

LAW, MORALITY, AND THE PRIVATE DOMAIN



Raymond Wacks

Law Morality And The Private Domain

Lisa M Austin, Dennis Klimchuk



Law Morality And The Private Domain:

Law, Morality and the Private Domain Raymond Wacks, 2000-09-01 Are judges morally accountable Is legal validity value free Do animals have rights These are some of the questions considered in this collection of essays Moral problems argues Professor Raymond Wacks pervade the legal system and he shows how the judicial function the sources of legitimacy and the protection of rights have an inescapable ethical dimension The second part of the book focuses on the private domain and the legal concept of privacy The extent to which the law ought to preserve a distinctly private realm is a pressing concern in our surveillance society in which personal information is increasingly collected transferred and stored This controversial and difficult subject is one into which Professor Wacks a leading expert in this field is uniquely qualified to offer important insights Raymond Wacks analysis will be of interest not only to lawyers legal philosophers and students of law but also to the general reader seeking an understanding of the jurisprudential underpinning of rights and moral values their legal recognition and practical application Raymond Wacks is Professor of Law and Legal Theory at the University of Hong Kong He is an international authority on the legal protection of privacy and has also published widely in the field of legal theory

The Rule of Law Under Fire? Raymond Wacks, 2021-10-21 Does the rise of populism authoritarianism and nationalism threaten the welfare of the rule of law Is this fundamental democratic ideal under siege In this timely and important book Raymond Wacks examines the philosophical roots of the rule of law and its modern often contentious interpretation He then investigates 16 potential ideological economic legal and institutional dangers to the rule of law They range from the exercise of judicial and administrative discretion and parliamentary sovereignty to the growth of globalisation the war on terror and the disquieting power of Big Tech He also considers the enactment and enforcement in several countries of Draconian measures to curtail the spread of COVID 19 which has generated fears that these emergency powers may outlive the pandemic and become a permanent feature of the legal landscape thereby impairing the rule of law Wacks identifies which issues among this extensive array pose genuine risks to the rule of law and suggests how they might be confronted to ensure its defence and preservation

Understanding Jurisprudence Raymond Wacks, 2021 Understanding Jurisprudence provides an illuminating and engaging introduction to the central questions of legal theory It is the perfect starting point for those new to the subject

Political Reason and Interest Herman H.H. van Erp, 2018-02-05 This title was first published in 2000 Politics cannot be conceived of as just a subsystem of society or as a network of particular interests The concept of interests and their role within the normative political debate is given a new interpretation by this book which examines how political interest market mechanisms and rational choice theories exist in the light of democratic freedom and social justice The book builds on different concepts of procedural justice from Schumpeter Buchanan and Habermas s conceptions of democracy and the role of political compromise and coalition in the idea of consensus as a condition for political legitimation

Philosophical Foundations of Private International Law , 2024-06-20 Private international law has long been

understood as a doctrinal and technical body of law without interesting theoretical foundations or implications By systematically exploring the rich array of philosophical topics that are part of the fabric of private international law Philosophical Foundations of Private International Law fills a significant and long standing void in the legal and philosophical literature The contributions to this volume are testimony to the significant potential for interaction between philosophy and private international law Some aim to expand and rethink classical jurisprudential theories by focusing on law beyond the state and on the recognition of foreign law and judgments in domestic courts Others bring legal and moral theories to bear on traditional debates in private international law such as legal pluralism transnational justice the interpretation of foreign legal policies and the boundaries of the legal system Several engage with the history of both private international law and legal and political philosophy They point to missed opportunities when philosophers ignored law s transnational dimensions or when private international law scholars failed to position their theories within broader philosophical schools of thought Some seek to complete past attempts to articulate the philosophical dimensions of private international law that were never carried through Thought provoking and topical this volume displays the varied themes cutting through the disciplines of private international law and philosophy

Public Parts Jeff Jarvis, 2011-09-27 A visionary and optimistic thinker examines the tension between privacy and publicness that is transforming how we form communities create identities do business and live our lives Thanks to the internet we now live more and more in public More than 750 million people and half of all Americans use Facebook where we share a billion times a day The collective voice of Twitter echoes instantly 100 million times daily from Tahrir Square to the Mall of America on subjects that range from democratic reform to unfolding natural disasters to celebrity gossip New tools let us share our photos videos purchases knowledge friendships locations and lives Yet change brings fear and many people nostalgic for a more homogeneous mass culture and provoked by well meaning advocates for privacy despair that the internet and how we share there is making us dumber crasser distracted and vulnerable to threats of all kinds But not Jeff Jarvis In this shibboleth destroying book Public Parts argues persuasively and personally that the internet and our new sense of publicness are in fact doing the opposite Jarvis travels back in time to show the amazing parallels of fear and resistance that met the advent of other innovations such as the camera and the printing press The internet he argues will change business society and life as profoundly as Gutenberg s invention shifting power from old institutions to us all Based on extensive interviews Public Parts introduces us to the men and women building a new industry based on sharing Some of them have become household names Facebook s Mark Zuckerberg Google s Eric Schmidt and Twitter s Evan Williams Others may soon be recognized as the industrialists philosophers and designers of our future Jarvis explores the promising ways in which the internet and publicness allow us to collaborate think ways how we manufacture and market buy and sell organize and govern teach and learn He also examines the necessity as well as the limits of privacy in an effort to understand and thus protect it This new and open era has already profoundly disrupted

economies industries laws ethics childhood and many other facets of our daily lives But the change has just begun The shape of the future is not assured The amazing new tools of publicness can be used to good ends and bad The choices and the responsibilities lie with us Jarvis makes an urgent case that the future of the internet what one technologist calls the eighth continent requires as much protection as the physical space we share the air we breathe and the rights we afford one another It is a space of the public for the public and by the public It needs protection and respect from all of us As Secretary of State Hillary Clinton said in the wake of the uprisings in the Middle East If people around the world are going to come together every day online and have a safe and productive experience we need a shared vision to guide us Jeff Jarvis has that vision and will be that guide

Protecting Personal Information Andrea Monti,Raymond Wacks,2019-05-30 The concept of privacy has long been confused and incoherent The right to privacy has been applied promiscuously to an alarmingly wide ranging assortment of issues including free speech political consent abortion contraception sexual preference noise discrimination and pornography The conventional definition of privacy and attempts to evolve a privacy as a fence approach are unable to deal effectively with the technological advances that have significantly altered the way information is collected stored and communicated Social media such as Facebook pose searching questions about the use and protection of personal information and reveal the limits of conceiving the right to privacy as synonymous with data protection The recent European Union s GDPR seeks to enforce greater protection of personal information but the overlap with privacy has further obscured its core meaning This book traces these troubling developments and seeks to reveal the essential nature of privacy and critically what privacy is not

Shifting the Boundaries Dario Castiglione,Lesley Sharpe,1995 The book mounts a challenge to the notion of a clear distinction between public and private and attempts to account for the mobility of the many boundaries between the two The first essay introduces some of those problematic boundaries in the light of the influential studies of Habermas Koselleck Aries and Chartier who together have helped shape our understanding of the formation of the modern public and private spheres A number of essays deal with the nature of public opinion in relation to state control and with the role of the intelligentsia Some investigate non political forms of sociability and the creation of various kinds of publics within the cultural realm Others scrutinize gender roles and the validity of the accepted correspondence of male female to public private in the light of women s use of the printed word

Making the Modern Criminal Law Lindsay Farmer,2016-01-21 The Criminalization series arose from an interdisciplinary investigation into criminalization focussing on the principles that might guide decisions about what kinds of conduct should be criminalized and the forms that criminalization should take Developing a normative theory of criminalization the series tackles the key questions at the heart of the issue what principles and goals should guide legislators in deciding what to criminalize How should criminal wrongs be classified and differentiated How should law enforcement officials apply the law s specifications of offences This the fifth book in the series offers a historical and conceptual account of the development of the modern criminal law in England and

as it has spread to common law jurisdictions around the world The book offers a historical perspective on the development of theories of criminalization It shows how the emergence of theories of criminalization is inextricably linked to modern understandings of the criminal law as a conceptually distinct body of rules and how this in turn has been shaped by the changing functions of criminal law as an instrument of government in the modern state The book is structured in two main parts The first traces the development of the modern law as a distinct and conceptually distinct body of rules looking in particular at ideas of jurisdiction codification and responsibility The second part then engages in detailed analysis of specific areas of criminal law focusing on patterns of criminalization in relation to property the person and sexual conduct

Private Law and the Rule of Law Lisa M Austin, Dennis Klimchuk, 2014-12-18 The rule of law is widely perceived to be a public law doctrine concerned with the way in which governmental authority conforms to the dictates of law The goal of this book is to challenge this presumption The chapters in this volume all consider the idea that the rule of law concerns the nature of law generally and the conditions under which any relationship that among citizens as well as that between citizens and the state becomes subject to law Addressing two major questions they ask if our understanding of the rule of law is enriched by considering how and to what degree it is expressed or realized in private law and whether our understanding of the private law is enriched by adding the principles of the rule of law to the traditional list of core private law concepts Bringing together leading philosophers of private and public law this volume examines key questions in a little explored field and will be essential reading for all those interested in the rule of law and in private law theory

Law, Morality and Judicial Reasoning Thomas Bustamante, Saulo de Matos, André L. S. Coelho, 2024-08-28 This book provides a critical outlook on and an inquiry into the practical implications of the works of Professor W J Waluchow one of the most important jurisprudence scholars of the early twenty first century while also reflecting on the interconnections between his legal theory and his theory of constitutional interpretation It also features an interview with Waluchow in which he responds to some of the chapters and shares a first person perspective on his main philosophical ideas how they emerged and how they can be further developed and applied The book makes a valuable contribution to contemporary legal philosophy by asking and providing different answers from prominent legal philosophers and newer scholars in the field to questions such as How does Waluchow s jurisprudence relate to his theories of legal reasoning and constitutional interpretation On what terms should we understand inclusive legal positivism Can inclusive legal positivism be reconciled with an interpretivist theory of adjudication How does it compare with Raz s model of legal authority Can Waluchow s notion of community constitutional morality be applied to contexts such as international law pluralist legal communities and indigenous laws and Is Waluchow s methodology equipped to provide interpretive directives in unstable and extremely unequal legal systems The chapters all written by experts on jurisprudence including some of the scholars who helped develop the tradition known as inclusive legal positivism offer a unique analysis of Waluchow s most complex and intriguing theses providing not only a valuable exegetical analysis of his

work but also a range of answers to the challenge of interpreting legal and constitutional values as well as practical resolutions to persisting controversies in the philosophy of law

The Decline of Private Law Gonalo de Almeida Ribeiro, 2019-05-02 This book is a large scale historical reconstruction of liberal legalism from its inception in the mid nineteenth century the moment in which the jurists forged the alliance between political liberalism and legal expertise embodied in classical private law doctrine to the contemporary anxiety about the possibility of both a liberal solution to the problem of political justification and of law as a respectable form of expert knowledge Each stage in the history is a moment of synthesis between a substantive and a methodological idea The former is the liberal political theory of the period purporting to provide a solution to the problem of political justification The latter is a conception of legal method or science supposedly vindicating the access of the expert to the political choices embodied in the law Thus each moment in the history of liberal legalism integrates a political theory with a jurisprudential conception Although it reaches the unsettling conclusion that liberal legalism has largely failed by its own standards the book urges us to avoid quietism scepticism or cynicism in the hope that a deeper understanding of the fragility of our values and institutions inspires a more thoughtful broadminded and nurtured citizenship

Critique and Crisis Reinhart Koselleck, 2000-03-13 Critique and Crisis established Reinhart Koselleck s reputation as the most important German intellectual historian of the postwar period This first English translation of Koselleck s tour de force demonstrates a chronological breadth a philosophical depth and an originality which are hardly equalled in any scholarly domain It is a history of the Enlightenment in miniature fundamental to our understanding of that period and its consequences Like Tocqueville Koselleck views Enlightenment intellectuals as an uprooted unrealistic group of onlookers who sowed the seeds of the modern political tensions that first flowered in the French Revolution He argues that it was the split that developed between state and society during the Enlightenment that fostered the emergence of this intellectual elite divorced from the realities of politics Koselleck describes how this disjunction between political authority proper and its subjects led to private spheres that later became centers of moral authority and eventually models for political society that took little or no notice of the constraints under which politicians must inevitably work In this way progressive bourgeois philosophy which seemed to offer the promise of a unified and peaceful world in fact produced just the opposite The book provides a wealth of examples drawn from all of Europe to illustrate the still relevant message that we evade the constraints and the necessities of the political realm at our own risk Critique and Crisis is included in the series Studies in Contemporary German Social Thought edited by Thomas McCarthy

Integrity in the Public and Private Domains Alan Montefiore, David Vines, 2005-06-20 Integrity in the Private and Public Domains explores the issue of public and private integrity in politics the media health science fund raising the economy and the public sector Over twenty essays by well known figures such as Amelie Rorty David Vines the late Hugo Gryn Alan Montefiore and Hilary Lawson present a compelling insight into debates over integrity today A key chapter of the book concerns the highly publicised donation to Oxford

University by Gert Rudolf Flick an issue which attracted wide media attention by raising questions of fund raising and the holocaust

The Spirit of Chinese Confucianism Qiyong Guo,2024-10-13 This book provides a comprehensive overview of the spirit of Chinese Confucianism which is usually regarded as one of the most important aspects of traditional Chinese culture In addition to the general history the book explores the extensive concepts of Confucianism such as its philosophy core values and social ideals humanistic theories ritual and music culture and statecraft and wisdom of governance Beyond the introductory information it ushers Confucianism into the modern realm discussing and elaborating on its humanistic spirit characteristics its significance and value in the modern context and how it should be engaged in the creative transformation of economic globalization The book is divided into twelve chapters each developing from a single focal point to cover a vast array of knowledge that combines philosophy academics and readability It brings Confucianism to the readers by explaining complex and profound Confucian philosophy and actions in a language that is accessible

The Star and Crescent ,1885

Privacy and Media Freedom Raymond Wacks,2013-06-06 Freedom of expression is a fundamental right at the heart of any democratic society It is however inevitably restricted by other important values including the right to privacy the control individuals exercise over their sensitive personal information The English law since the enactment of the Human Rights Act 1998 has undergone a tectonic shift in its recognition of this right protected by Article 8 of the European Convention on Human Rights ECHR which the Act assimilated into domestic law The new civil wrong misuse of private information now affords greater protection to an individual s private and family life home and correspondence The press is of course no longer the principal purveyor of news and information The Internet offers abundant opportunities for the dissemination of news and opinions including the publication of intimate private facts Social media blogs and other online sites are accessible to all Indeed the fragility of privacy online has led some to conclude that it is no longer capable of legal protection This book examines the right of privacy from a legal philosophical and social perspective tracing its genesis in the United States through the development of the law of confidence and its recent recognition by the Human Rights Act The English courts have boldly sought to offer refuge from an increasingly intrusive media Recent years have witnessed a deluge of civil suits by celebrities seeking to salvage what remains of their privacy An extensive body of case law has appeared in many common law jurisdictions over the last decade which shows no sign of abating The Leveson Inquiry into the culture practices and ethics of the press sparked by the hacking of telephones by newspapers revealed a greater degree of media intrusion than was previously evident Its conclusions and recommendations particularly regarding the regulation of the media are examined as well as the various remedies available to victims of intrusion and unsolicited publicity The law is locked in a struggle to reconcile privacy and free speech in the face of relentless advances in technology The manner in which courts in various jurisdictions have attempted to resolve this conflict is critically investigated and the prospects for the protection of privacy are considered

Encyclopedia of Ethics: P-W Lawrence C. Becker,Charlotte B. Becker,2001 A

revised expanded and updated edition with contributions by 325 renowned authorities in the field of ethics All of the original articles have been newly peer reviewed and revised bibliographies have been updated throughout and the overall design of the work has been enhanced for easier access to cross references and other reference features *Privacy in the Republic* Andrew Roberts, 2022-07-12 This book rethinks the idea of privacy It argues that a satisfactory account of privacy should not limit itself to identifying why privacy might be valuable It also needs to attend to the further question of how it can be secured in those circumstances in which it proves to be valuable Drawing on republican ideas about the relationship between freedom and self government the book asserts that privacy is valuable because it enables us to lead non dominated lives It prevents others from acquiring power to interfere in our choices to remove options that would otherwise be available to us and to manipulate our decision making It further examines the means through which citizens might exercise effective control over decisions and actions that affect their privacy and proposes a democratic theory of privacy With the emergence of the surveillance state this volume will be indispensable for scholars students and researchers in political theory political philosophy law and human and civil rights It will be of particular interest to policymakers lawyers and human rights activists

Rethinking Muslim Personal Law Hilal Ahmed, R. K. Mishra, K. N. Jehangir, 2022-04-28 This volume critically analyses Muslim Personal Law MPL in India and offers an alternative perspective to look at MPL and the Uniform Civil Code UCC debate Tracing the historical origins of this legal mechanism and its subsequent political manifestations it highlights the complex nature of MPL as a sociological phenomenon driven by context specific social norms and cultural values With expert contributions it discusses wide ranging themes and issues including MPL reforms and human rights decoding of UCC in India the contentious Triple Talaq bill and MPL the Shah Bano case Sharia Islamic jurisprudence in postcolonial India women s equality and family laws and MPL in the media discourse in India The volume highlights that although MPL is inextricably linked to Sharia it does not necessarily determine the everyday customs and local practices of Muslim communities in India This topical book will greatly interest scholars and researchers of law and jurisprudence political studies Islamic studies Muslim Personal Law history multiculturalism South Asian studies sociology of religion sociology of law and family law It will also be useful to practitioners policymakers law professionals and journalists

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