

Neil MacCormick and Zenon Bankowski, ed., *Enlightenment, Rights and Revolution: Essays in Legal and Social Philosophy*, Aberdeen, Aberdeen University Press, 1989, pp. 396.

The papers that make up this volume were presented to the 1989 World Congress of the International Association for Philosophy of Law and Social Philosophy. The authors constitute a genuinely international symposium, coming from Japan, South America and Africa as well as from East and West Europe and the United States. They also tax the linguistic skills of their readers; most write in English but there are also papers in German, French and Spanish. The papers themselves are a very mixed bunch, both in content and in quality. Most are interesting, some break new ground, some have little to offer. The themes of the Conference were inspired by the anniversaries of '89 and all of the contributions relate in some way to the subjects of enlightenment, rights and revolution. Within those general subjects, the editors have attempted to group papers under more specific headings, but with limited success. In truth, the volume is a collection of eighteen separate essays which are only loosely related to one another.

Only a few papers are primarily historical in concern. D. D. Raphael examines the influence of the Scottish Enlightenment upon the architects of the American Revolution. He argues that Hutcheson, Reid, Price and Hume were all significant influences, although he also emphasises that the link between Enlightenment thought and revolutionary action was far from simple. Knud Haakonssen also focuses on the Scottish Enlightenment. He provides a scholarly account of two competing interpretations of that phenomenon. One characterizes the Scottish Enlightenment by reference to classical republicanism (or 'civic humanism'), the other by reference to natural jurisprudence. Haakonssen shows that a degree of reconciliation between these two interpretations is possible once we recognize that different members of the Scottish Enlightenment allied themselves with different schools of natural jurisprudence: David Hume and Adam Smith with the thought of Grotius, the Scottish moral philosophers such as Hutcheson and Reid with the thought of Pufendorf.

Two of the most substantial and significant papers come from Carlos Nino and Onora O'Neill both of whom are concerned with liberalism. Nino examines the principle of personal autonomy as a principle fundamental to a liberal society. He rejects claims that the idea of personal autonomy is itself a particular conception of the good and he makes some telling points against those, such as Haksar and Raz, who have formulated liberalism in perfectionist terms. Rather Nino believes that the principle of personal autonomy is grounded in the very conditions necessary for moral discourse. Whether the idea of 'moral discourse' will bear this much weight is a moot point and Nino himself argues that liberalism requires the principle of autonomy to be supplemented by a hedonistic principle. However, this is a significant article for those interested in the foundations of liberalism and the viability of a non-perfectionist liberalism.

Onora O'Neill is more critical of current liberalism. Locke spoke of justice and charity (understood as concern for the needs of others) as 'great maxims', yet, nowadays, charity has a moral status much inferior to justice and is

Enlightenment Rights And Revolution Essays In Legal And Social Philosophy

Peter de Bolla



Enlightenment Rights And Revolution Essays In Legal And Social Philosophy:

Enlightenment, Rights and Revolution Neil MacCormick, Zenon Bankowski, 1989 The present volume deals with a number of fundamental issues in philosophy of law and social philosophy The reviews and perspectives it represents are thoroughly international in scope and range with the participation of leading thinkers from six continents Within the overall theme of Enlightenment Rights and Revolution each of the sub themes has been so well explored by its authors that the whole does amount to more than the sum of its parts As editors we might have been tempted to claim credit for this beyond our due in truth however the authors of the essays which make up the book did it all with a minimum of editorial intervention and in a very short time We are profoundly grateful to them all Preface *The Glorious Revolution and the Continuity of Law* Richard S. Kay, 2014-11-10 The Glorious Revolution and the Continuity of Law explores the relationship between law and revolution Revolt armed or not is often viewed as the overthrow of legitimate rulers Historical experience however shows that revolutions are frequently accompanied by the invocation rather than the repudiation of law No example is clearer than that of the Glorious Revolution of 1688-89 At that time the unpopular but lawful Catholic king James II lost his throne and was replaced by his Protestant son in law and daughter William of Orange and Mary with James's attempt to recapture the throne thwarted at the Battle of the Boyne in Ireland The revolutionaries had to negotiate two contradictory but intensely held convictions The first was that the essential role of law in defining and regulating the activity of the state must be maintained The second was that constitutional arrangements to limit the unilateral authority of the monarch and preserve an indispensable role for the houses of parliament in public decision making had to be established In the circumstances of 1688-89 the revolutionaries could not be faithful to the second without betraying the first Their attempts to reconcile these conflicting objectives involved the frequent employment of legal rhetoric to justify their actions In so doing they necessarily used the word law in different ways It could denote the specific rules of positive law it could simply express devotion to the large political and social values that underlay the legal system or it could do something in between In 1688-89 it meant all those things to different participants at different times This study adds a new dimension to the literature of the Glorious Revolution by describing analyzing and elaborating this central paradox the revolutionaries tried to break the rules of the constitution and at the same time be true to them **A Political Theory of Rights** Attracta Ingram, 1994-11-17 Rights are basic building blocks of the contemporary state and yet their rigorous justification is notoriously difficult This book provides a thorough analysis of this central topic in modern political discourse The book challenges the orthodox view that rights are a type of property claim in one's body Drawing on the tradition of the social contract as well as the wealth of recent work in political theory the book argues for a different conception of rights Rights are conceived as a certain type of political claim justified by a Kantian ideal of autonomy Moreover that justification provides a moral basis for rights that while independent of law and custom is also tied to an image of citizenship particularly suited to the pluralistic nature of contemporary liberal

society **Enlightenment, Legal Education, and Critique** John W Cairns, 2015-07-27 Enlightenment Legal Education and Critique deals with broad themes in Legal History such as the development of Scots Law through the major legal thinkers of the Enlightenment essays on Roman law and miscellaneous essays on the literary and philosophic 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 **A Culture of Rights** Michael James Lacey, Knud Haakonssen, 1992-11-27 The essays in this volume provide insights into the rights thinking and consciousness at the core of American political culture *John Witherspoon's American Revolution* Gideon Mailer, 2016-11-23 In 1768 John Witherspoon Presbyterian leader of the evangelical Popular party faction in the Scottish Kirk became the College of New Jersey's sixth president At Princeton he mentored constitutional architect James Madison as a New Jersey delegate to the Continental Congress he was the only clergyman to sign the Declaration of Independence Although Witherspoon is often thought to be the chief conduit of moral sense philosophy in America Mailer's comprehensive analysis of this founding father's writings demonstrates the resilience of his evangelical beliefs Witherspoon's Presbyterian evangelicalism competed with combined with and even superseded the civic influence of Scottish Enlightenment thought in the British Atlantic world John Witherspoon's American Revolution examines the connection between patriot discourse and long standing debates already central to the 1707 Act of Union about the relationship among piety moral philosophy and political unionism In Witherspoon's mind Americans became different from other British subjects because more of them had been awakened to the sin they shared with all people Paradoxically acute consciousness of their moral depravity legitimized their move to independence by making it a concerted moral action urged by the Holy Spirit Mailer's exploration of Witherspoon's thought and influence suggests that for the founders in his circle civic virtue rested on personal religious awakening **Law, Culture and Society** Professor Roger Cotterrell, 2013-01-28 This book presents a distinctive approach to the study of law in society focusing on the sociological interpretation of legal ideas It surveys the development of connections between legal studies and social theory and locates its approach in relation to sociolegal studies on the one hand and legal philosophy on the other It is suggested that the concept of law must be re-considered Law has to be seen today not just as the law of the nation state or international law that links nation states but also as transnational law

in many forms A legal pluralist approach is not just a matter of redefining law in legal theory it also recognizes that law s authority comes from a plurality of diverse sometimes conflicting social sources The book suggests that the social environment in which law operates must also be rethought with many implications for comparative legal studies The nature and boundaries of culture become important problems while the concept of multiculturalism points to the cultural diversity of populations and to problems of fragmentation or perhaps to new kinds of unity of the social Theories of globalization raise a host of issues about the integrity of societies and about the need to understand social networks and forces that extend beyond the political societies of nation states Through a range of specific studies closely interrelated and building on each other the book seeks to integrate the sociology of law with other kinds of legal analysis and engages directly with current juristic debates in legal theory and comparative law

Bentham: A Guide for the Perplexed Philip Schofield,2009-04-15
Bentham A Guide for the Perplexed presents a clear account of his life and thought and highlights his relevance to contemporary debates in philosophy politics and law Key concepts and themes including Bentham s theory of logic and language his utilitarianism his legal theory his panopticon prison and his democratic politics together with his views on religion sex and torture are lucidly explored The book also contains an illuminating discussion of the nature of the text from the perspective of an experienced textual editor

Law and the Invisible Hand Robin Paul Malloy,2021-11-18 A contemporary interpretation of Adam Smith s work on jurisprudence revealing Smith s belief that progress emerges from cooperation and a commitment to justice In Smith s theory the tension between self interest and the interests of others is mediated by law so that the common interest of the community can be promoted Moreover Smith informs us that successful societies do at least three things well They promote the common interest advance justice through the rule of law and they facilitate our natural desire to truck barter and exchange In this process law functions as an invisible force that holds society together and keeps it operating smoothly and productively Law enhances social cooperation facilitates trade and extends the market In these ways law functions like Adam Smith s invisible hand guiding and facilitating the progress of humankind

The Law in Philosophical Perspectives Luc J. Wintgens,2013-04-17 In this age of collections that is ours many volumes of collections are published They contain contributions of several well known authors and their aim is to present a selective overview of a relevant field of study This book has the same purpose Its aim is to introduce students scholars and all those interested in current problems of legal theory and legal philosophy to the work of the leading scholars in this field The large number of publications both books and articles that have been produced over recent decades makes it quite difficult however for those who are making their first steps in this domain to find firm guidelines The book is new in its genre because of its method The choice was made not to reprint an example of contributors earlier basic articles or a part of one of their books This would only give a partial view of the rich texture of their work Rather the authors were asked to make an original synthesis of their own contributions to the field of legal theory and legal philosophy Brought together in this volume they

constitute a truly authorised view of their work This book is also new in that each essay is complemented with bibliographical information in order to encourage further research on the author's self-selected work This will help the reader rapidly to become familiar with the whole of the published work of the contributors

Theories and Concepts of Politics Richard Paul Bellamy, 1993 An introduction to social and political theory discussing such topics as freedom citizenship and rights social justice and equality and constitutionalism and democracy The authors show how people view these concepts in different ways They also offer solutions for resolving disputes

Legal Theory and the Social Sciences Maksymilian Del Mar, Michael Giudice, 2017-07-05 Ever since H L A Hart's self-description of The Concept of Law as an exercise in descriptive sociology contemporary legal theorists have been debating the relationship between legal theory and sociology and between legal theory and social science more generally There have been some who have insisted on a clear divide between legal theory and the social sciences citing fundamental methodological differences Others have attempted to bridge gaps revealing common challenges and similar objects of inquiry Collecting the work of authors such as Martin Krygier David Nelken Brian Tamanaha Lewis Kornhauser Gunther Teubner and Nicola Lacey this volume the second in a three volume series provides an overview of the major developments in the last thirty years The volume is divided into three sections each discussing an aspect of the relationship of legal theory and the social sciences 1 methodological disputes and collaboration 2 common problems especially as they concern different modes of explanation of social behaviour and 3 common objects including most prominently the study of language in its social context and normative pluralism

Natural Law and Civil Sovereignty I. Hunter, David Saunders, 2002-06-19 In *Natural Law and Civil Sovereignty* new research by leading international scholars is brought to bear on a single crucial issue the role of early modern natural law doctrines in reconstructing the relations between moral right and civil authority in the face of profound religious and political conflict In addition to providing fresh insights into the hard fought struggle to legitimate a desacralised civil order the book also shows the degree to which the legitimacy of the modern secular state remains dependent on this decisive set of developments

[The Architecture of Concepts](#) Peter de Bolla, 2013-12-02 The *Architecture of Concepts* proposes a radically new way of understanding the history of ideas Taking as its example human rights it develops a distinctive kind of conceptual analysis that enables us to see with precision how the concept of human rights was formed in the eighteenth century The first chapter outlines an innovative account of concepts as cultural entities The second develops an original methodology for recovering the historical formation of the concept of human rights based on data extracted from digital archives This enables us to track the construction of conceptual architectures over time Having established the architecture of the concept of human rights the book then examines two key moments in its historical formation the First Continental Congress in 1775 and the publication of Tom Paine's *Rights of Man* in 1792 Arguing that we have yet to fully understand or appreciate the consequences of the eighteenth century invention of the concept rights of man the final chapter addresses our problematic

contemporary attempts to leverage human rights as the most efficacious way of achieving universal equality *Revolution and Human Rights* Werner Maihofer, Gerhard Sprenger, 1990

Content I Revolution and Law H P Glenn Law Revolution and Rights u M A Simon Must a Revolution Preserve Rights u C Wellman Locke s Right to Revolution Reexamined u W E Murnion Aquinas on Revolution u Shing I Liu Menschenrecht Widerstandsrecht u Revolution u II Human Rights and Democracy A Mineau L origine des droits de l homme u H Kochler Menschenrechtskonformitat demokrat Systeme u M Scheinin Legal Protection of Human Rights and Different Conceptions of Democracy u J F Doyle Fulfilling Revolutionary Promises u N Lopez Calera Naturaleza dialectica de los derechos humanos u J Wetlesen Inherent Dignity as a Ground of Human Rights u M R Ollila Virtue Ethics and Violations of Human Rights u P Duran y Lalaguna Human Rights in Democratic Society u C B Gray Fraternity and Nonobstante u III Human Rights and International Law A Bragyova Is it Possible to Base Human Rights on Internaional Law u L Lukaszuk The Concept of Protection of Human and Civic Rights According to the Principles and Rules of Both the International and Constitutional Law u A N Georgiadou Les droits fondamentaux en droit communautaire u IV Human Rights and Socialism K A Mollnau Entwicklungsdenken in der Rechtswissenschaft u W Sokolewicz Constitutionality as a Precondition of the Rule of Law u R Wieruszewski The Principle of Interrelation Between Human Rights and Duties u P D Swan The Contributions of J Habermas and C Lefort u A Lopatka Revolution and Socialist Renewal in Poland u M Samu The Connection Between Human Rights and Democracy u D J Galligan The Foundations of Due Process in Socialism u R Bellamy Liberal Rights and Socialist Goals Franz Steiner 1990 Affective legal analysis Frank Fleerackers, Josef Heinz Müller, Wilfried Burkhardt, 2019

Indeed if the legal field is to be understood as instrumental to democracy s cohabitation of individuals research on dispute resolution remains pre eminent as a means to understand how individual views differ and how different views can be overcome As a central part of conflict analysis such research would assist an interdisciplinary quest for a dynamic understanding of democracy and law It would focus on how different individuals with different conceptions of the good can live together in their community in their world Scientific research in the fields of communication economics psychology history political theory and philosophy to name but a few would side with legal theory in a shared ambition to analyze the way individuals are affected by their views as well as by their institutions in order to provide society with a dynamic means to solve conflicts and enhance citizenship or legal awareness Such research necessarily coincides with empathy oriented education directed towards an understanding of different conflict positions and the related comprehensive or non comprehensive views affecting them An affective education analyzing all affective mechanisms of societal or interpersonal disputes and their legal or alternative resolution A clinical education offering an interactive simulation with regard to these positions and their affective impact demonstrating how individual views continuously affect the positions taken how disputes are affected by the legal or other institutions that attempt to solve them and how the effectiveness of legal or other solutions to the conflict at hand depends on a practice of affective legal analysis Thus legal and civic education

by way of affective narration and clinical simulation join affective legal analysis in its endeavor to provide society with a similarly affective and non rationalizing approach of legal awareness **The Life of the Law** Peter Birks,1993-01-01 **A Textual Introduction To Social and Political Theory** Richard Paul Bellamy,Angus C. Ross,1996-05-15 This book offers a stimulating new approach to studying social and political theory It combines specially selected extracts from the political classics with original and insightful essays offering a commentary upon them The reader is drawn into a dialogue with the Western political tradition s principal thinkers whose ideas provide a common currency in which to debate the problems facing modern societies Each of the twelve chapters combines extracts from two or in one case three political philosophers on a key political concept with a commentary essay Each chapter does more than just introduce the reader to the classics it also explains via the commentary essay the key concepts of political debate and the historical contexts which led the thinkers to their different understandings of the nature of society *The Anxiety of the Jurist* Claudio Michelon,2016-04-01 The contributions in this volume pay homage to Zenon Ba kowski with a focus on problems concerning law s normalization and the revitalizing force of anxiety Ranging from political critique to methodological issues and from the role of human rights in development to the role of parables and analogy in legal reasoning the contributions themselves are testament to the richness of Ba kowski s scholarship as well as to the applicability of his core ideas to a wide range of issues Divided into five parts the book focuses on the role and methods of the jurist conceptions of legality and the experience of living under rules jurisprudential issues affecting exchange and the market and the burden and methods of legal judgement It also includes Ba kowski s 2011 valedictory lecture and a bibliography of his work Comprising all original contributions the contributors represent a balance of established leading figures and younger emerging scholars in the field of legal and social theory

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Table of Contents Enlightenment Rights And Revolution Essays In Legal And Social Philosophy

1. Understanding the eBook Enlightenment Rights And Revolution Essays In Legal And Social Philosophy
 - The Rise of Digital Reading Enlightenment Rights And Revolution Essays In Legal And Social Philosophy
 - Advantages of eBooks Over Traditional Books
2. Identifying Enlightenment Rights And Revolution Essays In Legal And Social 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 Enlightenment Rights And Revolution Essays In Legal And Social Philosophy
 - User-Friendly Interface
4. Exploring eBook Recommendations from Enlightenment Rights And Revolution Essays In Legal And Social Philosophy
 - Personalized Recommendations
 - Enlightenment Rights And Revolution Essays In Legal And Social Philosophy User Reviews and Ratings
 - Enlightenment Rights And Revolution Essays In Legal And Social Philosophy and Bestseller Lists
5. Accessing Enlightenment Rights And Revolution Essays In Legal And Social Philosophy Free and Paid eBooks
 - Enlightenment Rights And Revolution Essays In Legal And Social Philosophy Public Domain eBooks
 - Enlightenment Rights And Revolution Essays In Legal And Social Philosophy eBook Subscription Services
 - Enlightenment Rights And Revolution Essays In Legal And Social Philosophy Budget-Friendly Options

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