
TEXTBOOK

Jurisprudence :

THE PHILOSOPHY OF LAW

CONSULTANT EDITOR : LORD TEMPLEMAN

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Contents

Preface *vii*

The Method and Point of Jurisprudence

1 The Nature of Jurisprudence 3

What is studying jurisprudence all about? – The scope of jurisprudence

2 Language and the Law: the Problem of Definition 9

The point of a definition – Jurisprudence, the law and words – Refuting essentialism – Hart's approach – An evaluation of linguistic analysis – Interpretation and 'interpretive' concepts – Jackson's *Law, Fact and Narrative Coherence* – Descriptive and normative statements

3 Law as an Argumentative Attitude 21

Introduction – Legal education – The logic of legal reasoning – The case of the Speluncean Explorers

Are Moral Judgments Part of the Law?

4 The Nature of Morality 31

Introduction – What is morality? – Morality and objectivity – The method of 'reflective equilibrium' – Cultural relativity – Law and morality in history

5 The Obligation to Obey the Law 40

A claim to moral authority – The positivist view – Social contractarian theories – Finnis – Conclusion

6 Utilitarianism 45

Introduction – Utility as the sole criterion – Criticisms of utilitarianism

7 The Economic Analysis of Law 51

Introduction – Paretonism – The Kaldor-Hicks criterion – The Coase theorem – Dworkin's equality of resources

8 Early Legal Positivism: the Command Theory 60

What is positivism? – Bentham – John Austin – Evaluation of the command theory

9 Continental Legal Positivism: Kelsen's Theory 86

The background to Kelsen – The Pure Theory – A comparison of Kelsen and Austin – An evaluation of Kelsen

10 Modern Positivism 103

The concept of law – The rule of recognition – Hart's and Kelsen's theories of validity – Judicial positivism – Morality and law – The internal and external points of view – Raz's theory – The demarcation of law – The 'uniqueness' of law – Raz's formulation of validity – The position of rules – Raz and Dworkin – Evaluation of Raz – The idea of a 'hard case' – The implications for judicial reasoning – The doctrine of the separation of powers – The way lawyers and judges talk – Retrospective legislation – Conclusion on Dworkin – Hart's posthumous postscript to the second edition of *The Concept of Law* – Hart and post-modernism

11 Natural Law 136

Introduction – What is natural law? – Natural law and legal validity – The origins of natural law – Hume's attack on natural law – Some conclusions – Positivism as a reaction to the naturalistic fallacy – The attributes of being a human being – The Nazi informer case – Hartian positivism as a moral theory – Introduction to Fuller – Procedural morality – Finnis – The basic goods of human nature – Evaluation of Finnis – Dworkin's 'grounds' and 'force' of law

Legal and Social Theory

12 Sociological Jurisprudence 171

Introduction – Sociological jurisprudence (idealist) – Sociological jurisprudence (evaluative) – Socio-legal studies – Sociology of law

13 American Realism 191

Introduction – The realist approach – Karl Llewellyn's rule scepticism – Frank and the experimentalist approach – Jurimetrics and judicial behaviouralism – Contributions and evaluations – Patterns of American jurisprudence

14 Scandinavian Realism 204

Introduction – General approach – Hagerstrom – Olivecrona – Evaluation of Olivecrona – Ross – Evaluation of Ross – Comparison with American realism

15 Historical Jurisprudence 219

Introduction – Maine – Evaluation of Maine – Von Savigny – Evaluation of von Savigny

16 Anthropological Jurisprudence 229

Introduction – The anthropological school – Evaluation

17 The Origins of Marxism and Its Application in Real Societies 238

Introduction – The Hegelian dialectic – Law as superstructure – Law as ideology – The tension between material forces and ideology – The state – The withering away of the state – The emergence of dichotomy – Lenin's theoretical contribution – Pashukanis – Post-Stalin – Alternative schools of Marxism

18 Contemporary Marxism 246

The failure of applied Marxism – The implications for law of Marxist-Leninist contradictions – The failure of the revolution to materialise in capitalist countries – Modernised Marxist conceptions of law – A critical evaluation of main Marxist conceptions – Evaluation

19 Feminist Jurisprudence 259

History – Natural rights and women’s rights – Equal rights versus separate rights – Sexual discrimination: provocation and rape – Feminism in perspective

Justice**20 Arguments about Justice 271**

Introduction – The enforcement of morality by law

21 John Rawls 286

Rawls’ theory of justice – Evaluation of Rawls

22 Robert Nozick 299

Anarchy, State and Utopia – Libertarianism: Nozick’s theory of rights – Evaluation of Nozick’s theory

23 Ronald Dworkin’s Theory of Justice 308

Liberalism’s foundations – Liberalism and personal ethics – Our personal ethics – Justice and personal ethics – Evaluation

Judicial Reasoning**24 The Common Law Tradition 319**

Introduction to precedent – *Stare decisis* in theory – *Stare decisis* in practice: flexibility – The rules of precedent – An introduction to statutory construction – Canons and presumptions – The three rules of statutory construction – Aids to construction – Effect on the draftsmen – The common law and the Constitution

25 Dworkin’s Law as Integrity 341

Introduction – Hercules, the model judge to whom we should aspire – Hercules and ‘hard cases’ – The chain novel: ‘fit’ and ‘substance’ – Principles and policies – *McLoughlin v O’Brian* – The ‘one right answer’ thesis

Legal Concepts**26 The Analysis of Rights 353**

Introduction: the place of law – Some contrasting views on rights – Hohfeld’s scheme of rights – Evaluation of Hohfeld’s scheme – The choice theory versus the interest theory

27 Legal Personality 364

Introduction – Different types of legal personality – Is legal personality a useful concept? – The theories: what theories are used to explain legal personality? – Do the theories obscure?

Bibliography 373**Index 385**

Preface

This work is generally designed for use by undergraduates who have Jurisprudence as part of their syllabus. It has been written by a number of teachers involved in the teaching of the subject for the University of London. For this reason, since the contents of different syllabuses in this subject vary to a degree and some emphasis is unavoidable, the emphasis in this text has been weighted more particularly towards that of the syllabus of the external LLB degree of the University of London. It should be stressed, however, that this book covers not just all that is covered by that syllabus but a considerable amount of extra material. It should therefore be of equal interest to any student of jurisprudence, wherever taught or examined and, indeed, to any student of politics, and political philosophy and sociology.

Due to the nature of the subject, the student is encouraged always to challenge the views of jurists. Any jurisprudence textbook should be regarded as essays on the *merits* of the views of the various jurists – what the force of their ideas is – not as just providing an account of *what they said*. This edition emphasises this point, in line with a general trend in modern jurisprudence courses away from learning ‘schools’ of jurists, to studying the general philosophical, sociological and other problems of law, state and morality. It is written in the firm belief that *ideas* have the greatest premium in the subject.

It includes a large section on methodology, particularly in relation to the presently much-discussed idea of interpretation of law; a discussion of the increasingly influential views of Ronald Dworkin, including both his account of ‘law as integrity’ and his work on abortion and euthanasia, *Life’s Dominion*; an account of the economic analysis of law as espoused by Posner and the Chicago school, a revised account of the growing school of feminist jurisprudence and, importantly, a discussion of Hart’s important posthumous Postscript to the recent second edition of his *The Concept of Law*.

In line with the critical approach, the topics have been arranged to reflect the relatively few but grand themes of the subject. So, for example, unlike a number of other textbooks, questions of whether moral judgments are part of the law, which includes the question of the justification of legal positivism, are distinguished from the different questions of what constitutes a just society, and whether society has a right to enforce its generally accepted moral standards through the use of punishment.

All recent developments, including readings, and discussion of the cases on statutory interpretation (*Pepper (Inspector of Taxes) v Hart*); consent to sexual immorality (*R v Brown*); the morality of withholding treatment and/or food from an irreversibly comatose patient (*Airedale National Health Service Trust v Bland*); the

rape of a wife by a husband (*R v R*); the announcement in spring 1995 by one of the United Kingdom's most distinguished judges that the courts have an inherent common law jurisdiction to overturn statutes as *ultra vires* if contrary to deep principles of democracy; and a discussion of the comments made by Lord Steyn about the nature of legal reasoning in the 1996 Bentham Club Presidential Address are included in this edition. This work therefore represents the current state of jurisprudential debate.

**The Method and Point
of Jurisprudence**