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Theory of Legal Principles



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Manuel Atienza,J. Ruiz Manero



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Theory of Legal Principles Humberto Avila, 2007-09-26 This book intends to help understand and apply principles and rules better. Its target is to keep the distinction between principles and rules whereas structuring it on different foundations than those jurisprudence ordinarily employs. The first object of investigation is the phenomenon of interpretation in Law in order to understand that the classification of certain normative species as either principles or rules depends in the first place on axiological connections that are not ready prior to the interpretation process that unveils them. Then a definition of principles is proposed aiming to understand what their unique characteristics are when compared to other norms of the legal order. Thirdly the conditions for the application of principles and rules are examined which are the normative applicative postulates. It will be shown on one hand that principles not only explicit values but also set forth precise species of behaviors though indirectly on the other hand the creation of conducts by rules is also to be weighed even though the behavior set forth in advance may be overcome depending on the accomplishment of a few requirements. That will surpass both the mere praise of values which does not create behaviors and the automatic application of rules. A model is proposed to explain the normative species which includes structured weighing on the application process while encompassing substantive criteria of justice in its argument through the analytical reconstruction of the concrete use of normative postulates especially those of reasonableness and proportionality. All of that is done with a focus on the ability of intersubjective control of the argumentation which often degenerates into capricious decisionism.

A Theory of Legal Sentences Manuel Atienza, J. Ruiz Manero, 1997-11-30 Legal statements are according to the authors the most basic elements of the law. Nevertheless they must be considered not only as the pieces of a puzzle but also as the components of a dynamic and highly complex reality the law of contemporary society. The book presents an analysis of the different types of legal statements: mandatory rules, principles, power conferring rules, definitions, permissions, values, and the rule of recognition from a threefold perspective that is considering their logical structure, their function in legal reasoning as reasons for action, and their connections with the interests and power relationships among the individuals and the social groups. The result is conceived as a first step in the building of a general theory of law designed not as an isolated discourse but as a decisive element for the dynamization of the legal culture.

The Concept of Ideals in Legal Theory Sanne Taekema, 2002-12-31 Talk about law often includes reference to ideals of justice, equality, or freedom. But what do we refer to when we speak about ideals in the context of law? This book explores the concept of ideals by combining an investigation of different theories of ideals with a discussion of the role of ideals in law. A comparison of the theories of Gustav Radbruch and Philip Selznick leads up to a pragmatist theory of legal ideals which provides an interesting new position in the debate about values in law between legal positivists and natural law thinkers. Attention for law's central ideals enables us to understand law's autonomous character while at the same time tracing its connection to societal values. Essential reading for anyone interested in the role of values or ideals in law.

Principled Reasoning in Human Rights Adjudication Se-shauna Wheatle, 2017-04-20 Implied constitutional principles form part of the landscape of the development of fundamental rights in common law jurisdictions affecting issues ranging from the remuneration of judges to the appropriation of property by the state Principled Reasoning in Human Rights Adjudication offers thematic analysis of the use of the implied constitutional principles of the rule of law and separation of powers in human rights cases The book examines the functions played by those principles in rights adjudication in Australia Canada the Commonwealth Caribbean and the United Kingdom It argues that a complete understanding of implied constitutional principles requires thoroughgoing analysis of the sources and methods of implication and of the specific roles played by such principles in the adjudicative process By disaggregating particular functions and placing those functions within their respective institutional contexts this book develops an understanding of the features of cases in which implied constitutional principles are invoked and the work done by those principles *Law and Human Behavior*, 2002 **Catalogue of the Indiana State Law Library** Indiana. Supreme Court. Law Library, John C. McNutt, 1898 *Library of Universal Knowledge*, 1882 **Syllabus for the Study of Law Library Administration** Columbia University. School of Library Service, 1946 **Classified Catalogue of the Carnegie Library of Pittsburgh** Carnegie Library of Pittsburgh, 1920 **Syllabus for the Study of Law Library Administration for Use in Connection with Library Service S 158** Columbia University. School of Library Service, 1946 *Library of the College of New Jersey. Class of '83 Library of Political Science and Jurisprudence. Finding List* Princeton University. Library, 1893 **Current Legal Theory**, 1998 *Classified Catalogue of the Carnegie Library of Pittsburgh, 1912-1916* Carnegie Library of Pittsburgh, 1920 **Descriptive Catalogue of Books Contained in the Lending Library** Bishopsgate Institute, London, 1901 **Library of Southern Literature: Selected works, with biographical sketches** Edwin Anderson Alderman, Charles Alphonso Smith, 1909 *Author and Subject Lists of Text-books in the Library* Oregon. Supreme Court. Library, 1913 *Class of '83. Library of political science and jurisprudence. Finding list* Princeton univ, 1893 **Books of 1911-** Chicago Public Library, 1915 **Subject Guide to Books in Print**, 1996 **Class of '83 Library of Political Science and Jurisprudence** Princeton University. Library, 1893

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