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Social Order and the Limits of Law

A THEORETICAL ESSAY



Social Order The Limits Of Law A Theor

Hans Kelsen



Social Order The Limits Of Law A Theor:

Social Order and the Limits of Law Iredell Jenkins, 2014-07-14 Professor Jenkins develops a systematic theory of the origins the ends and the functions of law He then applies this theory to the problems that law encounters and the conditions that it must satisfy if it is to be an effective force in society Originally published in 1980 The Princeton Legacy Library uses the latest print on demand technology to again make available previously out of print books from the distinguished backlist of Princeton University Press These editions preserve the original texts of these important books while presenting them in durable paperback and hardcover editions The goal of the Princeton Legacy Library is to vastly increase access to the rich scholarly heritage found in the thousands of books published by Princeton University Press since its founding in 1905

Law and Democracy in Neil MacCormick's Legal and Political Theory Agustín José Menéndez, John Erik Fossum, 2011-03-29 This volume offers a collection of articles by leading legal and political theorists Originally intended as a celebration of MacCormick's work on the occasion of the completion of the four volume series on Law State and Practical Reason it has turned into a homage and salute after MacCormick's passing Cast in MacCormick's reflexive spirit the book presents a critical reconstruction of the Scottish philosopher's work with the aim of revealing the connections between law and democracy in his writings and furthering his insights in each specific field Neil MacCormick made outstanding contributions to the understanding of law and democracy under conditions of pluralism His institutional theory of law has elucidated the close connection between the normative character of law as a means of social integration and legal social practices This has produced a synthesis of the key insights of the legal and political theories of Kelsen Hart Alexy and Dworkin and has broken new ground by undermining the monolithic and nation state centered character of standard legal theories

Women's Health and the Limits of Law Irehobhude O. Iyioha, 2019-12-10 Despite some significant advances in the creation and protection of rights affecting women's health these do not always translate into actual health benefits for women This collection asks What is an effective law and what influences law's effectiveness or ineffectiveness What dynamics elements and conditions come together to limit law's capacity to achieve instrumental goals for women's health and the advancement of women's health rights The book presents an integrated co referential and sustained critical discussion of the normative and constitutive reasons for law's limited effectiveness in the field of women's health It offers comprehensive and cohesive explanatory accounts of law's limits and for the first time in the field introduces a distinction between formal and substantive effectiveness of laws Its approach is trans systemic multi jurisdictional and comparative with a focus on six countries in North America Europe Asia and Africa and international human rights case law based on matters arising from Hungary Portugal Spain Slovakia the Czech Republic Peru and Bolivia The book will be a valuable resource for educators students lawyers rights advocates and policymakers working in women's health socio legal studies human rights feminist legal studies and legal philosophy more broadly

Bentham and the Common Law Tradition Gerald J.

Postema,2019-12-19 This work explores the relationship between Bentham's utilitarian practical philosophy and his positivist jurisprudence. These theories appear to be in tension because his utilitarian commitment to the sovereignty of utility as a practical decision principle seems inconsistent with his positivist insistence on the sovereignty of the will of the lawmaker. Two themes emerge from the attempt in this work to reconcile these two core elements of Bentham's practical thought. First, Bentham's conception of law does not fit the conventional model of legal positivism. Bentham was not just a utilitarian and a positivist; he was a positivist by virtue of his commitment to a utilitarian understanding of the fundamental task of law. Moreover, his emphasis on the necessary publicity and the systemic character of law led him to insist on an essential role for utilitarian reasons in the regular public functioning of law. Second, Bentham's radical critique of common law theory and practice convinced him of the necessity to reconcile the need for certainty of law with an equally great need for its flexibility. He eventually developed a constitutional framework for adjudication in the shadow of codified law that accorded to judges discretion to decide particular cases according to their best judgment of the balance of utilities, guaranteeing the accountability and appropriate motivation of judicial decision making through institutional incentives. The original text of this work, first published in 1986, remains largely unchanged, but an afterword reconsiders and revises some themes in response to criticism.

General Theory of Law and State Hans Kelsen,2017-07-05 Widely regarded as the most important legal theorist of the twentieth century, Hans Kelsen is best known for his formulation of the pure theory of law, within which the study of international law was his special field of work. The present volume, *General Theory of Law and State*, first published in 1945, allowed Kelsen to adjust his pure theory of law to American circumstances after World War II. It also afforded him the opportunity to present to English-speaking readers his latest ideas on the supremacy of international law. The volume is divided into two parts: the first devoted to law, the second to the state. Together, these topics constitute the most systematic and comprehensive exposition of Kelsen's jurisprudence. The volume is not only a compendium of Kelsen's lifework up to that time; it is also an extension of his theories to embrace the problems and institutions of English and American law, as well as those of the civil law countries. Indeed, references to continental European law are minimal compared with examples scattered throughout the text taken from the U.S. Constitution and several American court cases. This is more than a concession to American readers; it signifies that Kelsen's legal theory is truly general in that it accounts for the common law as well as the civil law. A systematic treatise on jurisprudence, *General Theory of Law and State* is a substantial reformulation of Kelsen's ideas articulated in several of his previous books written in German. The juridical principles put forth by the most important legal theorist of the twentieth century remain of great value. This volume will be read by legal scholars, political scientists, and intellectual historians.

General Theory of Law Nikolaï Mikhaïlovich Korkunov,1909

Law's Community Roger Cotterrell,1995 *Law's Community* offers a distinctive analysis of law, identifying political and moral problems that are fundamental to contemporary legal theory. It portrays contemporary law as institutionalized doctrine.

emphasizing ways in which legal modes of thought influence wider currents of understanding and belief in contemporary Western societies Exploring relationships between law and sociology as contrasting and competing fields of knowledge Law s Community develops ideas from social theory to identify key problems for legal development in particular those of restoring moral authority to law and of elaborating a concept of community that can guide legal regulation The analysis leads to radical conclusions among them that law s functions need reconsideration at the most general level that a unitary state legal system as portrayed in traditional kinds of legal theory may no longer be adequate in complex contemporary societies and that law should be reconceptualized as a diverse but co ordinated plurality of systems sites and forms of regulation

Theory of Societal Constitutionalism David Sciulli,1992 The author argues that the existing conceptual frameworks of political and social theory restrict both theorists and empirical researchers to a narrow definition of authoritarianism that focuses on governmental structure and fails to take account of forms of social control exercised outside the governmental sphere Rather than define authoritarianism primarily by contrast to liberal democracy Sciulli argues we need to broaden our conception of authoritarianism to include social authoritarianism referring to social control imposed by private organizations and institutions such as business corporations and professional associations In this book Sciulli develops an alternative conceptual framework which he calls the theory of societal constitutionalism and he explains how the theory can be used to assess whether social order in a society whether democratic or authoritarian in political rule is characterized by some degree of social authoritarianism The book will be important reading for theorists in sociology political science and legal studies

Research Handbook on Law and Utilitarianism Guillaume Tusseau,2024-10-03 The Research Handbook on Law and Utilitarianism sheds light on contemporary legal culture and the ways in which it interacts with theories of justice Guillaume Tusseau brings together an interdisciplinary range of scholars to analyse the utilitarian standpoint on legal disciplines and legal governance as well as the contribution of utilitarian arguments to current legal debates

Law in Theory and History Maksymilian Del Mar,Michael Lobban,2016-11-17 This collection of original essays brings together leading legal historians and theorists to explore the oft neglected but important relationship between these two disciplines Legal historians have often been sceptical of theory The methodology which informs their own work is often said to be an empirical one of gathering information from the archives and presenting it in a narrative form The narrative produced by history is often said to be provisional insofar as further research in the archives might falsify present understandings and demand revisions On the other side legal theorists are often dismissive of historical works History itself seems to many theorists not to offer any jurisprudential insights of use for their projects at best history is a repository of data and examples which may be drawn on by the theorist for her own purposes The aim of this collection is to invite participants from both sides to ask what lessons legal history can bring to legal theory and what legal theory can bring to history What is the theorist to do with the empirical data generated by archival research What theories should drive the historical enterprise and what wider lessons can be

learned from it This collection brings together a number of major theorists and legal historians to debate these ideas

"The" Political Theory of the Schoolmen and Grotius John Martin Littlejohn, 1895 Vienna Lectures on Legal Philosophy, Volume 2 Christoph Bezemek, Michael Potacs, Alexander Somek, 2020-07-23 This second volume of the Vienna Lectures on Legal Philosophy series presents 11 chapters which are dedicated to normativist and anti normativist approaches to law The book focuses on the question What is law Is it a set of obligations imposed on courts and officials to guide their conduct and to assess the conduct of others Or is it the result of settlements reached by opposing sides that accept arrangements and understandings to sustain peaceful cooperation If law is the former its significance and meaning are independent of a shifting constellation of forces if it is not then what the law says depends on the relative power and prestige of the actors involved With contributions from some of the leading scholars in the field the collection presents a balanced and nuanced assessment of what is perhaps the most controversial debate in contemporary legal philosophy today **The Methodology of Constitutional Theory** Dimitrios Kyritsis, Stuart Lakin, 2022-02-24 What sort of methods are best suited to understanding constitutional doctrines and practices Should we look to lawyers and legal methods alone or should we draw upon other disciplines such as history sociology political theory and moral philosophy Should we study constitutions in isolation or in a comparative context To what extent must constitutional methods be sensitive to empirical data about the functioning of legal practice Can ideal theory aid our understanding of real constitutions This volume brings together constitutional experts from around the world to address these types of questions through topical events and challenges such as Brexit administrative law reforms and the increasing polarisations in law politics and constitutional scholarship Importantly it investigates the ways in which we can ensure that constitutional scholars do not talk past each other despite their persistent and often fierce disagreements In so doing it aims systematically to re examine the methodology of constitutional theory Research Handbook on Law and Marxism O'Connell, Paul, Özsu, Umut, 2021-12-14 This Research Handbook offers unparalleled insights into the large scale resurgence of interest in Marx and Marxism in recent years with contributions devoted specifically to Marxist critiques of law rights and the state How Might We Live? Global Ethics in the New Century Ken Booth, Timothy Dunne, Michael Cox, 2001-10-18 This volume looks outward to the new century and to the dynamics of this first truly global age It asks the fundamental question how might human societies live The contributors believe that there is nothing more political than ethics By exploring in the newest context some of the oldest questions about duties and obligations within and beyond humanly constructed boundaries the essays help us ponder the most profound question in world politics today who will the twenty first century be for **Pure Theory of Law** Hans Kelsen, 2005 Reprint of the second revised and enlarged edition a complete revision of the first edition published in 1934 A landmark in the development of modern jurisprudence the pure theory of law defines law as a system of coercive norms created by the state that rests on the validity of a generally accepted Grundnorm or basic norm such as the supremacy of the Constitution

Entirely self supporting it rejects any concept derived from metaphysics politics ethics sociology or the natural sciences Beginning with the medieval reception of Roman law traditional jurisprudence has maintained a dual system of subjective law the rights of a person and objective law the system of norms Throughout history this dualism has been a useful tool for putting the law in the service of politics especially by rulers or dominant political parties The pure theory of law destroys this dualism by replacing it with a unitary system of objective positive law that is insulated from political manipulation Possibly the most influential jurist of the twentieth century Hans Kelsen 1881 1973 was legal adviser to Austria's last emperor and its first republican government the founder and permanent advisor of the Supreme Constitutional Court of Austria and the author of Austria's Constitution which was enacted in 1920 abolished during the Anschluss and restored in 1945 The author of more than forty books on law and legal philosophy he is best known for this work and General Theory of Law and State Also active as a teacher in Europe and the United States he was Dean of the Law Faculty of the University of Vienna and taught at the universities of Cologne and Prague the Institute of International Studies in Geneva Harvard Wellesley the University of California at Berkeley and the Naval War College Also available in cloth [The Foundations of Tort Law in the Civilian Tradition](#) Enrique Barros, 2025-08-21 The leading Spanish language treatise on the law on torts has now been translated into English making it accessible to jurists scholars and practitioners throughout the world It addresses the central analytical questions in modern tort theory by reference to first principles explaining how doctrinal tension has resulted from the law's evolution The book also offers a theoretical framework for understanding and analysing the doctrines behind the main tort rules found in different jurisdictions including their interrelationship and historical development Steeped in Chilean legal doctrine and case law on torts it also considers authorities from Britain Germany the USA France and Spain This is a magisterial and important work

Law, Economics and Evolutionary Theory Peer Zumbansen, Galf-Peter Calliess, 2011-01-01 Evolutionary theory belongs to the rare species of theories that are simultaneously fundamental and over arching implicating as it does numerous life contexts as well as an array of scholarly disciplines Armed with a profound grasp of evolutionary theory and its implications to social research Professors Zumbansen and Calliess have mobilized an appropriately diverse and truly stellar group of academics to investigate how this theory may provide new insights about law economics and their inter relations Cast against an especially broad intellectual backdrop set by the editors this volume is sure to become a standard reference in literature Amir N Licht Radzyner School of Law Israel Zumbansen and Calliess have done a wonderful job in assembling papers from the leading scholars in the field who draw on evolutionary approaches for explaining developments in both economics and the law Anybody interested in issues of institutional change will be inspired by the wealth of ideas and the diversity of perspectives Stefan Voigt University of Hamburg Germany Law and economics has arguably become one of the most influential theories in contemporary legal theory and adjudication The essays in this volume authored by both legal scholars and economists constitute lively and

critical engagements between law and economics and new institutional economics from the perspectives of legal and evolutionary theory The result is a fresh look at core concepts in law and economics such as institutions institutional change and market failure that offer new perspectives on the relationship between economic and legal governance The increasingly transnational dimension of regulatory governance presents lawyers economists and social scientists with an unprecedented number of complex analytical and conceptual questions The contributions to this volume engage with legal theory new institutional economics economic sociology and evolutionary economics in an interdisciplinary assessment of the capacities and limits of the state markets and institutions Drawing as well upon legal sociology and the philosophy of law the authors expand and transform the known terrain of law and economics by applying evolutionary theory to both law and economics from a domestic and transnational perspective Legal scholars evolutionary and regulatory theorists economists economic sociologists economic historians and political scientists will find this cutting edge volume both challenging and engaging

Critical Rationalism and the Theory of Society Masoud Mohammadi Alamuti, 2021-03-12 Investigating Karl Popper's philosophy of critical rationalism Critical Rationalism and the Theory of Society Volume 1 explores a non justificationist conception of critical reason and its fundamental outcomes for the theory of society Through a set of fundamental contributions to epistemology the theory of rationality and sociology this volume situates the idea of critical rationalism in its true epistemological context b uses non justificationist epistemology to reinvent critical rationalism and c applies its revised concept of rationality to show how people's access to critical reason enables them to agree on the common values and social institutions necessary for a peaceful and just social order These contributions lead the reader to a new epistemological understanding of the idea of critical rationalism and recognition of how a non justificational concept of reason changes the content of the theory of society The reader also learns how thinkers movements and masses apply their critical reason to replace an established social order with an ideal one through activating five types of driving forces of social change metaphysical moral legal political and economic Written for philosophers and sociologists this book will appeal to social scientists such as moral philosophers legal scholars political scientists and economists *New Private Law Theory* Stefan Grundmann, Hans-W. Micklitz, Moritz Renner, 2021-03-18 New Private Law Theory opens a new pathway to private law theory through a pluralistic approach Such a theory needs a broad and stable foundation which the authors have built here through a canon of nearly seventy texts of reference This book brings these different texts from different disciplines into conversation with each other grouping them around central questions of private law and at the same time integrating them with the legal doctrinal analysis of example cases This book will be accessible to both experienced and early career scholars working on private law

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