

# THE JUDICIAL DECISION

*Toward a Theory of  
Legal Justification*

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RICHARD A. WASSERSTROM

# The Judicial Decision Toward A Theory Of Legal Justification

**Richard A. Wasserstrom**



## **The Judicial Decision Toward A Theory Of Legal Justification:**

The Judicial Decision Richard A. Wasserstrom,1961      **The Psychology of Judicial Decision Making** David E. Klein,Gregory Mitchell,2010-02-08 Over the years psychologists have devoted uncountable hours to learning how human beings make judgments and decisions As much progress as scholars have made in explaining what judges do over the past few decades there remains a certain lack of depth to our understanding Even where scholars can make consensual and successful predictions of a judge s behavior they will often disagree sharply about exactly what happens in the judge s mind to generate the predicted result This volume of essays examines the psychological processes that underlie judicial decision making      **Moral Theory and Legal Reasoning** Scott Brewer,1998      **American Criminal Courts** Casey Welch,John Randolph Fuller,2013-04-05 American Criminal Courts Legal Process and Social Context provides a complete picture of both the theory and day to day reality of criminal courts in the United States The book begins by exploring how democratic processes affect criminal law the documents that define law the organizational structure of courts at the federal and state levels the overlapping authority of the appeals process and the effect of legal processes such as precedent jurisdiction and the underlying philosophies of various types of courts In practice criminal courts are staffed by people who represent different perspectives occupational pressures and organizational goals Thus this book includes chapters on actors in the traditional courtroom workgroup judges prosecutors and defense attorneys etc as well as those outside the court who seek to influence it including advocacy groups the media and politicians It is the interplay between the court s legal processes and the social actors in the courtroom that makes the application of criminal law fascinating By focusing on the tension between the law and the actors inside of it American Criminal Courts Legal Process and Social Context demonstrates how the courts are a product of law in action and presents content in a way that enables you to understand not only the how of the U S criminal court system but also the why Clearly explains both the principles underlying the development of criminal law and the practical reality of the court system in action A complete picture of the criminal justice continuum including prosecution defense judges juries sentencing and pre trial and appeals processes Feature boxes look at how courts are portrayed in the media identify landmark due process cases illustrate the pros and cons of the courts discretionary decision making examine procedures and the goals of justice and highlight the various types of careers available within the criminal courts      The Oxford Handbook of European Union Law Anthony Arnall,Damian Chalmers,2015 Since its formation the European Union has expanded beyond all expectations this seems set to continue as more countries seek accession and the scope of EU law expands touching more and more aspects of its citizens lives The EU has never been stronger and yet it now appears to be reaching a crisis point beset on all sides by conflict and challenges to its legitimacy Nationalist sentiment is on the rise and the Eurozone crisis has had a deep and lasting impact The European Union has the complexity and depth of a mature legal system albeit one which is constantly in flux and whose content and foundations are constantly contested Its law has

developed beyond the single market and institutional matters into many other fields including environmental fiscal labour immigration and criminal law It is studied at undergraduate and postgraduate level throughout the Member States and beyond an understanding of it is essential to those who study the EU from other disciplinary perspectives as well as to legal practitioners and policy makers The Oxford Handbook of European Union Law comprises eight sections examining how we are to conceptualise EU law the architecture of EU law making and administering EU law the economic constitution and the citizen regulation of the market place economic monetary and fiscal union the Area of Freedom Security and Justice and what lies beyond the regulatory state Each chapter summarises analyses and reflects on the state of play in a given area and suggests how it is likely to develop in the foreseeable future The resulting collection provides a vivid and provocative tapestry which will be widely used both inside and outside academia by those who are interested in the law underpinning the EU and its policies

The Theory of Rules Karl N. Llewellyn, 2011-05-01 Karl N Llewellyn was one of the founders and major figures of legal realism and his many keen insights have a central place in American law and legal understanding Key to Llewellyn's thinking was his conception of rules put forward in his numerous writings and most famously in his often mischaracterized declaration that they are pretty playthings Previously unpublished The Theory of Rules is the most cogent presentation of his profound and insightful thinking about the life of rules This book frames the development of Llewellyn's thinking and describes the difference between what rules literally prescribe and what is actually done with the gap explained by a complex array of practices conventions professional skills and idiosyncrasies most of which are devoted to achieving a law's larger purpose rather than merely following the letter of a particular rule Edited annotated and with an extensive analytic introduction by leading contemporary legal scholar Frederick Schauer this rediscovered work contains material not found elsewhere in Llewellyn's writings and will prove a valuable contribution to the existing literature on legal realism

Ratio Decidendi and Obiter Dictum Daniel Mitidiero, 2025-07-16 This book explores the concepts of ratio decidendi and obiter dictum from a historical comparative perspective It provides a comprehensive review of legal doctrine on precedent delving into English and American Law so to illustrate its applicability to the Brazilian legal system How we deal with precedents is its main topic Definitions within legal fields have always been subject to significant debate with some recurring more often than others Every now and then a perspective arises which transforms the orthodoxy As such is the case with the notion of precedent Outlining its contours establishes a continuity between disparate and temporally distinct traditions It requires theoretical philosophical speculation historical comparative sense and attention to the particularities of Brazilian Law This book includes in depth discussions of the development of the various understandings of the ratio outlines the notions of ratio decidendi and obiter dictum and illustrates its application within legal practice It suggests an understating of the ratio capable of dealing with identical similar and distinct issues in the Brazilian legal system Following an extensive debate on the characterisation of the ratio it explores the notion of obiter dictum its definition abilities and effects The target

audience of this book includes researchers scholars and practitioners especially those interested in the practice of precedent from a perspective that intertwines legal theory legal history and comparative law      *University of Chicago Law Review: Volume 80, Number 4 - Fall 2013* University of Chicago Law Review,2014-01-02 This fourth issue of 2013 features articles from internationally recognized legal scholars and extensive research in Comments authored by University of Chicago Law School students Contents of Vol 80 No 4 include ARTICLES Bankruptcy Law as a Liquidity Provider by Kenneth Ayotte David A Skeel Jr Impeaching Precedent by Charles L Barzun Copyright in Teams by Anthony J Casey Andres Sawicki Inside or Outside the System by Eric A Posner Adrian Vermeule REVIEW ESSAY Francis Lieber and the Modern Law of War by Paul Finkelman COMMENTS Having Their Cake and Eating It Too Post emancipation Child Support as a Valid Judicial Option by Lauren C Barnett Equal Opportunity Federal Employees Right to Sue on Title VII and Tort Claims by Kristin Sommers Czubkowski Using Severability Doctrine to Solve the Retroactivity Unit of Analysis Puzzle A Dodd Frank Case Study by Hannah Garden Monheit I Didn t Do It Third Party Debtors and the Securities Law Violation Exception to Discharge by Hillel Nadler Super Contacts Invoking Aiding and Abetting Jurisdiction to Hold Foreign Nonparties in Contempt of Court by Julia K Schwartz Taking Leases by Nicholas Spear Disability Claims Guidance Documents and the Problem of Nonlegislative Rules by Frederick W Watson Quality ebook editions feature active Contents linked footnotes and linked URLs in notes

*Pursuing the Text* John C. Reeves,Ben Zion Wacholder,John Kampen,1994-01-01 The themes of this volume encompass the lifelong interests of one of the most eminent and learned Jewish scholars of our time Qumran Hellenism Rabbinics and chronography The contributors leading scholars in these fields have produced what is a benchmark of modern scholarship of Judaism in the Graeco Roman period      *Jurisprudence in the Mirror* Luka Burazin,2024-08-28 There is something quite puzzling about the global conversation on jurisprudence On the one hand jurisprudence is supposed to deal with abstract questions concerning the nature structure and distinctive features of the law These questions are not tightly associated with or dependent on the particular legal practices in one jurisdiction or another But on the other hand it seems that jurisprudents are tacitly affected by their background institutional context there is an evident divide between theorizing about the law in the civil law world and in the common law world *Jurisprudence in the Mirror* The Common Law World Meets the Civil Law World systematically presents the major achievements of contemporary civil law jurisprudence to the common law world and bridges the gap in analytic jurisprudence as it is currently practiced in the two traditions The volume seeks to bring different voices to the table and overcome the cultural and linguistic divides that have created barriers in philosophical exchanges The book s structure is dialogical it includes twelve essays written by prominent and influential jurisprudents from the civil law world each followed by a response by a jurisprudent from the common law world This approach highlights what the two worlds share where they part ways and why The varied contributions reveal how their respective legal traditions shape fundamental legal concepts and jurisprudential debates and will be invaluable to readers from both the civil and common law

worlds      *The Oxford Handbook of Rationality* Alfred R. Mele, Piers Rawling, 2004-02-05 Rationality has long been a central topic in philosophy crossing standard divisions and categories The Oxford Handbook of Rationality is a reference to the current state of play in this vital and interdisciplinary area of study      **Public Policy Making Reexamined** Yehezkel Dror, 2017-09-29 Public Policymaking Reexamined is now recognized as a fundamental treatise for public policy studies Although it caused much controversy when it was first published for its systematic approach to policy studies the book is acknowledged as a modern classic of continuing importance for the teaching and research of public policy planning and policy analysis and public administration The paperback includes a new introduction updating and supplementing many of the author's original ideas Professor Dror combines the approaches of policy analysis behavioral science and systems analysis in his examination of the reality of public policymaking and his suggestions for its reform Actual policymaking is carefully evaluated with the help of explicit criteria and standards based on an optimal model approach resulting in detailed proposals for improvement He applies a scientific orientation to the study of social facts and theory      **Limits of Legality** Jeffrey Brand-Ballard, 2010-05-26 Judges sometimes hear cases in which the law as they honestly understand it requires results that they consider morally objectionable Most people assume that nevertheless judges have an ethical obligation to apply the law correctly at least in reasonably just legal systems This is the view of most lawyers legal scholars and private citizens but the arguments for it have received surprisingly little attention from philosophers Combining ethical theory with discussions of caselaw Jeffrey Brand Ballard challenges arguments for the traditional view including arguments from the fact that judges swear oaths to uphold the law and arguments from our duty to obey the law among others He then develops an alternative argument based on ways in which the rule of law promotes the good Patterns of excessive judicial lawlessness even when morally motivated can damage the rule of law Brand Ballard explores the conditions under which individual judges are morally responsible for participating in destructive patterns of lawless judging These arguments build upon recent theories of collective intentionality and presuppose an agent neutral framework rather than the agent relative framework favored by many moral philosophers Defying the conventional wisdom Brand Ballard argues that judges are not always morally obligated to apply the law correctly Although they have an obligation not to participate in patterns of excessive judicial lawlessness an individual departure from the law so as to avoid an unjust result is rarely a moral mistake if the rule of law is otherwise healthy Limits of Legality will interest philosophers legal scholars lawyers and anyone concerned with the ethics of judging      Argumentation Machines C. Reed, T.J. Norman, 2013-03-09 In the late 1990s AI witnessed an increasing use of the term argumentation within its bounds in natural language processing in user interface design in logic programming and nonmonotonic reasoning in AI's interface with the legal community and in the newly emerging field of multi agent systems It seemed to me that many of these uses of argumentation were inspired by of ten inspired guesswork and that a great majority of the AI community were unaware that there was a maturing rich field of research in

Argumentation Theory and Critical Thinking and Informal Logic that had been steadily re building a scholarly approach to the area over the previous twenty years or so Argumentation Theory on its side was developing theories and approaches that many in the field felt could have a role more widely in research and society but were for the most part unaware that AI was one of the best candidates for such application

**A Sociological Theory of Law** Niklas Luhmann, 2013-10-30 Niklas Luhmann is recognised as a major social theorist and his treatise on the sociology of law is a classic text For Luhmann law provides the framework of the state lawyers are the main human resource for the state and legal theory provides the most suitable base from which to theorize on the nature of society He explores the concept of law in the light of a general theory of social systems showing the important part law plays in resolving fundamental problems a society may face He then goes on to discuss in detail how modern positive as opposed to natural law comes to fulfil this function The work as a whole is not only a contribution to legal sociology but a major work in social theory With a revised translation and a new introduction by Martin Albrow

**A Theory of Textuality** Jorge J. E. Gracia, 1995-01-01 This book is just what it says it is A theory of textuality divided into two parts logical and epistemological

*Equitable Law of Contracts* Larry DiMatteo, 2021-10-25 This remarkable study places the modern development of equitable contract principles on a firm theoretical foundation The text shows that the idea of the just and equitable contract has never been entirely absent from contract law and that its persistence in various guises albeit often in a covert manner has in fact been the essential element in judicial enforcement of contracts since Roman times In support of his thesis Professor DiMatteo plumbs the deepest currents of common law and civil law practice in every age showing how the principles of justice formulated by Aristotle Augustine Aquinas Kant Hegel Weber and other influential thinkers have become manifest in such underlying equitable contract principles as just price unconscionability and reasonableness A classroom adoption price is available Published under the Transnational Publishers imprint

**Semiotics 1980** Michael Herzfeld, Margot D. Lenhart, 2012-12-06 This volume contains the majority of the papers presented at the Fifth Annual Meeting of the Semiotic Society of America held in Lubbock Texas October 16 19 1980 The varied styles topics methodologies and intellectual traditions represented here reflect the current state of flux in semiotics a healthy chaos in which new ideas vie for survival and experiment is at a premium Because of this variety we have kept our editorial interventions to a minimum In addition we have refrained from imposing any topical classification While we could have used the panel titles as a taxonomic principle this would not have produced a sufficiently even format We have therefore utilized the alphabetical order of authors surnames as being ostensibly the least loaded These Proceedings represent a current view of the semiotic scene especially in the U S A They also include some work representative of architectural semiotics from the U K We have tried to bring the volume to publication rapidly since the immediacy of the contents would seem to be the primary asset of any such project We would like to express the Society's collective gratitude to the 1980 Program Committee chaired by Richard Bauman University of Texas Austin the Lubbock Local Arrangements

Committee chaired by Nancy P Hickerson Texas Tech University and our special thanks to Laurel Phipps of the School of Continuing Education at Texas Tech University      **Environmental Law from the Policy Perspective** Chad J.

McGuire,2014-03-17 Most books on environment law focus on the law first and then look at how environmental problems are dealt with in relation to the law Taking a fresh approach Environmental Law from the Policy Perspective Understanding How Legal Frameworks Influence Environmental Problem Solving examines environmental problems first followed by an examination      *The Philosophy of Law* Christopher Berry Grey,2013-07-04 From articles centering on the detailed and doctrinal exposition of the law to those which reside almost wholly within the realm of philosophical ethics this volume affords comprehensive treatment to both sides of the philosophico legal equation Systematic and sustained coverage of the many dimensions of legal thought gives ample expression to the true breadth and depth of the philosophy of law with coverage of The modes of knowing and the kinds of normativity used in the law Studies in international constitutional criminal administrative persons and property contracts and tort law including their historical origins and worldwide ramifications Current legal cultures such as common law and civilian European and Aboriginal Influential jurisprudents and their biographies All influential schools and methods



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