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The Rule of Law and the Separation of Powers



Richard Bellamy

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Richard Nobles, David Schiff



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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

The Laws of War in International Thought Pablo Kalmanovitz, 2020 This book investigates the intellectual history of the laws of war It reconstructs the distinctive ways of thinking about the legal regulation of war in history contrasts these to more familiar just war and realist approaches and shows how closely connected they have been to the process of spelling out the nature function and powers of state sovereignty

The Rule of Law and the Separation of Powers Richard Bellamy, 2017-07-05 The rule of law is frequently invoked in political debate yet rarely defined with any precision Some employ it as a synonym for democracy others for the subordination of the legislature to a written constitution and its judicial guardians It has been seen as obedience to the duly recognised government a form of governing through formal and general rule like laws and the rule of principle Given this diversity of view it is perhaps unsurprising that certain scholars have regarded the concept as no more than a self congratulatory rhetorical device This collection of eighteen key essays from jurists political theorists and public law political scientists aims to explore the role law plays in the political system The introduction evaluates their arguments The first eleven essays identify the standard features associated with the rule of law These are held to derive less from any characteristics of law per se than from a style of legislating and judging that gives equal consideration to all citizens The next seven essays then explore how different ways of separating and dispersing power contribute to this democratic style of rule by forcing politicians and judges alike to treat people as equals and regard none as above the law

State Responsibility in International Law René Provost, 2017-03-02 In the wake of the adoption by the International Law Commission of a complete set of articles on state responsibility in international law in 2001 this collection assembles a number of essays tracing key debates which have marked the evolution of this field over the last fifty years These include explorations of the general theory of state responsibility link between primary and secondary rules the place of due diligence the link between liability and wrongfulness the consequences of an internationally wrongful act nature of remedies suitability of countermeasures third states and the shift from bilateralism to community interests in the law of state responsibility the debate over

criminalizing state responsibility and the continuing relevance of the law of injuries to aliens The collection also contains a series of essays offering critical perspectives on state responsibility including feminist and developing world perspectives It is completed by an extensive and up to date bibliography

Regulation Colin D. Scott, 2003 Legal scholarship is concerned with distinctive issues and problems of regulatory governance This volume draws together writings on regulation which problematize law in regulatory settings and which introduce problems of regulatory law to legal theory The main themes addressed are the character of regulatory law legal theories of state and market regulatory rules organizations and institutional variety accounting for regulation

From Transnational Relations to Transnational Laws Shaheen Sardar Ali, Anne Griffiths, 2016-04-15 This book approaches law as a process embedded in transnational personal religious communicative and economic relationships that mediate between international national and local practices norms and values It uses the concept living law to describe the multiplicity of norms manifest in transnational moral social or economic practices that transgress the territorial and legal boundaries of the nation state Focusing on transnational legal encounters located in family life diasporic religious institutions and media events in countries like Norway Sweden Britain and Scotland it demonstrates the multiple challenges that accelerated mobility and increased cultural and normative diversity is posing for Northern European law For in this part of the world as elsewhere national law is challenged by a mixture of expanding human rights obligations and unprecedented cultural and normative pluralism enhanced by expanding global communication and market relations As a consequence transnationalization of law appears to create homogeneity fragmentation and ambiguity expanding space for some actors while silencing others Through the lens of a variety of important contemporary subjects the authors thus engage with the nature of power and how it is accommodated ignored or resisted by various actors when transnational practices encounter national and local law

Law and Legal Interpretation Fernando Atria Lemaitre, Neil MacCormick, 2017-11-01 This title was first published in 2003 Leading contemporary essays on interpretation are assembled in this volume which offsets them against a small number of classical works from earlier periods It has long been recognized that textual sources constitutions statutes precedents commentaries are central to developed systems of law and that interpretation of such texts is one highly important element in adjudication legal practice and legal scholarship Scholars have also contended that the totality of legal activity is interpretive in a wider sense and debates about objectivity have raged The reasons for this development are here critically scrutinized

Dealing with Bribery and Corruption in International Commercial Arbitration Emmanuel Obiora Igbokwe, 2023-01-10 International Arbitration Law Library

Volume 65 International commercial arbitration is by no means free from bribery and corruption Although a plethora of legal scholarship clearly affirms this contention a thorough study on the particularly important question of the authority and duty of international commercial arbitrators to investigate a suspicion or indication of bribery or corruption sua sponte that is on their own initiative has been surprisingly lacking This important book fills this gap inter alia by locating sua sponte authority

in the position of arbitral tribunals in establishing the facts of a case and ascertaining and applying the applicable normative standards In addition to providing a comprehensive examination of how the issue of bribery and corruption is dealt with in contemporary international commercial arbitration the book also highlights the role of arbitrators in global efforts to combat transnational commercial bribery and corruption Among others the following critical issues are thoroughly investigated arbitrability of issues of public interests intermediary contracts role of arbitrators in the fact finding process party autonomy versus overriding mandatory rules *iura novit curia* in international commercial arbitration in the context of bribery and corruption notion of transnational or truly international public policy arbitrators duty to act as guardians of international commerce investigative tools available to arbitrators dealing with manifestly recalcitrant parties possible consequences of violating the obligation to *sua sponte* investigate and the view from developing countries The analysis leans primarily on Swiss law as Switzerland is one of the most important jurisdictions in international commercial arbitration Switzerland has also been involved in some of the most famous and controversial arbitration cases wherein bribery and corruption became an issue However the study also includes a comparative analysis of the relevant laws jurisprudence and doctrine of other major arbitration venues particularly England France and Germany Not only in the light it sheds on how and whether international commercial arbitrators have hitherto justified the trust States have placed in them regarding the protection of the public interests but also in the practical solutions it offers arbitrators faced with issues of bribery and corruption this deeply researched book equips arbitration practitioners and arbitration institutions with a hitherto lacking in depth analysis on the question of *sua sponte* investigation It also provides invaluable insights on how this issue might affect the future legitimacy and expansion of this dispute settlement mechanism Outside the field of arbitration the book also provides jurists legal scholars in house counsel for companies doing transnational business and public officials with highly enlightening perspectives on the interaction between international commercial arbitration and public interests **Gender and Justice**

Ngaire Naffine, 2017-07-05 The leading articles on gender and justice within Anglo American legal theory are assembled in this volume The essays are drawn primarily from the writings of lawyers working in the common law tradition and they mainly examine the justice of legal institutions Due to the close kinship between political and legal theories of justice the book also includes a selection of the work of the more prominent political theorists of justice and gender *Handbook of Law and Economics* A. Mitchell Polinsky, Steven Shavell, 2007-11-21 Law can be viewed as a body of rules and legal sanctions that channel behavior in socially desirable directions for example by encouraging individuals to take proper precautions to prevent accidents or by discouraging competitors from colluding to raise prices The incentives created by the legal system are thus a natural subject of study by economists Moreover given the importance of law to the welfare of societies the economic analysis of law merits prominent treatment as a subdiscipline of economics Our hope is that this two volume Handbook will foster the study of the legal system by economists The two volumes form a comprehensive and accessible

survey of the current state of the field Chapters prepared by leading specialists of the area Summarizes received results as well as new developments Law, Truth, and Reason Raimo Siltala, 2011-07-29 This book is an innovative contribution to analytical jurisprudence It is mainly based on the distinct premises of linguistic philosophy and Carnapian semantics but also addresses the issues of institutional philosophy social pragmatism and legal principles as envisioned by Dworkin among others Wrblewski's three ideologies bound free legal and rational and Makkonen's three situations isomorphic semantically vague normative gap of judicial decision making are further developed by means of 10 frames of legal analysis as discerned by the author With the philosophical theories of truth serving as a reference the frames of legal analysis include the isomorphic theory of law Wittgenstein Makkonen the coherence theory of law Alexy Peczenik Dworkin the new rhetoric and legal argumentation theory Perelman Aarnio social consequentialism Posner natural law theory Fuller Finnis and the sequential model of legal reasoning by Neil MacCormick and the Bielefelder Kreis At the end some key issues of legal metaphysics are addressed like the notion of legal systematics and the future potential of the analytical approach in jurisprudence **Law and Morality** Kenneth Einar Himma, 2017-07-05 This volume collects many of the key essays exploring the possible relationships between the concepts of law and morality a central concern of contemporary philosophizing about law It is organized around five conceptual issues classical natural law theory legal positivism's separability thesis Ronald Dworkin's constructive interpretivism inclusive legal positivism's assertion that there can be legal systems with moral criteria of legality and the relevance of morality and moral theorizing in theorizing about the concept of law and associated legal concepts Each of the essays makes an important contribution toward addressing these issues

Current Publications in Legal and Related Fields, 2005 *The Rule of Law and the Separation of Powers* Richard Bellamy, 2017-07-05 The rule of law is frequently invoked in political debate yet rarely defined with any precision Some employ it as a synonym for democracy others for the subordination of the legislature to a written constitution and its judicial guardians It has been seen as obedience to the duly recognised government a form of governing through formal and general rule like laws and the rule of principle Given this diversity of view it is perhaps unsurprising that certain scholars have regarded the concept as no more than a self-congratulatory rhetorical device This collection of eighteen key essays from jurists political theorists and public law political scientists aims to explore the role law plays in the political system The introduction evaluates their arguments The first eleven essays identify the standard features associated with the rule of law These are held to derive less from any characteristics of law per se than from a style of legislating and judging that gives equal consideration to all citizens The next seven essays then explore how different ways of separating and dispersing power contribute to this democratic style of rule by forcing politicians and judges alike to treat people as equals and regard none as above the law **Law, Society and Community** Richard Nobles, David Schiff, 2016-04-22 This collection of socio-legal studies written by leading theorists and researchers from around the world offers original perceptive and critical

contributions to ideas and theories that have been expounded by Roger Cotterrell over a long and distinguished career. Engaging with many classic issues and theories of the sociology of law, the contributions are likely to become classics themselves as they tackle some of the most significant challenges that modern law faces. They do not shy away from what one of the contributors describes as the complexity and multiplicity of our contemporary legal world. The book is organized in three parts: socio-legal themes, methodological and jurisprudential themes, globalization, cultural and comparative law themes. Starting with a chapter that re-engages with the need to interpret legal ideas sociologically and ending with one that explores the global significance of modern fascination with the idea of the rule of law, this selection offers important additions to the oeuvre of Roger Cotterrell. A list of whose academic writings is included in the book. [The Creation and Interpretation of Commercial Law](#) Clayton P. Gillette, 2022-03-21. This title was first published in 2003. This volume contains essays by prominent commentators on topics in commercial law. It addresses the increasing harmonization of international commercial law and the essays demonstrate different methodologies used in analysing commercial law, such as economic and jurisprudential approaches. *Landscape Protection in International Law* Amy Strecker, 2018-08-23. Once the exclusive prerogative of domaine r serv, landscape has gained increasing importance in international law in recent years. Since the introduction of cultural landscapes within the UNESCO World Heritage Convention and particularly since the adoption of the European Landscape Convention (ELC), emphasis has shifted beyond a scenic preservationist approach towards a more dynamic, human-centred one. The focus is not only on outstanding landscapes but also on the everyday and degraded landscapes where most people live and work. Landscape is land shaped by people; after all, and its protection, management and planning have a number of implications for democracy, human rights and spatial justice. Despite these links, however, there has been little legal scholarship on the topic. How does international law, which deals for the most part with universality, deal with something so region-specific and particular as landscape? What is the legal conception of landscape and what are the various roles played by international law in its protection? Amy Strecker assesses the institutional framework for landscape protection, analyses the interplay between landscape and human rights and links the etymology and theory of landscape with its articulation in law. **The British National Bibliography** Arthur James Wells, 2006. [Law Books Published](#), 2002.

Law and Democracy Tom Campbell, Adrienne Stone, 2003. The study of law is a branch of the study of politics. Even those who emphasize the autonomy of law, either sociologically or normatively, must acknowledge that this is a position that requires justification within a broader theory of politics that either explains or justifies this autonomy. Inevitably, therefore, developments in political life and in political philosophy have a significant effect on the practice of law and its theoretical study. Currently, this relationship is evident in the impact of recent developments in the practice and theory of democracy that are redolent with implications for law and legal theory. This collection represents the body of captivating literature that is engaged not only with current developments in law and politics but also with the rediscovery of traditional theories. It offers a

way into an engaging and important debate that bears of the most fundamental issues within both legal and political theory

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