



THE LEGAL THEORY
OF ETHICAL POSITIVISM

TOM D. CAMPBELL

The Legal Theory Of Ethical Positivism Applied Legal Philosophy S

Noam Gur



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The Legal Theory of Ethical Positivism Tom D. Campbell, 2016-12-05 The Legal Theory of Ethical Positivism re establishes some of the dogmas of classical legal positivism regarding the separation of legislation and adjudication and the feasibility of institutionalizing the morally neutral application of rules as an ideal capable of significant realization This is supplemented by an analysis of the formal similarities of the morally and legally adjudicative points of view which offers the prospects of attributing a degree of moral authority to positivistic rule application in particular cases These theories are worked through in their application to specific problem areas particularly freedom of communication

The Legal Theory of Ethical Positivism Tom Campbell, 1996 Introduction Defamation Criteria Fact or Value The Elusive Distinction between Fact and Opinion Defamation and Freedom of Expression Conclusion 10 Conclusion A Unifying Prescription Introduction Socialist Positivism Critical Legal Positivism Feminist Positivism Alternative Dispute Resolution Conclusion Bibliography Index

The Legal Theory of Ethical Positivism Tom Campbell, 1996 *Legal Reasoning, Legal Theory and Rights* Martin P. Golding, 2017-07-05 This book is a selection of articles and chapters published over Martin Golding's academic career Golding's approach to the philosophy of law is that it contains conceptual and normative issues and in this volume logical issues in legal reasoning are examined and various theories of law are critically discussed Normative questions are dealt with regarding the rule of law and criminal law defenses and the concept of rights and the terminology of rights are analyzed Much of Golding's work is critical historical as well as constructive This volume will prove an informative and useful collection for scholars and students of the philosophy of law

More Essays in Legal Philosophy Robert S. Summers, 1971-01-01

The Legacy of John Austin's Jurisprudence Michael Freeman, Patricia Mindus, 2012-09-12 This is the first ever collected volume on John Austin whose role in the founding of analytical jurisprudence is unquestionable After 150 years time has come to assess his legacy The book fills a void in existing literature by letting top scholars with diverse outlooks flesh out and discuss Austin's legacy today A nuanced vibrant and richly diverse picture of both his legal and ethical theories emerges making a case for a renewal of interest in his work The book applies multiple perspectives reflecting Austin's various interests stretching from moral theory to theory of law and state from Roman Law to Constitutional Law and it offers a comparative outlook on Austin and his legacy in the light of the contemporary debate and major movements within legal theory It sheds new light on some central issues of practical reasoning the relation between law and morals the nature of legal systems the function of effectiveness the value free character of legal theory the connection between normative and factual inquiries in the law the role of power the character of obedience and the notion of duty

Legal and Ethical Issues in Nursing Education Mary Ellen Smith Glasgow, H. Michael Dreher, Michael D. Dahnke, John Gyllenhammer, 2020-09-20 Understand the legal framework that provides the structure of Nursing This is the only current text to critically examine the vast array of legal and ethical matters confronting nursing faculty in classroom and clinical settings Designed to assist

students preparing to be nurse educators academic nursing administrators and novice and seasoned faculty in making real life decisions about academic issues within a legal and ethical framework Replete with practical advice from experts in the fields of nursing law and ethics this text guides the reader through legal and ethical principles analyses of relevant case based scenarios and practical recommendations for handling problems in accordance with existing laws and institutional policy Clearly and concisely written and organized this text provides a comprehensive description of the legal process including higher education law the courts case law the role of a university attorney and how to read and cite judicial decisions Real world case scenarios and detailed analyses of pertinent issues including coverage of incivility discrimination harassment academic dishonesty and freedom of speech are examined from the perspective of students faculty and administrators Key Features Written by a nursing dean a former nursing dean an ethicist and a higher education attorney An entire section of legal and ethical cases featuring a unique philosophical and ethical perspective Delivers best practices for nursing faculty Provides tips on when to consult the university attorney critical elements to consider actions to take when law and ethics conflict helpful resources and a glossary of legal terms An Instructor s Manual and discussion questions facilitate teaching

Italian Philosophy of Technology Simona Chiodo, Viola Schiaffonati, 2020-12-20 This is the first volume about the Italian philosophy of technology written in English and including novel and translated contributions The volume presents original research on emerging topics in the field as well as an overview of the most distinguished Italian approaches to the philosophy of technology While offering both historical and political perspectives and the contributions of the philosophy of law philosophy of science and aesthetics Italian Philosophy of Technology promotes a novel view on the intersection between continental and analytic traditions in the philosophy of technology

Human Rights with Modesty: The Problem of Universalism András Sajó, 2013-12-11 This volume considers the problem of legal universals at the level of the rule of law and human rights which have fundamentally different pedigrees and attempts to come to terms with the new unease arising from the universal application of human rights Given the juridicization of human rights rule of law and human rights expectations have become significantly intertwined human rights are enforced with the instruments of the rule of law and are thus limited by the restricted reach thereof The first section of this volume considers the difficulties of universalistic claims and offers a number of possible solutions for adapting universal expectations to specific contexts The second section considers problems of human rights politics sections three and four present empirical studies about the appearance and disappearance of the rule of law and fundamental rights in Western and non Western societies Special attention is paid to the problems of developing countries with a specific focus on past and present developments in Iran These empirical studies indicate that the acceptance of human rights and the rule of law is historically contingent and cannot simply be considered as a matter of culture

New Essays on the Normativity of Law Stefano Bertea, George Pavlakos, 2011-08-10 An important part of the legal domain has to do with rule governed conduct and is expressed by the use of notions such as norm obligation duty and right

These require us to acknowledge the normative dimension of law Normativity is accordingly to be regarded as a central feature of law lying at the heart of any comprehensive legal theoretical project The essays collected in this book are meant to further our understanding of the normativity of law More specifically the book stages a thorough discussion of legal normativity as approached from three strands of legal thought that are particularly influential and which play a key role in shaping debates on the normative dimension of law the theory of planning agency legal conventionalism and the constitutivist approach While the essays presented here do not aspire to give an exhaustive picture of these debates an aspiration that would be by its very nature unrealistic they do provide the reader with some authoritative statements of some widely discussed families of views of legal normativity In pursuing this objective these essays also encourage a dialogue between different traditions of study of legal normativity stimulating those who would not otherwise look outside their tradition of thought to engage with new ideas and ultimately to arrive at a more comprehensive account of the normativity of law

American Book Publishing Record ,2003 *Human Dignity and the Foundations of International Law* Patrick Capps,2009-06-11 International lawyers have often been interested in the link between their discipline and the foundational issues of jurisprudential method but little that is systematic has been written on this subject In this book an attempt is made to fill this gap by focusing on issues of concept formation in legal science in general with a view to their application to the specific concerns of international law In responding to these issues the author argues that public international law seeks to establish and institutionalise a system of authoritative judgment whereby the conditions by which a community of states can co exist and co operate are ensured A state in turn must be understood as ultimately deriving legitimacy from the pursuit of the human dignity of the community it governs as well as the dignity of those human beings and states affected by its actions in international relations This argument is in line with a long and now resurgent Kantian tradition in legal and political philosophy The book shows how this approach is reflected in accepted paradigm cases of international law such as the United Nations Charter It then explains how this approach can provide insights into the theoretical foundations of these accepted paradigms including our understanding of the sources of international law international legal personality and the design of global institutions

Selected Acquisitions of the Library Indiana University, Bloomington. Law Library,1996 Law and Administration Carol Harlow,Richard Rawlings,2009-08-20 A contextualised study setting out the foundations of administrative law with discussion of case law and legislation to show practical application

Pilgrims in Medicine: Conscience, Legalism and Human Rights Thomas Faunce,2005-02-01 This arrestingly novel work develops a normative synthesis of medical humanities virtue ethics medical ethics health law and human rights It presents an ambitious complex and coherent argument for the reconceptualisation of the doctor patient relationship and its regulation utilising approaches often thought of as being separate if not opposed virtue based ethics and universal human rights The case is argued gracefully with moderation but also with respect for opposing positions The book s analysis of the foundational professional

virtue of therapeutic loyalty is an original departure from the traditional discourse of patient autonomy and the ethical and legal duties of the medical practitioner The central argument is not merely presented as bookends in the introduction and conclusion It is cogently represented in each chapter and section and measured against the material considered A remarkable feature is the use of aptly selected canonical literature to inform the argument These references run from Hesse's *The Glass Bead Game* in the abstract to Joyce's *Ulysses* in the conclusion They include excerpts from and discussion about Bergman Borges Boswell Tolstoy de Beauvoir Chekhov Dostoevsky Samuel Johnson Aristotle Orwell Osler Chaucer Schweitzer Shakespeare Thorwalds Kafka and William Carlos Williams Such references are used not merely as an artistic and decorative leitmotif but become a critical narrative element and another complex and rich layer to this work The breadth and quality of the references are testimony to the author's clear understanding of the modern law and literature movement This work provides the basis of a medical school course As many medical educators as possible should also be encouraged to read this work for the insights it will give them into using their own personal life narratives and those of their patients to inform their decision making process This thesis will also be of value to the judiciary whose members are often called upon to make normatively difficult judgments about medical care and medical rules The human rights material leads to a hopeful view of an international movement toward a universal synthesis between medical ethics and human rights in all doctor patient relationships

Legal Directives and Practical Reasons Noam Gur, 2018-11-15 This book investigates law's interaction with practical reasons What difference can legal requirements e.g. traffic rules tax laws or work safety regulations make to normative reasons relevant to our action Do they give reasons for action that should be weighed among all other reasons Or can they instead exclude and take the place of some other reasons The book critically examines some of the existing answers and puts forward an alternative understanding of law's interaction with practical reasons At the outset two competing positions are pitted against each other Joseph Raz's view that legitimate legal authorities have pre-emptive force namely that they give reasons for action that exclude some other reasons and an antithesis according to which law making institutions even those that meet prerequisites of legitimacy can at most provide us with reasons that compete in weight with opposing reasons for action These two positions are examined from several perspectives such as justified disobedience cases law's conduct guiding function in contexts of bounded rationality and the phenomenology associated with authority It is found that although each of the above positions offers insight into the conundrum at hand both suffer from significant flaws These observations form the basis on which an alternative position is put forward and defended According to this position the existence of a reasonably just and well functioning legal system constitutes a reason that fits neither into a model of ordinary reasons for action nor into a pre-emptive paradigm it constitutes a reason to adopt an overridable disposition that inclines its possessor towards compliance with the system's requirements Runner up for the Peter Birks Book Prize for Outstanding Legal Scholarship 2019

Hart, Fuller, and Everything After Allan C Hutchinson, 2023-02-23 More has been said about

the Hart Fuller debate than can be considered healthy or productive even within the precious world of jurisprudential scholarship too much philosophising about how law has revelled in its own abstractness and narrowness But the mission of this book is distinctly and determinedly different it is not to rework these already rehashed ideas but to reject them entirely Rather than add to the massive jurisprudential literature that has been generated by all and sundry the book criticises and abandons the project that Hart and Fuller set in motion It contends that the turn that was taken in 1957 has led down a series of cul de sacs blind alleys and dead ends to nowhere useful or illuminating It is more than past time to leave their debate behind and strike out in an entirely new and more promising direction The book insists that not only law but also all theorising about law is political in all its derivations dimensions and directions

The Foundations of Australian Public

Law Anthony J. Connolly, 2017-05-10 Introduction what is Australian public law Constitution I the history of the Australian state Constitution II the structure of the Australian state Legitimation justifying state power Legislation making valid law Administration governing lawfully Adjudication determining and applying law Validation reviewing state action Protection human rights and Australian public law Direction future trends in Australian public law

Human Rights and the Moral Responsibilities of Corporate and Public Sector Organisations Tom Campbell, Seumas Miller, 2004-07-27

All students and advocates of human rights will be interested in this concerted exploration of the human rights moral obligations that fall not directly on states but on private and public organisations Such an approach to human rights opens up the possibility of holding corporations and bureaucracies to account for human rights violations even when they have acted in accordance with the law This interdisciplinary and international project brings together eminent philosophers lawyers social scientists and practitioners to articulate theoretically and develop in practical contexts the moral implications of human rights for non state actors What emerges from the book as a whole is a distinctive contemporary vision of the emerging moral impact of human rights and its significance for organisational behaviour and performance

Whitaker's Books in Print, 1998

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