

IRENE JENKINS

Social Order and the Limits of Law

A Theoretical Essay



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Social Order The Limits Of Law A Theor

Gerald J. Postema



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

The World Bank Legal Review, Volume 2: Law, Equity and Development The World Bank, 2006-12-31 The World Bank Legal Review is a publication for policy makers and their advisers attorneys and other professionals engaged in the field of international development It offers a combination of legal scholarship lessons from experience legal developments and recent research on the many ways in which the application of the law and the improvement of justice systems promote poverty reduction economic development and the rule of law In keeping with the theme of the World Development Report 2006 Equity and Development and following the success of the World Bank Group's Legal Forum on Law Equity and Development in December 2005 volume 2 of The World Bank Legal Review focuses on issues of equity and development The volume draws together some of the key ideas of the Legal Forum including articles by many of its distinguished participants and explores the role of equity in the development process highlighting how legal and regulatory frameworks and equitable justice systems can do much to level the playing field in the political economic and sociocultural domains as well as how they can reinforce existing inequalities Consistent with the interdisciplinary nature of this endeavour Law Equity and Development contains work by academics and practitioners in law criminal justice economics human rights social development cultural studies and anthropology

Making the Modern Criminal Law Lindsay Farmer, 2016-01-21 The Criminalization series arose from an interdisciplinary investigation into criminalization focussing on the principles that might guide decisions about what kinds of conduct should be criminalized and the forms that criminalization should take Developing a normative theory of criminalization the series tackles the key questions at the heart of the issue what principles and goals should guide legislators in deciding what to criminalize How should criminal wrongs be classified and differentiated How should law enforcement officials apply the law's specifications of offences This the fifth book in the series offers a historical and conceptual account of the development of the modern criminal law in England and as it has spread to common law jurisdictions around the world The book offers a historical perspective on the development of theories of criminalization It shows how the emergence of theories of criminalization is inextricably linked to modern understandings of the criminal law as a conceptually distinct body of rules and how this in turn has been shaped by the changing functions of

criminal law as an instrument of government in the modern state The book is structured in two main parts The first traces the development of the modern law as a distinct and conceptually distinct body of rules looking in particular at ideas of jurisdiction codification and responsibility The second part then engages in detailed analysis of specific areas of criminal law focusing on patterns of criminalization in relation to property the person and sexual conduct 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 **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 *Exploring the Boundaries of Law* Ana Margarida Gaudêncio, 2025-03-26 This book presents a pluri-dimensional approach to today's most relevant perspectives on

the boundaries of Law both in terms of its creation and performance in order to discuss its current meaning and role as a normative order To do so it presents a broad range of standpoints concerning philosophical theoretical juridical political dogmatic and methodological issues and proposes new bases for the construction and effectiveness of legal statements and decisions from those issued by juridical political organisations to those taken by judges In addition it sheds new light on discussions concerning the juridical and political role of Law in connection with public policy and democracy related issues especially contemporary debates between International Law and Human Rights Law on the one hand and between Public Law and Private Law on the other

Consequences William A. Bogart, 2002-01-01 A timely and erudite investigation of the impact of law on societies and how this excessive reliance on law particularly litigation has generated difficulties in achieving consensus regarding issues of domestic policy

Law Unlimited Margaret Davies, 2017-01-20 This book engages with a traditional yet persistent question of legal theory what is law However instead of attempting to define and limit law the aim of the book is to unlimit law to take the idea of law beyond its conventionally accepted boundaries into the material and plural domains of an interconnected human and nonhuman world Against the backdrop of analytical jurisprudence the book draws theoretical connections and continuities between different experiences spheres and modalities of law Taking up the many forms of critical and socio legal thought it presents a broad challenge to legal essentialism and abstraction as well as an important contribution to more general normative theory Reading crystallising and extending themes that have emerged in legal thought over the past century this book is the culmination of the author's 25 years of engagement with legal theory Its bold attempt to forge a thoroughly contemporary approach to law will be of enormous value to those with interests in legal and socio legal theory

Authority without Power John Owen Haley, 1994-12-01 This book offers a comprehensive interpretive study of the role of law in contemporary Japan Haley argues that the weakness of legal controls throughout Japanese history has assured the development and strength of informal community controls based on custom and consensus to maintain order an order characterized by remarkable stability with an equally significant degree of autonomy for individuals communities and businesses Haley concludes by showing how Japan's weak legal system has reinforced preexisting patterns of extralegal social control thus explaining many of the fundamental paradoxes of political and social life in contemporary Japan

The Jewish Law Annual Volume 19 Berachyahu Lifshitz, Hanina Ben-Menahem, 2013-07-04 Volume 19 of The Jewish Law Annual is a festschrift in honor of Professor Neil S Hecht It contains thirteen articles ten in English and three in Hebrew Several articles are jurisprudential in nature focusing on analysis of halakhic institutions and concepts Elisha Ancselovits discusses the concept of the *prosbol* asking whether it is correct to construe it as a legal fiction as several scholars have asserted He takes issue with this characterization of the *prosbol* and with other scholarly readings of Tannaitic law in general The concepts of dignity and shame are addressed in two very different articles one by Nahum Rakover and the other by Hanina Ben Menahem The former discusses halakhic sources pertaining to the dignity inherent in

human existence and the importance of nurturing it. The latter presents a fascinating survey of actual legal practices that contravened this halakhic norm. Attestations of these practices are adduced not only from halakhic and semi halakhic documents but also from literary historical and ethnographic sources. Three articles tackle topical issues of considerable contemporary interest. Bernard S. Jackson comments on legal issues relating to the concept of conversion arising from the story of the biblical heroine Ruth and compares that concept to the notion of conversion invoked by a recent English court decision on eligibility for admission to denominational schools. An article by Dov I. Frimer explores the much agonized over question of halakhic remedies for the wife whose husband refuses to grant her a get bill of divorce precluding her remarriage. Frimer's focus is the feasibility of inducing the husband to grant the get through monetary pressure specifically by awarding the chained wife compensatory tort damages. Tort remedies are also discussed in the third topical article by Ronnie Warburg on negligent misrepresentation by investment advisors. Two papers focus on theory of law. Shai Wozner explores the decision rules conduct rules dichotomy in the Jewish law context clarifying how analysis of which category a given law falls under enhances our understanding of the law's intent. Daniel Sinclair explores the doctrine of normative transparency in the writings of Maimonides, the Hatam Sofer and R. Abraham Isaac Kook demonstrating that although transparency was universally endorsed as an ideal some rabbinical authorities were willing to forego transparency where maintenance of the halakhic system itself was imperiled. An article by Alfredo M. Rabello reviews the primary and secondary literature on end of life issues and contextualizes the much discussed talmudic passage bAvoda Zara 18a. And an article by Chaim Saiman offers a critical survey of the main approaches to conceptualizing and teaching Jewish law in American universities; it also makes suggestions for new and perhaps more illuminating pedagogic direction. In the Hebrew section an intriguing article by Berachyahu Lifshitz presents a comparison of Persian and talmudic law on the status of promises and the role of the divine in their enforcement. Yuval Sinai discusses the halakhic law of evidence particularly the well known two witnesses requirement and departures from it. The volume closes with a historical article by Elimelech Westreich on the official rabbinical court in nineteenth century Jerusalem. It focuses on the rabbinical figures who served on the court, the communities for whom it adjudicated and its role in the broader geopolitical and sociocultural context.

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. *Reason Papers*, 1981. **The Law of Good People** Yuval Feldman, 2018-06-07. Currently the dominant enforcement paradigm is based on the idea that states deal with bad people or those pursuing their own self interests with laws that exact a price for misbehavior through sanctions and punishment. At the same time, by contrast, behavioral ethics posits that good people are guided by cognitive processes and

biases that enable them to bend the laws within the confines of their conscience In this illuminating book Yuval Feldman analyzes these paradigms and provides a broad theoretical and empirical comparison of traditional and non traditional enforcement mechanisms to advance our understanding of how states can better deal with misdeeds committed by normative citizens blinded by cognitive biases regarding their own ethicality By bridging the gap between new findings of behavioral ethics and traditional methods used to modify behavior Feldman proposes a law of good people that should be read by scholars and policymakers around the world

General Theory of Law and State Hans Kelsen, 2009 Reprint of the first edition This classic work by the important Austrian jurist is the fullest exposition of his enormously influential pure theory of law which includes a theory of the state It also has an extensive appendix that discusses the pure theory in comparison with the law of nature positivism historical natural law metaphysical dualism and scientific critical philosophy The scope of the work is truly universal It never loses itself in vague generalities or in unconnected fragments of thought On the contrary precision in the formulation of details and rigorous system are characteristic features of the exposition only a mind fully concentrated upon that logical structure can possibly follow Kelsen s penetrating analysis Such a mind will not shrink from the effort necessary for acquainting itself with the pure theory of law in its more general aspects and will then pass over to the theory of the state which ends up with a carefully worked out theory of international law Julius Kraft *American Journal of International Law* 40 1946 496

General Theory of Law Nikolai Mikhailovich Korkunov, 1909

Reasons of Conscience Stefan Sperling, 2013-04-12 In this volume Stefan Sperling considers the bioethical debates surrounding embryonic stem cell research in Germany at the turn of the 21st century highlighting how the country s ongoing struggle to come to terms with its past informs the decisions it makes today

A Realistic Theory of Law Brian Z. Tamanaha, 2017-04-24 The book re orients jurisprudence and develops an empirically informed theory of law that applies throughout history and across different societies

Law Books Published Meira G. Pimsleur, 1979

Law as Religion, Religion as Law David C. Flatto, Benny Porat, Benjamin Porat, 2022-08-25 In contrast with the conventional approach this volume explores the dynamic interplay and intersection of law and religion

The Preventive Turn in Criminal Law Henrique Carvalho, 2017-04-28 This book presents a theoretical examination of the rise and expansion of preventive criminal offences that has gained momentum in Anglo American criminal justice since the late twentieth century It shows how recent transformations in criminal law and justice are intrinsically related to and embedded in the way liberal society and liberal law have been imagined developed and conditioned by their social political and historical contexts The book starts by identifying a tension within contemporary criminal law between the importance given to the expression of individual autonomy and responsibility and the perceived need for prevention as a condition for the security of autonomy and the promotion of welfare The book then traces this tension back to an intrinsic ambivalence within the modern conception of individual liberty which is both repressed and preserved by liberal conceptions of responsibility and punishment It finds that it is this tension that

ultimately grounds the rise of preventive criminal offences in recent times The Preventive Turn in Criminal Law engages with the main contemporary literature on criminal law prevention risk security and criminalisation by deploying a theoretical perspective from both classical and contemporary works of social and political theory including the works of Hobbes Locke Hegel and Bentham It does so in order to reveal that the pervasiveness of prevention in twenty first century criminal law not only represents the consequence of new and unprecedented features of contemporary politics and society but also embeds long established features of the liberal legal and political tradition

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