Jurisprudence Theory And Context

This book argues that despite the tensions existing in all societies between religious faith and legal order, they inevitably interact. In the course of his discussion Berman traces the history of Western law, exposes the fallacies of law theories that fail to take religion into account, examines key theological, prophetic, and educational themes, and looks at the role of religion in the Soviet and post-Soviet state.

This volume brings together leading experts on natural law theory to provide perspectives on the nature and foundations of law.

Jurisprudence is aimed at students new to the study of legal philosophy, also offering new ideas and perspectives that will be of interest to established scholars. Bix seeks to explain the often complex and difficult ideas in Jurisprudence clearly, but in a way that avoids distortion of the ideas through over-simplification. As well as introducing the reader to the fundamental themes in legal philosophy, it also describes and comments critically on the writing of the foremost legal theorists. The sixth edition has been revised and updated, taking into account the most recent scholarly work and elaborating on many of the key ideas and arguments.

This book presents and evaluates theoretical approaches to 'pluralist jurisprudence' and assesses the viability of theorising law extending beyond the state.

The Cambridge Companion to Natural Law Jurisprudence

The Concept of Law

The Politics of Jurisprudence

Philosophy of Law

General Jurisprudence

Patterns of American Jurisprudence

This textbook provides an introduction to and analysis of the major theories and controversies of jurisprudence. Starting with an overview of the nature of jurisprudence, then moving on to examine the theories and main protagonists in more detail, it is an ideal text for undergraduate students studying the subject for the first time. Llewellyn, Karl N. Jurisprudence: Realism in Theory and Practice. [Chicago]: The University of Chicago Press, 1962. viii, 531 pp. Reprinted 2000 by The Lawbook Exchange, Ltd. LCCN 99-056923. ISBN 1-58477-067-8. Cloth. $95. * Considered to be one of the great American legal philosophers of the twentieth century, Llewellyn [1893-1962], was a distinguished professor of law at the University of Chicago, visiting professor at Leipzig and Harvard Universities, and also taught at Yale and Columbia. He wrote extensively and was the chief draftsman of the Uniform Commercial Code. In this collection of essays Llewellyn presents his unique theory of Realism as applied to jurisprudence in theory; and social institutions, including the bar, in practice.

In Islamic Jurisprudence on the Regulation of Armed Conflict, Nesrine Badawi offers a survey of key Islamic legal texts on the subject and analyses the relationship between their deductive structures and the

contexts witnessed at the time of their development.
Leading legal scholars and philosophers provide a breadth of perspectives and inspire stimulating debate around the transformations of jurisprudence in a globalized world. This innovative book considers modifications to jurisprudence's methodological approaches driven by globalization, the concepts and theoretical tools required to account for putative new forms of legal phenomena, and normative issues relating to the legitimacy and democratic character of these legal orders.
Threat to the Rule of Law
Islamic Jurisprudence on the Regulation of Armed Conflict
Theory & Context
Juristic Thought and Social Inquiry
Foundations of Jurisprudence

This collection of essays explores the different ways the insights from complexity theory can be applied to law. Complexity theory – a variant of systems theory – views law as an emergent, complex, self-organising system comprised of an interactive network of actors and systems that operate with no overall guiding hand, giving rise to complex, collective behaviour in law communications and actions. Addressing such issues as the unpredictability of legal systems, the ability of legal systems to adapt to changes in society, the importance of context, and the nature of law, the essays look to the implications of a complexity theory analysis for the study of public policy and administrative law, international law and human rights, regulatory practices in business and finance, and the practice of law and legal ethics. These are areas where law, which craves certainty, encounters unending, irresolvable complexity. This collection shows the many ways complexity theory thinking can reshape and clarify our understanding of the various problems relating to the theory and practice of law.
Jurisprudence: Themes and Concepts offers an original introduction to, and critical analysis of, the central themes studied in jurisprudence courses. The book is presented in three parts each of which contains General Themes, Advanced Topics, tutorial questions and guidance on further reading: Law and Politics, locating the place of law within the study of institutions of government Legal Reasoning, examining the contested nature of the application of law Law in Modernity, exploring the social forces that shape legal development. This second edition includes enhanced discussion of the rise of legal positivism within the context of the rise of the modern state, the changing role of natural and human rights discourse, concepts of justice in and beyond the nation state, the impact of emergency doctrines in contemporary legal regulation, and challenges to the rule of law in light of shifting and competing demands for new types of social solidarity. Accessible, interdisciplinary, and socially informed this book has been revised to take into account the latest developments in jurisprudential scholarship.
This book brings together leading legal theorists to present original philosophical work on the concept of law - the central question of jurisprudence. It covers five broad topics: firstly it addresses debates concerning the methodology of jurisprudence. In Part II it focuses on the notion of a legal system and its coercive nature, while Part III explores the relationships between law and morality, the traditional point of contention between positivist and non-positivist theories of law. Part IV then examines questions regarding law's normative character and relationships with practical reason. Lastly, the final part introduces two novel theoretical approaches to conceptual jurisprudence.

A contemporary interpretation of Adam Smith's work on jurisprudence, revealing Smith's belief that progress emerges from cooperation and a commitment to justice. In Smith's theory, the tension between self–interest and the interests of others is mediated by law, so that the common interest of the community can be promoted. Moreover, Smith informs us that successful societies do at least three things well. They promote the common interest, advance justice through the rule of law, and they facilitate our natural desire to truck, barter, and exchange. In this process, law functions as an invisible force that holds society together and keeps it operating smoothly and productively. Law enhances social cooperation, facilitates trade, and extends the market. In these ways, law functions like Adam Smith's invisible hand, guiding and facilitating the progress of humankind.

Sociological Jurisprudence
Themes and Concepts
A General Jurisprudence of Law and Society
In Pursuit of Pluralist Jurisprudence
Jurisprudence in an African Context
Complexity Theory and Law

The text makes the case for a revival of general jurisprudence in response to globalisation.
JurisprudenceTheory and Context
In a series of new essays the authors attempt to answer important questions about the nature of jurisprudential thinking.
Brian Leiter is widely recognized as the leading philosophical interpreter of the jurisprudence of American Legal Realism, as well as the most influential proponent of the relevance of the naturalistic turn in philosophy to the problems of legal philosophy. This volume collects newly revised versions of ten of his best-known essays, which set out his reinterpretation of the Legal Realists as prescient philosophical naturalists; critically engage with jurisprudential responses to Legal Realism, from legal positivism to Critical Legal Studies; connect the Realist program to the methodology debate in contemporary jurisprudence; and explore the general implications of a naturalistic world view for problems about the objectivity of law and morality. Leiter has supplied a lengthy new introductory essay, as well as postscripts to several of the essays, in which he responds to challenges to his interpretive and philosophical claims by academic lawyers and philosophers. This volume will be essential reading for anyone interested in jurisprudence, as well as for philosophers concerned with the consequences of naturalism in moral and legal philosophy.
The Reconciliation of Law and Religion
Globalisation and Legal Theory
New Essays on Metaethics and Jurisprudence
Essays on American Legal Realism and Naturalism in Legal Philosophy
Realism in Theory and Practice
Jurisprudence

Law is generally understood to be a mirror of society that functions to maintain social order. Focusing on this general understanding, this text conducts a survey of Western legal and social theories about law and its relationship within society.

The contemporary US legal culture is marked by ubiquitous battles among various groups attempting to seize control of the law and wield it against others in pursuit of their particular agenda. This battle takes place in

administrative, legislative, and judicial arenas at both the state and federal levels. This book identifies the underlying source of these battles in the spread of the instrumental view of law - the idea that law is purely a means to an end - in a context of sharp disagreement over the social good. It traces the rise of the instrumental view of law in the course of the past two centuries, then demonstrates the pervasiveness of this view of law and its implications within the contemporary legal culture, and ends by showing the various ways in which seeing law in purely instrumental terms threatens to corrode the rule of law.

This title is aimed at students new to the study of jurisprudence. Its intention is to explain the often complex and difficult ideas in legal philosophy as clearly as possible, without over-simplifying them to the point of distortion. As well as introducing the reader to the fundamental themes in legal philosophy, it also describes and comments critically on the writing of the foremost legal theorists. The text is supplemented by Suggested Further Readings which contain references to related materials. For the third edition, the book has been extensively revised, taking into account the most recent scholarly work, and elaborating on many of the key ideas and arguments.

This book offers an accessible introduction to all aspects of American contract law, useful to both first-year law students and advanced contract scholars. The book takes the reader from contract formation through interpretation and remedies, considering both the practical and theoretical aspects throughout.

American Legal Realism
The Legal Systems of Asia and Africa
Comparative Law in a Global Context
Jurisprudence in a Globalized World
Dimensions of Normativity
An Introduction to Legal Theory

Jurisprudence in an African Context is devoted to the philosophy of law, in a way that engages earnestly with African thought and the African context. The text features primary texts by leading African intellectuals, putting these into critical dialogue with Western theorists. It addressescore jurisprudential topics, such as the nature and functions of law, the manner in which judges do and should interpret the law, theories of distributive justice, and accounts of civil and criminal justice. These abstract philosophical issues are considered in the context of salient controversieson the African continent, including: how cultural norms should influence judicial interpretation, who is obligated to fight poverty, how to effect land reform, whether to respond punitively to crimes against humanity, and, more broadly, how traditional values might inform contemporary thought andpractice. Texts and topics are expounded and evaluated in a clear, accessible manner, and related questions guide readers to actively engage and respond. Jurisprudence in an African Context is suited as core material for courses in jurisprudence (including both legal and

political philosophy), and may be ofinterest to scholars who wish to engage with African thought about the making, interpretation and enforcement of law.

This primer on legal reasoning is aimed at law students and upper-level undergraduates. But it is also an original exposition of basic legal concepts that scholars and lawyers will find stimulating. It covers such topics as rules, precedent, authority, analogical reasoning, the common law, statutory interpretation, legal realism, judicial opinions, legal facts, and burden of proof.

This book explores the implications of globalisation for the theoretical study of law, justice, and human rights.

Kelsen, Hans. Pure Theory of Law. Translation from the Second German Edition by Max Knight. Berkeley: University of California Press, 1967. x, 356 pp. Reprinted 2005 by The Lawbook Exchange, Ltd. ISBN 1-58477-578-5. Paperbound. $36.95 * Second revised and enlarged edition, a complete revision of the first edition published in 1934. A landmark in the development of modern jurisprudence, the pure theory of law defines law as a system of coercive norms created by the state that rests on the validity of a generally accepted Grundnorm, or basic norm, such as the supremacy of the Constitution. Entirely self-supporting, it rejects any concept derived from metaphysics, politics, ethics, sociology, or the natural sciences. Beginning with the medieval reception of Roman law, traditional jurisprudence has maintained a dual system of "subjective" law (the rights of a person) and "objective" law (the system of norms). Throughout history this dualism has been a useful tool for putting the law in the service of politics, especially by rulers or dominant political parties. The pure theory of law destroys this dualism by replacing it with a unitary system of objective positive law that is insulated from political manipulation. Possibly the most influential jurisprudent of the twentieth century, Hans Kelsen [1881-1973] was legal adviser to Austria's last emperor and its first republican government, the founder and permanent advisor of the Supreme Constitutional Court of Austria, and the author of Austria's Constitution, which was enacted in 1920, abolished during the Anschluss, and restored in 1945. The author of more than forty books on law and legal philosophy, he is best known for this work and General Theory of Law and State. Also active as a teacher in Europe and the United States, he was Dean of the Law Faculty of the University of Vienna and taught at the universities of Cologne and Prague, the Institute of International Studies in Geneva, Harvard, Wellesley, the University of California at Berkeley, and the Naval War College.Also available in cloth.

Althusser and Law
Contract Law
Conceptual Jurisprudence
Essays in Jurisprudence and Philosophy
Faith and Order
Theory and Context

The Oxford Handbook of Jurisprudence and Philosophy of Law brings together specially commissioned essays by twenty-six of the foremost legal theorists currently

writing, to provide a state-of-the-art overview of jurisprudential scholarship. Raymond Wacks reveals the intriguing and challenging nature of legal philosophy, exploring the notion of law and its role in our lives. He refers to key thinkers from Aristotle to Rawls, from Bentham to Derrida and looks at the central questions behind legal theory, and law's relation to justice, morality, and democracy.

In this first book-length study of positive law, James Bernard Murphy rewrites central chapters in the history of jurisprudence by uncovering a fundamental continuity among four great legal philosophers: Plato, Thomas Aquinas, Thomas Hobbes, and John Austin. In their theories of positive law, Murphy argues, these thinkers represent successive chapters in a single fascinating story. That story revolves around a fundamental ambiguity: is law positive because it is deliberately imposed (as opposed to customary law) or because it lacks moral necessity (as opposed to natural law)? These two senses of positive law are not coextensive yet the discourse of positive law oscillates unstably between them. What, then, is the relation between being deliberately imposed and lacking moral necessity? Murphy demonstrates how the discourse of positive law incorporates both normative and descriptive dimensions of law, and he discusses the relation of positive law not only to jurisprudence but also to the philosophy of language, ethics, theories of social order, and biblical law.

Understood one way, the branch of contemporary philosophical ethics that goes by the label "metaethics" concerns certain second-order questions about ethics-questions not in ethics, but rather ones about our thought and talk about ethics, and how the ethical facts (insofar as there are any) fit into reality. Analogously, the branch of contemporary philosophy of law that is often called "general jurisprudence" deals with certain second order questions about law- questions not in the law, but rather ones about our thought and talk about the law, and how legal facts (insofar as there are any) fit into reality. Put more roughly (and using an alternative spatial metaphor), metaethics concerns a range of foundational questions about ethics, whereas general jurisprudence concerns analogous questions about law. As these characterizations suggest, the two sub-disciplines have much in common, and could be thought to run parallel to each other. Yet, the connections between the two are currently mostly ignored by philosophers, or at least under-scrutinized. The new essays collected in this book are aimed at changing this state of affairs. Dimensions of Normativity collects together works by metaethicists and legal philosophers that address a number of issues that are of common interest, with the goal of accomplishing a new rapprochement between the two sub-disciplines.

A Theory of Adam Smith's Jurisprudence

Law and the Invisible Hand

A Critical Introduction to Legal Philosophy

A Very Short Introduction

Understanding Jurisprudence

The Philosophy of Positive Law

Now in its second edition, this textbook presents a critical rethinking of the study of comparative law and legal theory in a globalising world, and proposes an alternative model. It highlights the inadequacies of current Western theoretical approaches in comparative law, international law, legal theory and jurisprudence, especially for studying Asian and African laws, arguing that they are too parochial and eurocentric to meet global challenges. Menski argues for combining modern natural law theories with positivist and socio-legal traditions, building an interactive, triangular concept of legal pluralism.

Advocated as the fourth major approach to legal theory, this model is applied in analysing the historical and conceptual development of Hindu law, Muslim law, African laws and Chinese law.

This text explores what jurisprudence is about, what it seeks to do and how. The book considers how the conclusions of jurisprudence can be brought to bear on everyday problems of legal practice and major social, moral or political issues.

Althusser & Law is the first book specifically dedicated to the place of law in Louis Althusser's philosophy. The growing importance of Althusser's philosophy in contemporary debates on the left has - for practical and political, as well theoretical reasons - made a sustained consideration of his conception of law more necessary than ever. As a form of what Althusser called 'Ideological State Apparatuses', law is at the forefront of political struggles: from the destruction of Labour Law to the exploitation of Patent Law; from the privatisation of Public Law to the ongoing hegemony of Commercial Law; and from the discourse on Human Rights to the practice of judicial courts. Is Althusser still useful in helping us to understand these struggles? Does he have something to teach us about how law is produced, and how it is used and misused? This collection demonstrates that Althusser's ideas about law are more important, and more contemporary, than ever. Indeed, the contributors to Althusser and Law argue that Althusser offers a new and invaluable perspective on the place of law in contemporary life.

Fifty years on from its original publication, HLA Hart's The Concept of Law is widely recognized as the most important work of legal philosophy published in the twentieth century, and remains the starting point for most students coming to the subject for the first time. In this third edition, Leslie Green provides a new introduction that sets the book in the context of subsequent developments in social and political philosophy, clarifying misunderstandings of Hart's project and highlighting central tensions and problems in the work.

The Oxford Handbook of Jurisprudence and Philosophy of Law

Naturalizing Jurisprudence

Text and Context

Law as a Means to an End

International Jurisprudence in African Context

Understanding Law from a Global Perspective

This important collection of essays includes Professor Hart's first defense of legal positivism; his discussion of the distinctive teaching of American and Scandinavian jurisprudence; an examination of theories of basic human rights and the notion of "social solidarity," and essays on Jhering, Kelsen, Holmes, and Lon Fuller.

A comprehensive, in-depth discussion of the most influential movement in American legal history, and one

which remains more than fifty years later the subject of lively debate, this collection of readings, written largely between 1900 and 1940, includes works from prominent writers on the subject that have never before been generally available. Introduced and edited by noted scholars in the field, the anthology includes such contributors as Oliver Wendell Holmes, James Thayer, Roscoe Pound, John Chipman Gray, Wesley Hohfeld, Karl Llewellyn, Arthur Corbin, Nathan Issacs, Robert Hale, Harold Laski, Max Radin, and others. With concise biographical notes as well as introductions to provide historical context, each selection addresses a different debate involving Legal Realism. Included is a selective bibliography, making the text valuable to a broad range of scholars.

This unique study offers a comprehensive analysis of American jurisprudence from its emergence in the later stages of the nineteenth century through to the present day. The author argues that it is a mistake to view American jurisprudence as a collection of movements and schools which have emerged in opposition to each other. By offering a highly original analysis of legal formalism, legal realism, policy science, process jurisprudence, law and economics, and critical legal studies, he demonstrates that American jurisprudence has evolved as a collection of themes which reflect broader American intellectual and cultural concerns.

Understanding Jurisprudence by Raymond Wacks adopts a novel approach to this challenging subject; It reveals the nature of legal theory with clarity, enthusiasm, and wit, without avoiding its complexities and subtleties. The author provides an illuminating guide to the central questions of legal theory. An experienced teacher of jurisprudence and distinguished writer in the field, his approach is stimulating, accessible, and even entertaining. The concept of law lies at the heart of our social and political life. Jurisprudence explores the concept of law and its role in society. It elucidates its meaning and its relation to the universal questions of justice, rights, and morality. And it analyzes the nature and purpose of our legal system, and its practice by courts, lawyers, and judges.

Methodological Issues, Classical Questions and New Approaches

The Data of Jurisprudence

McCoubrey & White's Textbook on Jurisprudence
Pure Theory of Law
Thinking Like a Lawyer
Mapping an Emergent Jurisprudence
This book presents a unified set of arguments about the nature of jurisprudence and its relation to the jurist's role. It explores contemporary challenges that create a need for social scientific perspectives in jurisprudence, and it shows how sociological resources can and should be used in considering juristic issues. Its overall aim is to redefine the concept of sociological jurisprudence and outline a new agenda for this. Supporting this agenda, the book elaborates a distinctive juristic perspective that recognises law's diversity of cultural meanings, its extending transnational reach, its responsibilities to reflect popular aspirations for justice and security, and its integrative tasks as a general resource of regulation for society as a whole and for the individuals who interact under law's protection. Drawing on and extending the author's previous work, the book will be essential reading for students, researchers and academics working in jurisprudence, law and society, socio-legal studies, sociology of law, and comparative legal studies.
Rules, Theory, and Context
Jurisprudence Or Legal Science