Mutual Expectations A Conventionalist Theory Of L

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WINTERS SELAH

The Paradoxes of Action Springer Science & Business Media
Thirteen leading philosophers and economists discuss the Nobel Laureate Amartya Sen's trenchant critique of rational choice theory, and propose their own answers to the question of how to account for the rationality of committed action. The volume concludes with a specially-written reply by Sen.
Legal Conventionalism Routledge
This book explores the trail-blazing Theory of Constitutional Rights of Robert Alexy. The authors combine critical analysis of the structural elements of Alexy's theory with an assessment of its applied relevance, paying special attention to the UK Human Rights Act and the Charter of Fundamental Rights of the European Union. Alexy himself opens the book with an insightful contextualisation of his theory of fundamental rights within his general legal theory.
Political Friendship and the Good Life Springer Science & Business Media
Imposing Values provides an even-handed characterization of the differences between modern liberalism and classical liberalism about the proper scope of government. It also systematically and comprehensively discusses arguments for and against various regulatory regimes favored by modern liberals and opposed by classical liberals.
Group Rights as Human Rights Springer Science & Business Media
A collection of new essays on the interplay between intentions and practical reasons in law and practical agency.
Pluralism and Law Springer Science & Business Media
This book will be of interest to legal, political and other social theorists/philosophers. Unique in its topics as well as in its approach, the book takes substantial steps towards answering essential questions about political influence. It analyses the concepts of social, political and legal power with a view towards arriving at an adequate and theoretically relevant distinction between power and influence. This volume contains an extensive overview and critical assessment; explores the conceptual relationship between freedom and power; assesses the distinctions made in existing scholarship between power and influence; presents the author's own proposal for a definition of influence as opposed to power; combines insights from political theory, legal philosophy and the general theory of norms; is densely argued, yet accessible to all interested readers without any prerequisite of special prior knowledge; is transparently structured, written in a clear style, avoiding social-scientific jargon and using ordinary language. "Exact but not exacting, this is a fine work of overview and analysis; it makes an excellent contribution to the literature on power and freedom." Philip Pettit, William Nelson Cromwell Professor of Politics, Princeton University "In this work, the author assumes the task of a 'logical clean-up' – an extremely valuable contribution to the promotion of scientific rigour and clarity in political scholarship." [This book] "gives the reader orientation in a conceptual jungle." [It is] "an excellent analysis of the relationships between normative and social power." Ernesto Garzón Valdés, Prof. em. of Legal Philosophy, President of The Tampere Club "A genuinely pioneering contribution insofar as the author – to my knowledge: for the first time ever – succeeds in giving a conceptually rather clear profile to a descriptive-analytic and normative understanding of the phenomenon of influence and in elucidating – again, by way of thorough and profound analysis – that this is much more than an academic glass-bead game, because our understanding of such essential normative foundations of political theory as freedom and equality is inextricably linked to the concepts of power and influence, and because this is the only way how we can come to see the fundamental obstacles to a coherent interpretation and institutional realization of the idea of the democratic Rechtsstaat." Rainer Schmalz-Bruns, Prof. of Political Theory, Darmstadt University of Technology
Justice, Luck & Responsibility in Health Care Princeton University Press
Many academic authors incur debts in the production of their work, many of which are intellectual. I am no exception. One of my intellectual debts is to three remarkable books, which formed the starting point for my thinking about norms. The first of these books is well known among philosophers: David Lewis' Convention. In vintage Lewisian prose, the book gives a lucid and convincing conventionalist analysis of semantic norms. The second 1985 dissertation Wederkerige book is Govert den Hartogh's Verwachtingen (Mutual Expectations). Partly because it was written in Dutch - my native tongue -partly because of the occasionally impenetrable style, it never got the attention it deserves. In that book, Den Hartogh extends Lewis' analysis of semantic norms to moral norms. Den Hartogh introduced the notion of cooperative virtues that is the focus of much of this book. The third book is a book on economics, largely ignored by economists, which only lately has started to receive some recognition among philosophers: Robert Sugden's The Economics of Rights, Co operation and Welfare. Sugden's book explains the emergence and stability of norms in terms of social evolution. Though all three books develop a of norms, their arguments and constructions are conventionalist account very different. Lewis and Den Hartogh take the picture of rational man deliberating about his course of action very serious; Sugden rejects this picture as unrealistic and unnecessary.
Mutual Expectations Bloomsbury Publishing
The Market of Virtue - Morality and Commitment in a Liberal Society is a contribution to the present controversy between liberalism and communitarianism. This controversy is not only confined to academic circles but is becoming of increasing interest to a wider public. It has become popular again today to criticize a liberal market society as being a society in which morality and virtues are increasingly being displaced by egoism and utility maximization. According to this view the competition between individuals and the dissolution of community ties erode the respect for the interests of others and undermine the commitment to the common good. The present book, however, develops quite a different picture of a liberal society. An analysis of its fundamental principles shows that anonymous market-relations and competition are by no means the only traits of a liberal society. Such a society also provides the framework for freedom of cooperation and association. It gives its citizens the right to cooperate with other people in pursuit of their own interests. Just as the rivalry between competitors is a basic element of a liberal society so is the cooperation between partners. Thus not only self-centred individualism is rewarded. The main part of the book explains how the freedom to cooperate and to establish social ties lays the empirical foundation for the emergence of civil virtues and moral integrity. It is the basic insight of this analysis that it can no longer be maintained that a liberal society is incapable of producing moral attitudes and social commitment. If a civil society can develop under a liberal order, then one can reckon with citizens who voluntarily contribute to public goods and who commit themselves of their own accord to the society, its constitution and institutions. However this book not only develops further arguments for the current debate between liberalism and communitarianism by explaining the emergence of morality and virtue in a market society. It also provides new aspects for the present theoretical and methodological controversies over the fundaments of the social sciences and contributes to the advancement of the modern individualistic approach in social theory. In this context it aims especially at an improvement of a sociological model of behaviour.
Reasons and Intentions Princeton University Press
What can we say about justice in a pluralist world? Is there some universal justice? Are there universal human rights? What is the function of the state in the modern world? Such are the problems dealt with by the 20th world congress of the International Association for Philosophy of Law and Social Philosophy (Amsterdam, June 2001) and published in this book, which is for legal and social philosophers, students of human rights, and political philosophers.
Playing Fair Cambridge University Press
An important part of the legal domain has to do with rule-governed conduct, and is expressed by the use of notions such as norm, obligation, duty and right. These require us to acknowledge the normative dimension of law. Normativity is, accordingly, to be regarded as a central feature of law lying at the heart of any comprehensive legal-theoretical project. The essays collected in this book are meant to further our understanding of the normativity of law. More specifically, the book stages a thorough discussion of legal normativity as approached from three strands of legal thought that are particularly influential and which play a key role in shaping debates on the normative dimension of law: the theory of planning agency, legal conventionalism and the constitutivist approach. While the essays presented here do not aspire to give an exhaustive picture of these debates - an aspiration that would be, by its very nature, unrealistic - they do provide the reader with some authoritative statements of some widely discussed families of views of legal normativity. In pursuing this objective, these essays also encourage a dialogue between different traditions of study of legal normativity, stimulating those who would not otherwise look outside their tradition of thought to engage with new ideas and, ultimately, to arrive at a more comprehensive account of the normativity of law.
Influence and Power Springer Science & Business Media
What does it mean to have a right? Previous answers to this question fall into two groups: interest/benefit theories of rights and choice/will theories. This book proposes an alternative to these traditional views: the justified-constraint theory of rights, which avoids the pitfalls of earlier theories, and solves the puzzle of the relational nature of rights. The analysis shows that this theory applies without modification to past, present and future beings.
Reasons and Intentions in Law and Practical Agency Springer Science & Business Media
The concept of convention has been used in different fields and from different perspectives to account for important social phenomena, and the legal sphere is no exception. Rather, reflection on whether the legal phenomenon is based on a convention and, if so, what kind of convention is involved, has become a recurring issue in contemporary legal theory. In this book, some of the foremost specialists in the field make significant contributions to this debate. In the first part, the concept of convention is analysed. The second part reflects on whether the rule of recognition postulated by Hart can be understood as a convention and discusses its potential and limitations in order to explain the institutional and normative character of law. Lastly, the third part critically examines the relations between conventionalism and legal interpretation. Given the content and quality of the contributions, the book is of interest to those wanting to understand the current state of the art in legal conventionalism as well as those wanting to deepen their knowledge about these questions.
The Right to Exploit Springer Science & Business Media
What are the grounds for and limits to obedience to the state? This book offers a fresh analysis of the debate concerning the moral obligation to obey the state, develops a novel account of political obligation and provides the first detailed argument of how a theory of political obligation can apply to subjects of an unjust state.
Philosophy of Law Springer
Liberal defences of nationalism have become prevalent since the mid-1980's. Curiously, they have largely neglected the fact that nationalism is

primarily about land. Should liberals throw up their hands in despair when confronting conflicting claims stemming from incommensurable national narratives and holy texts? Should they dismiss conflicting demands that stem solely from particular cultures, religions and mythologies in favour of a supposedly neutral set of guidelines? Does history matter? Should ancient injustices interest us today? Should we care who reached the territory first and who were its prior inhabitants? Should principles of utility play a part in resolving territorial disputes? Was John Locke right to argue that the utilisation of land counts in favour of its acquisition? And should Western style settlement projects work in favour or against a nation's territorial demands? When and how should principles of equality and equal distribution come into play? Territorial Rights examines the generic types of territorial claims customarily put forward by national groups as justification for their territorial demands, within the framework of what has come to be known as 'liberal nationalism'. The final outcome is a multifarious theory on the ethics of territorial boundaries that supplies a workable set of guidelines for evaluating territorial disputes from a liberal-national perspective, and offers a common ground for discussion (including disagreement) and for the mediation of claims.

The Opposite Mirrors Springer Science & Business Media

This book of legal philosophy contends that positive law is better understood if it is not too easily equated with power, force, or command. Law is more a matter of discourse and deliberation than of sheer decision or of power relations. Here is thought-provoking reading for lawyers, advocates, scholars of jurisprudence, students of law, philosophy and political science, and general readers concerned with the future of the constitutional state.

The Principle of Legal Certainty in EC Law Springer Science & Business Media

The legal essays by Michael Bayles in this collection display his commitment to utilitarianism both as a moral theory and an analytical device. A utilitarian must choose between the best of all possible alternatives and so must lay out the alternatives and thus their consequences carefully and completely. As it happens, there is no better way of understanding why something is as it is in the law, and no better way to lay the foundations for criticism and improvement, than to lay out what the alternatives are, carefully distinguishing them, their justifications, and their implications for changing other areas of the law and for changing our relation to the law. Bayles was a master at such work, and each essay thus repays careful study for anyone concerned about the law. The essays cover a wide variety of topics, from contract law to the criminal law, from torts to theory, and form a natural set. Laying out the alternatives in one area makes it much clearer how and why alternatives in other areas are acceptable or required. Interconnections within the legal system as a whole not readily visible when studying one area of the law become obvious when several are laid out side-by-side using the analytical skill required by a good utilitarian.

Constitutionalism and Legal Reasoning OUP USA

In Philosophy of Law, Andrei Marmor provides a comprehensive analysis of contemporary debates about the fundamental nature of law—an issue that has been at the heart of legal philosophy for centuries. What the law is seems to be a matter of fact, but this fact has normative significance: it tells people what they ought to do. Marmor argues that the myriad questions raised by the factual and normative features of law actually depend on the possibility of reduction—whether the legal domain can be explained in terms of something else, more foundational in nature. In addition to exploring the major issues in contemporary legal thought, Philosophy of Law provides a critical analysis of the people and ideas that have dominated the field in past centuries. It will be essential reading for anyone curious about the nature of law.

Studies in Legal Logic Springer Science & Business Media

There are a number of problems in philosophy that seem to share a similar possible solution: 'Why do promises and contracts bind?', 'Why ought citizens and judges obey the law?' and 'Can we realize the gains to be made from cooperation?'. All three problems (as well as some others) share a possible solution in the form of rational internal commitment. Reasons and Intentions is a 'state-of-the-art' overview of the relevant positions on the possibility of such commitment, including critical ones. The introduction provides a survey of the central problem of the volume, 'how the will can bind itself and still be instrumental in nature', and the various positions which are further examined in the contributions. Addressing the question of the relation between intentions and action, the considerations which make an intention rational and how this translates into our conception of (moral) agency, this book brings together specially commissioned essays by the leading scholars in the field.

The Market of Virtue Springer Science & Business Media

This book suggests answers, or at least presents conceptual tools for finding answers, to questions such as: What is an action, and what is an omission? Can actions be counted? What is the role of intention for the identification of actions? The author offers an original approach to the analysis of action. Written in a very accessible style, the book is of interest to lawyers, legal scientists and philosophers.

Introduction to Dutch Law Springer Science & Business Media

Being Apart from Reasons deals with the question of how we should go about using reasons to decide what to do. More particularly, the book presents objections to the most common response given by contemporary legal and political theorists to the moral complexity of decision-making in modern societies, namely: the attempt to release public agents from their argumentative burden by insulating a particular set of reasons from the general pool of reasons and assigning the former systematic priority over all other reasons. That strategy is apparent both in Rawls' claim that reasons concerning the right are systematically prior to reasons concerning the good and in Raz's claim that pre-emptive reasons are systematically prior to first-order reasons. The same strategy is also instantiated by certain arguments for the procedural value of law, such as Jeremy Waldron's. In the book, each of those arguments for the insulation of reasons is objected to in order to defend the thesis the reasoning by public agents must always be as comprehensive as possible. The remaining chapters object to those arguments mentioned above which aim at justifying the exclusion of certain reasons from public agents' decision-making.

Rationality and Commitment OUP USA

The main subject of this book is the rather fascinating link between an acceptable concept of political whole and its legal and moral implications. When we face this problem, we find that widespread categories like `happiness' and "friendship" are at the same time necessary and dangerous, crucial and elusive. In order to make the case against the so-called Legal Enforcement of Morals, and to grasp the complex relationship between law and morality from a liberal point of view, it is not enough to reject a pattern of happiness, or of human flourishing, from which to draw normative instructions for men and women - it must be recognized that integration of individuals in the comprehensive groups, as well as in the political whole itself, is not the only valuable option. The fragile value of a relative lack of integration, a "right to unhappiness", turns out to be, eventually, what makes the weak, but decisive, moral primacy of liberal societies.