

NATURAL LAW AND NATURAL RIGHTS

JOHN FINNIS



CLARENDON LAW SERIES

Natural Law And Natural Rights Clarendon Law Series

Simon Gardner



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Natural Law and Natural Rights John Finnis, 2011-04-07 First published in 1980 *Natural Law and Natural Rights* is widely heralded as a seminal contribution to the philosophy of law and an authoritative restatement of natural law doctrine It has offered generations of students and other readers a thorough grounding in the central issues of legal moral and political philosophy from Finnis s distinctive perspective This new edition includes a substantial postscript by the author in which he responds to thirty years of discussion criticism and further work in the field to develop and refine the original theory The book closely integrates the philosophy of law with ethics social theory and political philosophy The author develops a sustained and substantive argument it is not a review of other people s arguments but makes frequent illustrative and critical reference to classical modern and contemporary writers in ethics social and political theory and jurisprudence The preliminary First Part reviews a century of analytical jurisprudence to illustrate the dependence of every descriptive social science upon evaluations by the theorist A fully critical basis for such evaluations is a theory of natural law Standard contemporary objections to natural law theory are reviewed and shown to rest on serious misunderstandings The Second Part develops in ten carefully structured chapters an account of basic human goods and basic requirements of practical reasonableness community and the common good justice the logical structure of rights talk the bases of human rights their specification and their limits authority and the formation of authoritative rules by non authoritative persons and procedures law the Rule of Law and the derivation of laws from the principles of practical reasonableness the complex relation between legal and moral obligation and the practical and theoretical problems created by unjust laws A final Part develops a vigorous argument about the relation between natural law natural theology and revelation between moral concern and other ultimate questions

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reasonableness community and the common good justice the logical structure of rights talk the bases of human rights their specification and their limits authority and the formation of authoritative rules by non authoritative persons and procedures law the Rule of Law and the derivation of laws from the principles of practical reasonableness the complex relation between legal and moral obligation and the practical and theoretical problems created by unjust laws A final Part develops a vigorous argument about the relation between natural law natural theology and revelation between moral concern and other ultimate questions

Natural Law and Thomistic Juridical Realism Petar Popovic, 2022-02-04 This book proposes a rather novel legal philosophical approach to understanding the intersection between law and morality It does so by analyzing the conditions for the existence of a juridical domain of natural law from the perspective of the tradition of Thomistic juridical realism In order to highlight the need to reconnect with this tradition in the context of contemporary legal philosophy the book presents various other recent jurisprudential positions regarding the overlap between law and morality While most authors either exclude a conceptual necessity for the inclusion of moral principles in the nature of law or refer to the purely moral status of natural law at the foundations of the legal phenomenon the book seeks to elucidate the essential properties of the juridical status of natural law In order to establish the juridicity of natural law the book explores the relevant arguments of Thomas Aquinas and some of his main commentators on this issue above all Michel Villey and Javier Hervada It establishes that Thomistic juridical realism observes the juridical phenomenon not only from the perspective of legal norms or subjective individual rights but also from the perspective of the primary meaning of the concept of right ius namely the just thing itself as the object of justice In this perspective natural rights already possess a fully juridical status and can be described as natural juridical goods In addition from the viewpoint of Thomistic juridical realism we can identify certain natural norms or principles of justice as the juridical title of these rights or goods The book includes an assessment of the prospective points of dialogue with the other trends in Thomistic legal philosophy as well as with various accounts of the nature of law in contemporary legal theory

Natural Law Alejandro Néstor García Martínez, Mario Šilar, José M. Torralba, 2009-03-26 Modern moral and political philosophy is in debt with natural law theory both in its ancient and mediaeval elaborations While the very notion of a natural law has proved highly controversial among 20th Century scholars the last decades have witnessed a renewed interest in it Indeed the threats and challenges as result of multiculturalism plural societies and global changes have generated a renewed attention to natural law theory Clearly it offers solid basis as possible framework to a better understanding of human goods without contradictions and partial bias The purpose of the present volume is to provide an overview of the history of this concept Cicero St Paul Aquinas Melanchthon Montaigne Descartes Leibniz Hume Burke Kant MacIntyre etc as well as a deep understanding of ongoing research both in Europe and in America Furthermore the specificity of these studies will be of particular value to philosophers law philosophers historians anthropologists sociologists and theologians and those concerned on such issues as the relation between law and moral norm law and practical reason

and the presence of the idea of natural law in several prominent thinkers. It includes a selected bibliography on natural law. The book also provides an excellent introduction to several of the major topics in natural law theory, making it useful both as a reference text and as a sourcebook for academics alike. Natural law is a rich, complex, and highly disputed term. Since its first appearances in the history of Western civilization, it has been used both to point to God as the source of the moral order and to assert that there is an objective order of justice in nature that men and their laws ought to respect. In modern times, natural law theory gave birth to what we usually call human rights. Unlike the meaning of the term, the importance of an ongoing debate on natural law and on the theories related to it is undisputable. This is why I welcome today this new collection of essays edited by Alejandro Nstor Garc a Mart nez Mario ilar and Jos M Torralba. *Natural Law: Historical, Systematic, and Juridical Approaches* includes a wide variety of studies covering key authors and issues in natural law theory. Younger students will appreciate the clarity of the chapters, and more trained readers the detailed and accurate bibliographical references that each of them offers. The editors' choice to go from a historical approach to contemporary theories and then to theoretical and more practical issues is also commendable. Students in philosophy and in legal theory will greatly benefit from this book. Fulvio Di Blasi, author of *God and the Natural Law: A Rereading of Thomas Aquinas*. **The Natural Law Reader** Jacqueline A. Laing, Russell Wilcox, 2013-09-23. *The Natural Law Reader* features a selection of readings in metaphysics, jurisprudence, politics, and ethics that are all related to the classical Natural Law tradition in the modern world. Features a concise presentation of the natural law position that offers the reader a focal point for discussion of ancient and contemporary ideas in the natural law tradition. Draws upon the metaphysical and ethical categories put forth and developed by Aristotle and Aquinas. Points to the historical significance and contemporary relevance of the Natural Law tradition. Reflects on a revival of interest in the tradition of virtue ethics and human rights. **Retrieving the Natural Law** J. Daryl Charles, 2008-04-14. J. Daryl Charles argues that a traditional metaphysics of natural law lies at the heart of the present reconstructive project and that a revival in natural law thinking is of the highest priority for the Christian community as we contend in rather than abdicate the public square. Nowhere is this more on display than in the realm of bioethics, where the most basic moral questions—human personhood, human rights versus responsibilities, the reality of moral evil, the basis of civil society—are being debated from publisher description. *The Disintegration of Natural Law Theory* Pauline C. Westerman, 2014-10-21. John Finnis's proposal to rehabilitate Aquinas's natural law theory as an appropriate foundation of legal and moral theory rests on the assumption that Aquinas's theory can be restored by eliminating the mistaken interpretations of subsequent natural law theorists. This book challenges that assumption. After a brief analysis of Aquinas, the theories of Suarez, Grotius, and Pufendorf are investigated. It is argued that their theories are no mistakes but attempts at solving problems inherent in natural law theory. As these attempts all fail, tensions remain and ultimately lead to the demise of the theory. Finally, it is argued that Finnis, running into the same problems, cannot hope to restore Aquinas's theoretical

edifice Natural Law and Religious Freedom J. Daryl Charles, 2017-07-20 Every successive generation finds fresh reasons for the study of natural law Current interest in the natural law may well be due to a pervasive moral pessimism in the Western cultural context and wider contemporary geopolitical challenges Those geopolitical challenges result from two significant and worrisome global developments unprecedented violent persecution of religious minorities on several continents and a growing climate of secular hostility toward religious faith in Western societies Natural Law and Religious Freedom aims to address what is relatively absent from the literature by demonstrating the importance of natural law ethics in both establishing and preserving basic human rights of which religious freedom has pride of place Probing contemporary challenges to natural law thinking that are both internal and external to religious faith and examining the character and constitution of natural law ethics Natural Law and Religious Freedom will be of interest to theologians ethicists and philosophers as well as policy analysts politicians and activists who are concerned to anchor religious freedom and human rights policy considerations in an enduring way **Aufstieg und Niedergang der römischen Welt: Principat. v** Hildegard Temporini, Wolfgang Haase, 1994 **William of Ockham's Early Theory of Property Rights in Context** Jonathan Robinson, 2012-11-23 This book analyzes William of Ockham's early theory of property rights alongside those of his fellow dissident Franciscans paying careful attention to each friar's use of Roman and civil law which provided the conceptual building blocks of the poverty controversy *William of Ockham's Early Theory of Property Rights in Context* Jonathan William Robinson, 2012-11-23 William of Ockham's ca 1288 1347 *Opus nonaginta dierum* has long been of interest to historians for his theory of rights Yet the results of this interest has been uneven because most studies do not take sufficient account of the defences of Franciscan poverty already articulated by his fellow Franciscans Bonagratia of Bergamo Michael of Cesena and Francis of Marchia This book therefore presents and analyzes Ockham's account of property rights alongside those of his confreres This contextualization of Ockham's theory corrects many misconceptions about his theory of property natural law and natural rights and therefore also provides a new foundation for studies of his political oeuvre intellectual development and significance as a political theorist **The Precautionary Principle in Marine Environmental Law** Bénédicte Sage-Fuller, 2013-07-18 The book examines whether the jurisdiction of coastal States under international law can be extended to include powers of intervention towards vessels posing a significant risk to their coastal and marine environment but which have not yet been involved in any incident or accident The book sets out how it is that coastal State jurisdiction can indeed be seen as including powers of intervention towards High Risks Vessels before an incident or accident happens on the basis of the precautionary principle The precautionary principle requires taking action when a risk of damage to the environment is suspected but cannot be confirmed scientifically The book thus considers the potential opportunities for the coastal state under international law to regulate international shipping where they consider vessels to an unacceptable risk to the environment in order to prevent or minimise the risk of occurrence of the accident or

incident leading to damage The book acknowledges that this puts into question some very old and established principles of the law of the sea most importantly the principle of freedom of navigation But B n dicte Sage Fuller contends that this change would itself be a consequence of the evolution since the end of WWII of on the one hand international law of the sea itself and of international environmental law on the other hand

Ethical Exploration in a Multifaith Society Catherine Shelley,2017-03-24 This book considers the theory and application of ethics for a multifaith society Much ethics taught in the UK has been dominated by Christian ethics their relation to secularism and by the Enlightenment s reaction against theology as a basis for ethical thought In contrast to these perspectives this book brings secular and theological ethics into dialogue considering the degree to which secular ethics has common roots with theological perspectives from various traditions The book assesses the application of ethical and theological principles in today s multifaith society Aiming to enhance ethical understanding and awareness across divergent worldviews identifying at what points divergence does occur the author examines topics such as reason and ethics in theology natural law utilitarianism and deontology and differences of approach to interpreting religious scriptures The focus on ethical methods is illustrated through topical concerns in religion and ethics for example sexuality marriage and education and religion in relation to global ethics and human rights

International Law Vaughan Lowe,2007-09-27 International Law is both an introduction to the subject and a critical consideration of its central themes and debates The opening chapters of the book explain how international law underpins the international political and economic system by establishing the basic principle of the independence of States and their right to choose their own political economic and cultural systems Subsequent chapters then focus on considerations that limit national freedom of choice e g human rights the interconnected global economy the environment Through the organizing concepts of territory sovereignty and jurisdiction the book shows how international law seeks to achieve an established set of principles according to which the power to make and enforce policies is distributed among States

Green Justice Thomas M Hoban,Richard O Brooks,2018-02-20 In the nine years since *Green Justice* first appeared the field we have come to identify as environmental law has taken a number of twists and turns few of which were foreseen by the authors or so far as they know by anyone else Although this edition attempts to account for many of these changes it continues to emphasize what we believed then and continue to believe to be paramount not only for the study of environmental law but for common law based jurisprudence in general Despite the immediacy and crush of daily events closely reasoned analyses of the difficulties and conflicts arising from environmental conflicts as embodied in major cases or key decisions such as we present here provide a stabilizing core around which the swirl of daily events takes place and against which those events must be evaluated We believed then and believe even more strongly now that this is true not only for legal specialists and scholars but for an educated populace as well Thus this casebook

Deciphering the Genome of Constitutionalism Ran Hirschl,Yaniv Roznai,2024-03-21 Offers an extensive theoretical comparative normative and empirical account of the concept of constitutional identity

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

Reassessing Egalitarianism J. Moss, 2014-04-29 Through an analysis of the different dimensions of equality this book provides a critical introduction to recent philosophical work on egalitarianism discussing the central questions associated with each of the major debates about egalitarian justice

[Atiyah's Introduction to the Law of Contract](#) Stephen A. Smith, P. S. Atiyah, 2006-02-09 Atiyah's Introduction to the Law of Contract is a well known text through which thousands of university students have first encountered the law of contract and the new edition has long been eagerly awaited by university teachers and students This sixth edition updated by Stephen Smith continues to provide readers with an introduction to the theories policies and ideas that underlie the law placing an equal emphasis on the law and critical analysis In particular the discussion of recent cases and legislation is centred on why contract law is the way it is whether it can be justified and if not what should be done to improve it The sixth edition has been revised to place the law of contract in a modern context and to account for recent developments in the law as well as those in academic thinking and writing Addressing European influences and including perspectives from comparative law this remains a stimulating and authoritative exposition of the modern law of contract

An Introduction to the Law of Trusts Simon Gardner, 2011-05-05 A comprehensive stimulating introduction to trusts law which provides readers with a clear conceptual framework to aid understanding of this challenging area of the law Aimed at readers studying trusts at an undergraduate level it provides a succinct and enlightening account of this area of the law Concise and clear this book also identifies and discusses many analytical perspectives encouraging a deeper understanding of the issues at hand It offers an outstanding treatment of specific areas in particular remedial constructive trusts and trusts of family homes Ideal for providing a broad background to the issues before embarking on an in depth study of trusts it can also be used to help the reader to develop their

understanding For those looking to challenge themselves detailed footnotes highlight further issues and point the direction for future reading Fully revised to take into account the Charities Act 2006 judicial developments through case law and recent academic work in this area this new edition in the renowned Clarendon Law Series offers a well written careful and insightful introduction to the law of trusts

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