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The book presents a new focus on the legal philosophical texts of Aristotle, which offers a much richer frame for the understanding of practical thought, legal reasoning and political experience. It allows understanding how human beings interact in a complex world, and how extensive the complexity is which results from humans’ own power of self-construction and autonomy. The Aristotelian approach recognizes the limits of rationality and the inevitable and constitutive contingency in Law. All this offers a helpful instrument to understand the changes globalisation imposes to legal experience today. The contributions in this collection do not merely pay attention to private virtues, but focus primarily on public virtues. They deal with the fact that law is dependent on political power and that a person can never be sure about the facts of a case or about the right way to act. They explore the assumption that a detailed knowledge of Aristotle's epistemology is necessary, because of the direct connection between Enlightened reasoning and legal

positivism. They pay attention to the concept of proportionality, which can be seen as a precondition to discuss liberalism. This book seeks to examine the relations that obtain between law and a theory of law and legal reasoning and a theory of legal reasoning. This is the most up-to-date comprehensive survey of the best work in analytic jurisprudence from Austin to the present, including contributions from the latest generation's brightest legal theorists. It begins with the earliest writings in natural law theory and positivism, tracing the history of the debate through the Hart-Fuller and Hart-Dworkin disputes to the current debates. The last third of the volume is devoted to the most influential papers on the hottest contemporary issues. The approach is analytic and hands-on. It seeks to motivate interest in foundational questions of law while simultaneously developing the skills the aspiring lawyer must have to succeed in the practice of law. To develop the student's ability to theorize on questions in analytic jurisprudence by providing a firm historical foundation before immersing her in the contemporary debates, where she will participate in the conversation. The book improves on existing text offerings in a number

of respects. It provides the most comprehensive view of the field. The analytic approach is ascendant among researchers in law schools and philosophy departments worldwide who study the issues covered in this text. Accordingly, it is fair to say that this book provides, far and away, the most up-to-date and accurate snapshot of the work being done in conceptual issues regarding law so much so that it is suitable for use as a sourcebook for beginning research. Unlike the methodology of continental philosophy, the analytic methodology used in all the essays in this text employs the very same skills that a young lawyer is expected to have, and will deepen the law students' argumentative and verbal abilities. 1: What Is Legal Theory? 2: Critical Reasoning 3: Classical Natural Law Theories 4: Legal Positivism 5: Contemporary Natural Law Theories 6: Liberalism and Law 7: Critical Legal Theories 8: Fundamental Legal Conceptions 9: The Role of the Judge 10: Ethical Theories 11: Theories of Justice. Critical theory, characteristically linked with the politics of theoretical engagement, covers the manifold of the connections between theory and praxis. This thought-provoking Research Handbook captures the broad range of those connections as far as

legal thought is concerned and retains an emphasis both on the politics of theory, and on the notion of theoretical engagement. The first part examines the question of definition and tracks the origins and development of critical legal theory along its European and North American trajectories. The second part looks at the thematic connections between the development of legal theory and other currents of critical thought such as; Feminism, Marxism, Critical Race Theory, varieties of post-modernism, as well as the various ‘turns’ (ethical, aesthetic, political) of critical legal theory. The third and final part explores particular fields of law, addressing the question how the field has been shaped by critical legal theory, or what critical approaches reveal about the field, with the clear focus on opportunities for social transformation. In this book, legal scholars, philosophers, historians, and political scientists from Australia, Canada, New Zealand, the United Kingdom, and the United States analyze the common law through three of its classic themes: rules, reasoning, and constitutionalism. Their essays, specially commissioned for this volume, provide an opportunity for thinkers from different

jurisdictions and disciplines to talk to each other and to their wider audience within and beyond the common law world. This book allows scholars and students to consider how these themes and concepts relate to one another. It will initiate and sustain a more inclusive and well-informed theoretical discussion of the common law's method, process, and structure. It will be valuable to lawyers, philosophers, political scientists, and historians interested in constitutional law, comparative law, judicial process, legal theory, law and society, legal history, separation of powers, democratic theory, political philosophy, the courts, and the relationship of the common law tradition to other legal systems of the world. This insightful Research Handbook provides a definitive overview of the New Legal Realism (NLR) movement, reaching beyond historical and national boundaries to form new conversations. Drawing on deep roots within the law-and-society tradition, it demonstrates the powerful virtues of new legal realist research and its attention to the challenges of translation between social science and law. It explores an impressive range of contemporary issues including immigration, policing, globalization,

legal education, and access to justice, concluding with and examination of how different social science disciplines intersect with NLR. 'Zumbansen and Calliess have done a wonderful job in assembling papers from the leading scholars in the field, who draw on evolutionary approaches for explaining developments in both economics and the law. Anybody interested in issues of institutional change will be inspired by the wealth of ideas and the diversity of perspectives.' - Stefan Voigt, University of Hamburg, Germany Ubiquitous Law explores the possibility of understanding the law in dissociation from the State and considers the pluralistic, critical and emancipatory potential of the legal. Kelsen, Hans. Pure Theory of Law. Translation from the Second German Edition by Max Knight. Berkeley: University of California Press, 1967. x, 356pp. Reprinted 2002 by The Lawbook Exchange, Ltd. ISBN 1-58477-206-9. Cloth. New. $95. * The second revised and enlarged edition, being a completely revised version of the first edition which was published in 1934. Kelsen [1881-1973], was the author of more than forty works on law and legal philosophy, and is best known for this title and General Theory of Law and State. He was also

the author of the Austrian Democratic Constitution, which was published in 1920, abolished during the Nazi regime, restored in 1945, and in force today. Walker calls Kelsen "possibly the most influential jurisprudent of the twentieth century." Walker, Oxford Companion to Law 699. 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. Hans Kelsen is considered to be one of the foremost legal theorists and philosophers of the twentieth century. His writing made an important contribution to many areas, especially those of legal theory and international law. Over a number of decades, he developed an important legal theorywhich found its first complete exposition in Reine Rechtslehre, or Pure Theory of Law, the first edition of which was published in Vienna in 1934. This is the first English translation of that work. It covers such topics as law and morality, the legal system and its hierarchical structure, theidentity of law and state, and international law. This volume presents twelve original essays by contemporary natural law theorists and their critics. Natural law theory is enjoying a revival of interest today in a variety of disciplines, including law, philosophy, political science, and theology and religious studies. These essays offerreaders a sense of the lively contemporary debate among natural law theorists of different schools, as well as between natual law theorists and their critics. Legal theory has been much occupied with

understanding legal systems and analysing the concept of legal system. This has usually been done on the tacit or explicit assumption that legal systems and states are co-terminous. But since the Rome Treaty there has grown up in Europe a `new legal order', neither national law nor international law, and under its sway older conceptions of state sovereignty have been rendered obsolete. At the same time, it has been doubted whether the `European Union' that has grown out of the original `European Communities' has a satisfactory constitution or any constitution at all. What kind of legal and political entity is this `Union' and how does it relate juridically and politically to its member states? Further, the activity of construing or constructing `legal system' and legal knowledge becomes visibly problematic in this context. These essays wrestle with the above problems. Natural-law theory grounds human laws in universal truths of God’s creation. The task of the judicial system was to build an edifice of positive law on natural law’s foundations. R. H. Helmholz shows how lawyers and judges made and interpreted natural law arguments in the West, and concludes that historically it has advanced the cause of justice. Expropriation is a

hotly debated issue in international investment law. This is the first study to provide a detailed analysis of its norm-theoretical dimension, setting out the theoretical foundations underlying its understanding in contemporary legal scholarship and practice. Jörg Kammerhofer combines a doctrinal discussion with a theoretical analysis of the structure of the law in this area, undertaking a novel approach that critically re-evaluates existing case-law and writings. His approach critiques the arguments for a single expropriation norm based on custom, interpretation and arbitral precedents within international investment law, drawing also on generalist international legal thought, to show that both cosmopolitan and sovereigntist arguments are largely political, not legal. This innovative work will help scholars to understand the application of theory to investment law and help specialists in the field to improve their arguments. By providing an overview of the different theoretical approaches to and perspectives on international law, this book takes readers through fourteen of the most important theories of international law, explaining their origins, core components, and the influence they have had. The most exciting

development in legal thinking since World War II has been the growth of interdisciplinary legal studies. Judge Richard Posner has been a leader in this movement, and his new book explores its rapidly expanding frontier. The text makes the case for a revival of general jurisprudence in response to globalisation. In this study, W. J. Waluchow argues that debates between defenders and critics of constitutional bills of rights presuppose that constitutions are more or less rigid entities. Within such a conception, constitutions aspire to establish stable, fixed points of agreement and pre-commitment, which defenders consider to be possible and desirable, while critics deem impossible and undesirable. Drawing on reflections about the nature of law, constitutions, the common law, and what it is to be a democratic representative, Waluchow urges a different theory of bills of rights that is flexible and adaptable. Adopting such a theory enables one not only to answer to critics' most serious challenges, but also to appreciate the role that a bill of rights, interpreted and enforced by unelected judges, can sensibly play in a constitutional democracy. This volume offers a collection of articles by leading legal and political theorists. Originally intended as a

celebration of MacCormick’s work on the occasion of the completion of the four-volume series on Law, State and Practical Reason, it has turned into a homage and salute after MacCormick’s passing. Cast in MacCormick’s reflexive spirit, the book presents a critical reconstruction of the Scottish philosopher’s work, with the aim of revealing the connections between law and democracy in his writings and furthering his insights in each specific field. Neil MacCormick made outstanding contributions to the understanding of law and democracy under conditions of pluralism. His institutional theory of law has elucidated the close connection between the normative character of law as a means of social integration and legal social practices. This has produced a synthesis of the key insights of the legal and political theories of Kelsen, Hart, Alexy and Dworkin, and has broken new ground by undermining the ‘monolithic’ and ‘nation-state’ centered character of standard legal theories. Two fish are swimming in a pond. "Do you know what?" the fish asks his friend. "No, tell me." "I was talking to a frog the other day. And he told me that we are surrounded by water!" His friend looks at him with great scepticism: "Water? What's that? Show me some

water!"This book is an attempt to stir up "the water" the two fish are swimming in. It analyses the different theoretical approaches to international law and invites readers to engage with legal thinking in order to familiarize ourselves with the water all around us, of which we hardly have any perception.International lawyers and students of international law often find themselves focused on the practice of the law rather than the underlying theory. The main aim of this book is to provide interested scholars, practitioners, graduate, and postgraduate students in international law and otherdisciplines with an introduction to various international legal theories, their genealogies, and critique. By providing an analytical approach to international legal theory, the book encourages readers to sharpen their sensitivity to these different methodologies and to consider how thepresuppositions behind each theory affect analysis, research, and practice in international law. Theories of International Law is intended to assist students, scholars, and practitioners in reflecting more generally how knowledge is formed in the field. Feinberg is one of the leading philosophers of law of the last forty years. This volume collects recent articles, both

published and unpublished, on what he terms "basic questions" about the law, particularly in regard to the relationship to morality. Accessibly and elegantly written, this volume's audience will reflect the diverse nature of Feinberg's own interests: scholars in philosophy of law, legal theory, and ethical and moral theory. Understanding Jurisprudence explores the concept of law and its role within society. Detailing both the traditional and modern jurisprudential theories Raymond Wacks clearly relates these often complex arguments to the nature and purpose of our current legal systems. This book reveals the intriguing and challenging nature of jurisprudence with clarity and enthusiasm. Without avoiding the complexities and subtleties of the subject, 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 entertaining. There has been renewed and growing interest in exploring the significant role played by law in the centralization of power and sovereignty - right from the earliest point. This timely book serves as an introduction into state theory, providing an overview of the conceptual

history and the interdisciplinary tradition of the continental European general theory of the state. Chapters present a theory of the state grounded in cultural analysis and show liberal democracy to be the paradigm of today's western nation-state. The analysis includes the emergence of legal forms and institutions that are linked either to the constitutional state (the securing of civil liberties and fundamental rights), the welfare state (social and welfare law), or the network-state (regulation of complex digital technologies). Thomas Vesting focuses on illustrating the fundamental features of these evolutionary stages - the three layers constituting the modern state - and reveals their cultural and social preconditions. This book will be an ideal read for students, postgraduates, and other academic audiences with interests in state theory, jurisprudence, legal theory, political theory, and legal philosophy. New Private Law Theory is pluralist, comparative, application-oriented, transnational and reflects critical approaches. Niklas Luhmann is recognised as a major social theorist, and his treatise on the sociology of law is a classic text. For Luhmann, law provides the framework of the state, lawyers are the main human resource for the state, and

legal theory provides the most suitable base from which to theorize on the nature of society. He explores the concept of law in the light of a general theory of social systems, showing the important part law plays in resolving fundamental problems a society may face. He then goes on to discuss in detail how modern 'positive' – as opposed to ‘natural’ – law comes to fulfil this function. The work as a whole is not only a contribution to legal sociology, but a major work in social theory. With a revised translation, and a new introduction by Martin Albrow. In this age of collections that is ours, many volumes of collections are published. They contain contributions of several well-known authors, and their aim is to present a selective overview of a relevant field of study. This book has the same purpose. Its aim is to introduce students, scholars and all those interested in current problems of legal theory and legal philosophy to the work of the leading scholars in this field. The large number of publications, both books and articles, that have been produced over recent decades makes it quite difficult, however, for those who are making their first steps in this domain to find firm guidelines. The book is new in its genre because of its method. The choice

was made not to reprint an example of contributors' earlier basic articles or a part of one of their books. This would only give a partial view of the rich texture of their work. Rather, the authors were asked to make an original synthesis of their own contributions to the field of legal theory and legal philosophy. Brought together in this volume, they constitute a truly author-ised view of their work. This book is also new in that each essay is complemented with bibliographical information in order to encourage further research on the author's self-selected work. This will help the reader rapidly to become familiar with the whole of the published work of the contributors. This book is about trying to answer questions. These questions were well introduced by Prof. Margaret Hall in the opening of her chapter in this book: “The fundamental idea of ‘law and aging’ as a discrete category of legal principle and theory is controversial: how and why are ‘older adults’ or ‘seniors’ or ‘elders’ (the very terminology is controversial and fraught with difficulties) a discrete and distinct group for whom ‘special’ legal thought and treatment is justified? For some, a category of law and aging is inherently paternalistic, suggesting that older persons are, like children, especially in need of

the protection of the law. In this sense, the argument continues, the category itself internalizes ageist presumptions about older adults and is therefore inherently flawed and even harmful. If certain older adults are, because of physical or mental infirmities, genuinely in need of an enhanced level of legal protection, this entitlement should be conceptualized in terms of their disability; older adults are not a distinct group but an arbitrarily delineated demographic category which contains within it any number of groups that are legitimately distinct for the purposes of legal theory (the di- bled; women; persons of colour; Aboriginal persons; rich and poor; etc.) Indeed, the arti- cial category of “older adults” may be seen as obfuscating, submerging these more meaningful distinctions. Introduction to Critical Legal Theory provides an accessible introduction to the study of law and legal theory. It covers all the seminal movements in classical, modern and postmodern legal thought, engaging the reader with the ideas of jurists as diverse as Aristotle, Hobbes and Kant, Marx, Foucault and Dworkin. At the same time, it impresses the interdisciplinary nature of critical legal thought, introducing the reader to the philosophy, the

economics and the politics of law. This new edition focuses even more intently upon the narrative aspect of critical legal thinking and the re-emergence of a distinctive legal humanism, as well as the various related challenges posed by our 'new' world order. Introduction to Critical Theory is a comprehensive text for both students and teachers of legal theory, jurisprudence and related subjects. Although its concern is jurisprudence, The Tapestry of the Law is intended to offer neither an original theory of or about law nor an account of other people's theories in textbook form. It is, rather, an attempt to approach the subject without following either of these conventions. The reasons are as follows. Those engaged in legal theory are prone to assert that one cannot properly understand the law unless one takes a jurisprudential approach - preferably their own - to it. Equally, those engaged in exposition of the law may counter that legal theory fails to pay adequate attention to actual law. There is at least some truth in these claims. Analyses, courses and textbooks on both sides do often seem to be produced without reference to the other. Yet such isolation is probably more apparent than real. Most, if not all, so-called

"black letter" lawyers do operate on the basis of certain jurisprudential understandings, even if these are not articulated ones. In the frequently quoted words ofF C S Northrop: There are lawyers, judges and even law professors who tell us they have no legal philosophy. "This is the classic study of the history and continuing philosophical values of the law of nature. D'Entreves discerned three distinct sources that have contributed to the development of natural law: Roman law teachings, Christian beliefs regarding law, and egalitarian and revolutionary theories of the Enlightenment. Now regarded as a classic work, Natural Law has exercised considerable influence over the course of Anglo-American legal theory in the past forty years. The statements of Clarence Thomas during his 1991 Senate confirmation hearings show that the law of nature still holds powerful appeal in defining judicial rules.In the new introduction, Cary J. Nederman points out both the contemporary value and the historical significance of Natural Law. He also provides the biographical as well as intellectual context for d'Entreves immense accomplishments. This volume is essential reading for students of legal history, political theory, and philosophy. It will

also be of interest to historians.Few texts provide as concise or as cogent an introduction to natural theory as Alexander Passerin d'Entreves' Natural Law: An Introduction to Legal Philosophy.... Transaction Publishers has performed a genuine service by bringing out a new edition of Natural Law. D'Entreves' analysis is clear and penetrating, and will guide the student of natural law to further, fruitful study.—Mitchell Muncy, The University Bookman"--Google Books viewed May 18, 2021. The articles in this new edition of A Companion to Philosophy ofLaw and Legal Theory have been updated throughout, and theaddition of ten new articles ensures that the volume continues tooffer the most up-to-date coverage of current thinking inlegal philosophy. Represents the definitive handbook of philosophy of law andcontemporary legal theory, invaluable to anyone with an interest inlegal philosophy Now features ten entirely new articles, covering the areas ofrisk, regulatory theory, methodology, overcriminalization,intention, coercion, unjust enrichment, the rule of law, law andsociety, and Kantian legal philosophy Essays are written by an international team of leadingscholars This book critically assesses Dworkin's

methodological turn away from analytical jurisprudence towards a theory of interpretation. As many disciplines in the humanities have experienced a focus on culture’s impact in recent decades, questions surrounding the significance of media such as writing, print and computer networks have become increasingly relevant. This book seeks to demonstrate that a media and cultural theory perspective can also be highly productive for legal theory. This book brings together twelve of the most important legal philosophers in the Anglo-American and Civil Law traditions. The book is a collection of the papers these philosophers presented at the Conference on Neutrality and Theory of Law, held at the University of Girona, in May 2010. The central question that the conference and this collection seek to answer is: Can a theory of law be neutral? The book covers most of the main jurisprudential debates. It presents an overall discussion of the connection between law and morals, and the possibility of determining the content of law without appealing to any normative argument. It examines the type of project currently being held by jurisprudential scholarship. It studies the different approaches to theorizing about the nature or concept of law,

the role of conceptual analysis and the essential features of law. Moreover, it sheds some light on what can be learned from studying the non-essential features of law. Finally, it analyzes the nature of legal statements and their truth values. This book takes the reader a step further to understanding law.

- New Private Law Theory
- Law Economics And Evolutionary Theory
- Natural Law In Court
- Common Law Theory
- International Investment Law And Legal Theory
- Legal Theory And The Media Of Law
- Interpretation And Legal Theory
- Semiotics And Legal Theory
- Nutshell Legal Theory
- Pure Theory Of Law
- Introduction To The Problems Of Legal Theory
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- Complexity Theory And Law
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