

Basic Concepts of Legal Thought

George P. Fletcher

Basic Concepts Of Legal Thought

Martha Albertson Fineman



Basic Concepts Of Legal Thought:

Basic Concepts of Legal Thought George P. Fletcher, 1996 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

Geistiges Eigentum und Eigentumstheorie Michael Goldhammer, 2012 English summary The justification of intellectual property is highly controversial In reconstructing the American theory of property Michael Goldhammer shows how the ownership of intangible property can be justified The dependance of the justification on the basic terminology is embedded in a two tiered theory of property and has been tested in practice in numerous cases German description Um die Grunde des geistigen Eigentums wird in den verschiedenen Eigentumswissenschaften heftig gestritten Dies ist fur die juristische Eigentumstheorie zwar sehr anregend stellt sie aber gleichzeitig vor die Aufgabe sich ihrer begrifflichen Grundlagen und der Bedingungen von Interdisziplinaritat zu versichern Dies zeigt sich bei den disparaten und stets neuen Formen des geistigen Eigentums immer dann besonders wenn die Rezeption fachfremder Grunde an den Zwangen des juristischen Gegenstands scheitert Michael Goldhammer zeigt wie das Begriffsproblem als normatives Moment der Begrundungsdebatte verstanden werden muss und mit der inhaltlichen Rechtfertigung wechselseitig so zusammenspielt dass es im Diskurs nicht ignoriert werden kann Hierzu bedient er sich der US Eigentumstheorie die sich der Frage spiegelverkehrt nahert und dadurch interessante Aufschlusse zulasst Anhand einer systematischen Rekonstruktion werden Strukturmerkmale entwickelt und mittels konkreter Falle dem Praxistest unterworfen Carl Gareis Preis der Rechts und Wirtschaftswissenschaftlichen Fakultat der Universitat Bayreuth 2012

Eine objektiv-rechtliche Gewährleistung der Rundfunkfreiheit in der Europäischen Union? Niels Lutzhöft, 2012 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 häufig funktional mit Blick auf dieses Ziel konzipiert Der Staat muss die Ausübung der Freiheit durch geeignete einfachgesetzliche Ausgestaltung sichern und die Meinungsvielfalt gewährleisten Die Massnahmen mit denen er dies tut greifen potenziell in die Dienstleistungsfreiheit ein oder stellen rechtfertigungsbedürftige Beihilfen dar Niels Lutzhoft löst 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 Tatbestände auf der Ebene der EU Verträge aus und verschafft der kulturellen Aufgabe des Rundfunks als negativer Grenze einen unionsrechtlichen Achtungsanspruch

The Methodology of Legal Theory Michael Giudice, Wil Waluchow, 2017-07-05 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 *The Canon of American Legal Thought* David Kennedy, William W. Fisher III, 2018-06-05 This anthology presents for the first time full texts of the twenty most important works of American legal thought since 1890 Drawing on a course the editors teach at Harvard Law School the book traces the rise and evolution of a distinctly American form of legal reasoning These are the articles that have made these authors from Oliver Wendell Holmes Jr to Ronald Coase from Ronald Dworkin to Catherine MacKinnon among the most recognized names in American legal history These authors proposed answers to the classic question What does it mean to think like a lawyer an American lawyer Their answers differed but taken together they form a powerful brief for the existence of a distinct and powerful style of reasoning and of rulership The legal mind is as often critical as constructive however and these texts form a canon of critical thinking a toolbox for resisting and unravelling the arguments of the best legal minds Each article is preceded by a short introduction highlighting the article's main ideas and situating it in the context of its author's broader intellectual projects the scholarly debates of his or her time and the reception the article received Law students and their teachers will benefit from seeing these classic writings in full in the context of their original development For lawyers the collection will take them back to their best days in law school All readers will be struck by the richness the subtlety and the sophistication with which so many of what have become the clichés of everyday legal argument were originally formulated **Concepts and Contexts of Vattel's Political and Legal Thought** Peter Schröder, 2021-06-24

Explores how Vattel used the natural law tradition to frame a pragmatic and treaty oriented model of the law of nations

Legal Thoughts Convert Jan M. Broekman, Frank Fleerackers, 2020-03-07 This book highlights how conversion via communication is one of the most important issues in legal thinking A major aspect is its link with language legal texts judgments opinions and legal concepts included Further conversion is connected to all social positions in law But a jurist will not solely master specific social behaviors or become the manager of large scale political fields of law as a legal scientist A continuously changing integration opens up to his views on reality as it presents itself incessantly Law and its functionaries are in a never ending process of change in all domains of culture which mark the 21st century Conversions thus concern the riddle of wisdom and automatism of individual privacy and social fixations of philosophical considerations and converting flows

Theory and Practice in Essene Law Aryeh Amihay, 2017 This book offers a novel approach for the study of law in the Judean Desert Scrolls using the prism of legal theory Following a couple of decades of scholarly consensus withdrawing from the Essene hypothesis it proposes to revive the term and suggests employing it for the sectarian movement as a whole while considering the group that lived in Qumran as the Yahad It further proposes a new suggestion for the emergence of the Yahad based on the roles of the Examiner and the Instructor in the two major legal codes the Damascus Document and the Community Rule The understanding of Essene law is divided into concepts and practices in order to emphasize the discrepancy between creed rhetoric and practices The abstract exploration of notions such as time space obligation intention and retribution is then compared against the realities of social practices including admission initiation covenant leadership reproof and punishment The legal analysis yields several new suggestions for the study of the scrolls first Amihay proposes to rename the two strands of thought of Jewish law formerly referred to as nominalism and realism with the terms legal essentialism and legal formalism The two laws of admission in the Community Rule are distinguished as two different laws one of an association for a group as a whole the other as an admission of an individual The law of reproof is proven to be an independent legal procedure rather than a preliminary stage of prosecution The methodological division in this study of thought and practice provides a nuanced approach for the study of law in general and religious law in particular

Research Handbook on Natural Law Theory Jonathan Crowe, Constance Youngwon Lee, 2019 p p1 margin 0 0px 0 0px 0 0px font 10 0px Arial p p2 margin 0 0px 0 0px 0 0px font 10 0px Arial min height 11 0px span s1 font 10 0px Helvetica This thought provoking Research Handbook provides a snapshot of current research on natural law theory in ethics politics and law showcasing the breadth and diversity of contemporary natural law thought The Research Handbook on Natural Law Theory examines topics such as foundational figures in Western natural law theory natural law ideas in a variety of religious and cultural traditions normative foundations of natural law as well as issues of law and governance Featuring contributions by leading international scholars this Research Handbook offers a valuable resource for scholars in law philosophy religious studies and related fields

The Politics of English as a World Language Christian Mair, 2003 The

complex politics of English as a world language provides the backdrop both for linguistic studies of varieties of English around the world and for postcolonial literary criticism The present volume offers contributions from linguists and literary scholars that explore this common ground in a spirit of open interdisciplinary dialogue Leading authorities assess the state of the art to suggest directions for further research with substantial case studies ranging over a wide variety of topics from the legitimacy of language norms of lingua franca communication to the recognition of newer post colonial varieties of English in the online OED Four regional sections treat the Caribbean including the diaspora Africa the Indian subcontinent and Australasia and the Pacific Rim Each section maintains a careful balance between linguistics and literature and external and indigenous perspectives on issues The book is the most balanced complete and up to date treatment of the topic to date

The Rise & Fall of Classical Legal Thought Duncan Kennedy, 2006 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 *The Lost World of Classical Legal Thought* William M. Wiecek, 2001 This text examines the ideology of elite lawyers and judges from the Gilded Age to the New Deal Between 1866 and 1937 this coherent outlook or legal orthodoxy shaped the way the American bar interpreted and understood the law

Legal Theory and the Legal Academy Maksymilian Del Mar, 2017-07-05 The third in a series of three volumes on Contemporary Legal Theory this volume deals with four topics 1 the role of legal theory in the legal curriculum 2 the teaching of legal theory 3 the relationship of legal theory to legal scholarship and 4 the relationship of legal theory to comparative law The focus of the first two topics is on the common law world where the debates over the aims and proper place of legal theory in the study of law have traversed a good deal of ground since John Austin's 1828 lecture The Uses and the Study of Jurisprudence These first two parts offer a selection of the most important papers including surveys as well as pedagogical viewpoints and particular course descriptions from analytical critical feminist law and literature and global perspectives The last three decades have seen just as many changes for legal scholarship and comparative law These changes such as the rise of empirical legal scholarship have often attracted the attention of legal theorists Within comparative law the last thirty years have witnessed intense methodological reflection within the discipline the results of these reflections are themselves properly recognised as legal theoretical contributions The volume collects the key papers including those by Neil MacCormick Mark Van Hoecke Andrew Halpin William Ewald and Geoffrey Samuel Freedom and Criminal Responsibility in American Legal Thought Thomas Andrew Green, 2014-10-27 This book deals with the most

fundamental problem in criminal law the way in which free will and determinism relate to criminal responsibility Der Mensch und sein Recht Otto Brusiin,Urpo Kangas,2019

The Ashgate Research Companion to Feminist Legal Theory Vanessa E. Munro,2016-04-01 As a distinct scholarly contribution to law feminist legal theory is now well over three decades old Those three decades have seen consolidation and renewal of its central concerns as well as remarkable growth dynamism and change This Companion celebrates the strength of feminist legal thought which is manifested in this dynamic combination of stability and change as well as in the diversity of perspectives and methodologies and the extensive range of subject matters which are now included within its ambit Bringing together contributors from across a range of jurisdictions and legal traditions the book provides a concise but critical review of existing theory in relation to the core issues or concepts that have animated and continue to animate feminism It provides an authoritative and scholarly review of contemporary feminist legal thought and seeks to contribute to the ongoing development of some of its new approaches perspectives and subject matters The Companion is divided into three parts dealing with Theory Concepts and Issues The first part addresses theoretical questions which are of significance to law but which also connect to feminist theory at the broadest and most interdisciplinary level The second part also draws on general feminist theory but with a more specific focus on debates about equality and difference race culture religion and sexuality The Issues section considers in detail more specific areas of substantive legal controversy

Legal Thoughts between the East and the West in the Multilevel Legal Order Chang-fa Lo,Nigel N.T. Li,Tsai-yu Lin,2016-11-11 This book focuses on the interaction and mutual influences between the East and the West in terms of their legal systems and practices In this regard it highlights Professor Herbert H P Ma s achievements and his efforts to bring Eastern and Western legal concepts and systems closer together The book shows that while there have been convergences between different legal regimes in many fields of law diverse legal practices and approaches rooted in differing cultural social political and philosophical backgrounds do remain and that these differences are not necessarily negative elements in the contemporary legal order By examining different levels of the legal order including domestic regional and multilateral it goes on to argue that identifying these diversities and addressing the interactions and mutual influences between different regimes is a worthwhile undertaking not only in terms of mutual enrichment but also with regard to intensifying the degree of desirable coordination between different legal systems All chapters were written by leading experts practitioners and scholars from different jurisdictions with expertise in various fields of law and different levels of the legal order and discuss a number of issues with particular focus on either one way or mutual influences between the Eastern and the Western legal systems practices and philosophies

Philosophy of Law as an Integral Part of Philosophy Thomas Bustamante,Thiago Lopes Decat,2020-12-24 This edited collection considers the work of one of the most important legal philosophers of our time Professor Gerald J Postema It includes contributions from expert philosophers of law The chapters dig deep into important camps of Postema s rich theoretical project including the value of the rule of law the

ideal of integrity in adjudication his works on analogical reasoning the methodology of jurisprudence dialogues with Ronald Dworkin Joseph Raz Frederick Schauer and HLA Hart The collection includes an original article by Professor Postema in which he develops his conception of the rule of law and replies to some objections to previous works and an interview in which he provides a fascinating and unique insight into his philosophy of law Transcending the Boundaries of Law Martha Albertson Fineman, 2010-07-12 Transcending the Boundaries of Law is a ground breaking collection that will be central to future developments in feminist and related critical theories about law In its pages three generations of feminist legal theorists engage with what have become key feminist themes including equality embodiment identity intimacy and law and politics Almost two decades ago Routledge published the very first anthology in feminist legal theory At the Boundaries of Law M A Fineman and N Thomadsen eds 1991 which marked an important conceptual move away from the study of women in law prevalent in the 1970s and 1980s The scholars in At the Boundaries applied feminist methods and theories in examining law and legal institutions thus expanding upon work in the Law and Society tradition This new anthology brings together some of the original contributors to that volume with scholars from subsequent generations of critical gender theorists It provides a retrospective on the past twenty five years of scholarly engagement with issues relating to gender and law as well as suggesting directions for future inquiry including the tantalizing suggestion that feminist legal theory should move beyond gender as its primary focus to consider the theoretical political and social implications of the universally shared and constant vulnerability inherent in the human condition *An Introduction to Law and Legal Thinking* Anthony D'amato, 2025-07-28 In Anthony D Amato s writing two passions merge law and language His eloquence and hence the sheer readability of his writing is virtually a byword among teachers and students alike This introduction to law is far from basic in its coverage yet it never becomes mired in tedious detail or lost in impenetrable fog It is perhaps the only reader friendly book available today that truly clarifies the deep and basic concepts of law in general and American law in particular

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Table of Contents Basic Concepts Of Legal Thought

1. Understanding the eBook Basic Concepts Of Legal Thought
 - The Rise of Digital Reading Basic Concepts Of Legal Thought
 - Advantages of eBooks Over Traditional Books
2. Identifying Basic Concepts Of Legal Thought
 - Exploring Different Genres
 - Considering Fiction vs. Non-Fiction
 - Determining Your Reading Goals
3. Choosing the Right eBook Platform
 - Popular eBook Platforms
 - Features to Look for in an Basic Concepts Of Legal Thought
 - User-Friendly Interface
4. Exploring eBook Recommendations from Basic Concepts Of Legal Thought

- Personalized Recommendations
 - Basic Concepts Of Legal Thought User Reviews and Ratings
 - Basic Concepts Of Legal Thought and Bestseller Lists
5. Accessing Basic Concepts Of Legal Thought Free and Paid eBooks
 - Basic Concepts Of Legal Thought Public Domain eBooks
 - Basic Concepts Of Legal Thought eBook Subscription Services
 - Basic Concepts Of Legal Thought Budget-Friendly Options
 6. Navigating Basic Concepts Of Legal Thought eBook Formats
 - ePub, PDF, MOBI, and More
 - Basic Concepts Of Legal Thought Compatibility with Devices
 - Basic Concepts Of Legal Thought Enhanced eBook Features
 7. Enhancing Your Reading Experience
 - Adjustable Fonts and Text Sizes of Basic Concepts Of Legal Thought
 - Highlighting and Note-Taking Basic Concepts Of Legal Thought
 - Interactive Elements Basic Concepts Of Legal Thought
 8. Staying Engaged with Basic Concepts Of Legal Thought
 - Joining Online Reading Communities
 - Participating in Virtual Book Clubs
 - Following Authors and Publishers Basic Concepts Of Legal Thought
 9. Balancing eBooks and Physical Books Basic Concepts Of Legal Thought
 - Benefits of a Digital Library
 - Creating a Diverse Reading Collection Basic Concepts Of Legal Thought
 10. Overcoming Reading Challenges
 - Dealing with Digital Eye Strain
 - Minimizing Distractions
 - Managing Screen Time
 11. Cultivating a Reading Routine Basic Concepts Of Legal Thought
 - Setting Reading Goals Basic Concepts Of Legal Thought
 - Carving Out Dedicated Reading Time
 12. Sourcing Reliable Information of Basic Concepts Of Legal Thought

- Fact-Checking eBook Content of Basic Concepts Of Legal Thought
- Distinguishing Credible Sources

13. Promoting Lifelong Learning

- Utilizing eBooks for Skill Development
- Exploring Educational eBooks

14. Embracing eBook Trends

- Integration of Multimedia Elements
- Interactive and Gamified eBooks

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