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Law as Institutional Normative Order

Edited by
Markus D. Del Mar
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Law As Institutional Normative Order

Luc J. Wintgens



Law As Institutional Normative Order:

Law as Institutional Normative Order Dr Maksymilian Del Mar, Professor Zenon Bankowski, 2013-02-28 MacCormick's *Institutions of Law* is the culmination of a lifetime's work in legal theory by one of the world's most respected legal theorists. Featuring an impressive collection of contributions from well-known legal theorists from around the world, all of whom are familiar with MacCormick's work, this collection provides a cutting-edge account of the book's significance. **Law and Democracy in Neil MacCormick's Legal and Political Theory** Agustín José Menéndez, John Erik Fossum, 2011-03-29 This volume offers a collection of articles by leading legal and political theorists. Originally intended as a celebration of MacCormick's work on the occasion of the completion of the four-volume series on Law, State and Practical Reason, it has turned into a homage and salute after MacCormick's passing. Cast in MacCormick's reflexive spirit, the book presents a critical reconstruction of the Scottish philosopher's work with the aim of revealing the connections between law and democracy in his writings and furthering his insights in each specific field. Neil MacCormick made outstanding contributions to the understanding of law and democracy under conditions of pluralism. His institutional theory of law has elucidated the close connection between the normative character of law as a means of social integration and legal social practices. This has produced a synthesis of the key insights of the legal and political theories of Kelsen, Hart, Alexy, and Dworkin and has broken new ground by undermining the monolithic and nation-state-centered character of standard legal theories. **Law as Institution** Massimo La Torre, 2010-08-13 This book, which is the result of several years of research, discussion, writing, and re-writing, consists of three parts and eight chapters. The first part is given by the two first chapters introducing the issue of validity and facticity in law. The second part, Chapters 3, 4, and 5, is the core of this study and tries to present a theory based on a specific view about language and social practice. The third part deals with the issue of value judgments and views about morality and consists of Chapters 6 and 7. Chapter 8 should naturally serve as epilogue. In the first chapter, a discussion is started about the relationship between law and power, seen as a presupposition for an assessment of the nature of law. As a matter of fact, as has been remarked, general theories of law struggle to do justice to the multiple dualities of the law. Indeed, law has a dual nature: it is a fact but it is also a norm, a sort of ideal entity. Law is sanction but it is also discourse. It is effectivity or facticity but it is also a vehicle of principles, among which the central one is justice. But this duality is not only a phenomenological or a matter of justification and implementation as two separate moments. **Research Handbook on Legal Pluralism and EU Law** Gareth Davies, Matej Avbelj, The *Research Handbook on Legal Pluralism and EU Law* explores the diversity of phenomenon of overlapping legal systems within the European Union, the nature of their interactions, and how they deal with the difficult question of the legal hierarchy between them. The contributors reflect on the history, sociology, and legal scholarship on constitutional and legal pluralism and develop this further in the light of the challenges currently facing the EU. **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.

Institutions of Law Neil MacCormick, 2007-01-11. *Institutions of Law* offers an original account of the nature of law and legal systems in the contemporary world. It provides the definitive statement of Sir Neil MacCormick's well-known institutional theory of law, defining law as institutional normative order and explaining each of these three terms in depth. It attempts to fulfil the need for a twenty-first century introduction to legal theory, marking a fresh start such as was achieved in the last century by H. L. A. Hart's *The Concept of Law*. It is written with a view to elucidating law, legal concepts and legal institutions in a manner that takes account of current scholarly controversies but does not get bogged down in them. It shows how law relates to the state and civil society, establishing the conditions of social peace and a functioning economy. In so doing, it takes account of recent developments in the sociology of law, particularly system theory. It also seeks to clarify the nature of claims to knowledge of law and thus indicate the possibility of legal studies having a genuinely scientific character. It shows that there is an essential value orientation of all work of this kind so that valid analytical jurisprudence not merely need not but cannot be positivist as that term has come to be understood. Nevertheless, it is explained why law and morality are genuinely distinct by virtue of the positive character of law contrasted with the autonomy that is foundational for morality.

In Pursuit of Pluralist Jurisprudence Nicole Roughan, Andrew Halpin, 2017-09-14. This book presents and evaluates theoretical approaches to pluralist jurisprudence and assesses the viability of theorising law extending beyond the state.

Law's Claim to Correctness Maria Claudia Quimbayo Duarte, 2020-11-19. The book describes the main concepts of the correctness thesis. The second part presents a reconstruction of the claim to correctness in some classical legal theories. For instance, it explains the thesis that we can find two different references to claims in Kelsen's theory, therefore allusions to a kind of classifying and qualifying connections. About Fuller, one can find the idea that he introduces not only a procedural moral claim but also a substantive one. With respect to Radbruch, the book holds the idea that the correctness thesis can be found in his theory since

1932 The third part considers some main objections against the claim to correctness especially that proposed by Joseph Raz and John Finnis among others Judicial Power, Democracy and Legal Positivism Tom D. Campbell, Jeffrey Goldsworthy, 2017-03-02 In this book a distinguished international group of legal theorists re examine legal positivism as a prescriptive political theory and consider its implications for the constitutionally defined roles of legislatures and courts The issues are illustrated with recent developments in Australian constitutional law **Practical Reason in Law and Morality** Neil MacCormick, 2008-12-18 Incentives and reasons Values and human nature Right and wrong Questions of trust Autonomy and freedom Obedience freedom and engagement or utility Society property and commerce On justice Using freedom well Judging legal cases and moral questions Practical reason law and state **The Nature of International Law** Miodrag A. Jovanović, 2019-04-25 The Nature of International Law provides a comprehensive analytical account of international law within the prototype theory of concepts Research Handbook on the Sociology of Law Jiří Příbáň, 2020-12-25 This unique Research Handbook maps the historical theoretical and methodological concepts in sociology of law exploring the rich and complex nature of this area of research It argues that sociology of law flourishes due to its strong capacity for interdisciplinary engagement and links to other scientific concepts methodologies and research fields Judicial Application of European Union Law in post-Communist Countries Tatjana Evas, 2016-05-06 This book discusses how the plurality of legal norms operating in the European Union can be balanced to produce a functioning sustainable and legitimate legal system Presenting a conceptual framework for assessing and comparing transformations of national judicial systems in the context of EU membership the book contributes to the EU legal theoretical debate on the relationship between authority and coherence The author develops an original analytical framework of coherence to assess the application of EU law by national courts and uses interdisciplinary scientific methods and research design that combine legal doctrinal and social science methodology to the study of classical legal questions Providing an extensive database of 2004 2009 national judgments of national courts in Latvia and Estonia the book offers an extensive comparative review of the jurisprudence of constitutional and supreme courts as well as providing insight into the jurisprudence of ordinary national courts It will appeal to legal scholars and political scientists studying courts and jurisprudence Law, Rights and Discourse George Pavlakos, 2007-07-11 A philosophical system is not what one would expect to find in the work of a contemporary legal thinker Robert Alexy s work counts as a striking exception Over the past 28 years Alexy has been developing with remarkable clarity and consistency a systematic philosophy covering most of the key areas of legal philosophy Kantian in its inspiration his work admirably combines the rigour of analytical philosophy with a repertoire of humanitarian ideals reflecting the tradition of the Geisteswissenschaften rendering it one of the most far reaching and influential legal philosophies in our time This volume has been designed with two foci in mind the first is to reflect the breadth of Alexy s philosophical system as well as the varieties of jurisprudential and philosophical scholarship in the last three decades on which his work has had an impact The

second objective is to provide for a critical exchange between Alexy and a number of specialists in the field with an eye to identifying new areas of inquiry and offering a new impetus to the discourse theory of law To that extent it was thought that a critical exchange such as the one undertaken here would most appropriately reflect the discursive and critical character of Robert Alexy's work The volume is divided into four parts each dealing with a key area of Alexy's contribution A final section brings together concise answers by Robert Alexy In composing these Alexy has tried to focus on points and criticisms that address new aspects of discourse theory or otherwise point the way to future developments and applications With its range of topics of coverage the number of specialists it engages and the originality of the answers it provides this collection will become a standard work of reference for anyone working in legal theory in general and the discourse theory of law in particular

Transnational Law Miguel Maduro, Kaarlo Tuori, Suvi Sankari, 2014-05 This book examines the effects of law's de-nationalisation by placing European law in the context of transnational law

Social Construction of Law Michael Giudice, 2020-10-30 This illuminating book explores the theme of social constructionism in legal theory It questions just how much freedom and power social groups really have to construct and reconstruct law

Normativity and Norms Stanley L. Paulson, Bonnie Litschewski Paulson, 1998 This remarkable collection contains some of the very best work on themes developed by Hans Kelsen regarded by many as the most influential legal philosopher of the twentieth century The volume addresses in rich detail the topic where debate on Kelsen's work has been liveliest normativity as Kelsen's alternative to both traditional legal positivism and natural law theory The book boasts a truly international list of contributors with authors from Europe North and South America and Australia a dozen countries in all

Constitutional Imaginaries Jiří Příbáň, 2021-09-30 This book offers a social theoretical analysis of imaginaries as constituent social forces of positive law and politics Constitutional imaginaries invite constitutional and political theorists philosophers and sociologists to rethink the concept of constitution as the normative legal limitation and control of political power They show that political constitutions include societal forces impossible to contain by legal norms and political institutions The constitution of society as one polity defined by the unity of topos ethnos nomos that is the unity of territory people and their laws informed the rise of modern nations and nationalisms as much as constitutional democratic statehood and its liberal and republican regimes However the imaginary of polity as one nation living on a given territory under the constitutional rule of law is challenged by the process of European integration and its imaginaries informed by transnational legal and societal pluralism administrative governance economic performativity and democratically mobilised polity This book discusses the sociology of imagined communities and the philosophy of modern social imaginaries in the context of transnational European constitutionalism and its recent theories most notably the theory of societal constitutions It offers a new approach to the legal constitutions as societal power formations evolving at national European and global levels The book will be of interest to scholars and students interested in constitutional and European law theory and philosophy as much as interdisciplinary and socio-legal studies of transnational

law and society **The Oxford Handbook of Global Legal Pluralism** Paul Schiff Berman, 2020 Abstract Global legal pluralism has become one of the leading analytical frameworks for understanding and conceptualizing law in the twenty first century Rhetoric and The Rule of Law Neil MacCormick, 2005-07-28 Is legal reasoning rationally persuasive working within a discernible structure and using recognisable kinds of arguments Does it belong to rhetoric in this sense or to the domain of the merely rhetorical in an adversative sense Is there any reasonable certainty about legal outcomes in dispute situations If not what becomes of the Rule of Law Neil MacCormick's book tackles these questions in establishing an overall theory of legal reasoning which shows the essential part legal syllogism plays in reasoning aimed at the application of law while acknowledging that simple deductive reasoning though always necessary is very rarely sufficient to justify a decision There are always problems of relevancy classification or interpretation in relation to both facts and law In justifying conclusions about such problems reasoning has to be universalistic and yet fully sensitive to the particulars of specific cases How is this possible Is legal justification at this level consequentialist in character or principled and right based Both normative coherence and narrative coherence have a part to play in justification and in accounting for the validity of arguments by analogy Looking at such long discussed subjects as precedent and analogy and the interpretative character of the reasoning involved Neil MacCormick expands upon his celebrated *Legal Reasoning and Legal Theory* OUP 1978 and 1994 and restates his institutional theory of law

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