Introduction to Jurisprudence and Legal Theory: Commentary and Materials, James Fenner, David Schiff and Richard Nobles, editors [Landon: Butterworths Lexis Nexis, 2002, axi+1171 pp. paperlank, £31.99, HK\$563.00]

When Austin became the first ever professor of jurisprudence in the Englishspeaking world, the "province of jurisprudence" was what the professor "determined" it to be! Today, when a jurisprudence course is offered in almost all the law schools around the world, the content of this course has become so diversified that a jurispructure reacher from Huns Kong may find him or herself lost in a surisprudence class at LSE. No textbook on this subsect dates to call itself "standard," and no teacher can mointain that he or she is able to reach various copies covered in the course with equal confidence. To tunch natural low in a profound manner and cover positivism superficially is to do injustice to the latter. However, I believe that this is what many teachers are doing. As a jurispoulent, each teacher belongs to a certain "school", excels in a parricular way of legal thinking, and immerses him or herself in the depth of a particular tracktion. This is good for the developmen; of legal scholarship, but may not be good for the purpose of legal education. The curpose of a runsprudence course is to expose the students to alternative ways of reasoning in the book that they may develop a disciplined mode of legal thinking for themselves. The most obvious way to frustrate this ourscore is to give the students an impression that there is only one way of doing legal theory, and that that is the teacher's way. Even worse than that, the analogue, intelligent and independent as they are, may not be persuaded by the particular ideas which the teacher places emphasis on. They may become disappointed with the subject, learn to memorise a set of mores and concerns before the exam and forces them all suon afterwards. To avoid such a failure, the first thing teachers should do is to select a wood collection of introductory notes and reading materials, in which the sophisticated ideas are introduced in the forms of dialogues, debates, and conversators. The extracts should be diversified but still manageable.

The subject of this review provides an excellent collection of commentary notes and reading materials. It shows a dialogical rather than monological version of jurisprudence. The authors themselves belong to different schools they may not agree with each other on various issues, but they have all committed themselves to a project of exaperation and dialogue. Furthermore, all of the authors are expents in a particular way of legal thinking. They have applied this way of thinking to certain practical matters, and brought their tractical insights back to this jurisprudence book. In presenting their legal

^{*} Here I refer to the cells of the collection of his lectures. Persition of Jurigendance Determined (London, 1892).

Sheri Labenski

Introduction to Jurisprudence and Legal Theory James E. Penner, Richard Nobles, 2002 Introduction to **Jurisprudence and Legal Theory** Anne Barron, 2002-08-13 This text lays out a course of study combining the traditional subject matter of jurisprudence with a series of introductions to a variety of other theoretical perspectives It is designed for those taking jurisprudence legal theory courses and political science philosophy and sociology students of International Criminal Justice Farhad Malekian, 2014-06-30 Introduction written by Professor Benjamin B Ferencz This challenging volume examines the jurisprudence of international criminal justice from various points of view The philosophy of justice may vary from time to time and from nation to nation depending on prevailing attitudes towards the substantive rules which deal in one way or another with cultural norms In the national and international area the principles of criminal justice have a key role in examining the scope of the most serious violations of international criminal law It is on the basis of appropriate judgment that these principles may be accumulated and achieved for the future conduct of man This volume therefore examines the principles and dimensions of the constitutions of various international criminal tribunals courts with particular focus on the Statute of the International Criminal Court ICC As such the volume offers a comprehensive evaluation of the rule of law and criminal justice and their legal tasks within the complementarity system of international criminal jurisprudence The volume emphasises the prosecution and punishment of all those who may successfully escape from the proceedings of national and international criminal courts because of their juridical political religious economic or military power It demands the implementation of international law of jus cogens The provisions of the Statute should not be deduced in contradiction to the norms from which no derogation is possible such as prohibitions governing crimes against humanity torture apartheid rape war crimes genocide and aggression If the value of the task of the Court is to be realised by the majority of states in the international community the cycle of impunity has to be abolished in the case of all states including the five permanent members of the Security Council of the United Nations The Law-Science Chasm Cedric Charles Gilson, 2012-11-01 THE LAW SCIENCE CHASM is a socio legal study that takes seriously the varying approaches to science that physicians and scientists use as compared to legal actors such as judges and lawyers Offering a way to mediate and translate their different perspectives and assumptions Gilson uses sociological and philosophical methodologies to explain each discipline to the other Gilson's book takes seriously the idea of the autopoietic closure of society's communicative subsystems and works out the consequences in particular for science and law This analysis both lends support to the credibility of the approach adopted and sheds light on the problems and the direction in which potential solutions might lie The book consequently makes an important contribution not only to the literature dealing with the relationship between science and law but also to the literature dealing with the application of autopoietic systems theory to tangible concerns This book is therefore of clear significance to those continuing to wrestle with the challenges thrown up by science for law and

policy even when the spotlight of public attention is directed elsewhere JOHN PATERSON Professor of Law University of Aberdeen from the Foreword Part of the new Dissertation Series from Quid Pro Books A Chinese Theory of International Law Zhipeng He, Lu Sun, 2020-03-14 This book analyzes China's attitude to international law based on historical experiences and documents and provides an explanation of China's approaches to international legal issues It also establishes several elements for a possible framework of Chinese theory on international law The book offers researchers university students and practitioners valuable insights into how China views international law and why it does so in the way it Law, Legal Culture and Society Alberto Febbrajo, 2018-07-04 This volume addresses the pluralistic identity of the legal order It argues that the mutual reflexivity of the different ways society perceives law and law perceives society eclipses the unique formal identity of written law It advances a distinctive approach to the plural ways in which legal cultures work in a modern society through the metaphor of the mirror As a mirror of society it distinguishes between the structure and function of legal culture within the legal system and the external representation of law in society This duality is further problematized in relation to the increasing transnationalisation of law Based on a multi level interpretation of the concept of legal culture the work is divided into three parts the first addresses the mutual reflections of social and legal norms that support a pluralist representation of internal legal cultures the second concentrates on the external legal cultures that constantly enable pragmatic adjustments of the legal order to its social environment and the third concludes the book with a theoretical discussion of the issues presented 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 Corpus Juris of Islamic International Criminal Justice Farhad Malekian, 2018-09-30 This pioneering scholarly oeuvre evaluates the major comparative philosophy of Islamic international criminal justice It represents an in depth analysis of the necessities of creating an Islamic international criminal court its possible jurisdiction proceedings judgments and sanctions It implies a court functioning under the legal personality of the International Criminal

Court with comparative international criminal lawyers with basic knowledge of Shariah contributing to the prevention of crimes and impunity at an international level The morality and philosophy of Islamic justice are highly relevant with reference to the atrocities committed explicitly or implicitly under the pretext of Islamic rules by superiors groups and governments The volume focuses on substantive criminal law and three methods of the criminal procedure namely the inquisitorial adversarial and adquisitorial The first two constitute the corpus juris of civil and common law systems The third term presents a hybrid of the first two methods The intention is to enhance the scope of each method of the criminal procedure comprehensively The volume examines their variations and effects on a shared system of international criminal justice The inherence of comparable norms in the foundation of Islamic and international criminal law affirms their efficiency in the implementation of the essence of the complementarity principle This book will appeal to readers who are interested in comparative criminal law international criminal justice and Shariah criminal law It is recommended for course literature

Legal Flexibility and the Mission of the Church Will Adam, 2016-04-22 Legal scholars and authorities generally agree that the law should be obeyed and should apply equally to all those subject to it without favour or discrimination Yet it is possible to see that in any legal system there will be situations when strict application of the law will produce undesirable results such as injustice or other consequences not intended by the law as framed In such circumstances the law may be changed but there may be broad policy reasons not to do so The allied concepts of dispensation and economy grew up in the western and eastern traditions of the Christian church as mechanisms whereby an individual or a class of people could by authority be excused from obligations under a particular law in particular circumstances without that law being changed This book uncovers and explores this neglected area of church life and law Will Adam argues that dispensing power and authority exist in various guises in the systems of different churches Codified and understood in Roman Catholic and Orthodox canon law this arouses suspicion in the Church of England and in English law in general The book demonstrates that legal flexibility can be found in English law and is integral to the law of the Church to enable the Church today better to fulfil its mission in the The Ecology of Law Fritiof Capra, Ugo Mattei, 2015-10-05 This book shows how by incorporating concepts from world modern science the law can become an integral part of bringing about a better world Foucauldian Interpretation of Modern Law Martire Jacopo Martire, 2017-07-07 This book addresses a surprisingly overlooked Foucauldian conundrum what is the logical relationship between modern law and power Jacopo Martire investigates the development of modern law in conjunction with what Foucault termed biopolitical forms of power He gives you a much needed genealogical analysis of the modern legal phenomenon opening new avenues for Foucauldian approaches to law Legal Theory and the Legal **Academy** MaksymilianDel Mar, 2017-07-05 The third in a series of three volumes on Contemporary Legal Theory this volume deals with four topics 1 the role of legal theory in the legal curriculum 2 the teaching of legal theory 3 the relationship of legal theory to legal scholarship and 4 the relationship of legal theory to comparative law The focus of the first two topics is

on the common law world where the debates over the aims and proper place of legal theory in the study of law have traversed a good deal of ground since John Austin's 1828 lecture The Uses and the Study of Jurisprudence These first two parts offer a selection of the most important papers including surveys as well as pedagogical viewpoints and particular course descriptions from analytical critical feminist law and literature and global perspectives. The last three decades have seen just as many changes for legal scholarship and comparative law These changes such as the rise of empirical legal scholarship have often attracted the attention of legal theorists Within comparative law the last thirty years have witnessed intense methodological reflection within the discipline the results of these reflections are themselves properly recognised as legal theoretical contributions The volume collects the key papers including those by Neil MacCormick Mark Van Hoecke Andrew Halpin William Ewald and Geoffrey Samuel Women Defendants and International Law Sheri Labenski, 2024-07-05 This book addresses the largely neglected place of women defendants in contemporary international criminal law beyond the construction of women as victims and asks what the analysis of women perpetrators defendants and suspects reveals about international criminal law the media and feminism The book uses the topic of women perpetrators defendants and suspects as a way to explore the concept of legal subjectivity via a gender analysis It highlights how women perpetrators defendants and suspects are constituted through three spheres namely the areas of international criminal law the media and feminism In examining the relationship between women perpetrators defendants and suspects and each of these spheres the book exposes embedded gender biases and structural gender fractures These reveal that problematic assumptions about how gender operates in conflict are embedded in the very foundations of legal imaginations Ultimately the book argues that this has far reaching consequences beyond its impact on current understandings of armed conflict Rather these assumptions should be a concern for us all even in times of peace This book will be of use to legal academics and practitioners interested in gender within international criminal law as well as those concerned with contemporary feminist approaches to law

Sexualised Crimes, Armed Conflict and the Law Hannah Baumeister, 2018-06-04 From ancient to modern times sexualised war violence against women was tolerated if not encouraged as a means of reward propaganda humiliation and terror This was and is in defiance of international laws that have criminalised acts of sexualised war violence since the 18th century Ad hoc international tribunals have addressed especially war rape since the 15th century The International Criminal Court ICC however is the first independent permanent international criminal court that recognises not only war rape but also sexual slavery and other sexualised crimes as crimes against humanity war crimes and acts of genocide in its statute and supporting documents This book explores how the ICC definitions of rape and forced marriage came about and addresses the ongoing challenge of how to define war rape and forced marriage in times of armed conflict in a way that adequately reflects women s experiences as well as the nature of the crimes In addition to deepening the understanding of the ICC negotiations of war rape and forced marriage and of the crimes themselves this volume highlights relevant factors that need to be

considered when criminalising acts of sexualised war violence under international law Sexualised Crimes Armed Conflict and the Law draws on feminist and constructivist theories and offers a comprehensive theoretical and empirical examination of the definition of rape and forced marriage It presents the latest state of knowledge on the topic and will be of interest to researchers academics policymakers officials and intergovernmental organisations and students in the fields of post conflict law and justice international law human rights law international relations gender studies politics and criminology

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 Legal Pluralism in Action Latif judicial reforms court and case management and the scenario of backlog of cases Tas, 2016-04-22 This groundbreaking book contributes to and refocuses public debates about the incorporation of plural approaches into the English legal system The book specifically advances the recent largely theoretical discussions of Sharia legal practice by examining a secular method of dispute resolution as practised by the Kurdish Peace Committee in London Following migration to the West many Kurds still adhere to traditional values and norms Building on these they have adapted their customary legal practices to create unofficial legal courts and other forms of legal hybridisation These practical solutions to the challenges of a pluralistic life are seen by Kurdish communities in the UK as applicable not only to British and transnational daily life but also as a training ground for institutions in a possible future Kurdish state The study provides a substantive evidence base using extensive ethnographic data about the workings of the Kurdish Peace Committee examining detailed case studies in the context of the customs and practices of the Kurdish community Based on an ethnographic and interdisciplinary approach this book will be of interest to policy makers socio legal professionals students and scholars of legal anthropology ethnic minority law transnationalism diaspora Kurdish Turkish and Middle Eastern studies

New Essays on the Nature of Legal Reasoning Mark McBride, James Penner, 2022-05-19 This is the first book to bring together distinguished jurisprudential theorists as well as up and coming scholars to critically assess the nature of legal reasoning The volume is divided into 3 parts The first part General Jurisprudence and Legal Reasoning addresses issues at the intersection of general jurisprudence those pertaining to the nature of law itself and legal reasoning The second part Rules and Reasons addresses two concepts central to two prominent types of theory of legal reasoning The essays in the third and final part Doctrine and Practice delve into the mechanics of legal practice and doctrine from a legal reasoning perspective

Law Books Published, 2002

The Trial on Trial: Volume 2 R A Duff, Lindsay Farmer, Sandra

Marshall, Victor Tadros, 2006-04-05 What are the aims of a criminal trial What social functions should it perform And how is the trial as a political institution linked to other institutions in a democratic polity What follows if we understand a criminal trial as calling a defendant to answer to a charge of criminal wrongdoing and if he is judged to be responsible for such wrongdoing to account for his conduct A normative theory of the trial an account of what trials ought to be and of what ends they should serve must take these central aspects of the trial seriously but they raise a number of difficult questions They suggest that the trial should be seen as a communicative process but what kinds of communication should it involve What kind of political theory does a communicative conception of the trial require Can trials ever actually amount to more than the imposition of state power on the defendant What political role might trials play in conflicts that must deal not simply with issues of individual responsibility but with broader collective wrongs including wrongs perpetrated by or in the name of the state These are the issues addressed by the essays in this volume The third volume in this series in which the four editors of this volume develop their own normative account will be published in 2007 Personal Freedom Through Human Rights Law? Jill Marshall, 2009 By analysing the European Court of Human Rightsa TM jurisprudence and philosophical debates on personal autonomy identity and integrity the book offers a critical analysis of the possibility of different versions of personal freedom emerging in the case law which may restrict rather than enhance personal freedom

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