Naturalizing Jurisprudence Essays On American Legal Realism And Naturalism In Legal Philosophy

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Volume 12 Legal Philosophy in the Twentieth Century: The Civil Law World, Tome 1: Language Areas, Tome 2: Main Orientations and Topics

The Judicial Process
The Functions of Law
A Companion to Philosophy of Law and Legal Theory
Neutrality and Theory of Law

CUNNINGHAM SANTOS

Beyond the Formalist-Realist Divide Springer
Naturalizing JurisprudenceEssays on American Legal Realism and Naturalism in Legal PhilosophyOxford University Press on Demand
The Nature of International Law Oxford University Press
This collection, written by legal scholars from around the world, offers insights into a variety of topics from children's rights to criminal law, jurisprudence, medical ethics and more. Its breadth reflects the fact that these are all elements of what can broadly be called 'law and society', that enterprise that is interested in law's place or influence in diffferent aspects of real lives and understands law to be simultaneously symbol, philosophy and action. It also testament to the broad range of vision of Professor Michael Freeman, in whose honour the volume was conceived. The contributions are divided into categories which reflect his distinguished career and publications, over 85 books and countless articles, including pioneering work on children's rights, domestic violence, religious law, jurisprudence, law and culture, family law and medicine, ethics and the law, as well as his enduring commitment to interdisciplinarity.
Empirical, Philosophical, and Legal Perspectives Pearson UK
What is the nature of law and what is the best way to discover it? This book argues that law is best understood in terms of the social functions it performs wherever it is found in human society. In order to support this claim, law is explained as a kind of institution and as a kind of artefact. To say that it is an institution is to say that it is designed for creating and conferring special statuses to people so as to alter their rights and responsibilities toward each other. To say that it is an artefact is to say that it is a tool of human creation that is designed to signal its usability to people who interact with it. This picture of law's nature is marshalled to critique theories of law that see it mainly as a product of reason or morality, understanding those theories via their conceptions of law's function. It is also used to argue against those legal positivists who see law's functions as relatively minor aspects of its nature. This method of conceptualizing law's nature helps us to explain how the law, understood as social facts, can make normative demands upon us. It also recommends a methodology for understanding law that combines elements of conceptual analysis with empirical research for uncovering the purposes to which diverse peoples put their legal activities.
The Making of Constitutional Democracy Bloomsbury Publishing
This book addresses a palpable, yet widely neglected, tension in legal discourse. In our everyday legal practices – whether taking place in a courtroom, classroom, law firm, or elsewhere – we routinely and unproblematically talk of the activities of creating and applying the law. However, when legal scholars have analysed this distinction in their theories (rather than simply assuming it), many have undermined it, if not dismissed it as untenable. The book considers the relevance of distinguishing between law-creation and law-application and how this transcends the boundaries of jurisprudential enquiry. It argues that such a distinction is also a crucial component of political theory. For if there is no possibility of applying a legal rule that was created by a different institution at a previous moment in time, then our current constitutional-democratic frameworks are effectively empty vessels that conceal a power relationship between public authorities and citizens that is very different from the one on which constitutional democracy is grounded. After problematising the most relevant objections in the literature, the book presents a comprehensive defence of the distinction between creation and application of law within the structure of constitutional democracy. It does so through an integrated jurisprudential methodology, which combines insights from different disciplines (including history, anthropology, political science, philosophy of language, and philosophy of action) while also casting new light on long-standing issues in public law, such as the role of legal discretion in the law-making process and the scope of the separation of powers doctrine.
The Jurisprudence of Style Springer Science & Business Media
JOIN OVER HALF A MILLION STUDENTS WHO CHOSE TO REVISE WITH LAW EXPRESS Revise with the help of the UK's bestselling law revision series. Features: · Review essential cases, statutes, and legal terms before exams. · Assess and approach the subject by using expert advice. · Gain higher marks with tips for advanced thinking and further discussions. · Avoid common pitfalls with Don't be tempted to. · Practice answering sample questions and discover additional resources on the Companion website. www.pearsoned.co.uk/lawexpress
Common Law – Civil Law Springer Nature
The principle of legal certainty is of fundamental importance for law and society: it has been vital in stabilising normative expectations and in providing a framework for social interaction, as well as defining the scope of individual freedom and political power. Even though it has not always been fully realised, legal certainty has also functioned as a normative ideal that has structured legal debates, both at the national and transnational level. This book presents research from a range of substantive areas regarding the meaning, possibility and desirability of legal certainty in the context of a rapidly changing global society. It aims to address these issues by bringing together scholars from various jurisdictions in order to examine changes in the shifting meaning of legal certainty in a comparative and transnational context. In particular, the book explores some of the tensions that now exist between the conventional expectation of legal certainty and the various challenges associated with regulating highly complex, late modern economies and societies. The book will be of interest to lawyers concerned with understanding the transformation of core rule of law values in the context of contemporary social change, as well as to political scientists and social theorists.
The Pragmatism and Prejudice of Oliver Wendell Holmes Jr. Routledge

This unique study offers a comprehensive analysis of American jurisprudence from its emergence in the later stages of the nineteenth century through to the present day. The author argues that it is a mistake to view American jurisprudence as a collection of movements and schools which have emerged in opposition to each other. By offering a highly original analysis of legal formalism, legal realism, policy science, process jurisprudence, law and economics, and critical legal studies, he demonstrates that American jurisprudence has evolved as a collection of themes which reflect broader American intellectual and cultural concerns.

The Oxford Handbook of American Philosophy Cambridge University Press

This timely Handbook contains a wide-ranging overview of the diverse research methods used within international law. Providing an insightful examination of how international legal knowledge is analysed and adopted, this Handbook offers the reader a deeper understanding on the role and place of research methods in international legal theory, reasoning and practice.

Rules, Theory, and Context Oxford Studies in Philosophy o

Gathering together Brian Leiter's most influential essays on the subject of American legal realism, this book provides an overview of his redefinition of legal realism and its relationship with other models of legal and philosophical thought, from naturalism in philosophy to critical legal studies.

The Planning Theory of Law BRILL

This important collection of essays includes Professor Hart's first defense of legal positivism; his discussion of the distinctive teaching of American and Scandinavian jurisprudence; an examination of theories of basic human rights and the notion of "social solidarity," and essays on Jhering, Kelsen, Holmes, and Lon Fuller.

Law, Courts, and Judicial Politics Edward Elgar Publishing

This book offers an accessible introduction to all aspects of American contract law, useful to both first-year law students and advanced contract scholars. The book takes the reader from contract formation through interpretation and remedies, considering both the practical and theoretical aspects throughout.

A New Scientific Discipline Cambridge University Press

Nietzsche is one of the most important and controversial thinkers in the history of philosophy. His writings on moral philosophy are amongst the most widely read works, both by philosophers and non-philosophers. Many of the ideas raised are both startling and disturbing, and have been the source of great contention. On the Genealogy of Morality is Nietzsche's most sustained and important contribution to moral philosophy, featuring many of the ideas for which he is best known, including the slave revolt in morals; will to power; genealogy; and perspectivism. The Routledge Philosophy GuideBook to Nietzsche on Morality introduces the reader to these and other important Nietzschean themes patiently and clearly. It is the first book to examine the work in such a way, and will be a vital point of reference for any Nietzsche scholar, and essential reading for students coming to Nietzsche for the first time.

A Naturalist Analysis Cambridge University Press

In this book Joseph Raz develops his views on some of the central questions in practical philosophy: legal, political, and moral. The book provides an overview of Raz's work on jurisprudence and the nature of law in the context of broader questions in the philosophy of practical reason. The book opens with a discussion of methodological issues, focusing on understanding the nature of jurisprudence. It asks how the nature of law can be explained, and how the success of a legal theory can be established. The book then addresses central questions on the nature of law, its relation to morality, the nature and justification of authority, and the nature of legal reasoning. It explains how legitimate law, while being a branch of applied morality, is also a relatively autonomous system, which has the potential to bridge moral differences among its subjects. Raz offers responses to some critical reactions to his theory of authority, adumbrating, and modifying the theory to meet some of them. The final part of the book brings together for the first time Raz's work on the nature of interpretation in law and the humanities. It includes a new essay explaining interpretive pluralism and the possibility of interpretive innovation. Taken together, the essays in the volume offer a valuable introduction for students coming for the first time to Raz's work in the philosophy of law, and an original contribution to many of the current debates in practical philosophy.

Procedural Justice and Relational Theory Princeton University Press

This book explores the experiences and philosophical work product of mixed race philosophers, as well as possible links between the two. Some books address mixed-race identity, and some anthologies focus on mixed-race identity, but this is the first anthology on the philosophy of mixed-race, and the first anthology by mixed-race philosophers.

Cambridge University Press

This book brings together twelve of the most important legal philosophers in the Anglo-American and Civil Law traditions. The book is a collection of the papers these philosophers presented at the Conference on Neutrality and Theory of Law, held at the University of Girona, in May 2010. The central question that the conference and this collection seek to answer is: Can a theory of law be neutral? The book covers most of the main jurisprudential debates. It presents an overall discussion of the connection between law and morals, and the possibility of determining the content of law without appealing to any normative argument. It examines the type of project currently being held by jurisprudential scholarship. It studies the different approaches to theorizing about the nature or concept of law, the role of conceptual analysis and the essential features of law. Moreover, it sheds some light on what can be learned from studying the non-essential features of law. Finally, it analyzes the nature of legal statements and their truth values. This book takes the reader a step further to understanding law.

Research Methods in International Law Springer Science & Business Media

The Nature of International Law provides a comprehensive analytical account of international law within the prototype theory of concepts.

New Essays on a Neglected Dialogue Oxford University Press

This collection of essays is the outcome of a workshop with Scott Shapiro on The Planning Theory of Law that took place in December 2009 at Bocconi University. It brings together a group of scholars who wrote their contributions to the workshop on a preliminary draft of Shapiro’s Legality. Then, after the workshop, they wrote their final essays on the published version of the book. The contributions clearly highlight the difference of the continental and civil law perspective from the common law background of Shapiro but at the same time the volume tries to bridge the gap between the two. The essays provide a critical reading of the planning theory of law, highlighting its merits on the one hand and objecting to some parts of it on the other hand.

Each contribution discusses in detail a chapter of Shapiro's book and together they cover the whole of Shapiro's theory. So the book presents a balanced and insightful discussion of the arguments of Legality.

Law Express: Jurisprudence Springer Science & Business Media

A Treatise of Legal Philosophy and General Jurisprudence is the first-ever multivolume treatment of the issues in legal philosophy and general jurisprudence, from both a theoretical and a historical perspective. The work is aimed at jurists as well as legal and practical philosophers. Edited by the renowned theorist Enrico Pattaro and his team, this book is a classical reference work that would be of great interest to legal and practical philosophers as well as to jurists and legal scholar at all levels. The work is divided in two parts. The theoretical part (published in 2005), consisting of five volumes, covers the main topics of the contemporary debate; the historical part, consisting of six volumes (Volumes 6-8 published in 2007; Volumes 9 and 10, published in 2009; Volume 11 published in 2011 and Volume 12 forthcoming in 2016), accounts for the development of legal thought from ancient Greek times through the twentieth century. Volume 12 Legal Philosophy in the Twentieth Century: The Civil Law World Volume 12 of A Treatise of Legal Philosophy and General Jurisprudence, titled Legal Philosophy in the Twentieth Century: The Civil-Law World, functions as a complement to Gerald Postema's volume 11 (titled Legal Philosophy in the Twentieth Century: The Common Law World), and it offers the first comprehensive account of the complex development that legal philosophy has undergone in continental Europe and Latin America since 1900. In this volume, leading international scholars from the different language areas making up the civil-law world give an account of the way legal philosophy has evolved in these areas in the 20th century, the outcome being an overall mosaic of civil-law legal philosophy in this arc of time. Further, specialists in the field describe the development that legal philosophy has undergone in the 20th century by focusing on three of its main subjects—namely, legal positivism, natural-law theory, and the theory of legal reasoning—and discussing the different conceptions that have been put forward under these labels. The layout of the volume is meant to frame historical analysis with a view to the contemporary theoretical debate, thus completing the Treatise in keeping with its overall methodological aim, namely, that of combining history and theory as a necessary means by which to provide a comprehensive account of jurisprudential thinking.

An Introduction to Legal Theory John Wiley & Sons

This book examines the role and importance of reason and emotion in justice and the law. Eight lawyers and philosophers of law consider law's basis in the universal human need for society, our innate sense of justice, and many other powerful inclinations and emotions, including the desire for fairness and even for law itself. Human beings are deeply social creatures, inspired by social and other emotions, which can ennoble, support, or undermine the law. Law gains legitimacy and effectiveness when reason recognizes and embraces human emotions for the benefit of society as a whole. This volume explores the power and purposes of reason and emotion in the law.

Naturalizing Jurisprudence Oxford University Press

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.