



Prescriptive Legal Positivism:

Law, Rights and Democracy

Tom Campbell



Prescriptive Legal Positivism Prescriptive Legal Positivism

**Simon Bronitt, Miriam Gani, Saskia
Hufnagel**



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Prescriptive Legal Positivism Tom Campbell, 2004 This collection of Tom Campbell's essays reaches back to his pioneering work on socialist rights in the 1980s and forward from his seminal book *The Legal Theory of Ethical Positivism* 1996

Prescriptive Legal Positivism Tom Campbell, 2024-11-01 Tom Campbell is well known for his distinctive contributions to legal and political philosophy over three decades. In emphasizing the moral and political importance of taking a positivist approach to law and rights, he has challenged current academic orthodoxies and made a powerful case for regaining and retaining democratic control over the content and development of human rights. This collection of his essays reaches back to his pioneering work on socialist rights in the 1980s and forward from his seminal book *The Legal Theory of Ethical Positivism* 1996. An introductory essay provides an historical overview of Professor Campbell's work and argues for the continuing importance of democratic positivism at a time when it is again becoming clear that courts are ineffective protectors of human rights.

Judicial Power, Democracy and Legal Positivism Tom D. Campbell, Jeffrey Goldsworthy, 2017-03-02 In this book a distinguished international group of legal theorists re-examine legal positivism as a prescriptive political theory and consider its implications for the constitutionally defined roles of legislatures and courts. The issues are illustrated with recent developments in Australian constitutional law.

The Cambridge Companion to Legal Positivism Torben Spaak, Patricia Mindus, 2021-02-04 The book brings together 33 state-of-the-art chapters on the import and the pros and cons of legal positivism.

Legal Positivism Tom D. Campbell, 2016-12-05 Despite persistent criticism from a variety of different perspectives including natural law, legal realism and socio-legal studies, legal positivism remains as an enduring theory of law. The essays contained in this volume represent the most balanced responses toward legal positivism and although largely sympathetic, the essays do not fail to criticize elements of the tradition wherever appropriate.

Dimensions of Normativity David Plunkett, Scott J. Shapiro, Kevin Toh, 2019-01-10 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 **Law, Liberty, and the Rule of Law** Imer B. Flores, Kenneth E. Himma, 2012-09-28 In recent years there has been a substantial increase in concern for the rule of law Not only have there been a multitude of articles and books on the essence nature scope and limitation of the law but citizens elected officials law enforcement officers and the judiciary have all been actively engaged in this debate Thus the concept of the rule of law is as multifaceted and contested as it s ever been and this book explores the essence of that concept including its core principles its rules and the necessity of defining or even redefining the basic concept Law Liberty and the Rule of Law offers timely and unique insights on numerous themes relevant to the rule of law It discusses in detail the proper scope and limitations of adjudication and legislation including the challenges not only of limiting legislative and executive power via judicial review but also of restraining active judicial lawmaking while simultaneously guaranteeing an independent judiciary interested in maintaining a balance of power It also addresses the relationship not only between the rule of law human rights and separation of powers but also the rule of law constitutionalism and democracy *Encyclopedia of Law and Society* David S. Clark, 2007-07-10 This work will be very valuable for academic and public libraries supporting prelaw law social and cultural studies Summing Up Highly recommended Upper level undergraduates through professionals practitioners general readers CHOICE There are two aspects of scholarship about the legal systems of our day that are especially salient one being for the first time there is a fair amount of genuine research on legal systems and two that this research is increasingly global As soon as you cross a jurisdictional line even if it separates countries that are very similar you enter a different legal system It cannot be assumed that any particular rule doctrine or practice is the same in any two jurisdictions regardless of how close these jurisdictions are in terms of history and tradition The Encyclopedia of Law and Society is the largest comprehensive and international treatment of the law and society field With an Advisory Board of 62 members from 20 countries and six continents the three volumes of this state of the art resource represent interdisciplinary perspectives on law from sociology criminology cultural anthropology political science social psychology and economics By globalizing the Encyclopedia s coverage American and international law and society will be better understood within its historical and comparative context Key Features Includes more than 700 biographical entries that are historical comparative topical thematic and methodological Presents the rich diversity of European Latin American Asian African and Australasian developments for the first time in one place to reveal the truly holistic interdisciplinary virtues of law and society Examines how and why legal systems grow and change how and why they respond or fail to respond to their environment how and why they impact the life of society and how and why the life of society impacts in turn these legal systems With borders more porous than ever before this Encyclopedia reflects the paradoxical reality of modern life including legal life This valuable resource aims to present research along with the theories on which it is grounded fairly and comprehensively and is a must have for all academic libraries **Shooting to Kill** Simon Bronitt, Miriam Gani, Saskia Hufnagel, 2012-11-05 The present

book brings together perspectives from different disciplinary fields to examine the significant legal moral and political issues which arise in relation to the use of lethal force in both domestic and international law These issues have particular salience in the counter terrorism context following 9 11 which brought with it the spectre of shooting down hijacked airplanes and the use of force in Operation Kratos that led to the tragic shooting of Jean Charles de Menezes Concerns about the use of excessive force however are not confined to the terrorist situation The essays in this collection examine how the state sanctions the use of lethal force in varied ways through the doctrines of public and private self defence and the development of legislation and case law that excuses or justifies the use of lethal force in the course of executing an arrest preventing crime or disorder or protecting private property An important theme is how the domestic and international legal orders intersect and continually influence one another While legal approaches to the use of lethal force share common features the context within which force is deployed varies greatly Key issues explored in this volume are the extent to which domestic and international law authorise pre emptive use of force and how necessity and reasonableness are legally constructed in this context

Practice Theory and Law Maciej Dybowski, Weronika Dzięgielewska, Wojciech Rzepiński, 2024-10-02 This book engages the field of practice theory in order to consider law as a social practice Taking up the theoretical concept of practices the contributors to this volume maintain that law can be fruitfully understood as one among other social practices Including perspectives from philosophers of language experts in practice theory linguists and legal philosophers the book examines the twin questions of what it means for law to be considered a practice and what law s place is among other social practices The book is comprised of three parts The first provides a broad methodological framework for discussing how the concept of practice is used in the social sciences and in law The second deals with specific problems arising from the use of the concept of practice in the legal context and from the intersection of different social practices The third part identifies and addresses the consequences of applying insights from practice theory to law Together they offer a comprehensive consideration of what is at stake in understanding law as a social practice This book will appeal to sociolegal scholars sociologists of law philosophers of language and action as well as philosophers of law and legal theorists Chapter 15 of this book is freely available as a downloadable Open Access PDF at <http://www.taylorfrancis.com> under a Creative Commons Attribution CC BY 4 0 license Chapter 8 of this book is freely available as a downloadable Open Access PDF at <http://www.taylorfrancis.com> under a Creative Commons Attribution ShareAlike CC BY SA 4 0 license

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