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CRITICAL ESSAYS IN
JURISPRUDENCE

Michael Moore

Educating Oneself In Public Critical Essays In Jurisprudence

Robert Alexy, Ralf Poscher



Educating Oneself In Public Critical Essays In Jurisprudence:

Educating Oneself in Public Michael S. Moore, 2023 Educating Oneself in Public is a sophisticated detailed and original examination of the main ideas that have dominated Anglo American legal philosophy since 1945 Educating Oneself in Public Michael S. Moore, 2000 The eleven essays in Educating Oneself in Public Critical Essays in Jurisprudence constitute an education in the Anglo American jurisprudence of the second half of the twentieth century The book examines both the thought of major figures such as H L A Hart Joseph Raz Ronald Dworkin Lon Fuller and Richard Rorty and the general themes of major movements such as legal realism post modernism and pragmatism Despite this focus on the thoughts of others the book is not a survey but is a critical probing of particular ideas often attributed to such figures Detailed depth of understanding is sought about Hart s conception of a general jurisprudence that describes law in general Dworkin s conception of an internal jurisprudence that interprets the concept of law of our legal culture Fuller s ideal of a functional jurisprudence that seeks the essence of law in the values it serves the place of rules in legal and moral reasoning Raz s idea that laws give exclusionary reasons to legal actors subject to such laws how judges should reason according to the legal realists whether there are right answers to all disputed law cases whether behind the obvious law of legal rules there can exist an unobvious law of legal principles Finnis s conception of the common good as the function law uniquely serves in what sense law practice and legal theory are interpretive activities whether all knowledge or some discrete realm of knowledge is peculiarly interpretive in character Michael Moore s views on each of these topics are detailed and original even if the springboards for each discussion are the writings of those who introduced such topics into modern discussions The introductory chapter includes responses by many of the figures examined in the other essays together with the author s rejoinders Vagueness and Law Geert Keil, Ralf Poscher, 2016 Vague expressions are omnipresent in natural language As such their use in legal texts is virtually inevitable If a law contains vague terms the question whether it applies to a particular case often lacks a clear answer One of the fundamental pillars of the rule of law is legal certainty The determinacy of the law enables people to use it as a guide and places judges in the position to decide impartially Vagueness poses a threat to these ideals In borderline cases the law seems to be indeterminate and thus incapable of serving its core rule of law value In the philosophy of language vagueness has become one of the hottest topics of the last two decades Linguists and philosophers have investigated what distinguishes soritical vagueness from other kinds of linguistic indeterminacy such as ambiguity generality open texture and family resemblance concepts There is a vast literature that discusses the logical semantic pragmatic and epistemic aspects of these phenomena Legal theory has hitherto paid little attention to the differences between the various kinds of linguistic indeterminacy that are grouped under the heading of vagueness let alone to the various theories that try to account for these phenomena Bringing together leading scholars working on the topic of vagueness in philosophy and in law this book fosters a dialogue between philosophers and legal scholars by examining how

philosophers conceive vagueness in law from their theoretical perspective and how legal theorists make use of philosophical theories of vagueness The chapters of the book are organized into three parts The first part addresses the import of different theories of vagueness for the law referring to a wide range of theories from supervenient to contextualist and semantic realist accounts in order to address the question of whether the law can learn from engaging with philosophical discussions of vagueness The second part of the book examines different vagueness phenomena The contributions in part 2 suggest that the greater awareness to different vagueness phenomena can make lawyers aware of specific issues and solutions so far overlooked The third part deals with the pragmatic aspects of vagueness in law providing answers to the question of how to deal with vagueness in law and with the professional political moral and ethical issues such vagueness gives rise to

Authorities Nicole Roughan, 2013-10-03 Interactions between state international transnational and intra state law involve overlapping and sometimes conflicting claims to legitimate authority This has led scholars to new theoretical explanations of sovereignty constitutionalism and legality but there has been little treatment of authority itself This book asks whether and under what conditions there can be multiple legitimate authorities with overlapping or conflicting domains Can legitimate authority be shared between state supra state and non state actors and if so how should they relate to one another Roughan argues that understanding authority in contemporary pluralist circumstances requires a new conception of relative authority and a new theory of its legitimacy The theory of relative authority treats the interdependence of authorities and the relationships in which they are engaged as critical to any assessment of their legitimacy It offers a tool for evaluating inter authority relationships prevalent in international transnational state and non state constitutional practice while suggesting significant revisions to the idea that law in general or even by necessity claims to have legitimate authority

International Energy and Poverty Lakshman Guruswamy, 2015-08-20 Around 2.8 billion people globally also known as the Other Third or energy poor have little or no access to beneficial energy that meets their needs for cooking heating water sanitation illumination transportation or basic mechanical power This book uniquely integrates the hitherto segmented and fragmented approaches to the challenge of access to energy It provides theoretical philosophical and practical analysis of energy for the low energy non hydrocarbon based Other Third of the world and how the unmet needs of the energy poor might be satisfied It comprehensively addresses the range of issues relating to energy justice and energy access for all including affordable sustainable energy technologies ASETs The book breaks new ground by crafting a unified and cohesive framework for analysis and action that explains the factual and socio political phenomenon of the energy poor and demonstrates why clean energy is a primary determinant of their human progress This is a must read for all scholars students professionals and policy makers working on energy policy poverty and sustainable energy technologies

Intention in Law and Philosophy Ngairé Naffine, Rosemary Owens, 2019-05-24 This title was first published in 2001 Legal systems are posited on the assumption that people are rational intentional agents who can choose to follow or break

the law This book connects the common interests of lawyers and philosophers in the meaning of intention and its relation to responsibility in legal moral and political contexts To Kill Another Graham McAleer, 2017-07-12 Basing his argument on natural law Graham J McAleer asserts that only public authority has the right to intentionally kill He draws upon the work of Thomas Aquinas and Francisco de Vitoria defending the claim that these natural law theorists have developed the best available theory of homicide To have rule of law in any meaningful sense the author argues there must be protections for the guilty and prohibition against killing innocents Western theories of law have drifted steadily towards the privatization of homicide despite the fact that it runs counter to rule of law Public acts of homicide like capital punishment are now viewed by many as barbaric while a private act of homicide like the starvation of comatose patients is viewed by many as a caring gesture both to patient and family This subversion of the rule of law is prompted by humanitarian ethics McAleer argues that humanitarianism is a false friend to those committed to the rule of law The problem of human vulnerability makes political theology an inescapable consideration for law Readers will find much to reflect upon in this book McAleer's argument can be read as a cultural chapter in the history of moral ideas but also as a close and timely reading of a grim subject Moral Puzzles and Legal Perplexities Heidi M. Hurd, 2019 Engages with the life and work of Larry Alexander to explore puzzles and paradoxes in legal and moral theory **The Alexy-Poscher Debate on Legal Principles** Robert Alexy, Ralf Poscher, 2025-06-12 This collective work provides a chronological and up to date reconstruction of the three round debate between Robert Alexy and Ralf Poscher The debate represents the German development of an enduring jurisprudential controversy over the concept and adjudicatory role of legal principles classically addressed by HLA Hart and Ronald Dworkin Alexy's principles theory which has initially defined legal principles as optimisation requirements currently argues that they express an ideal ought Poscher's critique challenges the soundness of Alexy's principles theory by questioning its ontological and epistemological commitments As legal principles are directly related to constitutional rights the Alexy Poscher debate has significant implications for constitutional adjudication For instance proportionality analysis which incorporates a highly controversial balancing test and the legitimate boundaries of judicial power hinge on the debate's two opposing views Yet despite the centrality and pervasiveness of this topic German contributions to the theoretical and practical impact of legal principles remain generally overlooked by English speaking scholars Concluding with David Duarte's critical and meticulous assessment of the debate this collection bridges that important scholarly gap Whether or not conversant in the debate on legal principles legal researchers and advanced law students with interdisciplinary interests in jurisprudence and constitutional law will find in this book a timely and distinctive introduction to leading developments in German legal thinking Metaphilosophy of Law Pawel Banas, Adam Dyrda, Tomasz Gizbert-Studnicki, 2016-10-06 Methodological and metaphilosophical disputes in the contemporary philosophy of law are very vivid Basic issues remain controversial The purpose of the book is to confront approaches of Anglo Saxon and continental philosophy of law to the following topics the

purpose of legal philosophy the role of disagreement in legal philosophy methodology of legal philosophy conceptual analysis and normativity of law We see those areas of legal metaphilosophy as drawing recently more and more attention in the literature The authors of particular chapters are internationally recognised scholars rooted in various traditions Anglo Saxon Gerald Postema Dennis Patterson Kenneth Ehrenberg Veronica Rodriguez Blanco Southern European Riccardo Guastini Manuel Atienza Nordic Torben Spaak German Ralf Poscher and Central European Jan Wolenski Tomasz Gizbert Studnicki Adam Dyrda They represent different approaches and different backgrounds The purpose of the volume is to contribute to the cross cultural discussions of fundamental issues of philosophy of law

Causation and Responsibility Michael S. Moore, 2010-07-15 The concept of causation is fundamental to ascribing moral and legal responsibility for events Yet the relationship between causation and responsibility remains unclear What precisely is the connection between the concept of causation used in attributing responsibility and the accounts of causal relations offered in the philosophy of science and metaphysics How much of what we call causal responsibility is in truth defined by non causal factors This book argues that much of the legal doctrine on these questions is confused and incoherent and offers the first comprehensive attempt since Hart and Honoré to clarify the philosophical background to the legal and moral debates The book first sets out the place of causation in criminal and tort law and outlines the metaphysics presupposed by the legal doctrine It then analyses the best theoretical accounts of causation in the philosophy of science and metaphysics and using these accounts criticises many of the core legal concepts surrounding causation such as intervening causation foreseeability of harm and complicity It considers and rejects the radical proposals to eliminate the notion of causation from law by using risk analysis to attribute responsibility The result of the analysis is a powerful argument for revising our understanding of the role played by causation in the attribution of legal and moral responsibility

The Methodology of Legal Theory Michael Giudice, 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

Institutionalized Reason Matthias Klatt, 2012-02-23 This volume gathers leading figures from legal philosophy and constitutional theory to offer a critical examination of the work of Robert Alexy The contributions explore the issues surrounding the complex relations between rights law and morality and reflect on Alexy's distinctive work on these issues

The focus across the contributions is on Alexy's main preoccupations: his anti-positivist views on the nature of law, his approach to the nature of legal reasoning and his understanding of constitutional rights as legal principles. In an extended response to the contributions in the volume, Alexy develops his views on these central issues. The volume's juxtaposition of Anglo-American and German perspectives brings into focus the differences as well as the prospect of cross-fertilization between Continental and Anglo-American work in jurisprudence. *The Cambridge Companion to Comparative Law* Mauro Bussani, Ugo Mattei, 2012-08-16 The book delves into the deeper structures of the world's legal systems where law meets culture, politics and socio-economic factors. **The Sanctity of Life and the Criminal Law** Dennis J. Baker, Jeremy Horder, 2013-02-14 Fourteen essays on major theoretical issues in contemporary criminal law and medical law ethics.

Reasoning with Law Andrew Halpin, 2001-12-12 The reader is invited to follow a route that visits Fish's view of theory and practice, Raz's legal reasoning thesis, theoretical models of judicial review, Dworkin's right answer thesis, the law of the excluded middle and Lukasiewicz's development of three-valued logic, Wittgenstein's language games and Moore's metaphysical realism. The destination is the practice at the heart of legal reasoning. It is suggested that this manifests the way in which the limitations of language and the incompleteness of human experience allow the opportunity for coherent development of the law and at the same time produce an inherent incoherence within the law. The central part of the book seeks to demonstrate how the problems of understanding legal reasoning replicate difficulties encountered in the philosophy of language but challenges the attempts that have been made to harness approaches from within that discipline to illuminate legal reasoning. Instead, it is argued that law provides an unrivalled test bed for examining the limits of the capacity of our words and that the study of law may be used to confront in a robust and illuminating manner the limitations of that discipline. The final chapter considers some of the implications of recognising the incoherence at the heart of legal reasoning, commenting on an institutional approach to law, the legitimacy of law, legal definitions, different approaches to legal reasoning, the role of appellate courts, the general possibility of providing a theoretical model of law, the use of legal rules and the nature of law's critical aperture. The book should be of interest to advanced undergraduate students, particularly on jurisprudence courses, postgraduate students, academics and practitioners concerned to reflect on the nature of the discipline they practice. **Law** Enrique Villanueva, Instituto de Investigaciones Jurídicas (México City), 2007 Interpretivist theories of law Nicos Stavropoulos How facts make law Mark Greenberg On the normative significance of brute facts Ram Neta On practices and the law Mark Greenberg Supervenience, value and legal content Enrique Villanueva Reasons without values Mark Greenberg Theory, practice and ubiquitous interpretation the basics Martin Stone Law as a reflective practice Scott Herschovitz On reflective practices and substituting for God Martin Stone Metasemantics and objectivity Ori Simchen Can objectivity be grounded in semantics Michael S. Moore A hybrid theory of claim rights Gopal Sreenivasan Is the will theory of rights superseded by the hybrid theory Horacio Spector In defense of the hybrid theory Gopal Sreenivasan *Natural Law*

and Modern Moral Philosophy: Volume 18, Social Philosophy and Policy, Part 1 Ellen Frankel Paul, Fred D. Miller (Jr.), Jeffrey Paul, 2001-01-29 The essays in this volume written by academic lawyers as well as legal and moral philosophers address some of the most intriguing questions raised by natural law theory and its implications for law morality and public policy Some of the essays explore the implications that natural law theory has for jurisprudence asking what natural law suggests about the use of legal devices such as constitutions and precedents Other essays examine the connections between natural law and natural rights

A Treatise of Legal Philosophy and General Jurisprudence Enrico Pattaro, 2007-10-08 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 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 2012 2013 accounts for the development of legal thought from ancient Greek times through the twentieth century The entire set will be completed with an index Volume 1 The Law and the Right a Reappraisal of the Reality that ought to be by Enrico Pattaro This work brings out and recovers the normative dimension of law called the reality that ought to be placing within this reality the idea of what is right Part I reconstructs the current as well as the traditional civil law conception of the reality that ought to be and raises some critical theoretical issues Part II introduces some basic concepts on language and behaviour and presents a conception of norms as beliefs Part III aims to find explanations for the idea of a reality that ought to be Part IV consists of inquiries focussed on Homeric epic the natural law school and the normativistic view of positive law

Neutrality and Theory of Law Jordi Ferrer Beltrán, José Juan Moreso, Diego M. Papayannis, 2013-04-03 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

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