

The Treatise Of Legal Philosophy And General Jurisprudence

Are you fascinated by the world of law? Do you find yourself pondering the intricacies and principles that govern our legal systems? If so, you may be intrigued by the expansive field of legal philosophy and general jurisprudence. In this treatise, we will delve into the depths of this subject to gain a comprehensive understanding of its foundations and significance in the realm of law.

What is Legal Philosophy?

Legal philosophy, also known as the philosophy of law or jurisprudence, examines the fundamental questions about law and its nature. It aims to explore the underlying principles and justifications that guide the creation, interpretation, and enforcement of legal systems.

The study of legal philosophy encompasses various theoretical and philosophical frameworks. It involves analyzing concepts such as justice, morality, equality, and rights to determine their role in the legal sphere. By questioning the nature of law, legal philosophy critically evaluates the legitimacy and effectiveness of legal systems.

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A Treatise of Legal Philosophy and General Jurisprudence: Volume 12 Legal Philosophy in the Twentieth Century: The Civil Law World, Tome 1: Language Areas, Tome 2: Main Orientations and Topics

by Dean-David Holyoake(1st ed. 2016 Edition, Kindle Edition)

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The Significance of General Jurisprudence

General jurisprudence, a branch of legal philosophy, focuses on the theoretical aspects of law as a universal phenomenon rather than specific legal systems. It aims to establish a general understanding of law by developing theories and frameworks that can be applied across different jurisdictions and legal contexts.

Through general jurisprudence, legal scholars seek to uncover the fundamental principles and concepts that hold true in all legal systems. This approach allows for the examination and comparison of legal traditions, ultimately contributing to the development of a more coherent and just global legal framework.

The Pillars of Legal Philosophy

A comprehensive treatise on legal philosophy would be incomplete without discussing the foundational pillars that shape this field. Let's explore some of the key concepts that play a significant role in legal philosophy:

1. Legal Positivism

Legal positivism asserts that law is a social construct and its validity is determined solely by its source. According to this perspective, ethical and moral considerations are irrelevant in determining the legitimacy of a law. Instead, legal positivism argues that the authority and delegation of law by a recognized sovereign make it valid, regardless of its content.

2. Natural Law Theory

In contrast to legal positivism, natural law theory posits that morality and ethics are integral to the laws that govern society. Natural law theorists argue that there exists a higher, universal moral code that serves as the foundation for just laws. They believe that laws should align with this moral code to be considered valid and legitimate.

3. Legal Realism

Legal realism emphasizes the importance of the practical consequences and realities of the law. This perspective posits that the interpretation of law is influenced not only by legal principles but also by social, economic, and political factors. Legal realists argue that the outcome of a legal case is often shaped by judges' subjective views, the prevailing societal norms, and the distribution of power.

4. Critical Legal Studies

Critical legal studies emerged as a critique of traditional legal theories that failed to address issues of social and economic inequality. This perspective challenges the notion of law as an objective and neutral discipline, highlighting its role in perpetuating systemic injustices. Critical legal scholars advocate for a more inclusive and transformative approach to law, aiming to promote social justice and equality.

Understanding the Intersection with Other Disciplines

Legal philosophy and general jurisprudence are not isolated fields but intersect with various disciplines, each shedding light on different aspects of the law:

1. Ethics and Morality

Legal philosophy often draws upon ethical and moral theories to evaluate the justifiability and fairness of laws. Understanding the ethical implications of legal

decisions is crucial for ensuring a just and equitable legal system.

2. Sociology

Examining law through a sociological lens helps us understand how it functions within society, how it affects social behavior, and how social structures influence legal systems. Sociological perspectives contribute to a holistic understanding of the law's impact on individuals and communities.

3. Political Science

Political science intersects with legal philosophy by analyzing the relationship between law and governance. It explores how political institutions shape legal systems and the impact of legal decisions on political structures and processes.

The Future of Legal Philosophy

As society continues to evolve, so too does the field of legal philosophy. Technological advancements, globalization, and shifting social attitudes pose new challenges that demand innovative and inclusive approaches to the law.

Emerging areas of research in legal philosophy include the study of artificial intelligence and its implications for legal decision-making, the influence of cultural diversity on legal systems, and the intersection of law and environmental sustainability.

By continually exploring and re-evaluating the theoretical foundations of law, legal philosophy and general jurisprudence make valuable contributions to the development of more just and equitable legal systems. These disciplines serve as critical guides in maintaining the delicate balance between order, justice, and societal well-being.

The treatise of legal philosophy and general jurisprudence provides us with a profound and thought-provoking exploration of the foundations of law. From understanding the philosophical theories that underpin legal systems to examining their intersections with other disciplines, this field offers valuable insights into the nature and purpose of law.

Whether you are a law student, legal professional, or simply curious about the nature of law, the treatise of legal philosophy and general jurisprudence is an essential resource for nurturing a comprehensive understanding of this captivating subject.



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A Treatise of Legal Philosophy and General Jurisprudence is the first-ever multivolume treatment of the issues in legal philosophy and general jurisprudence, from both a theoretical and a historical perspective. The work is aimed at jurists as well as legal and practical philosophers. Edited by the renowned theorist Enrico Pattaro and his team, this book is a classical reference work that would be of great interest to legal and practical philosophers as well as

to jurists and legal scholar at all levels. The work is divided in two parts. The theoretical part (published in 2005), consisting of five volumes, covers the main topics of the contemporary debate; the historical part, consisting of six volumes (Volumes 6-8 published in 2007; Volumes 9 and 10, published in 2009; Volume 11 published in 2011 and Volume 12 forthcoming in 2016), accounts for the development of legal thought from ancient Greek times through the twentieth century.

Volume 12 Legal Philosophy in the Twentieth Century: The Civil Law World

Volume 12 of *A Treatise of Legal Philosophy and General Jurisprudence*, titled *Legal Philosophy in the Twentieth Century: The Civil-Law World*, functions as a complement to Gerald Postema's volume 11 (titled *Legal Philosophy in the Twentieth Century: The Common Law World*), and it offers the first comprehensive account of the complex development that legal philosophy has undergone in continental Europe and Latin America since 1900. In this volume, leading international scholars from the different language areas making up the civil-law world give an account of the way legal philosophy has evolved in these areas in the 20th century, the outcome being an overall mosaic of civil-law legal philosophy in this arc of time. Further, specialists in the field describe the development that legal philosophy has undergone in the 20th century by focusing on three of its main subjects—namely, legal positivism, natural-law theory, and the theory of legal reasoning—and discussing the different conceptions that have been put forward under these labels. The layout of the volume is meant to frame historical analysis with a view to the contemporary theoretical debate, thus completing the *Treatise* in keeping with its overall methodological aim, namely, that of combining history and theory as a necessary means by which to provide a comprehensive account of jurisprudential thinking.



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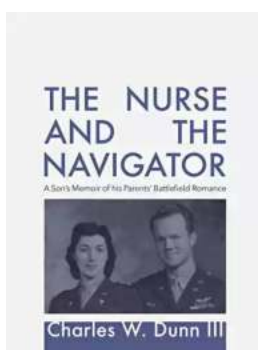
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