

Philosophical Foundations Of Contract Law Philosophical

The Enigmatic Realm of **Philosophical Foundations Of Contract Law Philosophical**: Unleashing the Language is Inner Magic

In a fast-paced digital era where connections and knowledge intertwine, the enigmatic realm of language reveals its inherent magic. Its capacity to stir emotions, ignite contemplation, and catalyze profound transformations is nothing in short supply of extraordinary. Within the captivating pages of **Philosophical Foundations Of Contract Law Philosophical** a literary masterpiece penned by way of a renowned author, readers attempt a transformative journey, unlocking the secrets and untapped potential embedded within each word. In this evaluation, we shall explore the book's core themes, assess its distinct writing style, and delve into its lasting affect the hearts and minds of those that partake in its reading experience.

Introduction to Philosophical Foundations of Contract Law

Gregory Klass 2014 This Introduction to Philosophical Foundations of Contract Law (Gregory Klass, George Letsas & Prince Saprai eds., Oxford University Press, forthcoming) describes the field of contract theory and locates the essays in the volume within that field. The volume includes chapters from Aditi Bagchi, Randy Barnett, Lisa Bernstein, Mindy Chen-Wishart, Charles Fried, Avery Katz, Dori Kimel, Gregory Klass, George Letsas and Prince Saprai, Daniel Markovits, Liam Murphy, David Owens, J.E. Penner, Margaret Jane Radin, Joseph Raz, Stephen Smith, and Charlie Webb.

Efficiency Instead of Justice? Klaus Mathis 2009-03-18 Economic analysis of law is an interesting and challenging attempt to employ the concepts and reasoning methods of modern economic theory so as to gain a deeper understanding of legal problems. According to Richard A. Posner it is the role of the law to encourage market competition and, where the market fails because transaction costs are too high, to simulate the result of competitive markets. This would maximize economic efficiency and social wealth. In this work, the lawyer and economist Klaus Mathis critically appraises Posner's normative justification of the efficiency paradigm from the perspective of the philosophy

of law. Posner acknowledges the influences of Adam Smith and Jeremy Bentham, whom he views as the founders of normative economics. He subscribes to Smith's faith in the market as an ideal allocation model, and to Bentham's ethical consequentialism. Finally, aligning himself with John Rawls's contract theory, he seeks to legitimize his concept of wealth maximization with a consensus theory approach. In his interdisciplinary study, the author points out the possibilities as well as the limits of economic analysis of law. It provides a method of analysing the law which, while very helpful, is also rather specific. The efficiency arguments therefore need to be incorporated into a process for resolving value conflicts. In a democracy this must take place within the political decision-making process. In this clearly written work, Klaus Mathis succeeds in making even non-economists more aware of the economic aspects of the law. *Contract Law Without Foundations* Prince Saprai 2019-02-28 This book advances a theoretical account of contract law, grounded in value pluralism. Arguing against attempts to delineate branches of legal doctrine by reference to single unifying values, the book suggests that a field such as contract law can only be explained and justified by the interaction of a multiplicity of moral values. In recent times, the philosophy of contract law has been dominated by the 'promise

theory', according to which the morality of promise provides a 'blueprint' for the structure, shape, and content that contract law rules and doctrines should take. The promise theory is an example of what this book calls a 'foundationalist' theory, whereby areas of law reflect or are underlain by particular moral principles or sets of such principles. By considering contract law from the point of view of its theory, rules and doctrines, and broader political context, the book argues that the promise theory can only ever offer part of the picture. The book claims that 'top-down' theories of contract law such as the promise theory and its bitter rival the economic analysis of law seriously mishandle legal doctrine by ignoring or underplaying the irreducible plurality of values that shape contract law. The book defends the role of this multiplicity of values in forging contract doctrine by developing from the 'ground-up' a radical and distinctly republican reinterpretation of the field. The book encourages readers to move away from a 'top-down' theory of contract law such as the promise theory and instead embrace a distinctly republican approach to contract law that would justify the legal rules and doctrines we find in particular jurisdictions at particular times.

[Bibliography of Law and Economics](#) B. Bouckaert 2013-04-18 Law and economics can be considered as the most exciting development in legal scholarship in recent decades. This volume is the first all-encompassing bibliography in this area. It lists approximately 7000 publications, covering the whole area of law and economics, including 'old' law and economics (topics such as antitrust law, labor law, tax law, social security, economic regulation, etc.) as well as 'new' law and economics with such topics as tort law, contract law, family law, procedure, criminal law, etc.). The volume also includes the literature on the philosophical foundations and the fundamental concepts of the approach. Part Two gives a special survey of law and economics publications in Europe, written in other languages than English. The Bibliography of Law and Economics is an invaluable reference work for students, scholars, lawyers, economists and other people interested in this field.

Philosophical Foundations of Children's and

Family Law Elizabeth Brake 2018-02-23 This volume brings together new essays in law and philosophy on a broad range of topics in children's and family law. It is the first volume to bring together essays by legal scholars and philosophers for an integrated, critical analysis of key issues in this area, marking the 'coming of age' of a comparatively new field of family law. Debates in children's and family law are at once theoretical and empirical in nature. Not only does children's and family law have significant consequences for individuals' intimate lives, the field's impact on lived experience highlights the socially constructed nature of law. Approaching this area of law often involves exploring a legal concept familiar from daily life, such as the very notion of 'marriage' or 'family', and examining it within its social, economic, and historical context. The normative basis for law regulating intimate personal and family life extends beyond any narrow legal philosophy or social context to its broader foundations in theories of morality or justice. The chapters included bring together a representative and broad range of pieces that engage with long-standing and contemporary debates. A wide range of perspectives is represented on topics such as same-sex marriage, polygamy and polyamory, alimony, unmarried cohabitation, gestational surrogacy and assisted reproductive technologies, child support, parental rights and responsibilities, children's rights, family immigration, religious freedom, and the rights of paid caregivers. There is also philosophical discussion of concepts such as care, intimacy, and the nature of family and family law itself.

Historical and Philosophical Foundations of European Legal Culture Dawid Bunikowski 2017-01-06 This ambitious book examines the historical, theoretical, and axiological foundations of European legal culture, and explores their practical impacts on current European law and legal ways of thinking in Europe. Including considerations about the history of law as well contemporary legal issues, the book consists of seven chapters authored by scholars from across the globe, from Italy to Taiwan. This volume shows that it is possible to speak of one European

legal culture in terms of various countries' common legal origins (Roman law, Greek philosophy, and medieval jurisprudence as the *ius commune*), while also discussing distinct national legal cultures and traditions in Europe. However, to understand the present day law and legal profession, it is necessary to go back to the values, theories, and thinkers which were influential in the progress of European law from ancient times to the 19th century. The book not only presents the theoretical and historical issues of European legal culture, but also acquaints the audience with the true axiological foundations of our contemporary legal institutions, and the methods of legal thinking in Europe. It is clear that many of our current legal concepts and institutions come from theorists such as Aristotle, Ulpian, Aquinas, Hobbes and Savigny. The book will be of particular interest to scholars and students of legal history, jurisprudence, and European law, especially in the context of the origins of European legal culture. Moreover, it will also appeal to all lawyers working in both the common law and the civil law traditions wishing to gain a greater understanding of European legal heritage.

The Philosophical Origins of Modern

Contract Doctrine James Gordley 1992 The common law of England and the United States and the civil law of continental Europe have a similar doctrinal structure, a structure not found in the English cases or Roman legal texts from which they supposedly descend. In this original and unorthodox study of common law and legal philosophy the author throws light on the historical origins of this confusion and in doing so attempts to find answers to many of the philosophical puzzles which contract lawyers face today. Reassessing the impact of modern philosophy upon contract law, the author concludes that modern philosophy having failed to provide a new basis for a coherent doctrinal system in the law of contract, the only hope for devising such a coherent system lies in rediscovering the neglected philosophy of Aristotle and Aquinas.

Philosophical Foundations of Property Law James Penner 2013-11-28 Property has long played a central role in political and moral philosophy.

Philosophers dealing with property have tended to follow the consensus that property has no special content but is a protean construct - a mere placeholder for theories aimed at questions of distributive justice and efficiency. Until recently there has been a relative absence of serious philosophical attention paid to the various doctrines that shape the actual law of property. If the philosophy of property is to be more attentive to concepts lying between broad considerations of political philosophy and distributive justice on the one hand and individual rules on the other, what in this broad space needs explaining, and how might we justify what we find? The papers in this volume are a first step towards filling this gap in the philosophical analysis of private law. This is achieved here by revisiting the contributions of philosophers such as Hume, Locke, Kant, and Grotius and revealing how particular doctrines illuminate the way in which property law respects the equality and autonomy of its subjects. Secondly, by exploring the central notions of possession, ownership, and title and finally by considering the very foundations of conceptualism in property.

Philosophical Foundations of the Nature of Law

Wil Waluchow 2013-03-14 This volume examines power-sharing agreements, their legitimacy and their compatibility with human rights law. Providing a clear, accessible introduction to the political science and human rights law on the issue, the book is an invaluable guide to all those engaged with transitional justice, peace agreements, and human rights.

Boilerplate Margaret Jane Radin 2014-11-03 Why the increasing use of boilerplate is eroding our rights Boilerplate—the fine-print terms and conditions that we become subject to when we click "I agree" online, rent an apartment, enter an employment contract, sign up for a cellphone carrier, or buy travel tickets—pervades all aspects of our modern lives. On a daily basis, most of us accept boilerplate provisions without realizing that should a dispute arise about a purchased good or service, the nonnegotiable boilerplate terms can deprive us of our right to jury trial and relieve providers of responsibility for harm. Boilerplate is the first comprehensive treatment of

the problems posed by the increasing use of these terms, demonstrating how their use has degraded traditional notions of consent, agreement, and contract, and sacrificed core rights whose loss threatens the democratic order. Margaret Jane Radin examines attempts to justify the use of boilerplate provisions by claiming either that recipients freely consent to them or that economic efficiency demands them, and she finds these justifications wanting. She argues, moreover, that our courts, legislatures, and regulatory agencies have fallen short in their evaluation and oversight of the use of boilerplate clauses. To improve legal evaluation of boilerplate, Radin offers a new analytical framework, one that takes into account the nature of the rights affected, the quality of the recipient's consent, and the extent of the use of these terms. Radin goes on to offer possibilities for new methods of boilerplate evaluation and control, among them the bold suggestion that tort law rather than contract law provides a preferable analysis for some boilerplate schemes. She concludes by discussing positive steps that NGOs, legislators, regulators, courts, and scholars could take to bring about better practices.

Philosophical Foundations of Tax Law Monica Bhandari 2017-02-23 Tax law changes at a startling rate - not only does societal change bring with it demands for change in the tax system, but changes in the political climate will force change, as will many other competing pressures. With this pace of change, it is easy to focus on the practical and forget the core underpinnings of the tax system and their philosophical justifications. Taking a pause to remind ourselves of those principles and how they can operate in the modern tax system is crucial to ensuring that the tax system does not diverge too far from what it should be or could be. It is essential to understand the answers to some of the seemingly basic questions that surround tax before we can even begin to think about what a tax system should look like. This collection brings together major themes and difficult questions in the philosophical foundations of tax law. The chapters consider practical issues such as justification, enforcement, design, and mechanics, and provide a full and coherent analysis of the basis for tax law.

Philosophical Foundations of Tax Law allows the reader to consider how tax systems should move forward in the modern world, with a sound philosophical basis, to provide the practical tax system that the state requires and citizens deserve.

Reasonableness and Responsibility: A Theory of Contract Law Martín Hevia 2012-09-12 If, as John Rawls famously suggests, justice is the first virtue of social institutions, how are we to understand the institution of contract law? This book proposes a Rawlsian theory of contract law. It argues that justice requires that we understand contract rules in terms of the idea of reasonable, terms of interaction - that is, terms that would be accepted by reasonable persons moved by a desire for a social world in which they, as free and equal, can cooperate with others on terms they accept. On that basis, the book explains the main doctrines of contract law, including those governing third parties, in both the Common Law and the Civil Law.

Philosophical Foundations of Tort Law David G. Owen 1995 This exceptional collection of twenty-two essays on the philosophical fundamentals of tort law assembles many of the world's leading commentators on this particularly fascinating conjunction of law and philosophy. The contributions range broadly, from inquiries into how tort law derives from Aristotle, Aquinas, and Kant to the latest economic and rights-based theories of legal responsibility. This is truly a multi-national production, with contributions from several distinguished Oxford scholars of law and philosophy and many prominent scholars from the United States, Canada, and Israel. A provocative closing essay by one of the world's leading moral philosophers illuminates how tort law enables philosophers to observe the abstract theories of their discipline put to the concrete test in the legal resolution of real-world controversies based on principles of right and wrong.

Philosophy, Law and the Family Laurence D. Houlgate 2017-01-21 This textbook uses cases in family law to illustrate both traditional philosophical problems in the law as well as problems that are unique to family law. In the beginning chapters family law cases are employed

to introduce the reader to philosophical debates about the relationship between law and morals, about how one ought to interpret the U.S. Constitution and its amendments, about the conditions under which individual liberty is justifiably limited by law, about the justification of punishment, and about the justification of remedies and standards of care in determining negligence in tort cases. Later chapters are devoted to contemporary issues unique to family law, including justifiable limits of access to marriage, alternatives to marriage, the rights of children, child custody disputes involving surrogate births, quasi-property disputes involving custody of frozen embryos, and the justifiable limits of the right not to procreate. The book reflects current movements, contemporary debates, and recent research on the philosophical problems in family law.

Philosophical Foundations of the Law of Equity

Dennis Klimchuk 2020-02-13 The law of Equity, a latecomer to the field of private law theory, raises fundamental questions about the relationships between law and morality, the nature of rights, and the extent to which we are willing to compromise on the rule of law ideal to achieve social goals. In this volume, leading scholars come together to address these and other questions about underlying principles of Equity and its relationship to the common law: What relationships, if any, are there between the legal, philosophical, and moral senses of 'equity'? Does Equity form a second-order constraint on law? If so, is its operation at odds with the rule of law? Do the various theories of Equity require some kind of separation of law and equity-and, if they do, what kind of separation? The volume further sheds light on some of the most topical questions of jurisprudence that are embedded in the debate around 'fusion'. A noteworthy addition to the Philosophical Foundations series, this volume is an important contribution to an ongoing debate, and will be of value to students and scholars across the discipline.

Philosophical Foundations of the Law of Torts

John Oberdiek 2014-02 This book offers a rich insight into the law of torts and cognate fields, and will be of broad interest to those working in

legal and moral philosophy. It has contributions from all over the world and represents the state-of-the art in tort theory.

The Philosophical Foundations of Environmental Law

Sean Coyle 2004-04-22 Legal regulation of the environment is often construed as a collection of legislated responses to the problems of modern living. Treated as such, 'environmental law' refers not to a body of distinctive juristic ideas (such as one might find in contract law or tort) but to a body of black-letter rules out of which a distinct jurisprudence might grow. This book challenges the accepted view by arguing that environmental law must be seen not as a mere instrument of social policy, but as a historical product of surprising antiquity and considerable sophistication. Environmental law, it is argued, is underpinned by a series of tenets concerning the relationship of human beings to the natural world, through the acquisition and use of property. By tracing these ideas to their roots in the political philosophy of the seventeenth century, and their reception into the early law of nuisance, this book seeks to overturn the perception that environmental law's philosophical significance is confined to questions about the extent to which a state should pursue collective well-being and public health through deliberate manipulation and restriction of private property rights. Through a close re-examination of both early and modern statutes and cases, this book concludes that, far from being intelligible in exclusively instrumental terms, environmental law must be understood as the product of sustained reflection upon fundamental moral questions concerning the relationship between property, rights and nature.

The Right of Redress

Andrew S. Gold 2020-07-17 The law enables private parties to undo the wrongs committed against them, allowing victims to seek redress. A distinctive kind of justice governs our legal rights of redress, different from the leading corrective justice approaches. Through analysis of this key idea, The Right of Redress helps to make sense of tort, contract, fiduciary law, and unjust enrichment doctrine. When a wrong is remedied, the authorship of that remedy matters. The justice in private law is sensitive to a right holder's authorship, and

understanding how solves a number of legal theory puzzles. Many forms of redress are only available with state assistance, and a full account of private law requires an account of the state's responsibility to assist. It also requires an explanation of those cases in which the state declines to assist. Prior accounts have drawn on Kantian principles or a Lockean social contract theory, where The Right of Redress, drawing on public fiduciary theory, develops a distinctive account of the state's role. This book offers a new take on various modern features of the private law landscape, ranging from equity, to damage caps, to arbitration, to corporate claims, to class actions. The Right of Redress thus offers a pathbreaking account of the justice in private law, the political theory that underlies it, and the contemporary features that shape our rights of redress today.

Philosophical Foundations of Language in the Law Andrei Marmor 2013-01-31 This collection brings together the best contemporary philosophical work in the area of intersection between philosophy of language and the law. Some of the contributors are philosophers of language who are interested in applying advances in philosophy of language to legal issues, and some of the participants are philosophers of law who are interested in applying insights and theories from philosophy of language to their work on the nature of law and legal interpretation. By making this body of recent work available in a single volume, readers will gain both a general overview of the various interactions between language and law, and also detailed analyses of particular areas in which this interaction is manifest. The contributions to this volume are grouped under three main general areas: The first area concerns a critical assessment, in light of recent advances in philosophy of language, of the foundational role of language in understanding the nature of law itself. The second main area concerns a number of ways in which an understanding of language can resolve some of the issues prevalent in legal interpretation, such as the various ways in which semantic content can differ from law's assertive content; the contribution of presuppositions and pragmatic implicatures in understanding what the

law conveys; the role of vagueness in legal language, for example. The third general topic concerns the role of language in the context of particular legal doctrines and legal solutions to practical problems, such as the legal definitions of inchoate crimes, the legal definition of torture, or the contractual doctrines concerning default rules. Together, these three key issues cover a wide range of philosophical interests in law that can be elucidated by a better understanding of language and linguistic communication.

Philosophical Foundation of Human Rights Paul Tiedemann 2020-06-27 This textbook presents a range of classical philosophical approaches in order to show that they are unsuitable as a foundation for human rights. Only the conception of human dignity -based on the Kantian distinction between price and dignity - can provide a sufficient basis. The derivation of human rights from the principle of human dignity allows us to identify the most crucial characteristic of human rights, namely the protection of personhood. This in turn makes it possible (1) to distinguish between real moral human rights and spurious ones, (2) to assess the scope of protection for many codified human rights according to the criteria of "core" and "yard," and (3) offers a point of departure for creating new, unwritten human rights. This philosophical basis supports a substantial reassessment of the case law on human rights, which will ultimately allow us to improve it with regard to legal certainty, clarity and cogency. The textbook is primarily intended for advanced law students who are interested in a deeper understanding of human rights. It is also suitable for humanities students, and for anyone in the political or social arena whose work involves human rights and their enforcement. Each chapter is divided into four parts: Abstracts, Lecture, Recommended Reading, and Questions to check reader comprehension. Sample answers are included at the end of the book.

An Introduction to the Philosophy of Law Roscoe Pound 2017-11-30 In An Introduction to the Philosophy of Law, Roscoe Pound shows how philosophy has been a powerful instrument throughout the history of law. He examines what philosophy has done for some of the chief

problems of the science of law and how it is possible to look at those problems philosophically without treating them in terms of a particular time period. The function of legal philosophy, writes Pound, is to rationally formulate a general theory of law which conforms to the interests, the general security first and foremost, of society. Marshall DeRosa writes in his new introduction that in the light of twentieth-century judicial politics, Roscoe Pound's philosophy of law has prevailed to a significant extent. This book's relevance to appreciating the development of the American legal system in all its complexities - including liability law, contract law, and property law - is in itself notable. But, in terms of understanding the twentieth-century development of the American rule of law, *An Introduction to the Philosophy of Law* is indispensable. It will make an invaluable addition to the personal libraries of legal theorists, philosophers, political scientists, and historians of American law.

Philosophical Foundations of the Law of Unjust Enrichment Robert Chambers 2009

Introduction /Robert Chambers, Charles Mitchell, and James Penner --Correctively unjust enrichment /Ernest J Weinrib --Restitution's realism /Hanoch Dagan --The normative foundations of unjust enrichment /Dennis Klimchuk --Resisting temptations to 'justice' /Mitchell McInnes --The nature of responsibility for gain : gain, harm, and keeping the lid on Pandora's box /Kit Barker --Unjust enrichment : nearer to tort than contract /Stephen A. Smith -- The meaning of loss and enrichment /James Edelman --Two kinds of enrichment /Robert Chambers --Philosophical foundations of proprietary remedies /Lionel Smith --Value, property, and unjust enrichment : trusts of traceable proceeds /James Penner --Property, unjust enrichment and defective transfers /Charlie Webb --'Mistakes of law' and legal reasoning : interpreting *Kleinwort Benson v Lincoln City Council* /Aruna Nair --Unjust enrichment and the idea of public law /Charles Mitchell and Peter Oliver --Unconscionable enrichment? /Prince Saprai.

Philosophy of Private Law William Lucy 2007 In what, if any sense are our torts and our breaches

of contract 'wrongs'? These two branches of private law have for centuries provided philosophers and jurists with grounds for puzzlement and this book provides both an outline of, and intervention in, contemporary jurisprudential debates about the nature and foundation of liability in private law.

Philosophical Foundations of Constitutional Law

David Dyzenhaus 2016 This is a collection of essays from leading constitutional lawyers and theorists, examining the philosophical foundations of constitutional law and the issues that arise from the fundamental philosophical issues raised by the idea of a constitution.

Philosophical Foundations of Law and Neuroscience

Dennis Michael Patterson 2016 Bringing together the latest work from leading scholars in this emerging and vibrant subfield of law, this book examines the philosophical issues that inform the intersection between law and neuroscience.

Philosophical Foundations of Discrimination Law

Deborah Hellman 2013-10 Exploring the philosophical foundations of discrimination law as it exists in several jurisdictions, this collection of all new essays bridges the gap between abstract philosophical work on justice and fairness and legal work on specific types of discrimination.

Philosophical Foundations of Property Law

James Penner 2013-11 This volume seeks to bring the concepts and doctrines of property law into the philosophy of property. It offers contributions from leading theorists of property law. The papers serve as introductions to many facets of philosophical work grounded in the law of property and as cutting edge contributions to the scholarly literature.

Philosophy of Law Mark Tebbit 2005

"Simultaneously published in the USA and Canada."

Justice in Transactions Peter Benson

2019-12-03 Legal thinkers typically justify contract law on the basis of economics or promissory morality. But Peter Benson takes another approach. He argues that contract is best explained as a transfer of rights governed by a conception of justice. The result is a comprehensive theory of contract law congruent

with Rawlsian liberalism.

Contract as Promise Charles Fried 2015-04-15

Contract as Promise is a study of the philosophical foundations of contract law in which Professor Fried effectively answers some of the most common assumptions about contract law and strongly proposes a moral basis for it while defending the classical theory of contract. This book provides two purposes regarding the complex legal institution of the contract. The first is the theoretical purpose to demonstrate how contract law can be traced to and is determined by a small number of basic moral principles. At the theory level the author shows that contract law does have an underlying, and unifying structure. The second is a pedagogic purpose to provide for students the underlying structure of contract law. At this level of doctrinal exposition the author shows that structure can be referred to moral principles. Together the two purposes support each other in an effective and comprehensive study of contract law. This second edition retains the original text, and includes a new Preface. It also includes a substantial new essay entitled Contract as Promise in the Light of Subsequent Scholarship--Especially Law and Economics which serves as a retrospective of the work accomplished in the last thirty years, while responding to present and future work in the field.

Philosophical Foundations of Contract Law

Gregory Klass 2014-12-19 In recent years there has been a revival of interest in the philosophical study of contract law. In 1981 Charles Fried claimed that contract law is based on the philosophy of promise and this has generated what is today known as 'the contract and promise debate'. Cutting to the heart of contemporary discussions, this volume brings together leading philosophers, legal theorists, and contract lawyers to debate the philosophical foundations of this area of law. Divided into two parts, the first explores general themes in the contract theory literature, including the philosophy of promising, the nature of contractual obligation, economic accounts of contract law, and the relationship between contract law and moral values such as personal autonomy and distributive justice. The second part uses these philosophical ideas to

make progress in doctrinal debates, relating for example to contract interpretation, unfair terms, good faith, vitiating factors, and remedies.

Together, the essays provide a picture of the current state of research in this revitalized area of law, and pave the way for future study and debate.

Philosophical Foundations of Fiduciary Law

Andrew S. Gold 2014 Fiduciary law is one of the most important areas of private law, governing a wide range of relationships that affect people in their daily lives. These new and innovative essays explore the foundations of fiduciary relationships and the duties fiduciaries owe to their beneficiaries.

Contract, Status, and Fiduciary Law Paul B. Miller

2016-11-17 Contractual and fiduciary relationships are the two primary mechanisms through which the law facilitates coordinated pursuit of our personal interests. These fields are often represented in oppositional terms, and many accept the distinction that contract law allows an individual to pursue their interests independently, while fiduciary law allows an individual to pursue their interests in a dependent or interdependent way. Relying on this distinction, however, seems to suggest that the boundaries between the fields of contract and fiduciary law are fixed rather than fluid. Bringing together leading theorists to analyse critically important philosophical questions at the intersection of contract and fiduciary law, *Contract, Status, and Fiduciary Law* demonstrates that popular characterizations of the relationship between contract and fiduciary law are overly simplistic. By considering how contract and fiduciary law interact, and not just how they differ, the contributors to this volume offer new insights into a range of topics, including: status relationships, voluntary undertakings, duties of loyalty, equity, employment law, tort law, the law of remedies, political theory, and the theory of the firm.

Philosophy of Law Larry May 2009-05-18

Philosophy of Law provides a rich overview of the diverse theoretical justifications for our legal rules, systems, and practices. Utilizes the work of both classical and contemporary philosophers to illuminate the relationship between law and morality Introduces students to the philosophical

underpinnings of International Law and its increasing importance as we face globalization Features concrete examples in the form of cases significant to the evolution of law Contrasts Anglo-American law with foreign institutions and practices such as those in China, Japan, India, Ireland and Canada Incorporates diverse perspectives on the philosophy of law ranging from canonical material to feminist theory, critical theory, postmodernism, and critical race theory *The Philosophical Foundations of Environmental Law* Sean Coyle 2004 Legal regulation of the environment is often construed as a collection of legislated responses to the problems of modern living. Treated as such, 'environmental law' refers not to a body of distinctive juristic ideas (such as one might find in contract law or tort) but to a body of black-letter rules out of which a distinct jurisprudence might grow. This book challenges the accepted view by arguing that environmental law must be seen not as a mere instrument of social policy, but as a historical product of surprising antiquity and considerable sophistication. Environmental law, it is argued, is underpinned by a series of tenets concerning the relationship of human beings to the natural world, through the acquisition and use of property. By tracing these ideas to their roots in the political philosophy of the seventeenth century, and their reception into the early law of nuisance, this book seeks to overturn the perception that environmental law's philosophical significance is confined to questions about the extent to which a state should pursue collective well-being and public health through deliberate manipulation and restriction of private property rights. Through a close re-examination of both early and modern statutes and cases, this book concludes that, far from being intelligible in exclusively instrumental terms, environmental law must be understood as the product of sustained reflection upon fundamental moral questions concerning the relationship between property, rights and nature. Revisiting the Philosophical Foundations of Trademarks in the US and UK Mohammad Amin Naser 2009-12-14 This book challenges the philosophical foundations of current trademark systems in the USA and the UK. It argues that the

process of trademark creation should be transformed to the more practical and realistic proposition of "co-authorship" of trademarks by both the public and trademark owners. The book develops the "Economic-Social Planning justification", which departs from the economic argument that trademarks reduce consumer search costs, and then proposes that trademarks should be formulated in a manner which helps foster a just and attractive culture. Trademarks are thus seen as source and origin identifiers, rather than quality identifiers. The book focuses on the often ignored role of the public and their rights in trademarks and calls for the adoption of the confusion rationale for trademark protection, not the dilution individualistic rationale. The two jurisdictions of this book prove adverse effects over the rights of the public in terms of using trademarks in cultural and expressive contexts, thereby threatening the principles of freedom of expression as a human fundamental right.

Philosophical Foundations of Labour Law Hugh Collins 2019-02-12 The first book to explore the philosophical foundations of labour law in detail, including topics such as the meaning of work, the relationship between employee and employer, and the demands of justice in the workplace.

Philosophical Foundations of Human Rights Rowan Cruft 2015 Readership: This book would be suitable for students, academics and scholars of law, philosophy, politics, international relations and economics

The Philosophical Origins of Modern

Contract Doctrine James Gordley 1993-02-11 This study traces the influence of philosophical ideas on the development of contract law from the post-Roman period to the 19th century, focusing upon the synthesis of Roman law and the moral philosophy of Aristotle and Aquinas.

An Essay on the Doctrine of Contracts Gulian Crommelin Verplanck 2006 Reprint of the first edition. In his discussion of early American works on contract law in *The Transformation of American Law* Horwitz observes that "nowhere were [its] underlying bases more brilliantly and systematically rethought" than in Verplanck's *Essay* (281). Indeed, compared to those of Dane and Story, "Verplanck's reconsideration of the

philosophical foundations of contract law was by far the most penetrating among the American treatise writers" (283). It is a landmark in the development of the will theory of contract and an elaborate critique of the doctrine of caveat emptor, which had recently been adopted by the

U.S. Supreme Court in *Laidlaw v. Organ* (1817). On a broader level, this key work is interesting for its insights into the tandem development of contract law and the market economy on the cusp of the economic boom of the 1820s.