

The
PRACTICE
of
JUSTICE

A Theory of Lawyers' Ethics

WILLIAM H. SIMON

The Practice Of Justice A Theory Of Lawyers Ethics

**Jamie Murray, Thomas Webb, Steven
Wheatley**



The Practice Of Justice A Theory Of Lawyers Ethics:

The Practice of Justice William H. Simon, 2009-06-30 Should a lawyer keep a client's secrets even when disclosure would exculpate a person wrongly accused of a crime To what extent should a lawyer exploit loopholes in ways that enable clients to gain unintended advantages When can lawyers justifiably make procedural maneuvers that defeat substantive rights The Practice of Justice is a fresh look at these and other traditional questions about the ethics of lawyering William Simon a legal theorist with extensive experience in practice charges that the profession's standard approach to these questions is incoherent and implausible At the same time Simon rejects the ethical approaches most frequently proposed by the profession's critics The problem he insists does not lie in the profession's commitment to legal values over those of ordinary morality Nor does it arise from the adversary system Rather Simon shows that the critical weakness of the standard approach is its reliance on a distinctive style of judgment categorical rule bound rigid that is both ethically unattractive and rejected by most modern legal thought outside the realm of legal ethics He develops an alternative approach based on a different more contextual style of judgment widely accepted in other areas of legal thought The author enlivens his argument with discussions of actual cases including the Lincoln Savings and Loan scandal and the Leo Frank murder trial as well as fictional accounts of lawyering including Kafka's The Trial and the movie The Verdict

Lawyers' Ethics and the Pursuit of Social Justice Susan D. Carle, 2005-08-22 Susan D Carle centers this collection of texts on the premise that legal ethics should be far more than a set of rules on professional responsibility *Stanford Law Review: Volume 63, Issue 2 - January 2011* Stanford Law Review, 2011-02-24 One of the most read law journals adds a true ebook edition to its worldwide distribution becoming the first general interest law review to do so This current issue of the Stanford Law Review contains studies of law economics and social policy by such recognized scholars as Kenneth Bamberger Deirdre Mulligan Judge Richard Posner Albert Yoon Cynthia Estland and Norman Spaulding Volume 63 Issue 2's contents are Privacy on the Books and on the Ground by Kenneth A Bamberger the original note numbering is retained and the issue is properly formatted

Rape and the Culture of the Courtroom Andrew E. Taslitz, 1999-06-01 Rape law reform has been a stunning failure Defense lawyers persist in emphasizing victims' characters over defendants' behavior Reform's goals of increasing rape report and conviction rates have generally not been achieved In Rape and the Culture of the Courtroom Andrew Taslitz locates the cause of rape reform failure in the language lawyers use and the cultural stories upon which they draw to dominate rape victims in the courtroom Cultural stories about rape Taslitz argues such as the provocatively dressed woman asking for it are at the root of many unconscious prejudices that determine jury views He connects these stories with real life examples such as the Mike Tyson and Glen Ridge rape trials to show how rape stereotypes are used by defense lawyers to gain acquittals for their clients Building on Deborah Tannen's pathbreaking research on the differences between male and female speech Taslitz also demonstrates how word choice tone and other lawyers' linguistic tactics work to undermine the confidence and the

credibility of the victim weakening her voice during the trial Taslitz provides politically realistic reform proposals consistent with feminist theories of justice which promise to improve both the adversary system in general and the way that the system handles rape cases *Michigan Law Review* ,2010-05

Law and Leadership Paula Monopoli,Susan McCarty,2016-04-15 Leadership includes the ability to persuade others to embrace one's ideas and to act upon them Teaching law students the art of persuasion through advocacy is at the heart of legal education But historically law schools have not included leadership studies in the curriculum This book is one of the first to examine whether and how to integrate the theory and practice of leadership studies into legal education and the legal profession Interdisciplinary in its scope with contributions from legal educators and practitioners the book defines leadership in the context of the legal profession and explores its challenges in legal academia private practice and government It also investigates whether law students need to study leadership and if they should why it should be offered as part of the curriculum Finally it considers how leadership should be taught and how it should be integrated into classes It evaluates new leadership courses and the adaptation of existing courses to reflect on how to effectively blend law and leadership in doctrinal clinical and experiential classrooms The book includes a foreword by Pulitzer Prize winning historian and noted leadership scholar James MacGregor Burns and a foundational essay by prominent leadership scholar and one of the founders of the International Leadership Association Georgia Sorenson It will be a valuable resource to anyone interested in leadership education policy and legal ethics Jewish Law and American Law, Volume 1

Samuel J. Levine,2021-02-16 This volume contributes to the growing field of comparative Jewish and American law presenting twenty six essays characterized by a number of distinct features The essays will appeal to legal scholars and at the same time will be accessible and of interest to a more general audience of intellectually curious readers These contributions are faithful to Jewish law on its own terms while applying comparative methods to offer fresh perspectives on complex issues in the Jewish legal system Through careful comparative analysis the essays also turn to Jewish law to provide insights into substantive and conceptual areas of the American legal system particularly areas of American law that are complex controversial and unsettled *The Counsel of Rogues?* Dr Tim Dare,2013-02-28 There is a widespread perception that even when lawyers are acting squarely within their roles being good lawyers they display the vices of dishonesty and deviousness At the heart of the perception is the so called standard conception of the lawyer's role according to which lawyers owe special duties to their clients which render permissible or even mandatory acts that would otherwise count as morally impermissible Many have concluded that the standard conception should be set aside This book suggests that the moral implications of the standard conception are often mischaracterised Critics suggest that the conception requires lawyers to secure any advantage the law can be made to give But Dare offers a moral argument for the conception according to which it justifies a more limited and moderate sphere of professional conduct than is normally supposed allowing lawyers to preserve their integrity while giving proper weight to the role differentiated permissions and obligations of their roles

Lawyers and Fidelity to Law W. Bradley Wendel, 2012-08-26 Even lawyers who obey the law often seem to act unethically interfering with the discovery of truth subverting justice and inflicting harm on innocent people Standard arguments within legal ethics attempt to show why it is permissible to do something as a lawyer that it would be wrong to do as an ordinary person But in the view of most critics these arguments fail to turn wrongs into rights Even many lawyers think legal ethics is flawed because it does not accurately describe the considerable moral value of their work In *Lawyers and Fidelity to Law* Bradley Wendel introduces a new conception of legal ethics that addresses the concerns of lawyers and their critics alike Wendel proposes an ethics grounded on the political value of law as a collective achievement that settles intractable conflicts allowing people who disagree profoundly to live together in a peaceful stable society Lawyers must be loyal and competent client representatives Wendel argues but these obligations must always be exercised within the law that constitutes their own roles and confers rights and duties upon their clients Lawyers act unethically when they treat the law as an inconvenient obstacle to be worked around and when they twist and distort it to help their clients do what they are not legally entitled to do *Lawyers and Fidelity to Law* challenges lawyers and their critics to reconsider the nature and value of ethical representation

The Oxford Companion to American Law Kermit L. Hall, David S. Clark, James W. Ely, Joel B. Grossman, N. E. H. Hull, 2002-05-02 A landmark in legal publishing *The Oxford Companion to the Supreme Court* is a now classic text many of whose entries are regularly cited by scholars as the definitive statement on any particular subject In the tradition of that work editor in chief Kermit L Hall offers up *The Oxford Companion to American Law* a one volume A Z encyclopedia that covers topics ranging from aging and the law wiretapping and electronic eavesdropping the Salem Witch Trials and *Plessy vs Ferguson* The Companion takes as its starting point the insight that law is embedded in society and that to understand American law one must necessarily ask questions about the relationship between it and the social order now and in the past The volume assumes that American law in all its richness and complexity cannot be understood in isolation as simply the business of the Supreme Court or as a list of common law doctrines Hence the volume takes seriously issues involving laws role in structuring decisions about governance the significance of state and local law and legal institutions and the place of American law in a comparative international perspective Nearly 500 entries are included written by over 300 expert contributors Intended for the working lawyer or judge the high school student working on a term paper or the general adult reader interested in the topic the Companion is the authoritative reference work on the subject of American law

Inside Lawyers' Ethics Christine Parker, Adrian Evans, 2007-02-22 Legal ethics is often described as an oxymoron or contradiction in terms lay people find the concept amusing and lawyers can find ethics impossible The best lawyers are those who have come to grips with their own values and actively seek to improve their ethical practise This book is designed to help law students and new lawyers understand and modify their own ethical priorities not just because this knowledge makes it easier to practise law and earn an income but because self aware ethical legal practice is right and feels better than

anything else Packed with case studies of ethical scandals and dilemmas from real life legal practice in Australia each chapter delves into the most difficult issues lawyers face From lawyers part in corporate fraud to the ethics of time based billing Parker and Evans expose the values that underlie current practice and set out the alternatives ethical lawyers might follow

The Oxford Handbook of Global Legal Pluralism Paul Schiff Berman,2020-06-01 This volume brings together leading scholars from around the world to analyze all aspects of legal pluralism offering defenses critiques and applications of legal pluralism to 21st century legal analysis Volume editor Paul Schiff Berman introduces every chapter framing the various approaches and perspectives The result is the first comprehensive review of Global Legal Pluralism scholarship ever produced

Judgments of Love in Criminal Justice Farhad Malekian,2017-03-31 This volume is a new chapter in the future history of law Its general perspective could not be more original and its critical ethical edge on the state of international law could not be timelier It explores a compassionate philosophical approach to the genuine substance of law criminal procedure international criminal law and international criminal justice It divides law into three interrelated disciplines i e legality morality and love The norm love is derived from human reason for man s advancement and the securing of natural law It is more than a mere mandatory norm Its goal is to generate a normative and positive powerful result therefore avoiding any impurity that may exist in the application of other norms because of political or juridical pressures a one eyed justice The norm love also renders justice with the principles of legal accountability transparency and the high moral authentic values of humanity The notion of justice cannot be trusted in the absence of the norm love The volume indicates the conditions of its efficiency by proving the reasons for its existence in the context of fairness objectivity and concern for all individuals and entities The concept of the norm love should be the core academic corpus for lecturing law in all faculties of law It is simply the enlightenment of the 21st century A lawyer with requisite knowledge and skill is not a lawyer if he cannot understand that the law does not need a lawyer with ethical competence in its provisions for income purposes but one with knowledge of its essence for the advanced morality of justice and the sheer essence of love for justice

Law in Politics, Politics in Law

David Feldman,2013-12-05 A great deal has been written on the relationship between politics and law Legislation as a source of law is often highly political and is the product of a process or the creation of officials often closely bound into party politics Legislation is also one of the exclusive powers of the state As such legislation is plainly both practical and inevitably political at the same time most understandings of the relationship between law and politics have been overwhelmingly theoretical In this light public law is often seen as part of the political order or as inescapably partisan We know relatively little about the real impact of law on politicians through their legal advisers and civil servants How do lawyers in government see their roles and what use do they make of law How does politics actually affect the drafting of legislation or the making of policy This volume will begin to answer these and other questions about the practical day to day relationship between law and politics in a number of settings It includes chapters by former departmental legal advisers drafters of legislation law reformers judges

and academics who focus on what actually happens when law meets politics in government The Machinery of Criminal Justice Stephanos Bibas, 2012-04-26 Two centuries ago the criminal justice system was primarily run by laymen In court victims and defendants interacted face to face while lay jurors from the community sat in judgment Jury trials passed moral judgment on crimes vindicated victims and innocent defendants denounced guilty defendants and reconciled and healed wounded relationships But over the last two centuries lawyers have taken over the process silencing victims and defendants and in many cases substituting a plea bargaining system for voice of the jury This lawyerized machinery has purchased efficient speedy processing of many cases at the price of sacrificing softer values such as reforming defendants and healing wounded victims and relationships In other words the U S legal system has bought quantity at the price of quality without recognizing either the trade off or the great gulf separating lawyers and laymen s incentives interests values and powers The Machinery of Criminal Justice explores these trends and considers how criminal justice could better accommodate lay participation values and relationships *Complexity Theory and Law* Jamie Murray, Thomas Webb, Steven Wheatley, 2018-07-17 This collection of essays explores the different ways the insights from complexity theory can be applied to law Complexity theory a variant of systems theory views law as an emergent complex self organising system comprised of an interactive network of actors and systems that operate with no overall guiding hand giving rise to complex collective behaviour in law communications and actions Addressing such issues as the unpredictability of legal systems the ability of legal systems to adapt to changes in society the importance of context and the nature of law the essays look to the implications of a complexity theory analysis for the study of public policy and administrative law international law and human rights regulatory practices in business and finance and the practice of law and legal ethics These are areas where law which craves certainty encounters unending irresolvable complexity This collection shows the many ways complexity theory thinking can reshape and clarify our understanding of the various problems relating to the theory and practice of law

Encyclopedia of Law and Society David S. Clark, 2007-07-10 Introduction to and survey of the field of law and society Includes interdisciplinary perspectives on law from sociology criminology cultural anthropology political science social psychology and economics **The Paradox of Professionalism** Scott L. Cummings, 2011-02-21 This book is about the role of lawyers in constructing a just society Its central objective is to provide a deeper understanding of the relationship between lawyers commercial aims and public aspirations Drawing on interdisciplinary and comparative perspectives it explores whether lawyers can transcend self interest to meaningfully contribute to systems of political accountability ethical advocacy and distributional fairness Its contributors some of the world s leading scholars of the legal profession offer evidence that although justice is possible it is never complete Ultimately how much and what type of justice prevails depends on how lawyers respond to and reshape the political and economic conditions in which they practise As the essays demonstrate the possibility of justice is diminished as lawyers pursue self regulation in the service of power it is enhanced when lawyers

mobilize in the political arena workplace and law school to contest it The Bodyguards of Lies Christopher Whelan, 2022-10-20 This book uses real world examples case studies and commentary from practitioners to reveal the many and varied strategies American and English lawyers use to protect truth It shows how they tackle their conflicting duties and highlights the tragic choices lawyers everywhere routinely make through their power of decision What emerges are new ways of understanding the critical role lawyers play in society and their professional responsibilities Truth is so precious it should always be protected by a bodyguard of lies Churchill said this about wartime deception plans but lawyers clients may think their truth especially an inconvenient truth is so precious it too should be protected Lawyers are bodyguards of lies when they use so called tricks of the trade not only to keep clients secrets but to construct a reality that is far from real But should they Lawyers have a divided loyalty The book presents a unique and fascinating account of what happens when lawyers duties to clients conflict with their duties to the legal system and looks in detail at the ethical codes and laws that regulate their conduct **Dispute Processing and Conflict Resolution** Carrie Menkel-Meadow, 2017-03-02 This insightful volume is essential for a clearer understanding of dispute resolution After examining the historical and intellectual foundations of dispute processing Carrie Menkel Meadow turns her attention to the future of conflict resolution

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