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Sally Falk Moore

# LAW AS PROCESS

An Anthropological Approach



# Law As Process An Anthropological Approach

**David Kennedy, William W. Fisher III**



## **Law As Process An Anthropological Approach:**

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*The Canon of American Legal Thought* David Kennedy, William W. Fisher III, 2018-06-05 This anthology presents for the first time full texts of the twenty most important works of American legal thought since 1890 Drawing on a course the editors teach at Harvard Law School the book traces the rise and evolution of a distinctly American form of legal reasoning These are the articles that have made these authors from Oliver Wendell Holmes Jr to Ronald Coase from Ronald Dworkin to Catherine MacKinnon among the most recognized names in American legal history These authors proposed answers to the classic question What does it mean to think like a lawyer an American lawyer Their answers differed but taken together they form a powerful brief for the existence of a distinct and powerful style of reasoning and of rulership The legal mind is as often critical as constructive however and these texts form a canon of critical thinking a toolbox for resisting and unravelling the arguments of the best legal minds Each article is preceded by a short introduction highlighting the article's main ideas and situating it in the context of its author's broader intellectual projects the scholarly debates of his or her time and the reception the article received Law students and their teachers will benefit from seeing these classic writings in full in the context of their original development For lawyers the collection will take them back to their best days in law school All readers will be struck by the richness the subtlety and the sophistication with which so many of what have become the clichés of everyday legal argument were originally formulated

*Law as Metaphor* June Starr, 1992-01-01 This book explains the growth of secular law in a Middle East nation revealing it to be the product of elite competition over control of the state a competition the secular elites won in Turkey when Atatürk set up the new Republic The author demonstrates the great extent to which secularism dominates the discourse of Turkish conflict resolution by the mid 1960s Her work exemplifies the uses of empirical field research set within a historical context

*The Oxford Handbook of Law and Anthropology* Marie-Claire Foblets, Mark Goodale, Maria Sapignoli, Olaf Zenker, 2022 Represents a comprehensive and interdisciplinary treatment to the field of law and anthropology Decenters the standard Anglo Euro centric bias that prevails in both law and anthropology Gives unique perspectives on issues of contemporary relevance Provides the historical background but focuses on the future of the field

Book jacket

*The Oxford Handbook of Global Legal Pluralism* Paul Schiff Berman, 2020-06-01 Over the past two decades Global Legal Pluralism has become one of the leading analytical frameworks for understanding and conceptualizing law in the 21st century Wherever one looks there is conflict among multiple legal regimes Some of these regimes are state based

some are built and maintained by non state actors some fall within the purview of local authorities and jurisdictional entities and some involve international courts tribunals and arbitral bodies and regulatory organizations Global Legal Pluralism has provided first and foremost a set of useful analytical tools for describing this conflict among legal and quasi legal systems At the same time some pluralists have also ventured in a more normative direction suggesting that legal systems might sometimes purposely create legal procedures institutions and practices that encourage interaction among multiple communities These scholars argue that pluralist approaches can help foster more shared participation in the practices of law more dialogue across difference and more respect for diversity without requiring assimilation and uniformity Despite the veritable explosion of scholarly work on legal pluralism conflicts of law soft law global constitutionalism the relationships among relative authorities transnational migration and the fragmentation and reinforcement of territorial boundaries no single work has sought to bring together these various scholarly strands place them into dialogue with each other or connect them with the foundational legal pluralism research produced by historians anthropologists and political theorists Paul Schiff Berman one of the world s leading theorists of Global Legal Pluralism has gathered over 40 diverse authors from multiple countries and multiple scholarly disciplines to touch on nearly every area of legal pluralism research offering defenses critiques and applications of legal pluralism to 21st century legal analysis Berman also provides introductions to every part of the book helping to frame the various approaches and perspectives The result is the first comprehensive review of Global Legal Pluralism scholarship ever produced This book will be a must have for scholars and students seeking to understand the insights of legal pluralism to contemporary debates about law At the same time this volume will help energize and engage the field of Global Legal Pluralism and push this scholarly trajectory forward into another two decades of innovation

The Oxford Handbook of Comparative Law Mathias Reimann, Reinhard Zimmermann, 2019-03-26 This fully revised and updated second edition of The Oxford Handbook of Comparative Law provides a wide ranging and diverse critical survey of comparative law at the beginning of the twenty first century It summarizes and evaluates a discipline that is time honoured but not easily understood in all its dimensions In the current era of globalization this discipline is more relevant than ever both on the academic and on the practical level The Handbook is divided into three main sections Section I surveys how comparative law has developed and where it stands today in various parts of the world This includes not only traditional model jurisdictions such as France Germany and the United States but also other regions like Eastern Europe East Asia and Latin America Section II then discusses the major approaches to comparative law its methods goals and its relationship with other fields such as legal history economics and linguistics Finally section III deals with the status of comparative studies in over a dozen subject matter areas including the major categories of private economic public and criminal law The Handbook contains forty eight chapters written by experts from around the world The aim of each chapter is to provide an accessible original and critical account of the current state of comparative law in its respective area which will help to shape the agenda

in the years to come Each chapter also includes a short bibliography referencing the definitive works in the field

*Law and Anthropology* Michael D. A. Freeman, David Napier, 2009-11-19 Law and Anthropology the latest volume in the Current Legal Issues series offers an insight into the state of law and anthropology scholarship today Focussing on the inter connections between the two disciplines it also includes case studies from around the world

*The Routledge Handbook of Property, Law and Society* Nicole Graham, Margaret Davies, Lee Godden, 2022-11-14 This handbook brings together diverse perspectives major topics and multiple approaches to one of the biggest legal institutions in society property Property touches on many fundamental human questions It involves decisions about power economy morality work and ecology It also involves ideas about where humans fit in the world and how humans relate to more than human life This book will ask in myriad ways such questions as what property means what kinds of property there are what is and should be the relationship between owned and owner and what is the impact of different forms of property on life in this world Drawing on a range of socio legal and empirical methodologies renowned scholars and rising stars in property from around the world present current issues and map future directions in research Coming from the place of law but reaching out through cognate disciplines this handbook provides a comprehensive and accessible survey of current research at the interface of property society and the environment This handbook will appeal to students and researchers across a range of disciplines including law sociology geography history and economics

**Law, Power and Culture** F. Knight, 2014-10-20 A fresh theory on how individuals respond to inequalities occurring within their own communities This original and insightful study draws on empirical research on the Santal people of Asia examining power relations within social fields and the state to reveal a typology of power practices and applies these to forced marriage in the West

**Pakistan's Experience with Formal Law** Osama Siddique, 2013-06-20 This book explores the complex relationship between colonial law and the reform of legal systems in postcolonial states

*Law in the Time of Oxymora* Rostam J. Neuwirth, 2018-05-16 What do different concepts like true lie bad luck honest thief old news spacetime glocalization symplexity sustainable development constant change soft law substantive due process pure law bureaucratic efficiency and global justice have in common What connections do they share with innumerable paradoxes like the ones of happiness time globalization sex and of free will and fate Law in the Time of Oxymora provides answers to these conundrums by critically comparing the apparent rise in recent years of the use of rhetorical figures called essentially oxymoronic concepts i e oxymoron enantiosis and paradoxes in the areas of art science and law Albeit to varying degrees these concepts share the quality of giving expression to apparent contradictions Through this quality they also challenge the scientific paradigm rooted in the dualistic thinking and binary logic that is traditionally used in the West as opposed to the East where a paradoxical mode of thinking and fuzzy logic is said to have been cultivated Following a review of oxymora and paradoxes in art and various scientific writings hundreds of hard cases featuring oxymora and a comprehensive review of the legal literature are discussed revealing evidence suggesting that the present scientific

paradigm of dualism alone will no longer be able to tackle the challenges arising from increasing diversity and complexity coupled with an apparent acceleration of change Law in the Time of Oxymora reaches the surprising conclusion that essentially oxymoronic concepts may inaugurate a new era of cognition involving the ways the senses interact and how we reason think and make decisions in law and in life Culture in Law and Development Lan Cao,2016-05-02 The growth of international law in the post World War II era stemmed partly from the belief that universal norms would make life for the entire world's population safer more equitable and more conducive to each person's acquisition of basic material needs Starting in the sixties and seventies some scholars and activists challenged this assumption and established the school of cultural relativism a model that pays deference to local cultural traditions and favors them over international human rights norms Scholars tried to create and practice a middle ground approach between universalism and relativism whereby the most egregious violations would be prevented through assimilating only jus cogens norms into indigenous groups existing cultural traditions Such efforts at combining a few select international norms with local cultural traditions largely failed Culture in Law and Development presents a provocative new solution to the seemingly intractable problem of combining international norms with local cultural traditions by changing culture through law and development In this book Lan Cao demonstrates how the gradual expansion of customary international law CIL provides a model for changing culture in ways that protect and advance local populations The book adopts a holistic view of development and argues that cultural norms that impede the human capabilities of the poor women and other marginal groups should be changed The book reveals how a more conscious coordinated effort on such change can succeed while non violative local traditions are otherwise honored and preserved Cao proposes that cultural change does not have to constitute cultural disrespect and that local societies only benefit by a careful combination of externally wrought change and internally fostered tradition **The Oxford Handbook of Law and Politics** Keith E. Whittington,R. Daniel Kelemen,Gregory A. Caldeira,2010-06-11 The study of law and politics is one of the foundation stones of the discipline of political science and it has been one of the most productive areas of cross fertilization between the various subfields of political science and between political science and other cognate disciplines This Handbook provides a comprehensive survey of the field of law and politics in all its diversity ranging from such traditional subjects as theories of jurisprudence constitutionalism judicial politics and law and society to such re emerging subjects as comparative judicial politics international law and democratization The Oxford Handbook of Law and Politics gathers together leading scholars in the field to assess key literatures shaping the discipline today and to help set the direction of research in the decade ahead *Law in Modern Society* Denis Galligan,2006-09-14 Providing an introduction to law in modern society D J Galligan considers how legal theory and particularly H L A Hart's The Concept of Law has developed the idea of law as a highly developed social system which has a distinctive character and structure and which shapes and influences people's behaviour The concept of law as a distinct social phenomenon is examined through reference

to and analysis of the work of prominent legal and social theorists in particular M Weber E Durkheim and N Luhmann Galligan s approach is guided by two main ideas that the law is a social formation with its own character and features and that at the same time it interacts with and is affected by other aspects of society In analysing these two ideas Galligan develops a general framework for law and society within which he considers various aspects including the nature of social rules and the concept of law as a system of rules whether law has particular social functions and how legal orders run in parallel the place of coercion the characteristic form of modern law and the social conditions that support its implementation and compliance and what happens when laws are used to change society Law in Modern Society encourages legal scholars to consider the law as an expression of social relations examining the connections and tensions between the positive law of modern society and the spontaneous relations they often try to direct or change

**The Cambridge Companion to Comparative Law** Mauro Bussani,Ugo Mattei,2012-08-16 We can only claim to understand another legal system when we know the context surrounding the positive law in which lawyers are trained To avoid ethnocentricity and superficiality we must go beyond judicial decisions doctrinal writings and the black letter law of codes and statutes and probe the deeper structures where law meets cultural political socio economic factors It is only when we acquire such awareness and knowledge of the critical factors affecting both the backgrounds and implications of rules that it becomes possible to control the present and possibly future developments of the world s legal institutions This collection of essays aims to provide the reader with a fundamental understanding of the dynamic relationship between the law and its cultural political and socio economic context Building the Rule of Law in China Weidong Ji,2017-12-12 After thirty years of Mao era 1949 1979 which was struggle based the Communist Party of China has begun to change its position as a pioneering revolutionary party evolving into a universal ruling party that transcends class interests Meanwhile administrative and judicial reforms oriented toward a more efficient serving government and the rule of law have been actively carried out As the earliest work on constructive jurisprudence of new proceduralism in China this book elucidates some of the most critical problems in the process of constructing a legal order and realizing institutional innovation in China democracy fair and reasonable procedure interpretation techniques cognitive ability of legislation position and function of the jurist group and professional ethics etc Besides it expounds five pairs of contradictions in the modernization process of Chinese legal system namely substantial and procedural justice moral and legal debates formal and reflective rationality the major responsibility on bureaucrats and lawyers and the motivation of public welfare and profit and explores appropriate approaches to combine the different factors Scholars and students in Chinese legal and social transformation studies will be attracted by this book Furthermore it will help different civilizations conduct rational dialogues on justice and order People's Law and state law Antony

Allott,Gordon R. Woodman,2011-05-02 No detailed description available for People s Law and state law **International Law as Behavior** Harlan Grant Cohen,Timothy Meyer,2021-04-01 This volume includes chapters from an exciting group of

scholars at the cutting edge of their fields to present a multi disciplinary look at how international law shapes behavior Contributors present overviews of the progress established fields have made in analyzing questions of interest as well as speculations on the questions or insights that emerging methods might raise In some chapters there is a focus on how a particular method might raise or help answer questions while others focus on a particular international law topic by drawing from a variety of fields through a multi method approach to highlight how these fields may come together in a single project Still others use behavioral insights as a form of critique to highlight the blind spots and related mistakes in more traditional analyses of the law Throughout this volume authors present creative insightful challenges to traditional international law scholarship



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