Law is generally understood to be a mirror of society that functions to maintain social order. Focusing on this general understanding, this text conducts a survey of Western legal and social theories about law and its relationship within society.

Should a lawyer keep a client’s secret even when disclosure would exculpate a person wrongly accused of crime? The Practice of Justice is a fresh look at this and other traditional questions about the ethics of lawyering.

This book explores the implications of globalisation for the theoretical study of law, justice, and human rights.

This book examines the relation between religion and jurisprudence, God, and peace respectively. It argues that in order to elucidate the possible role religion can play in the contemporary world, it is useful to analyse religion by associating it with other concepts. Why peace? Because peace is probably the greatest promise made by religions and the greatest concern in the contemporary world. Why jurisprudence? Because, quoting Kelsen’s famous book "Peace through Law", peace is usually understood as something achievable by international legal instruments. But what if we replace "Peace through Law" with "Peace through Religion"? Does law, as an instrument for achieving peace, incorporate a religious dimension? Is law, ultimately, a religious and normative construction oriented to peace, to the protection of humanity, in order to keep humans from the violence of nature? Is the hope for peace rational, or just a question of faith? Is religion itself a question of faith or a rational choice? Is the relatively recent legal concept of “responsibility to protect” a secular expression of the oldest duty of humankind? The book follows the structure of interdisciplinary research in which the international legal scholar, the moral philosopher, the philosopher of religion, the theologian, and the political scientist contribute to the construction of the necessary bridges. Moreover, it gives voice to different monotheistic traditions and, more importantly, it analyses religion in the various dimensions in which it determines the authors' cultures: as a set of rituals, as a source of moral norms, as a universal project for peace, and as a political discourse.

In this book Joseph Raz develops his views on some of the central questions in practical philosophy: legal, political, and moral. The book provides an overview of Raz’s work on jurisprudence and the nature of law in the context of broader questions in the philosophy of practical reason. The book opens with a discussion of methodological issues, focusing on understanding the nature of jurisprudence. It asks how the nature of law can be explained, and how the
success of a legal theory can be established. The book then addresses central questions on the nature of law, its relation to morality, the nature and justification of authority, and the nature of legal reasoning. It explains how legitimate law, while being a branch of applied morality, is also a relatively autonomous system, which has the potential to bridge moral differences among its subjects. Raz offers responses to some critical reactions to his theory of authority, adumbrating, and modifying the theory to meet some of them. The final part of the book brings together for the first time Raz's work on the nature of interpretation in law and the humanities. It includes a new essay explaining interpretive pluralism and the possibility of interpretive innovation. Taken together, the essays in the volume offer a valuable introduction for students coming for the first time to Raz's work in the philosophy of law, and an original contribution to many of the current debates in practical philosophy.

This book presents a unified set of arguments about the nature of jurisprudence and its relation to the jurist's role. It explores contemporary challenges that create a need for social scientific perspectives in jurisprudence, and it shows how sociological resources can and should be used in considering juristic issues. Its overall aim is to redefine the concept of sociological jurisprudence and outline a new agenda for this. Supporting this agenda, the book elaborates a distinctive juristic perspective that recognises law's diversity of cultural meanings, its extending transnational reach, its responsibilities to reflect popular aspirations for justice and security, and its integrative tasks as a general resource of regulation for society as a whole and for the individuals who interact under law's protection. Drawing on and extending the author's previous work, the book will be essential reading for students, researchers and academics working in jurisprudence, law and society, socio-legal studies, sociology of law, and comparative legal studies.

This text explores what jurisprudence is about, what it seeks to do and how. The book considers how the conclusions of jurisprudence can be brought to bear on everyday problems of legal practice and major social, moral or political issues.

The Nature of International Law provides a comprehensive analytical account of international law within the prototype theory of concepts.

What do Catharine MacKinnon, the legacy of Brown v. Board of Education, and Lani Guinier have in common? All have, in recent years, become flashpoints for different approaches to legal reform. In the last quarter century, the study and practice of law have been profoundly influenced by a number of powerful new movements; academics and activists alike are rethinking the interaction between law and society, focusing more on the tangible effects of law on human lives than on its procedural elements. In this wide-ranging and comprehensive volume, Gary Minda surveys the current state of legal scholarship and activism, providing an indispensable guide to the evolution of law in America.

This unique study offers a comprehensive analysis of American jurisprudence from its emergence in the later stages of the nineteenth century through to the present day. The author argues that it is a mistake to view American jurisprudence as a collection of movements and schools which have emerged in opposition to each other. By offering a highly original analysis of legal formalism, legal realism, policy science, process jurisprudence, law and economics, and critical legal studies, he demonstrates that American jurisprudence has evolved as a collection of themes which reflect broader American intellectual and cultural concerns.

Organized around specific questions, theses and arguments, Philosophy of Law: Introducing Jurisprudence helps students get to grips with the fascinating yet often complex realm of legal philosophy. This comprehensive introduction explores fundamental questions about legal systems, legal reasoning, and legal concepts, covering a wide range of topics in jurisprudence including: liability, punishment, causation, discretion, precedent, constitutional disobedience, the rule of law. Packed with boxed case studies, chapter discussion questions, guides to further reading, a glossary of key terms and online resources for lecturers and students, Jeffrey Brand guides the reader through ideas in an accessible way. Philosophy of Law is ideal for use as a core textbook.
or as a companion to a set of primary sources.

A demonstration of the contemporary context and significance of Maine's approach to the law.

In a series of new essays the authors attempt to answer important questions about the nature of jurisprudential thinking.

The Oxford Handbook of Jurisprudence and Philosophy of Law brings together specially commissioned essays by twenty-six of the foremost legal theorists currently writing, to provide a state-of-the-art overview of jurisprudential scholarship.

Jurisprudence is aimed at students new to the study of legal philosophy, also offering new ideas and perspectives that will be of interest to established scholars. Bix seeks to explain the often complex and difficult ideas in Jurisprudence clearly, but in a way that avoids distortion of the ideas through over-simplification. As well as introducing the reader to the fundamental themes in legal philosophy, it also describes and comments critically on the writing of the foremost legal theorists. The sixth edition has been revised and updated, taking into account the most recent scholarly work and elaborating on many of the key ideas and arguments.

Understanding Jurisprudence by Raymond Wacks adopts a novel approach to this challenging subject; it reveals the nature of legal theory with clarity, enthusiasm, and wit, without avoiding its complexities and subtleties. The author provides an illuminating guide to the central questions of legal theory. An experienced teacher of jurisprudence and distinguished writer in the field, his approach is stimulating, accessible, and even entertaining. The concept of law lies at the heart of our social and political life. Jurisprudence explores the concept of law and its role in society. It elucidates its meaning and its relation to the universal questions of justice, rights, and morality. And it analyzes the nature and purpose of our legal system, and its practice by courts, lawyers, and judges.

Brian Leiter is widely recognized as the leading philosophical interpreter of the jurisprudence of American Legal Realism, as well as the most influential proponent of the relevance of the naturalistic turn in philosophy to the problems of legal philosophy. This volume collects newly revised versions of ten of his best-known essays, which set out his reinterpretation of the Legal Realists as prescient philosophical naturalists; critically engage with jurisprudential responses to Legal Realism, from legal positivism to Critical Legal Studies; connect the Realist program to the methodology debate in contemporary jurisprudence; and explore the general implications of a naturalistic world view for problems about the objectivity of law and morality. Leiter has supplied a lengthy new introductory essay, as well as postscripts to several of the essays, in which he responds to challenges to his interpretive and philosophical claims by academic lawyers and philosophers. This volume will be essential reading for anyone interested in jurisprudence, as well as for philosophers concerned with the consequences of naturalism in moral and legal philosophy.

This major addition to Ideas in Context examines the development of natural law theories in the early stages of the Enlightenment in Germany and France. T. J. Hochstrasser investigates the influence exercised by theories of natural law from Grotius to Kant, with a comparative analysis of the important intellectual innovations in ethics and political philosophy of the time. Hochstrasser includes the writings of Samuel Pufendorf and his followers who evolved a natural law theory based on human sociability and reason, fostering a new methodology in German philosophy. This book assesses the first histories of political thought since ancient times, giving insights into the nature and influence of debate within eighteenth-century natural jurisprudence. Ambitious in range and conceptually sophisticated, Natural Law Theories in the Early Enlightenment will be of great interest to scholars in history, political thought, law and philosophy.
A comprehensive, in-depth discussion of the most influential movement in American legal history, and one which remains more than fifty years later the subject of lively debate, this collection of readings, written largely between 1900 and 1940, includes works from prominent writers on the subject that have never before been generally available. Introduced and edited by noted scholars in the field, the anthology includes such contributors as Oliver Wendell Holmes, James Thayer, Roscoe Pound, John Chipman Gray, Wesley Hohfeld, Karl Llewellyn, Arthur Corbin, Nathan Issacs, Robert Hale, Harold Laski, Max Radin, and others. With concise biographical notes as well as introductions to provide historical context, each selection addresses a different debate involving Legal Realism. Included is a selective bibliography, making the text valuable to a broad range of scholars.

A leading English jurist reflects on the development of his thoughts and writings in legal theory over sixty years.

"Now in its 13th edition, Documentary Evidence is a comprehensive guide to the legal obligations of disclosure. Logically presented and lucidly written, it provides detailed analysis and sensible practical advice. Following a chronological structure, it shows when and how a practitioner should take action in relation to the obligation to disclose. It is a standard work that is often cited in court judgments. Under the Civil Procedure Rules the parties to an action are encouraged to adopt a "cards-on-the-table" approach toward the exchange of information, not just once litigation has commenced but before as well. It is likely in the early stages that a few documents will be identified as being relevant or key to the matter at hand. These will be used to provide advice as to the merit or not of proceeding with the dispute. If the decision is taken to proceed, the law imposes a requirement to make full and proper disclosure, which is the process whereby the parties to an action disclose to each other all documents in their possession, custody or power relating to matters in question in the action. This title deals with the nature and scope of the obligation to disclose."--Publisher's website.

Contrary to traditional theories of statutory interpretation, which ground statutes in the original legislative text or intent, legal scholar William Eskridge argues that statutory interpretation changes in response to new political alignments, new interpreters, and new ideologies. It does so, first of all, because it involves richer authoritative texts than does either common law or constitutional interpretation: statutes are often complex and have a detailed legislative history. Second, Congress can, and often does, rewrite statutes when it disagrees with their interpretations; and agencies and courts attend to current as well as historical congressional preferences when they interpret statutes. Third, since statutory interpretation is as much agency-centered as judge-centered and since agency executives see their creativity as more legitimate than judges see theirs, statutory interpretation in the modern regulatory state is particularly dynamic. Eskridge also considers how different normative theories of jurisprudence--liberal, legal process, and antiliberal--inform debates about statutory interpretation. He explores what theory of statutory interpretation--if any--is required by the rule of law or by democratic theory. Finally, he provides an analytical and jurisprudential history of important debates on statutory interpretation.

This collection of essays explores the different ways the insights from complexity theory can be applied to law. Complexity theory -- a variant of systems theory -- views law as an emergent, complex, self-organising system comprised of an interactive network of actors and systems that operate with no overall guiding hand, giving rise to complex, collective behaviour in law communications and actions. Addressing such issues as the unpredictability of legal systems, the ability of legal systems to adapt to changes in society, the importance of context, and the nature of law, the essays look to the implications of a complexity theory analysis for the study of public policy and administrative law, international law and human rights, regulatory practices in business and finance, and the practice of law and legal ethics. These are areas where law, which craves certainty, encounters unending, irresolvable complexity. This collection shows the many ways complexity theory thinking can reshape and clarify our understanding of the various problems relating to the theory and practice of law.
Llewellyn, Karl N. Jurisprudence: Realism in Theory and Practice. [Chicago]: The University of Chicago Press, 1962. viii, 531 pp. Reprinted 2000 by The Lawbook Exchange, Ltd. LCCN 99-056923. ISBN 1-58477-067-8. Cloth. $95. * Considered to be one of the great American legal philosophers of the twentieth century, Llewellyn [1893-1962], was a distinguished professor of law at the University of Chicago, visiting professor at Leipzig and Harvard Universities, and also taught at Yale and Columbia. He wrote extensively and was the chief draftsman of the Uniform Commercial Code. In this collection of essays Llewellyn presents his unique theory of Realism as applied to jurisprudence in theory; and social institutions, including the bar, in practice.

This textbook provides an introduction to and analysis of the major theories and controversies of jurisprudence. Starting with an overview of the nature of jurisprudence, then moving on to examine the theories and main protagonists in more detail, it is an ideal text for undergraduate students studying the subject for the first time.

Legal pluralism involves the coexistence of multiple forms of law. This includes state law, international law, transnational law, customary law, religious law, indigenous law, and the law of distinct ethnic or cultural communities. Legal pluralism is a subject of discussion today in legal anthropology, legal sociology, legal history, comparative law, international law, transnational law, jurisprudence, and law and development scholarship. This book places legal pluralism in historical context going back to the Medieval period, describes the origins of legal pluralism in postcolonial countries and its implications today, identifies manifestations of legal pluralism within Western societies, discusses contemporary transnational legal pluralism, identifies problems with current theoretical accounts of legal pluralism, and articulates an approach to legal pluralism that avoids theoretical problems and is useful for social scientists, theorists, and law and development scholars and practitioners.

Kelsen, Hans. Pure Theory of Law. Translation from the Second German Edition by Max Knight. Berkeley: University of California Press, 1967. x, 356 pp. Reprinted 2005 by The Lawbook Exchange, Ltd. ISBN 1-58477-578-5. Paperbound. $36.95 * Second revised and enlarged edition, a complete revision of the first edition published in 1934. A landmark in the development of modern jurisprudence, the pure theory of law defines law as a system of coercive norms created by the state that rests on the validity of a generally accepted Grundnorm, or basic norm, such as the supremacy of the Constitution. Entirely self-supporting, it rejects any concept derived from metaphysics, politics, ethics, sociology, or the natural sciences. Beginning with the medieval reception of Roman law, traditional jurisprudence has maintained a dual system of "subjective" law (the rights of a person) and "objective" law (the system of norms). Throughout history this dualism has been a useful tool for putting the law in the service of politics, especially by rulers or dominant political parties. The pure theory of law destroys this dualism by replacing it with a unitary system of objective positive law that is insulated from political manipulation. Possibly the most influential jurisprudent of the twentieth century, Hans Kelsen [1881-1973] was legal adviser to Austria's last emperor and its first republican government, the founder and permanent advisor of the Supreme Constitutional Court of Austria, and the author of Austria's Constitution, which was enacted in 1920, abolished during the Anschluss, and restored in 1945. The author of more than forty books on law and legal philosophy, he is best known for this work and General Theory of Law and State. Also active as a teacher in Europe and the United States, he was Dean of the Law Faculty of the University of Vienna and taught at the universities of Cologne and Prague, the Institute of International Studies in Geneva, Harvard, Wellesley, the University of California at Berkeley, and the Naval War College. Also available in cloth.

The need for innovative thinking about alternative constitutional experiences is evident, and readers of Comparative Constitutional Theory will find in its pages a compendium of original, theory-driven essays. The authors use a variety of theoretical perspectives to explore the diversity of global constitutional experience in a post-1989 world prominently marked by momentous transitions from authoritarianism to democracy, by multiple constitutional revolutions and devolutions, by the increased penetration of international law into national jurisdictions, and by the enhancement of supra-national institutions of governance.
Jurisprudence: Themes and Concepts offers an original introduction to, and critical analysis of, the central themes studied in jurisprudence courses. The book is presented in three parts each of which contains General Themes, Advanced Topics, tutorial questions and guidance on further reading: Law and Politics, locating the place of law within the study of institutions of government Legal Reasoning, examining the contested nature of the application of law Law in Modernity, exploring the social forces that shape legal development. This second edition includes enhanced discussion of the rise of legal positivism within the context of the rise of the modern state, the changing role of natural and human rights discourse, concepts of justice in and beyond the nation state, the impact of emergency doctrines in contemporary legal regulation, and challenges to the rule of law in light of shifting and competing demands for new types of social solidarity. Accessible, interdisciplinary, and socially informed this book has been revised to take into account the latest developments in jurisprudential scholarship.

The contemporary US legal culture is marked by ubiquitous battles among various groups attempting to seize control of the law and wield it against others in pursuit of their particular agenda. This battle takes place in administrative, legislative, and judicial arenas at both the state and federal levels. This book identifies the underlying source of these battles in the spread of the instrumental view of law - the idea that law is purely a means to an end - in a context of sharp disagreement over the social good. It traces the rise of the instrumental view of law in the course of the past two centuries, then demonstrates the pervasiveness of this view of law and its implications within the contemporary legal culture, and ends by showing the various ways in which seeing law in purely instrumental terms threatens to corrode the rule of law.

The text makes the case for a revival of general jurisprudence in response to globalisation.

This book argues that despite the tensions existing in all societies between religious faith and legal order, they inevitably interact. In the course of his discussion Berman traces the history of Western law, exposes the fallacies of law theories that fail to take religion into account, examines key theological, prophetic, and educational themes, and looks at the role of religion in the Soviet and post-Soviet state.

Now in its second edition, this textbook presents a critical rethinking of the study of comparative law and legal theory in a globalising world, and proposes an alternative model. It highlights the inadequacies of current Western theoretical approaches in comparative law, international law, legal theory and jurisprudence, especially for studying Asian and African laws, arguing that they are too parochial and eurocentric to meet global challenges. Menski argues for combining modern natural law theories with positivist and socio-legal traditions, building an interactive, triangular concept of legal pluralism. Advocated as the fourth major approach to legal theory, this model is applied in analysing the historical and conceptual development of Hindu law, Muslim law, African laws and Chinese law.

The last decade has witnessed a particularly intensive debate over methodological issues in legal theory. The publication of Julie Dickson's Evaluation and Legal Theory (2001) was significant, as were collective returns to H.L.A. Hart's 'Postscript' to The Concept of Law. While influential articles have been written in disparate journals, no single collection of the most important papers exists. This volume - the first in a three volume series - aims not only to fill that gap but also propose a systematic agenda for future work. The editors have selected articles written by leading legal theorists, including, among others, Leslie Green, Brian Leiter, Joseph Raz, Ronald Dworkin, and William Twining, and organized under four broad categories: 1) problems and purposes of legal theory; 2) the role of epistemology and semantics in theorising about the nature of law; 3) the relation between morality and legal theory; and 4) the scope of phenomena a general jurisprudence ought to address.
This title is aimed at students new to the study of jurisprudence. Its intention is to explain the often complex and difficult ideas in legal philosophy as clearly as possible, without over-simplifying them to the point of distortion. As well as introducing the reader to the fundamental themes in legal philosophy, it also describes and comments critically on the writing of the foremost legal theorists. The text is supplemented by Suggested Further Readings which contain references to related materials. For the third edition, the book has been extensively revised, taking into account the most recent scholarly work, and elaborating on many of the key ideas and arguments.

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