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Reason, Democracy, Society

A Study on the Basis
of Legal Thinking

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Reason Democracy Society A Treatise On The Basis Of Legal Thinking

Roger A. Shiner



Reason Democracy Society A Treatise On The Basis Of Legal Thinking:

Reason, Democracy, Society Sebastián Urbina, 2013-03-09 Reason Democracy Society deals with basic points of legal theory and philosophy of law The main contention of the book relates to the insufficiencies of the legal positivistic approach Some of its claims are that we must sharply separate what the law is from what the law ought to be and that we can know what the law is without appealing to meta legal considerations These and other claims are criticized The author shows that with the legal positivistic approach we cannot know in all cases what the law is if that is equated to the rules posited by the legislator He also challenges H L A Hart's and MacCormick's points of view amongst others about the characteristic corner stones of legal positivism Some other issues relate to human rights legal rationality and efficiency and ethics This book will be of interest to philosophers concerned with law or ethics those concerned with justice in modern society and to jurists and law students

A Treatise of Legal Philosophy and General Jurisprudence Enrico Pattaro, 2007-10-08 This paperback edition of the first of the twelve volumes of A Treatises of Legal Philosophy and General Jurisprudence serves as an introduction to the first ever multivolume treatment of all important issues in legal philosophy and general jurisprudence consisting of a five volume theoretical part and a six volume historical part The theoretical part covers the main topics of contemporary debate The historical volumes trace the development of legal thought from ancient Greek times through the twentieth century All volumes are edited by the renowned theorist Enrico Pattaro

Theory of Legal Principles Humberto Avila, 2007-09-26 This book intends to help understand and apply principles and rules better Its target is to keep the distinction between principles and rules whereas structuring it on different foundations than those jurisprudence ordinarily employs The first object of investigation is the phenomenon of interpretation in Law in order to understand that the classification of certain normative species as either principles or rules depends in the first place on axiological connections that are not ready prior to the interpretation process that unveils them Then a definition of principles is proposed aiming to understand what their unique characteristics are when compared to other norms of the legal order Thirdly the conditions for the application of principles and rules are examined which are the normative applicative postulates It will be shown on one hand that principles not only explicit values but also set forth precise species of behaviors though indirectly on the other hand the creation of conducts by rules is also to be weighed even though the behavior set forth in advance may be overcome depending on the accomplishment of a few requirements That will surpass both the mere praise of values which does not create behaviors and the automatic application of rules A model is proposed to explain the normative species which includes structured weighing on the application process while encompassing substantive criteria of justice in its argument through the analytical reconstruction of the concrete use of normative postulates especially those of reasonableness and proportionality All of that is done with a focus on the ability of intersubjective control of the argumentation which often degenerates into capricious decisionism

Norm and Nature Roger A. Shiner, 1992 Is the nature of law to be formal

procedure or to embody substantive value This work deals with the traditional conflict in legal philosophy between positivistic and anti positivistic theories of law It examines the conflict with respect to seven central issues in legal philosophy law as a reason for action law and authority the internal point of view to law the acceptance of law discretion and principle interpretation and semantics and law and the common good This work argues that although this conflict cannot be resolved the true nature of law is revealed not obscured by this perennial situation Current Legal Theory ,1998

Whitaker's Books in Print ,1998 Forthcoming Books Rose Arny,2002 **The Legal Relation** Alexander Somek,2017-10-12 What is law The usual answer is that the law is a system of norms But this answer gives us at best half of the story The law is a way of relating to one another We do not do this as lovers or friends and not as people who are interested in obtaining guidance from moral insight In a legal context we are cast as character masks Marx for example as buyer and seller or landlord and tenant We expect to have our claims respected simply because the law has given us rights We do not want to give any other reason for our behavior than the fact that we have a legal right Backing rights up with coercive threats indicates that we are willing to accept legal obligations unwillingly This book offers a conceptual reconstruction of the legal relation on the basis of a critique of legal positivism **Subject Guide to Books in Print** ,1997

International Books in Print ,1998 The Idea of Justice Amartya Kumar Sen,2009-09-30 Social justice an ideal forever beyond our grasp or one of many practical possibilities More than a matter of intellectual discourse the idea of justice plays a real role in how and how well people live And in this book the distinguished scholar Amartya Sen offers a powerful critique of the theory of social justice that in its grip on social and political thinking has long left practical realities far behind

Second Treatise of Government John Locke,2016-07-26 John Locke argues that all men are created equal in the sight of God The Second Treatise outlines Locke s ideas for a more civilized society based on natural rights and contract theory

Two Treatises of Government John Locke,2025-01-02T16:48:33Z John Locke s Two Treatises of Government is a foundational text in liberal political thought which challenged the then prevailing theories of divine right and absolute monarchy The work is divided into two treatises with the first primarily focused on refuting Sir Robert Filmer s book Patriarcha which advocates for absolute monarchical power based on the supposed divine right of kings Locke dismantles Filmer s claims demonstrating the lack of scriptural support for inherited political authority and distinguishing between political power and paternal power In the second treatise Locke articulates his own theory of government grounded in natural law and individual rights He posits that all individuals are born free and equal possessing inalienable rights to life liberty and property Locke discusses the concept of the state of nature where individuals are governed by natural law and argues that legitimate government arises from the consent of the governed He discusses how the social contract establishes the moral foundation for political authority Locke proposes that should a government fail to protect the rights of the people or violates the social contract citizens have the right and duty to revolt and establish a new government His ideas about

government by consent the right to private property and the right to revolution have profoundly influenced modern democratic thought and the development of liberal political theory laying the groundwork for later political movements advocating for democracy and human rights This book is part of the Standard Ebooks project which produces free public domain ebooks Books In Print 2004-2005 Ed Bowker Staff,Staff Bowker, Ed,2004 *Reason and Authority* Aulis Aarnio,1997 A treatise on the background philosophy of law legal thinking and the change in as well as problems of legal science **Islam and Democracy** John L. Esposito,John O. Voll,1996-05-09 Are Islam and democracy on a collision course Do Islamic movements seek to hijack democracy How have governments in the Muslim world responded to the many challenges of Islam and democracy today A global religious resurgence and calls for greater political participation have been major forces in the post Cold War period Across the Muslim world governments and Islamic movements grapple with issues of democratization and civil society Islam and Democracy explores the Islamic sources beliefs and institutions relevant to the current debate over greater political participation and democratization Esposito and Voll use six case studies Algeria Egypt Iran Malaysia Pakistan and Sudan to look at the diversity of Muslim experiences and experiments At one end of the spectrum Iran and Sudan represent two cases of militant revolutionary Islam establishing political systems In Pakistan and Malaysia however the new movements have been recognized and made part of the political process Egypt and Algeria reveal the coexistence of both extremist and moderate Islamic activism and demonstrate the complex challenges confronting ruling elites These case studies prove that despite commonalities differing national contexts and identities give rise to a multiplicity of agendas and strategies This broad spectrum of case studies reflecting the multifaceted relationship of Islam and Democracy provides important insight into the powerful forces of religious resurgence and democratization which will inevitably impact global politics in the twenty first century **A Theory of Precedent** Raimo Siltala,2000-11-30 Analytical jurisprudence has been mostly silent on the role of precedent in legal adjudication What is the content of a judge s precedent ideology or the rule of precedent recognition by means of which the ratio of a case is to be distinguished from mere dicta In this study the author identifies six types of judicial precedent ideology among them judicial legislation systemic construction of the underlying reasons of law in the Dworkinian sense and a radical re evaluation of the merits of a prior case in later adjudication as envisioned by the American Realists These competing models are tested against judicial experiences in the UK US France Italy Germany and Finland By this means Lon Fuller s famous internal morality of law is shown to function rather poorly in the context of precedents and the author therefore suggests a redefinition of the rule which makes it work for precedent This in turn leads the author to confront fundamental questions about the normative nature of law Is Kelsen s grundnorm or Hart s ultimate rule of recognition a valid rule in the image of legal rules proper or is it merely a social fact observable only in the practices and behaviour of judges and other officials The author claims that Hart is caught between Kelsen and J L Borges the late Argentinian fabulist in so far as the ontology and epistemology of the rule of recognition are

concerned This leads the author to the conclusion that the two predicaments affecting analytical positivism namely the threat of endless self referentiality or infinite regress can only be accounted for by means of recourse to the philosophy of deconstruction as posited by Jacques Derrida **Democracy** Inter-parliamentary Union,1998 Principles to realization Cherif Bassiouni *Europe* Jürgen Habermas,2014-11-05 The future of Europe and the role it will play in the 21st century are among the most important political questions of our time The optimism of a decade ago has now faded but the stakes are higher than ever The way these questions are answered will have enormous implications not only for all Europeans but also for the citizens of Europe s closest and oldest ally the USA In this new book one of Europe s leading intellectuals examines the political alternatives facing Europe today and outlines a course of action for the future Habermas advocates a policy of gradual integration of Europe in which key decisions about Europe s future are put in the hands of its peoples and a bipolar commonality of the West in which a more unified Europe is able to work closely with the United States to build a more stable and equitable international order This book includes Habermas s portraits of three long time philosophical companions Richard Rorty Jacques Derrida and Ronald Dworkin It also includes several important new texts by Habermas on the impact of the media on the public sphere on the enduring importance religion in post secular societies and on the design of a democratic constitutional order for the emergent world society *At the Foundations of Bioethics and Biopolitics: Critical Essays on the Thought of H. Tristram Engelhardt, Jr.* Lisa M. Rasmussen, Ana Iltis, Mark J. Cherry,2015-10-20 This volume brings together a set of critical essays on the thought of Professor Doctor H Tristram Engelhardt Junior Co Founding Editor of the Philosophy and Medicine book series Amongst the founders of bioethics Professor Engelhardt Jr looms large Many of his books and articles have appeared in multiple languages including Italian Romanian Portuguese Spanish and Chinese The essays in this book focus critically on a wide swath of his work in the process elucidating critiquing and or commending the rigor and reach of his thought This volume compasses analyses of many different aspects of Engelhardt s work including social and political philosophy biopolitics the philosophy of medicine and bioethics It brings together internationally known scholars to assess key elements of Engelhardt s work

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In a fast-paced digital era where connections and knowledge intertwine, the enigmatic realm of language reveals its inherent magic. Its capacity to stir emotions, ignite contemplation, and catalyze profound transformations is nothing short of extraordinary. Within the captivating pages of **Reason Democracy Society A Treatise On The Basis Of Legal Thinking** a literary masterpiece penned by way of a renowned author, readers set about a transformative journey, unlocking the secrets and untapped potential embedded within each word. In this evaluation, we shall explore the book's core themes, assess its distinct writing style, and delve into its lasting effect on the hearts and minds of those that partake in its reading experience.

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