



The Legal Philosophy of H.L.A. Hart: A Critical Appraisal

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The Legal Philosophy Of Hl A Hart A Critical Appraisal

Paolo Sandro

The Legal Philosophy Of H.L.A Hart A Critical Appraisal:

The Legal Philosophy of H.L.A. Hart Michael Martin, 1987 *A Theory of Political Obligation* Margaret

Gilbert, 2006-05-11 Margaret Gilbert offers an incisive new approach to a classic problem of political philosophy when and why should I do what the laws of my country tell me to do Beginning with carefully argued accounts of social groups in general and political societies in particular the author argues that in central standard senses of the relevant terms membership in a political society in and of itself obligates one to support that society's political institutions The obligations in question are not moral requirements derived from general moral principles as is often supposed but a matter of one's participation in a special kind of commitment joint commitment An agreement is sufficient but not necessary to generate such a commitment Gilbert uses the phrase plural subject to refer to all of those who are jointly committed in some way She therefore labels the theory offered in this book the plural subject theory of political obligation The author concentrates on the exposition of this theory carefully explaining how and in what sense joint commitments obligate She also explores a classic theory of political obligation actual contract theory according to which one is obligated to conform to the laws of one's country because one agreed to do so She offers a new interpretation of this theory in light of a theory of plural subject theory of agreements She argues that actual contract theory has more merit than has been thought though the more general plural subject theory is to be preferred She compares and contrasts plural subject theory with identification theory relationship theory and the theory of fair play She brings it to bear on some classic situations of crisis and in the concluding chapter suggests a number of avenues for related empirical and moral inquiry Clearly and compellingly written *A Theory of Political Obligation* will be essential reading for political philosophers and theorists

[The Making of Constitutional Democracy](#)

Paolo Sandro, 2022-01-27 This open access book addresses a palpable yet widely neglected tension in legal discourse In our everyday legal practices whether taking place in a courtroom classroom law firm or elsewhere we routinely and unproblematically talk of the activities of creating and applying the law However when legal scholars have analysed this distinction in their theories rather than simply assuming it many have undermined it if not dismissed it as untenable The book considers the relevance of distinguishing between law creation and law application and how this transcends the boundaries of jurisprudential enquiry It argues that such a distinction is also a crucial component of political theory For if there is no possibility of applying a legal rule that was created by a different institution at a previous moment in time then our current constitutional democratic frameworks are effectively empty vessels that conceal a power relationship between public authorities and citizens that is very different from the one on which constitutional democracy is grounded After problematising the most relevant objections in the literature the book presents a comprehensive defence of the distinction between creation and application of law within the structure of constitutional democracy It does so through an integrated jurisprudential methodology which combines insights from different disciplines including history anthropology political

science philosophy of language and philosophy of action while also casting new light on long standing issues in public law such as the role of legal discretion in the law making process and the scope of the separation of powers doctrine The ebook editions of this book are available open access under a CC BY NC ND 4 0 licence on bloomsburycollections.com A Treatise of Legal Philosophy and General Jurisprudence Gerald J. Postema, 2011-08-05 Volume 11 the sixth of the historical volumes of A Treatise of Legal Philosophy and General Jurisprudence offers a fresh philosophically engaged critical interpretation of the main currents of jurisprudential thought in the English speaking world of the 20th century It tells the tale of two lectures and their legacies Oliver Wendell Holmes Jr s The Path of Law 1897 and H L A Hart s Holmes Lecture Positivism and the Separation of Law and Morals 1958 Holmes s radical challenge to late 19th century legal science gave birth to a rich variety of competing approaches to understanding law and legal reasoning from realism to economic jurisprudence to legal pragmatism from recovery of key elements of common law jurisprudence and rule of law doctrine in the work of Llewellyn Fuller and Hayek to root and branch attacks on the ideology of law by the Critical Legal Studies and Feminist movements Hart simultaneously building upon and transforming the foundations of Austinian analytic jurisprudence laid in the early 20th century introduced rigorous philosophical method to English speaking jurisprudence and offered a reinterpretation of legal positivism which set the agenda for analytic legal philosophy to the end of the century and beyond A wide ranging debate over the role of moral principles in legal reasoning sparked by Dworkin s fundamental challenge to Hart s theory generated competing interpretations of and fundamental challenges to core doctrines of Hart s positivism including the nature and role of conventions at the foundations of law and the methodology of philosophical jurisprudence The

The Legal Philosophy and Influence of Jeremy Bentham Guillaume Tusseau, 2014-06-20 Gathering together an impressive array of legal scholars from around the world this book features essays on Jeremy Bentham s major legal theoretical treatise Of the Limits of the Penal Branch of Jurisprudence reassessing Bentham s theories of law as well as his impact on jurisprudence While offering a suggestive picture of contemporary Bentham studies the book provides a thorough examination of concepts such as legal discourse legal norms legal system and subjective legal positions The book compares Bentham s approach with other landmark theories and the works of major legal philosophers including Austin Hart and Kelsen and explores Bentham s treatise through major trends in contemporary legal thought such as the imperative theory of law deontic logic Scandinavian and American legal realisms the pure theory of law and critical legal thought Resisting any apologetic stance the book elucidates how consistent with Bentham s all encompassing project of utilitarian reform Limits turns out to be and how this sheds light on contemporary modes of governance The book will be great use and interest to scholars and students of contemporary jurisprudence legal theory 19th century philosophy and public law The **Global Community Yearbook of International Law and Jurisprudence 2014 (Volume 1)** Giuliana Ziccardi Capaldo, 2015-09-15 The 2014 edition of The Global Community Yearbook both updates readers on the important work of long standing international tribunals and

introduces readers to more novel topics in international law. This edition includes expert introductory essays by prominent scholars in the realm of international law on topics as diverse and current as the intervention of the United States and coalition partners in territories under the control of the Islamic State of Iraq and the Levant ISIL to the weak area in the institutional and normative framework of the Revised Treaty of Chaguaramas

Victoria University of Wellington Law Review, 1998 *A Critical Appraisal of Karl Olivecrona's Legal Philosophy* Torben Spaak, 2014-07-03

This book offers a critical appraisal of Karl Olivecrona's legal philosophy. Based on Olivecrona's critique of the view that law has binding force the analysis of the concept and function of a legal rule and the idea that law is a matter of organized force the book argues that Olivecrona's legal philosophy is a unique contribution to twentieth century legal philosophy. It shows how Olivecrona's philosophy can be used in the assessment of contemporary theories of law such as those put forward by Hart Raz Dworkin and Alexy. In addition the book argues that Olivecrona's various discussions of theories defended by key people in the history of legal and political philosophy are highly interesting contributions. They not only increase our understanding of the legal and political philosophy of previous generations but also enhances our insight into legal philosophical questions that remain with us today

University of West Los Angeles Law Review, 1969 **Judicial Approach in Criminal Justice System**

Dr. Vikas H. Gandhi, The structure of judiciary the attitude of its organs and the judicial process have an important bearing on the behaviour of the accused. The more a person is crushed in the judicial process the less are his chances of resocialization. This book examines the role of judiciary in criminal justice system in India. Taking a close look at the judicial approach towards investigating a crime it makes a comparative study of legal aid in England USA and India. It further analyzes to what extent the organs of judiciary influence the correctional programmes meant for the rehabilitation of the offenders. Also it presents an elaborate discussion on access to justice and judicial reforms court and case management and the scenario of backlog of cases

Political Theory Simon Stevens, 2025-02-07 Big ideas matter in politics and they spark fierce debates about the future of our society. This pathbreaking new textbook examines the key political ideas that shape our lives today. Political Theory Why Big Ideas Matter takes a unique disruptive approach by creating conversations between two or three important thinkers within multiple cultural contexts and perspectives to show innovative connections between thinkers across time and space. Rather than drawing solely from the established canon of traditional political thought which has been criticised for being too white too male and too Western this book is part of a worldwide effort to contest and diversify. Have big ideas on sovereignty been fundamental to establishing political order or a tool to justify colonisation Is John Locke's theory of property fit to answer questions about who owns our data or the matter of reparations Can the tradition of human rights incorporate non human species Is gender performative and how does this represent the struggles of LGBTQ communities Political theory can get us thinking more deeply about empirical events but empirical events can also get us critiquing theories for falling short This textbook is essential for undergraduate and postgraduate students of political

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