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Essays on Bentham

Jurisprudence and Political Theory

H. L. A. Hart

Essays On Bentham Jurisprudence And Political Philosophy

Catriona McKinnon



Essays On Bentham Jurisprudence And Political Philosophy:

Essays on Bentham H. L. A. Hart, 1982-11-04 In his introduction Professor Hart offers both an exposition and a critical assessment of some central issues in jurisprudence and political theory Essay themes include Bentham's identification of the forms of mystification protecting the law from criticism his relation to Beccaria and his conversion to democratic radicalism

Essays on Bentham Herbert Lionel Adolphus Hart, 1982 In his introduction Professor Hart offers both an exposition and a critical assessment of some central issues in jurisprudence and political theory Essay themes include Bentham's identification of the forms of mystification protecting the law from criticism his relation to Beccaria and his conversion to democratic radicalism

Essays on Bentham H. L. A. Hart, 1982 In his introduction to these closely linked essays Professor Hart offers both an exposition and a critical assessment of some central issues in jurisprudence and political theory Some of the essays touch on themes to which little attention has been paid such as Bentham's identification of the forms of mystification protecting the law from criticism his relation to Beccaria and his conversion to democratic radicalism and a passionate admiration for the United States

Utility, Publicity, and Law Gerald J. Postema, 2019 The essays in this volume offer a reassessment of Jeremy Bentham's strikingly original legal philosophy Early on Bentham discovered his genius for legislation legislation included not only lawmaking and code writing but also political and social institution building and engineering of public spaces for effective control of the exercise of political power In his general philosophical work Bentham sought to articulate a public philosophy to guide and direct all of his legislative efforts Part I explores the philosophical foundations of his public philosophy his theory of meaning and framework for analysis and definition of key concepts his theory of human affections and motivations and his utilitarian theory of value It is argued that while concepts of pleasure and happiness play nominal roles in his theory of value concepts of publicity equality and interests emerge as the dominant concepts of his public philosophy Part II explores several dimensions of Bentham's jurisprudence including his radically revised command model of law his early reflections on justice and law in adjudication his theories of judicial evidence constitutional rights the rule of law and international law The concluding essay demonstrates the centrality of the notion of publicity in his moral legal and political thought Emerging from this study is a positivist legal theory and a utilitarian moral political philosophy that challenge in fundamental ways contemporary understandings of those doctrines

Bentham and the Common Law Tradition Gerald J. Postema, 2019-12-19 This work explores the relationship between Bentham's utilitarian practical philosophy and his positivist jurisprudence These theories appear to be in tension because his utilitarian commitment to the sovereignty of utility as a practical decision principle seems inconsistent with his positivist insistence on the sovereignty of the will of the lawmaker Two themes emerge from the attempt in this work to reconcile these two core elements of Bentham's practical thought First Bentham's conception of law does not fit the conventional model of legal positivism Bentham was not just a utilitarian and a positivist he was a positivist by virtue of his commitment to a utilitarian understanding of the fundamental

task of law Moreover his emphasis on the necessary publicity and the systemic character of law led him to insist on an essential role for utilitarian reasons in the regular public functioning of law Second Bentham s radical critique of common law theory and practice convinced him of the necessity to reconcile the need for certainty of law with an equally great need for its flexibility He eventually developed a constitutional framework for adjudication in the shadow of codified law that accorded to judges discretion to decide particular cases according to their best judgment of the balance of utilities guaranteeing the accountability and appropriate motivation of judicial decision making through institutional incentives The original text of this work first published in 1986 remains largely unchanged but an afterword reconsiders and revises some themes in response to criticism

New Essays on the Nature of Rights Mark McBride, 2017-08-24 This original collection of jurisprudential essays furthers our understanding of the nature of rights In Part 1 Halpin considers the value of Hohfeldian neutrality when theorising about law in general and legal rights in particular and Kurki focuses on Hohfeld s operative notion of power In Part 2 Kramer rebuts Wenar s objections to his Interest Theory of rights and May provides a comparative defence of the Interest Theory against Wenar s Kind Desire theory of claim rights Penner then pursues legal doctrine focusing on whether judges hold the powers of their office as rights an issue over which Wenar and Kramer have clashed Sreenivasan utilising a novel test case involving pure public goods argues that the third party beneficiary objection to the Interest Theory is fatal McBride builds on Sreenivasan s Hybrid Theory of claim rights to construct his new Tracking Theory of rights Cruft then argues that the best extant versions of the Interest and Will Theories of rights cannot avoid a form of circularity and Van Duffel argues that meeting four adequacy constraints which he proposes counts in favour of any theory of rights In Part 3 Andersson proposes a tie breaking procedure for rights conflicts in the applied realm of politics and Steiner concludes by alleging that Kant s principle of right a standard of corrective justice has distributive implications A fine collection of cutting edge essays on the most important normative concept of modernity Professor Leif Wenar King s College London This important collection proceeds much beyond the famous 1998 A Debate Over Rights which sets the stage for the debates concerning rights since then It explores three aspects of rights First it re examines the Hohfeldian classification and highlights its importance and relevance Second it investigates and develops the debates between the interest and the will theory It includes essays by the main established proponents of these two positions as well as essays by newcomers to this field The different essays in this part address each other in ways which sharpen and clarify the disagreements and provide new original arguments for the contending views Last it provides a new perspective on the debates concerning conflicts of rights and the ways to overcome them This collection will no doubt dominate the future conceptual discussions concerning the nature of rights and their role in political theory Professor Alon Harel The Hebrew University of Jerusalem [The Morality of the Laws of War](#) Marcela Prieto Rudolphy, 2023-05-04 Combatants are equal under the laws of armed conflict regardless of whether the wars they fight are just or unjust legal or illegal They are permissible targets and can kill each

other in battle This basic feature of international law has been recently put into question by a group of moral philosophers known as revisionists who argue that just combatants in an unjust war should be considered innocents and their deaths considered murder Dr Prieto Rudolph explains and assesses the conflict between the revisionist argument and the existing legal norms in *The Morality of the Laws of War War Law and Murder* The book provides an in depth assessment of modern ethical thought on killing in wartime deconstructing the revisionist view of war and offering a new perspective on the legal equality of combatants Prieto Rudolph not only examines the tension between the revisionist morality and the traditional thesis of symmetry between combatants but proposes a contingent justification of the latter and an alternative morality of war Underlying both is the inescapable fact that regulating war is always a moral compromise At the same time she argues that there is urgent moral pressure to improve our laws to bring them closer to an ideal whereby war does not exist *The Morality of the Laws of War* is a must read for scholars of moral philosophy and international law from students to experts providing a thorough account of contemporary debates on the ethics of warfare and using nuanced arguments to illuminate a fresh perspective

Legal Positivism, Politics, and Critical Ethics Elena Namli, 2025-07-10 This book challenges the view that legal positivism should be reduced to a conceptual analysis of legal validity Instead Elena Namli reclaims legal positivism as a theory of the relationship between law morality and politics Presenting novel interpretations of the classical works of Herbert L A Hart Joseph Raz and Jürgen Habermas Namli frames legal positivism as a theory that makes possible a moral and political critique of valid law Moreover this book defends the dialectical relationship between law politics and morality by combining a positivist approach to legal validity with a constructivist ethical theory which strengthens the critical potential of legal positivism Legally valid norms may not always be morally justified but understanding the moral quality of legal regulations is essential for comprehending modern law

Bentham's Theory of Law and Public Opinion Xiaobo Zhai, Michael Quinn, 2014-04-21 This collection represents the latest research from leading scholars whose work has helped to frame our understanding of Bentham since the publication of H L A Hart's *Essays on Bentham* The authors explore fundamental areas of Bentham's thought including the relationship between the rule of law and public opinion law and popular prejudices or manipulated tastes Bentham's methodology versus Hart's sovereignty and codification and the language of natural rights Drawing on original manuscripts and volumes in *The Collected Works of Jeremy Bentham* the chapters combine philosophical and historical approaches and offer new and more faithful interpretations of Bentham's legal philosophy and its development As a coherent whole the book challenges the dominant understandings of Bentham among legal philosophers and rescues him from some famous mischaracterizations

Unfreedom for All Thomas J. Donahue-Ochoa, 2019-08-14 It is often said that we live under systems of injustice But if so who ought to combat them and why Many in the world's liberal elite hold that only the perpetrators or the victims have such duties because of their special connections to the injustice Others hold that all of the privileged have them because they have duties to relieve suffering or

to redress their complicity in the injustice This book challenges those answers It argues that everyone living under such injustices ought to combat them victim perpetrator and bystander alike Moreover they all have the same reason for doing so such injustices suppress everyone's resistance to their workings But there is a name for such suppression authoritarianism Hence such injustices make everyone unfree because they subject everyone to authoritarian tactics The book thus reinterprets and defends a core doctrine of the global left No one is free while others are oppressed For it shows how oppression subjects everyone including you to arbitrary power The book argues that systematic injustice occurs when one group finds that its political voice is unjustly marginalized its members exploited and subject to systematic violence and that society's dominant norms unjustly favor a privileged group It diagnoses three global injustices of this kind gender race and poverty It then shows how such injustices always suppress everyone's resistance to them making everyone unfree But if so it argues then this shared unfreedom should be the ground on which victims bystanders and perpetrators unite in solidarity against injustice

The Collected Works of Jeremy Bentham: An Introduction to the Principles of Morals and Legislation Jeremy Bentham, 1996-01-11 The new critical edition of the works and correspondence of Jeremy Bentham 1748-1832 is being prepared and published under the supervision of the Bentham Committee of University College London In spite of his importance as jurist philosopher and social scientist and leader of the Utilitarian reformers the only previous edition of his works was a poorly edited and incomplete one brought out within a decade or so of his death Eight volumes of the new Collected Works five of correspondence and three of writings on jurisprudence appeared between 1968 and 1981 published by the Athlone Press Further volumes in the series since then are published by Oxford University Press The overall plan and principles of the edition are set out in the General Preface to The Correspondence of Jeremy Bentham vol 1 which was the first volume of the Collected Works to be published An Introduction to the Principles of Morals and Legislation Jeremy Bentham's best known work is a classic text in modern philosophy and jurisprudence First published in 1789 it contains the important statement of the foundations of utilitarian philosophy and a pioneering study of crime and punishment both of which remain at the heart of contemporary debates in moral and political philosophy economics and legal theory Printed here in full is the definitive edition edited by the distinguished scholars J H Burns and H L A Hart An introductory essay by Hart first published in 1982 and a widely acknowledged classic in its own right is reprinted here It contains an important analysis of Bentham's principle of utility theory of action and an account of the relationship between law and morality A new introduction by the leading Bentham scholar F Rosen specially written for this Clarendon Paperback edition provides students with a helpful survey of Bentham's main ideas and an extensive bibliographical study of recent critical work on Bentham Professor Rosen's essay also contains a new analysis of the principle of utility in Bentham's philosophy which is compared with its use in Hume and J S Mill

The Oxford Dictionary of Philosophy Simon Blackburn, 2016 This dictionary is recognized as the best dictionary of its kind Comprehensive and authoritative it includes over 3 300 alphabetical

entries and is the ideal introduction to philosophy for anyone with an interest in the subject *The Contemporary Evolution and Reform of Utilitarianism* Shuyang Liu,2024-01-09 This book is a monograph on contemporary utilitarianism focusing on its evolving path and logic It describes the evolution of utilitarianism from the classical model to the contemporary model and then summarizes the characteristics of contemporary utilitarianism revealing its advantages and disadvantages This book points out that the best characteristic of contemporary utilitarianism is to give up traditional view of individualism and take balanced attitude to the relationship between individual and community The change makes the goal of contemporary utilitarianism from the pursuit of maximizing the sum of individual utilities to optimal social utility Therefore the contemporary utilitarianism gradually evolves a public philosophy with multiple interests structure which provides a new way to solve the contradiction between personal interest and public interest Utilitarianism is still an important political philosophy in western society but its existing defects actually make it difficult to have a transformative impact on western institutional structure and system The target audience of this book are students and researchers majoring in politics and ethics **Rethinking Rights** Eleanor Curran,2022-04-04 Rethinking Rights Historical Development and Philosophical Justification takes a new look at the history of individual rights focussing on the way that philosophers have written that history The scholastics and early modern writers used the notion of natural rights to debate the big moral and political questions of the day such as the treatment of Indigenous Americans under Spanish rule John Locke put natural rights at the centre of liberal political thought But as the idea grew in strength and influence empiricist and positivist philosophers punctured it with attacks of logical incompetence and illegitimate appeals to theology and metaphysics Philosophers then turned to law and jurisprudence for the philosophical analysis of rights where it has largely stayed ever since Eleanor Curran argues that the dominance of the Hohfeldian analysis of legal rights has restricted our understanding of moral and political rights and led to distorted readings of historical writers on rights It has also led to the separation of right from the important related notion of liberty freedoms are now seen as inferior to claims Curran looks at recent philosophy of human rights and suggests a way forward for justifying universal moral and political rights and separating them from legal rights

Handbook of Migration Ethics Andreas Niederberger,Uchenna Okeja,Johanna Gördemann,2025-09-30 This book provides a comprehensive overview of the state of the art literature on migration ethics The ethics of migration is one of the rapidly growing fields of research in political philosophy applied ethics political theory legal theory social philosophy and the study of migration in the wider social sciences Approaches in this field have elaborated possible rights of migrants and host societies debated permissible criteria for immigration policies and considered the differences between the claims that refugees and other migrants can make This Handbook brings together leading international philosophers and social scientists from all regions of the world In its contributions it retraces the historical and systematic evolution of normative positions on migration and asylum introduces the methodologies used in this field and offers concise analyses of the most

important controversies in the field of migration and in particular in the current politically important debate on the ethics of refugees and asylum The Handbook of Migration Ethics is an indispensable resource for academics students as well as professionals working in the field of migration It constitutes a useful starting point for understanding research in this field and its social and political significance as well as for discovering future research topics

Legal Power and Legal Competence Gonzalo Villa-Rosas,Torben Spaak,2023-07-11 This volume explores the concepts of legal power and legal competence in fourteen original cutting edge chapters by leading legal theorists Legal power and legal competence are major topics in jurisprudence as they concern a range of practices common to all modern legal systems that empower individuals to bring about changes in the respective system by changing their own legal position or the legal positions of others This compilation covers five broad themes The chapters in the first section address open questions on the meaning of legal power and legal competence while those in the second tackle problems regarding their normativity The third section is devoted to specifically exploring the relationship between legal power and constitutive norms The fourth focuses on the analysis of legal officials and legal offices while the fifth and final section assesses various theories of legal power and legal competence

Issues in Political Theory Catriona McKinnon,2015 This political theory textbook invites students to apply the concepts they encounter to real world politics Each chapter includes a 2 000 word case study to highlight the theories that have been discussed

The Long Arc of Legality David Dyzenhaus,2022-01-27 The Long Arc of Legality breaks the current deadlock in philosophy of law between legal positivism and natural law by showing that any understanding of law as a matter of authority must account for the interaction of enacted law with fundamental principles of legality This interaction conditions law s content so that officials have the moral resources to answer the legal subject s question But how can that be law for me David Dyzenhaus brings Thomas Hobbes and Hans Kelsen into a dialogue with H L A Hart showing that philosophy of law must work with the idea of legitimate authority and its basis in the social contract He argues that the legality of international law and constitutional law are integral to the main tasks of philosophy of law and that legal theory must attend both to the politics of legal space and to the way in which law provides us with a public conscience

Equality and Vulnerability in the Context of Italian Political Philosophy Gianfrancesco Zanetti,2023-09-17 One of the main goals of this book is to determine if in the works of some of the key authors in the history of Italian political philosophy a notion of efficacy can be found In legal philosophy efficacy is the capacity a norm has to effectively influence citizens behavior The principle of efficacy is that according to which an order or rule exists as such when it is followed effectively in practice Here by efficacy I mean the idea that normative phenomena are self justifying without reference to extrinsic systems of value such as natural law The examinations of several texts undertaken here constitute reflections on this theme without any claim to systematicity They have been grouped together roughly in historical order by their common respect for the contexts within which they reason and reach decisions which lends them a characteristic flavor of harsh realism that at times relies on a

minimalist use of traditional normative categories The second theme that emerges through the respective chapters each of which constitutes the text for a lesson in a course for Ph D students is that of the relationship between equality and vulnerability Here the idea is to elaborate a concept of vulnerability that is not underpinned by what we in Italy call an anthropology that is a fixed notion of human nature Instead this concept should be comprehensible and graspable solely on the basis of the recognition of decisions and actions that are merely efficacious that function for what they are and what they do This recognition doesn't even need to be explicitly articulated by these authors with any specific deliberately conscious awareness The goal is not to identify a precise tradition of thought one which elaborates a given line of reflection but rather to highlight certain themes that emerge in the texts examined even as the authors write with and for their own specific contingent set of motives which differ from time to time and place to place These authors include some who are widely known such as Dante Machiavelli and Beccaria At times they are figures who typify certain key historical episodes such as the Risorgimento Giuseppe Mazzini or Fascism Cesare Lombroso and Santi Romano while others reflect certain aspects of a contemporary debate Pasolini and the Braibanti affair The book is based on lectures given for a 2021 Ph D Course at the University of California Berkeley's Department of Italian Studies

Encyclopedia of Ethics Lawrence C. Becker, Charlotte B. Becker, 2013-10-18 The editors working with a team of 325 renowned authorities in the field of ethics have revised expanded and updated this classic encyclopedia Along with the addition of 150 new entries all of the original articles have been newly peer reviewed and revised bibliographies have been updated throughout and the overall design of the work has been enhanced for easier access to cross references and other reference features New entries include Cheating Dirty hands Gay ethics Holocaust Journalism Political correctness and many more

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Table of Contents Essays On Bentham Jurisprudence And Political Philosophy

1. Understanding the eBook Essays On Bentham Jurisprudence And Political Philosophy
 - The Rise of Digital Reading Essays On Bentham Jurisprudence And Political Philosophy
 - Advantages of eBooks Over Traditional Books
2. Identifying Essays On Bentham Jurisprudence And Political Philosophy
 - 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 Essays On Bentham Jurisprudence And Political Philosophy
 - User-Friendly Interface
4. Exploring eBook Recommendations from Essays On Bentham Jurisprudence And Political Philosophy
 - Personalized Recommendations
 - Essays On Bentham Jurisprudence And Political Philosophy User Reviews and Ratings
 - Essays On Bentham Jurisprudence And Political Philosophy and Bestseller Lists
5. Accessing Essays On Bentham Jurisprudence And Political Philosophy Free and Paid eBooks
 - Essays On Bentham Jurisprudence And Political Philosophy Public Domain eBooks
 - Essays On Bentham Jurisprudence And Political Philosophy eBook Subscription Services
 - Essays On Bentham Jurisprudence And Political Philosophy Budget-Friendly Options
6. Navigating Essays On Bentham Jurisprudence And Political Philosophy eBook Formats

- ePub, PDF, MOBI, and More
- Essays On Bentham Jurisprudence And Political Philosophy Compatibility with Devices
- Essays On Bentham Jurisprudence And Political Philosophy Enhanced eBook Features
- 7. Enhancing Your Reading Experience
 - Adjustable Fonts and Text Sizes of Essays On Bentham Jurisprudence And Political Philosophy
 - Highlighting and Note-Taking Essays On Bentham Jurisprudence And Political Philosophy
 - Interactive Elements Essays On Bentham Jurisprudence And Political Philosophy
- 8. Staying Engaged with Essays On Bentham Jurisprudence And Political Philosophy
 - Joining Online Reading Communities
 - Participating in Virtual Book Clubs
 - Following Authors and Publishers Essays On Bentham Jurisprudence And Political Philosophy
- 9. Balancing eBooks and Physical Books Essays On Bentham Jurisprudence And Political Philosophy
 - Benefits of a Digital Library
 - Creating a Diverse Reading Collection Essays On Bentham Jurisprudence And Political Philosophy
- 10. Overcoming Reading Challenges
 - Dealing with Digital Eye Strain
 - Minimizing Distractions
 - Managing Screen Time
- 11. Cultivating a Reading Routine Essays On Bentham Jurisprudence And Political Philosophy
 - Setting Reading Goals Essays On Bentham Jurisprudence And Political Philosophy
 - Carving Out Dedicated Reading Time
- 12. Sourcing Reliable Information of Essays On Bentham Jurisprudence And Political Philosophy
 - Fact-Checking eBook Content of Essays On Bentham Jurisprudence And Political Philosophy
 - 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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