

Law As Institutional Normative Order

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maccormick s institutions of law is the culmination of a lifetime s work in legal theory by one of the world s most respected legal theorists featuring an impressive collection of contributions from well known legal theorists from around the world all of whom are familiar with maccormick s work this collection provides a cutting edge account of the book s significance

this volume offers a collection of articles by leading legal and political theorists originally intended as a celebration of maccormick s work on the occasion of the completion of the four volume series on law state and practical reason it has turned into a homage and salute after maccormick s passing cast in maccormick s reflexive spirit the book presents a critical reconstruction of the scottish philosopher s work with the aim of revealing the connections between law and democracy in his writings and furthering his insights in each specific field neil maccormick made outstanding contributions to the understanding of law and democracy under conditions of pluralism his institutional theory of law has elucidated the close connection between the normative character of law as a means of social integration and legal social practices this has produced a synthesis of the key insights of the legal and political

theories of kelsen hart alexy and dworkin and has broken new ground by undermining the monolithic and nation state centered character of standard legal theories

this book which is the result of several years of research discussion writing and re writing consists of three parts and eight chapters the rst part is given by the two rst chapters introducing the issue of validity and facticity in law the second part chapters 3 4 and 5 is the core of this study and tries to present a theory based on a specific view about language and social practice the third part deal with the issue of value judgments and views about morality and consists of chapters 6 and 7 chapter 8 should nally serve as epilogue in the rst chapter a discussion is started about the relationship between law and power seen as a presupposition for an assessment of the nature of law as a matter of fact as has been remarked general theories of law struggle to do justice to the 1 multiple dualities of the law indeed law has a dual nature it is a fact but it also a norm a sort of ideal entity law is sanction but it is also discourse it is effectivity or facticity but it is also a vehicle of principles among which the central one is justice but this duality is not only a phenomenological or a matter of justification and implementation as two separate moments

the criminalization series arose from an interdisciplinary investigation into criminalization focussing on the principles that might guide decisions about what kinds of conduct should be criminalized and the forms that criminalization should take developing a normative theory of criminalization the series tackles the key questions at the heart of the issue what principles and goals should guide legislators in deciding what to criminalize how should criminal wrongs be classified and differentiated how should law enforcement officials apply the law s specifications of offences the fourth book in the series examines the political morality of the criminal law exploring general principles and theories of criminalization chapters provide accounts of the criminal law in the light of ambitious theories about moral and political philosophy republicanism and contractarianism or reflect upon on the success of important theories of criminalization by viewing them in a novel light ideas that are fundamental to any complete theory of the criminal law liberty harm and the effect on victims are investigated in depth sociological investigation of the criminal law grounds a critical investigation into the principles of criminalization both as a legislative matter and with respect to criminalization practices in contemporary and historical contexts the volume broadens our conceptions of the theory of criminalization and clarifies the role of the series in the development of this theory it is essential reading for all interested in legal political and social theories of criminalization

institutions of law presents the definitive statement of sir neil maccormick s well known institutional theory of law defining law as institutional normative order and explaining each of these three terms in depth it attempts to fulfil the need for a twenty first century introduction to legal theory marking a fresh start such as was achieved in the last century by h l a hart s the concept of law

this book examines the conceptual puzzles that multilevel pluralism poses for our constitutional theories it offers fresh perspectives by addressing the pluralism of norms and authorities from the viewpoint of legality and legitimacy proposing novel solutions for pluralizing constitutional theory in the light of multilevel governance

institutional theory is on the rise during the past three decades the field of organization studies has witnessed a succession of theoretical perspectives including contingency theory resource dependency and population ecology that focus attention on one or another aspect of organizations only institutional theory highlights the importance of the wider social and

cultural environment as the ground in which organizations are rooted the original work in the institutional construction of organizations sheds new light on the study of organizations the editors bring together work from two different research traditions the united states and europe the collection also layers in several important perspectives of institutional theory including empirical observations longitudinal analyses market based organizational forms and attention to the concepts of agency and strategy the result is a finely textured fully developed work for scholars and advanced students of organizational theory and behavior

recalling toqueville's exhortation for the french to look to america for a better understanding of their own government john rohr returns the favor by revealing how much we can learn about american constitutionalism from a close study of french governance the french and american republics both emerged from the same revolutionary era and share a common commitment to separation of powers rule of law and republicanism even so the two constitutional traditions are quite different france after all has replaced its constitution at least thirteen times since 1789 while the american constitution has endured essentially intact yet as rohr shows french constitutionalism merits our careful attention focusing upon the founding of the french fifth republic and the drafting of its constitution rohr compares the nations divergent approaches to executive legislative and judicial power independent administrative authority and discretion and the relation of administrative law to statutory law his analysis of france's divided versus our unified executive the two presidents exceptional powers and their influence on the legislative process provides particularly fresh insights into how the two constitutional traditions promote and inhibit the capacity for administrative action rohr shows that french administrative institutions are much more thoroughly developed than their american counterparts due to recurrent presidential and constitutional crises without such a strong public administration daily life in france would likely be extremely unstable if not quite chaotic the proper role of the french institutions he suggests is largely determined by their relationship to elected officials whereas their american counterparts are essentially shaped by the constitutional order a model for future comparative work in constitutional law and public administration rohr's study should help us see that the constitutional path we've pursued wasn't the only possibility and why we've chosen that route nevertheless as such it should have great appeal for students teachers and practitioners in u.s. and french law politics and public administration

in the european convention parliamentarians and government representatives from the member states have elaborated the draft constitution establishing a constitution for europe this process requires academic guidance and analysis the european constitutional law network provides an important forum of associated constitutional and european lawyers from different old and new member states eclnet the structure of the future constitution and the general lines of argument underlying the deliberations of the convention are the focus of the individual contributions to this volume which were presented on the occasion of the second ecln conference in summer 2002 in rome against the background of their national constitutional and legal orders the contributors demonstrate their expectations for the european constitution in the making thereby the deliberations provide a pan european basis for the debate on the future constitution for europe

in this pathbreaking work the author integrates questions of justice and stability through a model of deliberative democracy in the plural polity deliberative democracy and the plural polity provides a realistic but critical reform agenda that can animate struggles for justice in an enormously diverse world

jan m broekman is since 1996 professor emeritus of philosophy of law and legal theory at the catholic university of leuven belgium and of philosophy and medical ethics at the vrije

universiteit of amsterdam netherlands during a long and distinguished career he has won an international reputation for his work in the fields of legal anthropology legal theory and the philosophy of law and medicine he published widely in these fields and lectured throughout europe latin america and the united states of america this festschrift reflects some important themes of his work especially the ones concerning the intertwinement of legal medical and moral discourse and its related aspects in technology politics and anthropology due to their different fields of research the authors approach their topic from their own scientific and cultural perspective the contributions provide the reader with well documented and skilled insights into specific questions in many countries like germany brasil chile italy belgium and the united states of america the composition of the colourful range of contributions is focussed on the core theme of both legal modernism and post modernism the tacit assumption of a discursive unity behind thinking acting and talking the mimetic representation of man and humanity in legal and medical discourse is built on this assumption fundamental questions belonging to the discursive unity are dealt with for instance concerning language and reality being and mimesis norms rights and facts they are confronted with actual questions in health care quality of life autonomy the elderly in european politics and in economics the contributions document the leading developments in today s legal medical and philosophical debates they will provide the reader with outstanding thoughts on the future orientation of law in society

a description of the unique aspects of japanese business accounting both in theory and practice it covers methods data theory and comparisons including the influence of marxian theory and a direct comparison of japanese and us market factors

stefan voigt examines the emergence of constitutions and how and why they change he proposes that they are based on spontaneously developed institutions and presents predictions on the scope of change under various setting and factors

recoge 1 two opposing conceptions 2 excursus the marxist tradition 3 the normativistic solution

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