



Legal Point

Advocates & Consultants

The Legal Point Of View

W.E. Conklin



The Legal Point Of View:

The Legacy of Ronald Dworkin Wil Waluchow, Stefan Sciaraffa, 2016-04-25 This book assembles leading legal political and moral philosophers to examine the legacy of the work of Ronald Dworkin They provide the most comprehensive critical treatment of Dworkin s accomplishments focusing on his work in all branches of philosophy including his theory of value political philosophy philosophy of international law and legal philosophy The book s organizing principle and theme reflect Dworkin s self conception as a builder of a unified theory of value and the broad outlines of his system can be found throughout the book The first section addresses the most abstract and general aspect of Dworkin s work the unity of value thesis The second section explores Dworkin s contributions to political philosophy and discusses a number of political concepts including authority civil disobedience the legitimacy of states and the international legal system distributive justice collective responsibility and Dworkin s master value of dignity and the associated values of equal concern and respect The third section addresses various aspects of Dworkin s general theory of law The fourth and final section comprises accounts of the structure and defining values of discrete areas of law

New Essays on the Nature of Legal Reasoning

Mark McBride, James Penner, 2022-05-19 This is the first book to bring together distinguished jurisprudential theorists as well as up and coming scholars to critically assess the nature of legal reasoning The volume is divided into 3 parts The first part General Jurisprudence and Legal Reasoning addresses issues at the intersection of general jurisprudence those pertaining to the nature of law itself and legal reasoning The second part Rules and Reasons addresses two concepts central to two prominent types of theory of legal reasoning The essays in the third and final part Doctrine and Practice delve into the mechanics of legal practice and doctrine from a legal reasoning perspective

The Invisible Origins of Legal Positivism

W.E. Conklin, 2001-11-30 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

Fundamental legal problems of surrogate motherhood. Global perspective. Piotr Mostowik, Marta Soniewicka, Nathalie Baillon-Wirtz, Mirosław Boruta, Justyna Holocher, Błażej Kmiecik, Ewa Kozerska, Tomasz Scheffler, Katažyna Mikša, Natalja Žitkevits, Avishalom Westreich, Andrea Nicolussi, Andrei A. Novikov, Carlos Martínez de Aguirre, Monika Wałachowska, Alla Anatoliivna Herts, Witold Borysiak, Agnieszka Czubik, Łukasz Mirocha, Agata Niżnik-Mucha, Aleksandra Dębowska, Marcin Sokołowski, Agnieszka Wedeł-Domaradzka, Olga Bobrzyńska, Dita Frintová, Ondřej Frinta, Janusz Gajda, Rafał Łukasiewicz, Elena Júdová, Martin Píry, Wojciech Lis, Piotr Telusiewicz, Michał Wojewoda, Edyta Figura-Góralczyk, Radosław Flejszar, Piotr Rodziewicz, Konrad Burdziak, Łukasz Pohl, Wojciech Górowski, Agnieszka Laber, Dominik Zajac, Karolina Sęk, 2019-07-01

The observation that mater semper certa est remains accurate under most legal systems in the world

Maternity is defined as the personal status filiation of a woman who gave birth to a child It is typically complemented by the fatherhood of the man from whom the child biologically originates often quem nuptiae demonstrant However in some states a kind of competitive way of acquiring the legal status of mother and father or homosexual parents A and B has been introduced via concluding a contract with a surrogate mother Usually with a woman coming from poorer societies and with the assistance of professional intermediaries and organizers

The postulates to change substantive family law or at least to recognize the effects of foreign law and procedures a kind of procreative tourism appear nowadays also in states generally prohibiting surrogate motherhood

The issues discussed in this volume concern both national law and international court cases Recent examples include the opinion of the European Court of Human Rights of 10 April 2019 initiated by the French Cour de cassation the judgement of the German Bundesgerichtshof of 20 March 2019 and dilemmas of Polish administrative courts

Focusing on the international perspective the present volume as well as an accompanying book in Polish are the results of the international cooperation of over 30 experts from both member states and observer states of the Council of Europe

The monograph is structured from the general to the detail and includes a comprehensive view as well from the issues of philosophy and sociology of law to human rights standards of national constitutions and international agreements to principles of ordre public of forum and their protection with measures of private public and penal law This allows readers including legislators and judges the better understanding of the fundamental legal problems that surrogate motherhood brings both in states where law creates them in a narrower or wider extent and in other countries of the world to which these problems can be imported with the movement of people and with de lege lata and de lege ferenda postulates

The Financial Crisis in Constitutional Perspective Poul F Kjaer, Gunther Teubner, Alberto Febbrajo, 2011-07-27

This volume presents the first thorough sociologically informed legal analysis of the financial crisis which unfolded in 2008 It combines a multitude of theoretically informed analyses of the causes dynamics and reactions to the crisis and contextualises these

within the general structural transformations characterising contemporary society It furthermore explores the constitutional implications of the crisis and suggests concrete changes to the constitutional set up of contemporary society Although the question of individual responsibility is of crucial importance the central idea animating the volume is that the crisis cannot be reduced to a mere failure of risk perception and management for which individual and collective actors within and outside of financial organisations are responsible The 2008 crisis should rather be understood as a symptom of far deeper structural transformations For example contemporary society is characterised by massive accelerations in the speed with which societal processes are reproduced as well as radical expansions in the level of globalisation These transformations have however been asymmetrical in nature insofar as the economic system has outpaced its legal and political counterparts The future capability of legal and political systems to influence economic reproduction processes is therefore conditioned by equally radical transformations of their respective operational forms and self understanding Potentially the 2008 crisis therefore has far reaching constitutional implications

Law's Humility Triantafyllos Gkouvas, 2021-02-25 This book invites newcomers to analytical legal philosophy to reconsider the terms in which they are accustomed to describing and defending their jurisprudential allegiances It argues that familiar taxonomic labels such as legal positivism natural law theory and legal interpretivism are poor guides to the actual diversity of views on the nature and normativity of law mainly because they fail to carve up the reality of jurisprudential disagreement at its joints These joints the author suggests are elusive because the semantics of law systematically misplaces them Their true nature resides in the metaontological and metanormative features that dictate or indicate the target of a theory's jurisprudential commitments The book advocates a new vocabulary for articulating these commitments without eliminating the use of familiar criteria of division among competing theories of law The resulting picture is a much broader platform of meaningful disagreement about the nature and grounds of legal truth and legal normativity Albeit based on a factualist cognitivist understanding of the sources and grounds of law the book reserves ample room for the unconvinced Those suspicious of the project of ontologising theoretical disagreements in law can avail themselves of the quietist or anti metaphysical avenue that the book's alternative taxonomy also makes available The humblest path to law's reality may not be metaphysically ambitious after all

Juristic Concept of the Validity of Statutory Law Andrzej Grabowski, 2013-06-24 This book presents the theory of the validity of legal norms aimed at the practice of law in particular the jurisdiction of the constitutional courts The postpositivist concept of the validity of statutory law grounded on a critical analysis of the basic theories of legal validity elaborated up to now is introduced In the first part of the book a contemporary German nonpositivist conception of law developed by Ralf Dreier and Robert Alexy is analysed in order to answer the question whether the juristic concept of legal validity should include moral standards or criteria In the second part a postpositivist concept of legal validity and an innovative model of validity discourse based on the juristic presumption of the validity of legal norms are proposed The book is a work on analytical legal theory written from a

postpositivist detached point of view **Languages of the Law** Verena Klappstein, Maciej Dybowski, 2025-02-08 Law can be seen as a motley of different languages deployed in the legal domain The authors of the chapters share interest in what determines the scope of the vocabulary of these languages as well as in the way they are used Thus both the linguistic and pragmatic turns occurring in the philosophy of language are explored as exercising not mere ripple effects on legal scholarship but rather as having a huge impact on jurisprudence The chapters in this volume tackle three broad problem areas to offer a coherent picture of languages of the law The first section is devoted to legal language at large including reflections on its nature and some distinct functions it performs in the legal domain The second section of the book focuses on the distinctly legal and pragmatic dimensions of some fragments of vocabulary used either in legal texts or in legal scholarship In the third section of the volume authors research specific questions regarding legal language and legal reasoning *Legal Perspectives on Sustainability* Margherita Pieraccini, Tonia Novitz, 2020-03-18 This important volume steps beyond conventional legal approaches to sustainability to provide fresh insights into perhaps one of the most critical global challenges of our time Offering analysis of sustainability at land and sea alongside trade labour and corporate governance perspectives this book articulates important debates about the role of law From impacts on local societies to domestic sustainable development policies and major international goals it considers multiple jurisdictional levels With original interdisciplinary research from experts in their legal fields this is a rounded assessment of the complex interplay of law and sustainability both as it is now and as it should be in the future The Concept of Dilemma in Legal and Judicial Ethics Przemysław Kaczmarek, Krzysztof J. Kaleta, Paweł Łabieniec, Marcin Pieniążek, Paweł Skuczyński, Sebastian Sykuna, 2018-10-12 Judges and lawyers have to shape their moral competences in order to maintain their professional ethics at a high standard if they want to effectively meet the challenges that modern society will throw at them This requirement is due to the growing expectation that they will be socially and morally responsible for the law Thus the need to place ethics at the heart of legal education and to make ethical reflection pervasive in academic courses becomes more obvious every day Using the concept and examples of moral dilemmas is a way of facilitating this task The main purpose of this book is to analyse the concept of moral dilemma in context of judicial and legal ethics and to provide material for legal education The structure of this book is designed with this double aim in mind The theoretical part presents the concept of dilemmas on grounds of metaethics and the perspectives for its application in a professional legal context The former encompasses situations of conflict of duties or obligations in which the choice of one conduct necessarily prevents a different conduct and therefore leads to an unacceptable outcome Hence the situation of dilemma always involves an issue of moral responsibility and the problem of dirty hands How such situations are present in legal practice and how to deal with them is the main concern of this part The considerations are divided into three levels of reflection deontological axiological and moral responsibility The practical part of the book contains an overview of 150 dilemmas that can be useful in legal ethics or other

legal courses The dilemmas are divided into chapters covering the following branches of law criminal law civil and commercial law family and custody law labour and social security law and constitutional law Every dilemma presents a description of the facts a reconstruction of dilemma its standard solution and some critical remarks from a meta ethical perspective The dilemmas cover situations regularly met in everyday practice as well as examples of more exceptional challenges in connection with constitutional crises that have occurred in Poland in recent years

Embark on a transformative journey with is captivating work, **The Legal Point Of View** . This enlightening ebook, available for download in a convenient PDF format , invites you to explore a world of boundless knowledge. Unleash your intellectual curiosity and discover the power of words as you dive into this riveting creation. Download now and elevate your reading experience to new heights .

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