Basic Concepts Of Legal Thought

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CABRERA CRUZ

The Legal Order Edward Elgar Publishing
Legal historian G. Edward White recently described it as the "most widely circulated and cited unpublished manuscript in twentieth-century American legal scholarship since Hart & Sacks' Legal Process materials." It began the re-evaluation of law in the Gilded Age, and gave it its current name of Classical Legal Thought. It was also one of the first and most influential of the works that introduced European critical theory and structuralism into the study of American law. This reprint comes with a substantial new Introduction that puts the work in context and relates it to current scholarship in the field. It should interest historians generally as well as readers curious about how our legal system got its special modern character --
Critical Legal Theory Oxford University Press
Basic Concepts of Legal ThoughtOxford University Press, USA
Law, Economics and Evolutionary Theory Edward Elgar Publishing
During the last decades, legal theory has focused almost completely on norms, rules and arguments as the constitutive elements of law. Concepts were mostly neglected. The contributions to this volume try to remedy this neglect by elucidating the role concepts play in law from different perspectives. A main aim of this volume is to initiate a debate about concepts in law. Åke Frändberg gives an overview of the many different uses of concepts in law and shows amongst others that concepts in the law should not be confused with the role of concepts in descriptions of the law. Dietmar von der Pfordten criticizes the restriction to norms as parts of the law in contemporary legal theory by questioning what concepts are and what their function is, both in general and in legal conceptual schemes. Giovanni Sartor assumes the inferential analysis of meaning proposed by Alf Ross in his ground breaking paper Tû-tû and addresses the question how possession of a concept, including the rules defining it, is possible without endorsing these rules. Jaap Hage argues that 1. legal status words such as 'owner' have a meaning because they denote things or relations in institutional reality, 2. the meaning of these words consists in this denotation relation, 3. knowledge of this meaning presupposes knowledge of the rules governing these words. Torben Spaak contributes to this volume with an exemplary analysis of one of the most central concepts of the law, namely that of a legal power. Lorenz Kähler discusses the role of concepts in determining the scope of application of legal rules and raises from this perspective the question to what extent legal concept formation can be arbitrary. Ralf Poscher argues that as soon as a concept is used in stating the law, the precise scope of application of this concept has become a legal matter. This means that the use of ‘moral’ concepts in the law does not automatically lead to a moral import into the law. Dennis Patterson holds that Hart’s concept of law can be understood as a so-called ‘practice theory’ and provides an overview of such a theory.
Contemporary Bourgeois Legal Thought Andrews UK Limited
This collection of essays from legal philosophers offers an assessment of the nature and viability of legal positivism. It addresses questions such as: to what extent is the law adequately described as autonomous?; and should legal theorists maintain a conceptual separation of law and morality?.
Basic Concepts of Criminal Law Beard Books
Concepts shape how we understand and participate in international legal affairs. They are an important site for order, struggle and change. This comprehensive and authoritative volume introduces a large number of concepts that have shaped, at various points in history, international legal practice and thought; intimates at how the many projects of international law have grappled with, and influenced, the world through certain concepts; and introduces new concepts into the discipline.
Routledge
Selected by Choice magazine as an Outstanding Academic Title In The Politics of Jurisprudence, Roger Cotterrell offers a concise introduction to and commentary on Anglo-American jurisprudence, and a contribution to the study of the development of American and English general conceptions of law since the establishment of modern legal professions in the U.S. and Britain.
African Law and Legal Theory Springer Science & Business Media
The last decade has witnessed a particularly intensive debate over methodological issues in legal theory. The publication of Julie Dickson's Evaluation and Legal Theory (2001) was significant, as were collective returns to H.L.A. Hart's 'Postscript' to The Concept of Law. While influential articles have been written in disparate journals, no single collection of the most important papers exists. This volume - the first in a three volume series - aims not only to fill that gap but also propose a systematic agenda for future work. The editors have selected articles written by leading legal theorists, including, among others, Leslie Green, Brian Leiter, Joseph Raz, Ronald Dworkin, and William Twining, and organized under four broad categories: 1) problems and purposes of legal theory; 2) the role of epistemology and semantics in theorising about the nature of law; 3) the relation between morality and legal theory; and 4) the scope of phenomena a general jurisprudence ought to address.
Logic in the Theory and Practice of Lawmaking Springer
Spinoza is among the most pivotal thinkers in the history of philosophy. He has had a deep and enduring influence on a wide range of philosophical subjects, and his work is encountered by all serious students of Western philosophy. His Ethics is one of the seminal works of metaphysical, moral, religious and political thought; his Theological-Political Treatise inaugurated a novel method of biblical exegesis; and both his political works developed the pre-eminence of democracy above all other regimes. Nevertheless, the significance of Spinoza's philosophy is matched by its complexity. His system presents a considerable challenge for the modern student; his language is frequently opaque, while the esoteric themes explored in his work often require elucidation. Spinoza: Basic Concepts intends to overcome most of such difficulties. Each essay in this collection explores a key concept involved in Spinoza’s thinking, relating it to his understanding of philosophy, outlining the arguments and explaining the implications of each concept. Together, the chapters cover the full range of Spinoza's interdisciplinary system of philosophy.
Major Trends in the History of Legal Philosophy Springer
In the United States today criminal justice can vary from state to state, as various states alter the Modern Penal Code to suit their

own local preferences and concerns. In Eastern Europe, the post-Communist countries are quickly adopting new criminal codes to reflect their specific national concerns as they gain autonomy from what was once a centralized Soviet policy. As commonalities among countries and states disintegrate, how are we to view the basic concepts of criminal law as a whole? Eminent legal scholar George Fletcher acknowledges that criminal law is becoming increasingly localized, with every country and state adopting their own conception of punishable behavior, determining their own definitions of offenses. Yet by taking a step back from the details and linguistic variations of the criminal codes, Fletcher is able to perceive an underlying unity among diverse systems of criminal justice. Challenging common assumptions, he discovers a unity that emerges not on the surface of statutory rules and case law but in the underlying debates that inform them. Basic Concepts of Criminal Law identifies a set of twelve distinctions that shape and guide the controversies that inevitably break out in every system of criminal justice. Devoting a chapter to each of these twelve concepts, Fletcher maps out what he considers to be the deep structure of all systems of criminal law. Understanding these distinctions will not only enable students to appreciate the universal fundamental ideas of criminal law, but will enable them to understand the significance of local details and variations. This accessible illustration of the unity of diverse systems of criminal justice will provoke and inform students and scholars of law and the philosophy of law, as well as lawyers seeking a better understanding of the law they practice.

Theory of Law Cambridge University Press

In this one-of-a-kind text, George P. Fletcher, a renowned legal theorist, offers a provocative yet accessible overview of the basics of legal thought. The first section of the book is designed to introduce the reader to fundamental concepts such as the rule of law and deciding cases under the law. It continues with an analysis of the values of justice, desert, consent, and equality, as they figure into our judgment of legal cultures in terms of soundness and legitimacy. The final chapters address the problems of morality and consistency in the law. In each case the author not only introduces the basic ideas but considers important arguments in the contemporary literature and raises original claims of his own. Basic Concepts of Legal Thought fills a void in the literature, as there is no other volume that both eases law students into the mysteries of legal philosophy and provides an introduction to the legal mind for non-lawyers.

The Judicial Process Routledge

This book explores the relationship between custom and Islamic law and seeks to uncover the role of custom in the construction of legal rulings. On a deeper level, however, it deals with the perennial problem of change and continuity in the Islamic legal tradition (or any tradition for that matter).

The Rise & Fall of Classical Legal Thought Cambridge University Press

Whereas many modern works on comparative law focus on various aspects of legal doctrine the aim of this book is of a more theoretical kind - to reflect on comparative law as a scholarly discipline, in particular at its epistemology and methodology. Thus, among its contents the reader will find: a lively discussion of the kind of 'knowledge' that is, or could be, derived from comparative law; an analysis of 'legal families' which asks whether we need to distinguish different 'legal families' according to areas of law; essays which ask what is the appropriate level for research to be conducted - the technical 'surface level', a 'deep level' of ideology and legal practice, or an 'intermediate level' of other elements of legal culture, such as the socio-economic and historical background of law. One part of the book is devoted to questioning the identification and demarcation of a 'legal system' (and the clash between 'legal monism' and 'legal pluralism') and the definition of the European legal orders, sub-State legal orders, and what is left of traditional sovereign State legal systems; while a final part explores the desirability and possibility of developing a basic common legal language, with common legal principles and legal concepts and/or a legal meta-language, which would be developed and used within emerging European legal doctrine. All the papers in this collection share the common goal of seeking answers to fundamental, scientific problems of comparative research that are too often neglected in comparative scholarship.

Legal Theory and the Legal Academy Edward Elgar Publishing

The text makes the case for a revival of general jurisprudence in response to globalisation.

Law and Politics Routledge

In the United States today criminal justice can vary from state to state, as various states alter the Modern Penal Code to suit their own local preferences and concerns. In Eastern Europe, the post-Communist countries are quickly adopting new criminal codes to reflect their specific national concerns as they gain autonomy from what was once a centralized Soviet policy. As commonalities among countries and states disintegrate, how are we to view the basic concepts of criminal law as a whole? Eminent legal scholar George Fletcher acknowledges that criminal law is becoming increasingly localized, with every country and state adopting their own conception of punishable behavior, determining their own definitions of offenses. Yet by taking a step back from the details and linguistic variations of the criminal codes, Fletcher is able to perceive an underlying unity among diverse systems of criminal justice. Challenging common assumptions, he discovers a unity that emerges not on the surface of statutory rules and case law but in the underlying debates that inform them. Basic Concepts of Criminal Law identifies a set of twelve distinctions that shape and guide the controversies that inevitably break out in every system of criminal justice. Devoting a chapter to each of these twelve concepts, Fletcher maps out what he considers to be the deep structure of all systems of criminal law. Understanding these distinctions will not only enable students to appreciate the universal fundamental ideas of criminal law, but will enable them to understand the significance of local details and variations. This accessible illustration of the unity of diverse systems of criminal justice will provoke and inform students and scholars of law and the philosophy of law, as well as lawyers seeking a better understanding of the law they practice.

Contemporary Bourgeois Legal Thought. a Marxist Evaluation of the Basic Concepts. Sovremennaja Burzzuaznaja Pravovaja Mysl Mohr Siebeck

English summary: Constitutional courts in Europe emphasize the key role of the freedom of broadcasting as a pillar of a democratic system. Hence, EU Member State measures aimed at safeguarding media diversity are regularly under scrutiny of European Union institutions for potential breach of EU market freedoms. The author develops a genuine fundamental rights approach to the broadcasting media at EU level to capture the dual nature of broadcasting as a cultural and an economic good in European law. German description: Der Rundfunk ubernimmt als aMedium und Faktor der offentlichen Meinungsbildung eine tragende Rolle. Verfassungsgerichte in Europa betonen, dass ein freier Rundfunk eine der Grundvoraussetzungen des

demokratischen Systems darstellt. Um diese zu sichern, werden Freiheiten im Bereich des Rundfunks haufig funktional mit Blick auf dieses Ziel konzipiert. Der Staat muss die Ausubung der Freiheit durch geeignete einfachgesetzliche Ausgestaltung sichern und die Meinungsvielfalt gewahrleisten. Die Massnahmen, mit denen er dies tut, greifen potenziell in die Dienstleistungsfreiheit ein oder stellen rechtfertigungsbedurftige Beihilfen dar. Niels Lutzhoft lost solche diagonalen Kollisionen mittels eines grundrechtlichen Ansatzes unmittelbar auf EU-Ebene auf und macht die Besonderheiten des Rundfunks unionsrechtlich greifbar. Ein objektiv-rechtlicher Schutz der Rundfunkfreiheit im Unionsrecht balanciert die abwehrrechtlich ausgerichteten Tatbestande auf der Ebene der EU-Vertrage aus und verschafft der kulturellen Aufgabe des Rundfunks als negativer Grenze einen unionsrechtlichen Achtungsanspruch.

Authority in Transnational Legal Theory Springer Science & Business Media

Critical Legal Theory has conventionally been traced to the social, political, and philosophical movements of the 1960s and, before that, to the early-twentieth-century ?realist? critique of modern jurisprudence. In truth, however, its origins go back to classical and pre-modern thought, and to their acknowledgement of the centrality of law in attempts to conceive of the good life, or the just polity?a centrality that is, moreover, also discernible in the recent gravitation of a number of contemporary philosophers and theorists (such as Habermas, Derrida, Agamben, Luhmann, Latour) towards law. Against the ?restricted? and ?conservative? character of modern jurisprudence, Critical Legal Theory constitutes a return to this more general interest in law and legality. Exceeding (if not exploding) the limits of jurisprudence, it has, moreover, drawn upon the most ancient and most contemporary traditions of critical thought in order to pursue new ways of understanding, living, and imagining the law. Critical Legal Theory is now an established?if heterogeneous and controversial?field of study, represented by numerous international journals, regional organizations, and global conferences. As the field continues to flourish as never before, this new title in Routledge's Major Works series, Critical Concepts in Law, meets the need for an authoritative reference work to make sense of a rapidly growing and ever more complex corpus of literature. Indeed, it is a landmark collection of Critical Legal Theory's principal sources, orientations, movements, and themes. The first volume in the collection (?Critical Legal Origins?) illuminates the foundations of Critical Legal Theory in contemporary continental thought, as well as providing an account of its institutional history. Volume II (?Critical Legal Orientations?), meanwhile, examines the ways in which Critical Legal Theory has addressed and problematized conventional jurisprudential ideas about law, drawing upon the insights of philosophy, as well as other disciplines. Volume III (?Critical Legal Movements?) assembles the best and most influential research to provide an overview of the movements that characterize the field. The scholarship assembled in the final volume (?Critical Legal Themes?) brings together the key work to explore a range of substantial themes with which Critical Legal Theorists have engaged. Supplemented with a full index and comprehensive introductions, newly written by the editors, which situate the collected material in the context of more general theoretical traditions, as well as in critical relation to jurisprudence, Critical Legal Theory is destined to be valued by scholars, students, and researchers as a vital resource.

Poznań School of Legal Theory Lawbook Company

This book reconstructs and classifies, according to ideal-typical models, the different positions taken by the major contemporary legal theories as to whether and how law relates to politics. It presents a possible explanation as to why different legal theories, though often reaching diametric results, somehow must still begin from common basic points.

Instrumentalism and American Legal Theory Oxford University Press

In the absence of a sound conception of the judicial role, judges at present can be said to be 'muddling along'. They disown the declaratory theory of law but continue to behave and think as if it had not been discredited. Much judicial reasoning still exhibits an unquestioning acceptance of positivism and a 'rulish' predisposition. Formalistic thinking continues to exert a perverse influence on the legal process. This 2005 book dismantles these outdated theories and seeks to bridge the gap between legal theory and judicial practice. The author propounds a coherent and comprehensive judicial methodology for modern times. Founded on the truism that the law exists to serve society, and adopting the twin criteria of justice and contemporaneity with the times, a judicial methodology is developed which is realistic and pragmatic and which embraces a revised conception of practical reasoning, including in that conception a critical role for legal principles.

Legal Theory Dartmouth Publishing Company

This book grew out of the conviction that the original concepts of the Poznań School of Legal Theory are still perfectly suited for application today, in the era of moral pluralism and multicentric legal systems. Moreover, since we are in the midst of a period of heated disputes over the grounds of the normativity of law, and are confronting controversies about the basis for the legitimacy of court decisions, over the results of legal interpretation, and concerning the coherence of legal systems, it would seem that the legal-theoretical proposals put forward by the circle of Poznań legal theorists, supported as they are by firm methodological foundations, have not by any means lost their value.

Philosophy of Law Bloomsbury Publishing

In this monograph a fundamental distinction is made between law and juridical thinking. Law is the content of legal rules and the systems of legal rules. Juridical thinking is the handling of the law by the lawyers. To this distinction corresponds a basic distinction between the language of law and the language of juridical thinking, and correlatively, between L-concepts (law concepts) and J-concepts (juridical or jurisprudential concepts). The monograph is devoted to the J-concepts, especially of technical (not ideological or evaluative) J-concepts. Four kinds of J-concepts are investigated: morphological J-concepts, those that help us to structure the law in a logical and functional way; topological J-concepts, those that help us to indicate the phenomena to which the law is applicable, and to separate the areas of application for different legal systems; praxeological J-concepts, those that help us to explore the relations between law and action, and methodological J-concepts, those that help us to describe the methods of the professional-juridical handling of the law. The work can be characterised as presenting a lawyer´s philosophy of law.

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