



HARMFUL THOUGHTS

ESSAYS ON LAW, SELF, AND MORALITY

MEIR DAN-COHEN

Harmful Thoughts Essays On Law Self And Morality

Stephen P. Garvey



Harmful Thoughts Essays On Law Self And Morality:

Harmful Thoughts Meir Dan-Cohen, 2009-01-10 In these writings by one of our most creative legal philosophers Meir Dan Cohen explores the nature of the self and its response to legal commands and mounts a challenge to some prevailing tenets of legal theory and the neighboring moral political and economic thought The result is an insider's critique of liberalism that extends contemporary liberalism's Kantian strand combining it with postmodernist ideas about the contingent and socially constructed self to build a thoroughly original perspective on some of the most vital concerns of legal and moral theory Dan Cohen looks first at the ubiquity of legal coercion and considers its decisive impact on the nature of legal discourse and communication on law's normative aspirations and claim to obedience and on the ideal of the rule of law He moves on to discuss basic values stressing the preeminence of individual identity and human dignity over the more traditional liberal preoccupations with preference based choice and experiential harm Dan Cohen then focuses more directly on the normative ramifications of the socially constructed self Fundamental concepts such as responsibility and ownership are reinterpreted to take account of the constitutive role that social practices particularly law and morality play in the formation of the self Throughout Dan Cohen draws on a uniquely productive mix of philosophical traditions and subjects blending the methods of analytic philosophy with the concerns of Continental philosophers to reconceive the self and its relation to ethics and the law

Hate Speech Law Alex Brown, 2015-03-05 Hate speech law can be found throughout the world But it is also the subject of numerous principled arguments both for and against These principles invoke a host of morally relevant features e g liberty health autonomy security non subordination the absence of oppression human dignity the discovery of truth the acquisition of knowledge self realization human excellence civic dignity cultural diversity and choice recognition of cultural identity intercultural dialogue participation in democratic self government being subject only to legitimate rule and practical considerations e g efficacy the least restrictive alternative chilling effects The book develops and then critically examines these various principled arguments It also attempts to de homogenize hate speech law into different clusters of laws regulations codes that constrain uses of hate speech so as to facilitate a more nuanced examination of the principled arguments Finally it argues that it is morally fitting for judicial and legislative judgments about the overall warrant of hate speech law to reflect principled compromise Principled compromise is characterized not merely by compromise over matters of principled concern but also by compromise which is itself governed by ideals of moral duty or civic virtue e g reciprocity equality and mutual respect The Open Access version of this book available at <https://doi.org/10.4324/9781315714899> has been made available under a Creative Commons Attribution Non Commercial No Derivatives 4.0 license **Dignity, Rank, and Rights** Jeremy Waldron, 2012-11-29 This volume collects two lectures by Jeremy Waldron that were originally given as Berkeley Tanner Lectures along with responses to the lectures from Wai Chee Dimock Don Herzog and Michael Rosen a reply to the responses by Waldron and an introduction by Meir Dan Cohen **The Ethics of Killing** Christian

Erk,2022-09-01 In this book Christian Erk examines the ethical im permissibility of killing human beings in general and of selected killings in particular namely suicide lethal selfdefence abortion and euthanasia as well as organ transplantation and assisted suicide He does so by addressing a range of important ethical questions What does it mean to act Of what elements is an action comprised What is the difference between a good or evil action and a permissible or impermissible action How can we determine whether an action is good or evil Is there a moral duty not to kill Is this duty held by and against all human beings or only persons What and who is a person What is human dignity and who has it What is it that is actually taken when somebody is killed i e what is life And closely related to that What and when is death By integrating the answers to these questions into an argumentative architecture the book offers a comprehensive exploration of one of the most fundamental questions of mankind Under which conditions if any is killing human beings ethically permissible *The Justice of Mercy* Linda Ross Meyer,2010-11-22 The Justice of Mercy is exhilarating reading Teeming with intelligence and insight this study immediately establishes itself as the unequaled philosophical and legal exploration of mercy But Linda Meyer s book reaches beyond mercy to offer reconceptualizations of justice and punishment themselves Meyer s ambition is to rethink the failed retributivist paradigm of criminal justice and to replace it with an ideal of merciful punishment grounded in a Heideggerian insight into the gift of being with others The readings of criminal law Heideggerian and Levinasian philosophy and literature are powerful and provocative The Justice of Mercy is a radical and rigorous exploration of both punishment and mercy as profoundly human activities Roger Berkowitz Director of the Hannah Arendt Center for Ethical and Political Thinking Bard College This book addresses a question both ancient and urgently timely how to reconcile the law s call to justice with the heart s call to mercy Linda Ross Meyer s answer is both philosophical and pragmatic taking us from the conceptual roots of the supposed conflict between justice and mercy to concrete examples in both fiction and contemporary criminal law Energetic eloquent and moving this book s defense of mercy will resonate with philosophers legal scholars lawyers and policymakers engaged with criminal justice and anyone concerned about our current harshly punitive legal system Carol Steiker Harvard Law School Far from being a utopian soft and ineffectual concept Meyer shows that mercy already operates within the law in ways that we usually do not recognize Meyer s piercing insights and careful analysis bring the reader to think of law justice and mercy itself in a new and far more profound light James Martel San Francisco State University How can granting mercy be just if it gives a criminal less punishment than he deserves and treats his case differently from others like it This ancient question has become central to debates over truth and reconciliation commissions alternative dispute resolution and other new forms of restorative justice The traditional response has been to marginalize mercy and to cast doubt on its ability to coexist with forms of legal justice Flipping the relationship between justice and mercy Linda Ross Meyer argues that our rule bound and harsh system of punishment is deeply flawed and that mercy should be not the crazy woman in the attic of the law but the lady of the house This book articulates a theory of punishment with mercy and

illustrates the implications of that theory with legal examples drawn from criminal law doctrine pardons mercy in military justice and fictional narratives of punishment and mercy Linda Ross Meyer is Carmen Tortora Professor of Law at Quinnipiac University School of Law President of the Association for the Study of Law Culture and the Humanities and Associate Editor of Journal of Law Culture and the Humanities Jacket illustration Lotus by Anthony James

Forgiveness, Mercy, and Clemency Austin Sarat, Nasser Hussain, 2007 Arguments for forgiveness mercy and clemency abound These arguments flourish in organized religion fiction philosophy and law as well as in everyday conversations of daily life among parents and children teachers and students and criminals and those who judge them As common as these arguments are we are often left with an incomplete understanding of what we mean when we speak about them This volume examines the registers of individual psychology religious belief social practice and political power circulating in and around those who forgive grant mercy or pose clemency power The authors suggest that in many ways necessary examinations of the questions of forgiveness and pardon and the connection between mercy and justice are only just beginning

Criminal Law Conversations Paul H. Robinson, Stephen Garvey, Stephen P. Garvey, Kimberly Kessler Ferzan, 2011 Criminal Law Conversations provides an authoritative overview of contemporary criminal law debates in the United States This collection of high caliber scholarly papers was assembled using an innovative and interactive method of nominations and commentary by the nation's top legal scholars Virtually every leading scholar in the field has participated resulting in a volume of interest to those both in and outside of the community Criminal Law Conversations showcases the most captivating of these essays and provides insight into the most fundamental and provocative questions of modern criminal law Jeffrie G Murphy's essay Remorse Apology Mercy was declared Recommended Reading in the Green Bag Almanac and Reader 2010

The Nature of Legislative Intent Richard Ekins, 2012-10-12 Are legislatures able to form and act on intentions The question matters because the interpretation of statutes is often thought to centre on the intention of the legislature and because the way in which the legislature acts is relevant to the authority it does or should enjoy Many scholars argue that legislative intent is a fiction the legislative assembly is a large diverse group rather than a single person and it seems a mystery how the intentions of the individual legislators might somehow add up to a coherent group intention This book argues that in enacting a statute the well formed legislature forms and acts on a detailed intention which is the legislative intent The foundation of the argument is an analysis of how the members of purposive groups act together by way of common plans sometimes forming complex group agents The book extends this analysis to the legislature considering what it is to legislate and how members of the assembly cooperate to legislate The book argues that to legislate is to choose to change the law for some reason the well formed legislature has the capacity to consider what should be done and to act to that end This argument is supported by reflection on the centrality of intention to the nature of language use The book then explains in detail how members of the assembly form and act on joint intentions which do not reduce to the intentions of each member before outlining some

implications of this account for the practice of statutory interpretation Developing a robust account of the nature and importance of legislative intention the book represents a significant contribution to the literature on deliberative democracy that will be of interest to all those thinking about legal interpretation and constitutional theory

The Roeper School Don Ambrose, Bharath Sriraman, Tracy L. Cross, 2013-12-30 How can we design schools that energetically promote intellectual development while also attending to the social emotional and ethical growth of students In today's frenzied climate of accountability driven school reform it is difficult to establish anything more than achievement of superficial knowledge and skill Fortunately there is a vibrant example of holistic student centered education that engenders dynamic multidimensional student growth The Roeper School enables students to develop strong intrinsic motivation as they discover aspirations and develop talents consistent with those aspirations Simultaneously from a very young age students take considerable responsibility for their own actions and for the processes that go on in their school Following the Roeper philosophy each student generates a long term sense of purposeful direction a strong sense of intrapersonal awareness impressive creative and critical thinking skills and a finely tuned sense of ethical responsibility Upon graduation Roeper students are well prepared to find or create highly productive niches in the world of work and rewarding personal lives while serving as mature ethical citizens of a complex 21st century globalized society This book includes descriptions of the multidimensional education the Roeper School provides The perspectives in the volume are diverse coming from leading researchers and theorists in the field of gifted education as well as teachers administrators alumni and current students from the school itself Overall the book provides a beacon of hope for 21st century education

Rereading Identity Deception in the UK Sexual Offences Act 2003 Rakiya Farah, 2023-11-10 Does the Sexual Offences Act SOA 2003 provide for consent to be vitiated in all the circumstances we think it should Can and should section 76 2 b the impersonation provision be read to include a different class of identity deceptions How should the concept of personal identity be understood in this context While the concept has had some airing in the courts and the distinction between identity and attributes of the person softened the law on rape still fails to give proper effect to identity deception and leaves many questions unanswered This book offers a novel take on the problem of sexual deception Through meticulous interrogation of the meaning and normative implications of the concept of personal identity it challenges the law's restrictive approach and argues that qualitative identity is like numerical identity normatively important This book provides a comprehensive and nuanced analysis of the philosophical theoretical and psychological experimental literature on personal identity marshalling relevant insights to support a broader reading of the impersonation provision The argumentative thrust of the book is an extended equivalence thesis which links numerical with qualitative identity In this task it engages in capacious exploration of different kinds of impersonation at each juncture leading the reader to a more permissive understanding Guided by the principle of consistency the central thesis is that certain deceptions about personal traits should be unlawful based on existing prohibitions with

which there is equivalence A central contribution of the book is the articulation of a theoretical framework to support a richer understanding of identity giving due attention to its qualitative aspects This new framework is applied at stage three of the equivalence thesis to explain the relationship between individual traits and identity change By implication a potentially wide scope of consent vitiating deceptions is endorsed This presents a challenge to those who would defend more stringent limits The book thus invites further discussion on the implications of this approach for the law on rape and indicates areas for further research and attention

Making Medical Decisions for the Profoundly Mentally Disabled Norman L. Cantor, 2009-08-21 A legal and moral analysis of medical decision making on behalf of those with such severe cognitive impairments that they cannot exercise self determination In this book Norman Cantor analyzes the legal and moral status of people with profound mental disabilities those with extreme cognitive impairments that prevent their exercise of medical self determination He proposes a legal and moral framework for surrogate medical decision making on their behalf The issues Cantor explores will be of interest to professionals in law medicine psychology philosophy and ethics as well as to parents guardians and health care providers who face perplexing issues in the context of surrogate medical decision making The profoundly mentally disabled are thought by some moral philosophers to lack the minimum cognitive ability for personhood Countering this position Cantor advances both theoretical and practical arguments for according them full legal and moral status He also argues that the concept of intrinsic human dignity should have an integral role in shaping the bounds of surrogate decision making Thus he claims while profoundly mentally disabled persons are not entitled to make their own medical decisions respect for intrinsic human dignity dictates their right to have a conscientious surrogate make medical decisions on their behalf Cantor discusses the criteria that bind such surrogates He asserts contrary to popular wisdom that the best interests of the disabled person are not always the determinative standard the interests of family or others can sometimes be considered Surrogates may even consistent with the intrinsic human dignity standard sometimes authorize tissue donation or participation in nontherapeutic medical research by profoundly disabled persons Intrinsic human dignity limits the occasions for such decisions and dictates close attention to the preferences and feelings of the profoundly disabled persons themselves Cantor also analyzes the underlying philosophical rationale that makes these decision making criteria consistent with law and morals

Property Hanokh Dagan, 2011 This work offers an original understanding of property different from the dominant voices in the field yet loyal to the practice of property Dagan argues that property can and should serve a pluralistic set of liberal values

Re-Reading Beccaria Antje du Bois-Pedain, Shachar Eldar, 2022-10-06 Cesare Beccaria's slim 1764 volume *On Crimes and Punishments* influenced policy developments worldwide and over decades if not centuries after its publication For those who turn to Beccaria's work today the encounter is shaped by that knowledge Appreciative of *On Crimes and Punishments* dual nature as historical document and repository of ideas the contributions in this collection address different aspects of the criminal justice theory Beccaria offered his readers and face

up to methodological questions raised by meeting a historical text of this kind unsystematic and by modern standards often under argued with modern scholarly conventions in mind Contributions in the first part of the book engage with Beccaria s political theory of criminal justice through the lenses of political and penal philosophy considering how Beccaria s blending of social contractarian foundations and proto utilitarian policy analysis interlinks with the concrete set of criminal justice practices Beccaria presents as justified This leads on to the second part where contributors approach Beccaria s ideas with present day reforms and developments in mind Many of his policy proposals and arguments remain significant from our contemporary perspective their limitations and omissions proving as instructive for the contemporary scholar as their more prescient elements The third part offers those looking at Beccaria s work today a glimpse into the practical difficulties facing the firebrand author turned public servant during his long career in the Habsburg Lombardian administration It puts his work into the broader context of pathways to criminal justice reform in northern Italy Habsburgian Lombardy and the Austro Hungarian Empire in Beccaria s day

Law's Meaning of Life Ngaire Naffine, 2009-01-06 The perennial question posed by the philosophically inclined lawyer is What is law or perhaps What is the nature of law This book poses an associated but no less fundamental question about law which has received much less attention in the legal literature It is Who is law for Whenever people go to law they are judged for their suitability as legal persons They are given or refused rights and duties on the basis of ideas about who matters These ideas are basic to legal decision making they form the intellectual and moral underpinning of legal thought They help to determine whether law is essentially for rational human beings or whether it also speaks to and for human infants adults with impaired reasoning the comotose foetuses and even animals Are these the right kind of beings to enter legal relationships and so become legal persons Are they for example sufficiently rational or sacred or simply human Is law meant for them This book reveals and evaluates the type of thinking that goes into these fundamental legal and metaphysical determinations about who should be capable of bearing legal rights and duties It identifies and analyses four influential ways of thinking about law s person each with its own metaphysical suppositions One approach derives from rationalist philosophy a second from religion a third from evolutionary biology while the fourth is strictly legalistic and so endeavours to eschew metaphysics altogether The book offers a clear coherent and critical account of these complex moral and intellectual processes entailed in the making of legal persons

Morality, Ethics, and Gifted Minds Don Ambrose, Tracy Cross, 2009-04-21 Morality Ethics and Gifted Minds explores much of the current wisdom on ethics and morality while developing new perspectives on the ethical dimensions of high ability Prominent authors from diverse disciplines are brought together recognizing that no single discipline can capture the essence and entirety of nettlesome complex multidimensional moral issues More specifically the book explores new dimensions of ethics and morality magnifies the importance of applying highly intelligent minds to ethical issues while developing ways to strengthen the ethical awareness of the creative and gifted and brings diverse interdisciplinary perspectives to bear on these issues

Guilty

Acts, Guilty Minds Stephen P. Garvey, 2020 Guilty Acts Guilty Minds proposes an understanding of actus reus and mens rea the guilty act and guilty mind as limits on the authority of a democratic state to ascribe guilt Going beyond discussions of legal justice Stephen Garvey argues for actus reus and mens rea as necessary conditions among others for the legitimacy of state punishment

The Oxford Handbook of Philosophy of Criminal Law John Deigh, David Dolinko, 2011-09-22 This title contains 17 original essays by leading thinkers in the field and covers the field's major topics including limits to criminalization obscenity and hate speech blackmail the law of rape attempts accomplice liability causation responsibility justification and excuse duress and more

Why Not Torture Terrorists? Yuval Ginbar, 2008-03-27 This book addresses a dilemma at the heart of counter terrorist policy is it ever justifiable to torture terrorists in order to save the lives of others the so called ticking bomb scenario The book opens with an analysis of the pure moral argument from the standpoint of the individual as torturer It then looks at the issues that arise once a state has decided to sanction torture in certain situations how to establish factually that the situation is urgent deciding who to torture training people to carry out torture and the efficacy of torture as a means of gathering information The final part examines attempts to operate legal systems which tolerate torture how they relate to the criminal law notion of necessity and to international human rights norms After examining the utilitarian arguments for torture and the impact on a society of permitting torture the author presents a powerful argument for maintaining the absolute legal prohibition

The State and the Body Elizabeth Wicks, 2016-12-15 This book investigates the limits of the legitimate role of the state in regulating the human body It questions whether there is a public interest in issues of bodily autonomy with particular focus on reproductive choices end of life choices sexual autonomy body modifications and selling the body The main question addressed in this book is whether such autonomous choices about the human body are and should be subject to state regulation Potential justifications for the state's intervention into these issues through mechanisms such as the criminal law and regulatory schemes are evaluated These include preventing harm to others and or to the individual involved as well as more abstract concepts such as public morality the sanctity of human life and the protection of human dignity The State and the Body argues that the state should be particularly wary about encroaching upon exercises of autonomy by embodied selves and concludes that only interventions based upon Mill's harm principle or in tightly confined circumstances the dignity of the human species as a whole should suffice to justify public intervention into private choices about the body

Running in Good Faith? Alan D.

Krinsky, 2021-05-04 Could a religiously observant Jew in good conscience run as a libertarian candidate promoting a libertarian platform Or would doing so betray fundamental Jewish values Running in Good Faith Observant Judaism and Libertarian Politics considers the seemingly irreconcilable values and political commitments of Judaism and libertarianism The latter prizes individualism self ownership private property and freedom whereas the former emphasizes community charity and service of God But are these differences so sharp This book seeks to determine if this is an essential clash or

merely an apparent one and to stimulate a broad discussion of Judaism values politics and political philosophy in order to call into question what people think they know about both Judaism and libertarianism

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