

# Evaluative and Explanatory Reasoning

Stuart S. Nagel

# Evaluative And Explanatory Legal Reasoning

**Villa-Rosas, Gonzalo, Fabra-Zamora,  
Jorge L.**



## **Evaluative And Explanatory Legal Reasoning:**

Evaluative and Explanatory Legal Reasoning Stuart B. Nagel, 1992      **Evaluative and Explanatory Reasoning** Stuart S. Nagel, 1992-09-21 This volume is a culmination of years of development and the first to introduce the concepts of superoptimum evaluative and explanatory reasoning Nagel's new Quorum book will help academic and practicing attorneys in two important ways By understanding evaluative reasoning they will gain a better grasp of the appropriate behavior to be adopted to achieve desired goals and by understanding explanatory reasoning they will learn why decisions are reached through the hypothesizing of goals or the causal perceptions of decision makers      Evidential Legal Reasoning Jordi Ferrer Beltrán, Carmen Vázquez, Carmen Vázquez Rojas, 2022-05-19 A global overview of evidentiary reasoning with contributions from leading authorities from different legal traditions and four continents      **Handbook of Legal Reasoning and Argumentation** Giorgio Bongiovanni, Gerald Postema, Antonino Rotolo, Giovanni Sartor, Chiara Valentini, Douglas Walton, 2018-07-02 This handbook addresses legal reasoning and argumentation from a logical philosophical and legal perspective The main forms of legal reasoning and argumentation are covered in an exhaustive and critical fashion and are analysed in connection with more general types and problems of reasoning Accordingly the subject matter of the handbook divides in three parts The first one introduces and discusses the basic concepts of practical reasoning The second one discusses the general structures and procedures of reasoning and argumentation that are relevant to legal discourse The third one looks at their instantiations and developments of these aspects of argumentation as they are put to work in the law in different areas and applications of legal reasoning      Argument Evaluation and Evidence Douglas Walton, 2015-08-04 This monograph poses a series of key problems of evidential reasoning and argumentation It then offers solutions achieved by applying recently developed computational models of argumentation made available in artificial intelligence Each problem is posed in such a way that the solution is easily understood The book progresses from confronting these problems and offering solutions to them building a useful general method for evaluating arguments along the way It provides a hands on survey explaining to the reader how to use current argumentation methods and concepts that are increasingly being implemented in more precise ways for the application of software tools in computational argumentation systems It shows how the use of these tools and methods requires a new approach to the concepts of knowledge and explanation suitable for diverse settings such as issues of public safety and health debate legal argumentation forensic evidence science education and the use of expert opinion evidence in personal and public deliberations      *New Developments in Legal Reasoning and Logic* Shahid Rahman, Matthias Armgardt, Hans Christian Nordtveit Kvernenes, 2021-12-16 This book intends to unite studies in different fields related to the development of the relations between logic law and legal reasoning Combining historical and philosophical studies on legal reasoning in Civil and Common Law and on the often neglected Arabic and Talmudic traditions of jurisprudence this project unites these areas with recent technical developments in computer science This combination

has resulted in renewed interest in deontic logic and logic of norms that stems from the interaction between artificial intelligence and law and their applications to these areas of logic The book also aims to motivate and launch a more intense interaction between the historical and philosophical work of Arabic Talmudic and European jurisprudence The publication discusses new insights in the interaction between logic and law and more precisely the study of different answers to the question what role does logic play in legal reasoning Varying perspectives include that of foundational studies such as logical principles and frameworks to applications and historical perspectives

**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

**On Law and Legal Reasoning** Fernando Atria, 2002-08-07 This book is about legal theory and legal reasoning In particular it seeks to examine the relations that obtain between law and a theory of law and legal reasoning and a theory of legal reasoning Two features of law and legal reasoning are treated as being of particular importance in this regard law is institutional and legal reasoning is formal These two features are so closely connected that it is reasonable to believe that in fact they are simply two ways of looking at the same issue This becomes clearer as the focus of the book shifts from the institutional nature of law to the consequences of this for legal reasoning and which is the principal focus of the book The author received the European Academy of Legal Theory award in 2000 for the doctoral dissertation on which this work was based

The Universal and the Particular in Legal Reasoning Zenon Bankowski, James MacLean, 2006 It is twenty five years since the publication of Neil MacCormick's book Legal Reasoning and Legal Theory a book that has been in print continuously since its first publication This book looks at how examining legal reasoning can bring up important theoretical and ethical issues as MacCormick revisits the issues anew in his current work

*Legal Evidence and Proof* Henry Prakken, Hendrik Kaptein, 2016-04-22 As a result of recent scandals concerning evidence and proof in the administration of criminal justice ranging from innocent people on death row in the United States to misuse of statistics leading to wrongful convictions in The Netherlands and elsewhere inquiries into the logic of evidence and proof have taken on a new urgency both in an academic and practical sense This study presents a broad perspective on logic by focusing on inference not just in isolation but as embedded in contexts of procedure and investigation With special attention being paid to recent developments in Artificial Intelligence and the Law specifically related to evidentiary reasoning this book provides clarification of problems of logic and argumentation in relation to evidence and proof As the vast majority of legal conflicts relate to contested facts rather than contested law this volume

concerning facts as prime determinants of legal decisions presents an important contribution to the field for both scholars and practitioners      Epistemic Uncertainty and Legal Theory Brian Burge-Hendrix,2016-12-05 Crossing the usual boundaries of abstract legal theory this book considers actual charter systems legal systems with explicitly posited moral political rights such as those of Canada and the United States as well as cases in constitutional adjudication It shows the worth of careful reflection on methodological and meta theoretical issues for a comprehensive account of a present day legal system which is fast becoming the norm The author explicitly connects the ongoing Methodology Debate within legal philosophy to constitutional adjudication and Canadian law By drawing out the implications of the Methodology Debate and the challenge of giving a proper account of constitutional adjudication in a general theory of law the study examines how a descriptive morally and politically neutral legal theory can deal with epistemic uncertainty uncertainty about the actual status of moral political legal provisions and their jurisprudential function in a thoroughgoing manner It also demonstrates the merits of a minimalist version of Legal Positivism with regard to the practical importance of charters in charter systems and societies      *Objectivity in Jurisprudence, Legal Interpretation and Practical Reasoning* Villa-Rosas, Gonzalo,Fabra-Zamora, Jorge L.,2022-10-18 This thought provoking book explores the multifaceted phenomenon of objectivity and its relations to various aspects of jurisprudence legal interpretation and practical reasoning Featuring contributions from an international group of researchers from differing legal contexts it addresses topics relevant not only from a theoretical point of view but also themes directly connected with legal and judicial practice      **Critique of the Empiricist Explanation of Morality** C. W. Maris,2013-11-22 a Two things fill the mind with ever new and increasing admiration and awe the oftener and the more steadily we reflect on them the starry heavens above and the moral law within Thus Kant formulates his attitude to morality Critique of Practical Reason p 260 He draws a sharp distinction between these two objects of admiration The starry sky he writes represents my relationship to the natural empirical world Moral law on the other hand is of a completely different order It begins from my invisible self my personality and exhibits me in a world which has true infinity but which is traceable only by the understanding and with which I discern that I am not in a merely contingent but in a universal and necessary connection p 260 So Kant sees morality as a separate metaphysical order opposed to the world of empirical phenomena Human beings belong to both worlds According to Kant the personality derives nothing of value from its relationship with the empirical world His part in the sensuous world of nature places man on a level with any animal which before long must give back to the rest of nature the substances of which it is made      **Handbook of Intellectual Property Research** Irene Calboli,Maria Lillà Montagnani,2021 This book offers a comprehensive overview of the methods and approaches that could be used as guidelines to address and develop scholarly research questions related to intellectual property law bringing together contributions from a diverse group of scholars who derive from a wide range of countries backgrounds and legal traditions      The Tapestry of Reason Amalia Amaya,2015-04-30 In recent years coherence

theories of law and adjudication have been extremely influential in legal scholarship. These theories significantly advance the case for coherentism in law. Nonetheless, there remain a number of problems in the coherence theory in law. This ambitious new work makes the first concerted attempt to develop a coherence based theory of legal reasoning and in so doing addresses or at least mitigates these problems. The book is organized in three parts. The first part provides a critical analysis of the main coherentist approaches to both normative and factual reasoning in law. The second part investigates the coherence theory in a number of fields that are relevant to law: coherence theories of epistemic justification, coherentist approaches to belief revision and theory choice in science, coherence theories of practical and moral reasoning, and coherence based approaches to discourse interpretation. Taking this interdisciplinary analysis as a starting point, the third part develops a coherence based model of legal reasoning. While this model builds upon the standard theory of legal reasoning, it also leads to rethinking some of the basic assumptions that characterize this theory and suggests some lines along which it may be further developed. Thus, ultimately, the book not only improves upon the current state of coherence theory in law but also contributes to the larger debate about how to articulate a theory of legal reasoning that results in better decision making.

**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 undations 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.

*Metaethical Issues in Contemporary Legal Philosophy* Stefano Berteà, Jorge Silva Sampaio, 2024-12-31  
This volume explores the importance of constitutivism for legal studies. Constitutivism is the view that the normative force or authority of practical reasons is grounded in principles, capacities, aims, or functions that are essential to and thus constitutive of agency. While the implications that the constitutivist approach has on the fundamental metaethical

disputes and central ethical debates have been extensively explored the literature on the relations between constitutivism and law remains scarce unsystematic and sporadic This collection brings together world renowned practical philosophers and legal theorists to fill a noticeable gap in the literature The authors systematically and innovatively address key dimensions of the relationships between constitutivism and the theoretical study of law as well as programmatically offering novel insights into the conceptual connections between constitutivist claims fundamental legal concepts and practices legal issues and ultimately the law as a distinctive concept The book will be of interest to academics and researchers working in the areas of Legal Philosophy Legal Theory Jurisprudence Moral Philosophy and Metaethics Chapter 8 of this book is freely available as a downloadable Open Access PDF at <http://www.taylorfrancis.com> under a Creative Commons Attribution Non Commercial No Derivatives CC BY NC ND 4.0 license *Language and Legal Judgments* Stanisław

Goźdz-Roszkowski, 2024-02-06 Integrating research methods from linguistics with contemporary legal argumentation theory this book highlights the complexities of legal justification by focusing on the role of value laden language in argument construction and use The combination of linguistic analysis and the pragma dialectic approach to legal argumentation yields a new way of perceiving and understanding the phenomenon of evaluation one that offers theoretical and practical gains Analyzing a vast corpus of judicial opinions from the US Supreme Court and Poland's Constitutional Tribunal the book paints a clear picture of complex linguistic choices made by judges to assess and support arguments in the justifications of their decisions The book will be of interest to scholars in Law Linguistics and Rhetoric as well as to judges and practicing lawyers engaged in the art of argumentation *Questions of Character* Iskra Fileva, 2017 This collection features 26 new essays on character from first rate scholars in philosophy psychology economics and law The essays are elegantly written and combine forceful argumentation with original ideas on a wide range of questions such as Is Aristotle's theory of character a moral theory Are character traits in tension with personal autonomy How do traits differ from mental disorders What is the role of gossip in character attribution and Can businessmen be virtuous The chapters are organized thematically into 5 sections each prefaced by its own special introduction In the introductions the editor brings out often unexpected connections among different lines of argument pursued by the authors and raises important questions for further discussion The collection as a whole offers students of character a unique opportunity to engage with some of the best contemporary work on the topic

Between Authority and Interpretation Joseph Raz, 2009-02-19 In this book Joseph Raz develops his views on some of the central questions in practical philosophy legal political and moral The book provides an overview of Raz's work on jurisprudence and the nature of law in the context of broader questions in the philosophy of practical reason The book opens with a discussion of methodological issues focusing on understanding the nature of jurisprudence It asks how the nature of law can be explained and how the success of a legal theory can be established The book then addresses central questions on the nature of law its relation to morality the nature and justification of authority and the nature of legal reasoning It explains

how legitimate law while being a branch of applied morality is also a relatively autonomous system which has the potential to bridge moral differences among its subjects Raz offers responses to some critical reactions to his theory of authority adumbrating and modifying the theory to meet some of them The final part of the book brings together for the first time Raz's work on the nature of interpretation in law and the humanities It includes a new essay explaining interpretive pluralism and the possibility of interpretive innovation Taken together the essays in the volume offer a valuable introduction for students coming for the first time to Raz's work in the philosophy of law and an original contribution to many of the current debates in practical philosophy

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