systems of deontic logic and exploring some of the most important paradoxes in its domain The second section deals with the role of logic in the analysis of legal systems by discussing in what sense deontic logic and the logic of norm propositions are useful tools for a proper understanding of the systematic structure of law

The Invisible Origins of Legal Positivism W.E. Conklin, 2012-12-06 Conklin's thesis is that the tradition of modern legal positivism beginning with Thomas Hobbes postulated different senses of the invisible as the authorising origin of humanly posited laws Conklin re-reads the tradition by privileging how the canons share a particular understanding of legal language as written Leading philosophers who have espoused the tenets of the tradition have assumed that legal language is written and that the authorising origin of humanly posited rules norms is inaccessible to the written legal language Conklin's re-reading of the tradition teases out how each of these leading philosophers has postulated that the authorising origin of humanly posited laws is an unanalysable externality to the written language of the legal structure As such the authorising origin of posited rules norms is inaccessible or invisible to their written language What is this authorising origin Different forms include an originary author an a priori concept and an immediacy of bonding between person and laws In each case the origin is unwritten in the sense of being inaccessible to the authoritative texts written by the officials of civil institutions of the sovereign state Conklin sets his thesis in the context of the legal theory of the polis and the pre polis of Greek tribes The author claims that the problem is that the tradition of legal positivism of a modern sovereign state excises the experiential or bodily meanings from the written language of the posited rules norms thereby forgetting the very pre legal authorising origin of the posited norms that each philosopher admits as offering the finality that legal reasoning demands if it is to be authoritative

A Three-Dimensional Theory of Law María José Falcon y Tella, 2010-04-27 What this book intends to do is to study three dimensionalism the distinction values norms facts not in what could be called its historical dimension but in its substantive aspect as a form that when applied to different legal themes would add a material content to the three dimensional theory We can point out as a

study plan the distinction between three perspectives Those of the legal norm of the legal order and the legal relationship
Three dimensionalism also appears in this work when one analyzes the three phases of the life of the law The formation the
interpretation and the application and in the distinction between the three characteristics of the legal order Fullness
coherence and unity the theory of legal validity intended as legitimacy as validity strictly speaking or as effectiveness

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