



Interpretation and Legal Theory

REVISED SECOND EDITION

Andrei Marmor

Interpretation And Legal Theory

Jörg Kammerhofer



Interpretation And Legal Theory:

Interpretation and Legal Theory Andrei Marmor, 2005-04-25 This is a revised and extensively rewritten edition of one of the most influential monographs on legal philosophy published in recent years Writing in the introduction to the first edition the author characterized Anglophone philosophers as being divided and often wavering between two main philosophical objectives the moral evaluation of law and legal institutions and an account of its actual nature Questions of methodology have therefore tended to be sidelined but were bound to surface sooner or later as they have in the later work of Ronald Dworkin The main purpose of this book is to provide a critical assessment of Dworkin's methodological turn away from analytical jurisprudence towards a theory of interpretation and the issues it gives rise to The author argues that the importance of Dworkin's interpretative turn is not that it provides a substitute for semantic theories of law a dubious concept but that it provides a new conception of jurisprudence aiming to present itself as a comprehensive rival to the conventionalism manifest in legal positivism Furthermore once the interpretative turn is regarded as an overall challenge to conventionalism it is easier to see why it does not confine itself to a critique of method Law as interpretation calls into question the main tenets of its positivist rival in substance as well as method The book re-examines conventionalism in the light of this interpretative challenge

Interpretation and Legal Theory Andrei Marmor, 2005-04-30 Prev ed published by Oxford Clarendon Press New York Oxford University Press 1992 *Interpretation, Law and the Construction of Meaning* Anne Wagner, Wouter Werner, Deborah Cao, 2007-05-16 Legal semiotics emphasizes the contingency and fluidity of legal concepts and stresses the existence of overlapping competing and coexisting legal discourses In response to new problems changing power structures changing societal norms and new faces of injustice established doctrines are reconsidered reformulated and partly replaced by competing doctrines and hypotheses Given the relative indeterminacy of law it is no surprise that the problem of interpretation has always been one of the focal points of attention for legal semiotics Who has the power to define words and concepts Who can successfully assume the power to speak on behalf of the legal community Which methods are used to justify the power to define This book discusses the questions mentioned above from three related perspectives Legal theory Part I Judicial reasoning Part II Application of law in politics and diplomatic practice Part III

Interpretation in Legal Theory Andrei Marmor, 1990 **Legal Theory and Interpretation in a Dynamic Society** Alexander Bruns, Yuanshi Bu, Hanno Merkt, Sonja Meier, Michael Pawlik, Eiji Takahashi, Silja Vöneky, Jan von Hein, 2021-07-02 Der Band versammelt Beiträge die anlässlich des 7. Seoul Freiburger Rechtswissenschaftlichen Symposiums im September 2019 in Seoul gehalten wurden Die Zusammenarbeit und der akademische Austausch zwischen den juristischen Fakultäten der Seoul National University SNU und der Albert-Ludwigs-Universität Freiburg hat eine alte und wertvolle Tradition der engen Beziehungen zwischen dem koreanischen und dem deutschen Recht lebendig gehalten Das 7. Symposium war dem Thema Rechtstheorie und Auslegung in einer dynamischen Gesellschaft gewidmet und deckte ein breites Spektrum an

Themen ab die in sechs Sektionen unterteilt waren I Rechtstheorie und auslegung II Unternehmensrecht III Internationales Privatrecht und Zivilprozessrecht IV Recht der k nstlichen Intelligenz Eigentumsrecht und Strafrecht V Vertragsrecht und VI das Verh ltnis von supranationalem und innerstaatlichem Verfassungsrecht Die meisten der auf dem Symposium gehaltenen Vortr ge sind in diesem Band versammelt

Interpretation, Law and the Construction of Meaning Anne Wagner, Wouter Werner, Deborah Cao, 2009-09-03 The study of legal semiotics emphasizes the contingency and fluidity of legal concepts and stresses the existence of overlapping competing and coexisting legal discourses New problems changing power structures and societal norms and new faces of injustice all these force reconsideration reformulation and even replacement of established doctrines This book focuses on the application of law in a wide variety of contexts including international politics and diplomatic practice

Law and Legal Interpretation Fernando Atria Lemaitre, Neil MacCormick, 2017-11-01 This title was first published in 2003 Leading contemporary essays on interpretation are assembled in this volume which offsets them against a small number of classical works from earlier periods It has long been recognized that textual sources constitutions statutes precedents commentaries are central to developed systems of law and that interpretation of such texts is one highly important element in adjudication legal practice and legal scholarship Scholars have also contended that the totality of legal activity is interpretive in a wider sense and debates about objectivity have raged The reasons for this development are here critically scrutinized

Legal Interpretation and the Objectivity of Values Damiano Canale, 2008 Is interpreting a legal text something different from understanding it If this is the case what does such a difference consist in Is it a matter of semantic content of the text or does it depend on the communicative function of legal language And if a straightforward line between understanding and interpretation can be drawn does interpretation necessary involve discretionary evaluations or does it rest on objective standards These traditional issues in legal theory will be addressed by means of a critical reading of Andrei Marmor s book *Interpretation and Legal Theory* 2005 2nd ed Marmor s book gives a challenging picture of the relation between interpretation and intentionality as well as between interpretation authority and the rule of law It is a picture which aspires to be original in content but traditional in method Along the lines of Hart s legal positivism Marmor aims at describing the very nature of legal interpretation not at prescribing how to interpret the law In this essay I will argue that Marmor s understanding of legal interpretation might be more coherent if he would admit that his is not a descriptive theory of legal interpretation in a genuine sense Marmor is not concerned with interpretation as a matter of fact He is concerned with interpretation as a means to realize some objective values the values which interpretation ought to instantiate if legal officials are playing the social game called democracy and the rule of law

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 Evaluation and Legal Theory Julie Dickson,2001-05 If Raz and Dworkin disagree over how law should be characterised how are we their jurisprudential public supposed to go about adjudicating between the rival theories which they offer us To what considerations would those theorists themselves appeal in order to convince us that their accounts of law are accurate and successful Moreover what is it that makes an account of law successful Evaluation and Legal Theory tackles methodological or meta theoretical issues such as these and does so via attempting to answer the question to what extent and in what sense must a legal theorist make value judgements about his data in order to construct a successful theory of law Dispelling the obfuscatory myth that legal positivism seeks a value free account of law the author attempts to explain and defend Joseph Raz s position that evaluation is essential to successful legal theory whilst refuting John Finnis and Ronald Dworkin s contentions that the legal theorist must morally evaluate and morally justify the law in order to properly explain its nature The book does not claim to solve the many mysteries of meta legal theory but does seek to contribute to and engender rigorous and focused debate on this topic **Ethical Dimensions of Legal Theory** ,2021-11-15 International Investment Law and Legal Theory Jörg Kammerhofer,2021-05-06 Expropriation is a hotly debated issue in international investment law This is the first study to provide a detailed analysis of its norm theoretical dimension setting out the theoretical foundations underlying its understanding in contemporary legal scholarship and practice J rg Kammerhofer combines a doctrinal discussion with a theoretical analysis of the structure of the law in this area undertaking a novel approach that critically re evaluates existing case law and writings His approach critiques the arguments for a single expropriation norm based on custom interpretation and arbitral precedents within international investment law drawing also on generalist international legal thought to show that both cosmopolitan and sovereigntist arguments are largely political not legal This innovative work will help scholars to understand the application of theory to investment law and help specialists in the field to improve their arguments Realistic Socio-legal Theory Brian Z. Tamanaha,1997 Combining philosophical pragmatism with a methodological foundation Tamanaha formulates a framework for a realistic approach to socio legal

theory The strengths of this approach are contrasted with that of the major schools of socio legal theory by application to core issues in this area Thus Tamanaha explores the problematic state of socio legal studies the relationship between behaviour and meaning the notion of legal ideology the problem of indeterminacy in rule following and application and the structure of judicial decision making These issues are tackled in a clear and concise fashion while articulating a social theory of law which draws equally from legal theory and socio legal theory Jurisprudence (Legal Theory) Dr Chandrani Shashikant Bagadi, 2023-07-12 Jurisprudence is the basis of all law Jurisprudence is the living science of Law Jurisprudence deals with the knowledge of the law and legal principles As it is the basis of law it is necessary to reach students It is solid foundation of knowledge and it also includes critical understanding Jurisprudence and Legal Theory Author has taught Jurisprudence for many years Author has tried to reach students in easy language Jurisprudence is the base of all subjects Author has tried his best to reach students through his book It includes all schools concepts sources Academically also it is useful for LL B LL M NET SET exam and research students This book aim is to give knowledge of what is law and explain the principles of Jurisprudence and Legal Theory to students advocate society and researchers As this is my effort to publish First Edition I therefore welcome if there are any suggestions to improve this book International Legal Theory and the Cognitive Turn Anne van Aaken, Moshe Hirsch, 2025-04-02 Cognitive and behavioural studies are making inroads into international law international policy and literature Firstly international practice is drawing increasingly on behavioural studies The United Nations UN and its agencies have turned to behavioural science to confront new challenges faced by the international community including the Sustainable Development Goals climate change and gender equality Similarly the World Bank and World Health Organization have created teams of experts to advise on the incorporation of behavioural insights to support their operations Other international organizations are likewise following suit Secondly the cognitive behavioural turn is generating innovative research work in disciplines neighbouring international law and is gaining similar traction in international legal scholarship Yet despite this the implications of cognitive behavioural studies for international legal theory remain under explored With few exceptions international legal theories have long failed to explicitly address the cognitive behavioural assumptions of their respective theoretical approaches To fill this gap this book systematically examines the impact of the cognitive behavioural turn on the main theoretical schools within international legal scholarship Across thirteen chapters the contributors uncover the cognitive bases of their respective theories exploring both the cognitive similarities underlying the assumptions of different theories of international law as well as the limitations of the use of behavioural science in international law theories International Legal Theory and the Cognitive Turn makes explicit the relationship between cognitive behavioral methodologies and other ways of thinking about international law including TWAIL feminist and legal realist approaches and more This is an open access title available under the terms of a CC BY NC ND 4 0 International licence It is free to read on Oxford Scholarship Online and offered as a free PDF download from OUP and

selected open access locations *A Companion to Philosophy of Law and Legal Theory* Dennis Patterson, 2010-01-15 The articles in this new edition of *A Companion to Philosophy of Law and Legal Theory* have been updated throughout and the addition of ten new articles ensures that the volume continues to offer the most up to date coverage of current thinking in legal philosophy Represents the definitive handbook of philosophy of law and contemporary legal theory invaluable to anyone with an interest in legal philosophy Now features ten entirely new articles covering the areas of risk regulatory theory methodology overcriminalization intention coercion unjust enrichment the rule of law law and society and Kantian legal philosophy Essays are written by an international team of leading scholars **Challenges to Legal Theory** María José Falcón y Tella, Juan Antonio Martínez Muñoz, 2021-01-18 *Challenges to Legal Theory* offers the reader a fascinating journey through a variety of multi disciplinary topics ranging from law and literature and law and religion to legal philosophy and constitutional law The collection reflects some of the challenges that the field of legal theory currently faces It is compiled by a selection of international and Spanish scholars whose essays are made available in English translation for the first time The volume is based on a collection of essays published in Spanish in honour of Professor Jos Iturmendi Morales of Complutense University Madrid and brings the rich scholarship of pre eminent Spanish scholars of law and legal theory to an international audience *Poznań School of Legal Theory* Paweł Kwiatkowski, Marek Smolak, 2021-02-08 This book grew out of the conviction that the original concepts of the Pozna School of Legal Theory are still perfectly suited for application in the era of moral pluralism and multicentric legal systems Moreover the legal theoretical proposals put forward by the circle of Pozna legal theorists and supported by firm methodological foundations have not by any means lost their value Although each of the authors tackles issues from different perspectives there is a discernible unity in their approaches expressed in the conviction that modest analysis makes more sense than ambitious analysis of the concept of law or the nature of law The Pozna School has made several valuable contributions to contemporary legal theory its works have drawn from Polish philosophy of language and therefore embedded its theoretical and legal considerations in the Polish philosophical culture it created an original model method which consists of considering ideal situations in which dependencies are not disturbed by the influence of other factors and it treats the human being as a rational person and thus as a cognizing subject and a rational agent **Introduction to Critical Legal Theory** Ian Ward, 2012-10-02 *Introduction to Critical Legal Theory* provides an accessible introduction to the study of law and legal theory It covers all the seminal movements in classical modern and postmodern legal thought engaging the reader with the ideas of jurists as diverse as Aristotle Hobbes and Kant Marx Foucault and Dworkin At the same time it impresses the interdisciplinary nature of critical legal thought introducing the reader to the philosophy the economics and the politics of law This new edition focuses even more intently upon the narrative aspect of critical legal thinking and the re emergence of a distinctive legal humanism as well as the various related challenges posed by our new world order *Introduction to Critical Theory* is a comprehensive text for both students and

teachers of legal theory jurisprudence and related subjects

Early Islamic Legal Theory Joseph Lowry, 2007-12-31

The *Risala* of al-Shafi'i (d. 204/820) the earliest preserved work of Islamic legal theory has been understood in previous scholarship as either the elaboration of a hierarchy of sources of law (Qur'an, Sunna, consensus and analogical reasoning) or an extended defense of the Sunna. Through a careful rereading of this celebrated text, this book offers a comprehensive reinterpretation of the *Risala* in which Shafi'i formulated an all-encompassing hermeneutic that portrays the law as a tightly interlocking structure organized around defined interactions of the Qur'an and the Sunna. Topics covered include Shafi'i's creative account of the law's architectonics, hermeneutical techniques, legal epistemology, relationship to *kalām* and the role of consensus (*ijmā'*).

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