African Law And Legal Theory The International Library Of

Right from the enslavement era through to the colonial and contemporary eras, Africans have been denied their human essence – portrayed as indistinct from animals or beasts for imperial burdens, Africans have been historically dispossessed and exploited. Postulating the theory of global jurisprudential apartheid, the book accounts for biases in various legal systems, norms, values and conventions that bind Africans while affording impunity to Western states. Drawing on contemporary notions of animism, transhumanism, posthumanism and science and technology studies, the book critically interrogates the possibility of a jurisprudence of anticipation which is attentive to the emergent New World Order that engineers ‘human beings to become nonhumans’ while ‘nonhumans become humans’. Connecting discourses on decoloniality with jurisprudence in the areas of family law, environment, indigenisation, property, migration, constitutionalism, employment and labour law, commercial law and Ubuntu, the book also juggles with emergent issues around Earth Jurisprudence, ecocentrism, wild law, rights of nature, Earth Court and Earth Tribunal. Arguing for decoloniality that attends to global jurisprudential apartheid., this tome is handy for legal scholars and practitioners, social scientists, civil society organisations, policy makers and researchers interested in transformation, decoloniality and Pan-Africanism.

The essays in this volume concern the topic of legal rights, how they are related to morality, the place of rights on moral theory, and the legal recognition of rights.

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.

How should disability justice be conceptualised, not by orthodox human rights or capabilities approaches, but by a legal philosophy that mirrors an African relational community ideal? This book develops the first comprehensive answer to this question through the contemporary literature on African philosophy, which is relied upon to construct a legal philosophy of disability justice comprising of ethical ideals of community, human relationships and obligations. From these ideals, an African legal philosophy of disability justice is offered as a criterion for critically evaluating existing laws, legal and political institutions, as well as providing an ethical basis for creating new ones to ensure that they are inclusive to people with disabilities. In taking an alternative perspective on the subject, the book outlines and emphasises the need for a new public culture of obligations owed to people with disabilities, highlighting both the prospects and difficulties of achieving the ideal of disability justice that continues to elude the lived experiences of millions of Africans today. Oche Onazi's An African Path to Disability Justice is the first book-length exploration of disability in the light of African

ethics, as contrasted with the human rights and capabilities frameworks. Of particular interest are Onazi's thoughtful reflections on how various conceptions of community salient in African moral philosophy—including group-based, reciprocal and relational—bear on what we owe to the disabled. --Thaddeus Metz, Distinguished Professor, University of Johannesburg

Moral problems, argues Professor Raymond Wacks, pervade the legal system, and he shows how the judicial function, the sources of legitimacy, and the protection of rights have an inescapable ethical dimension. The second part of the book focuses on the private domain and the legal concept of privacy. The extent to which the law ought to preserve a distinctly private realm is a pressing concern in our surveillance society in which personal information is increasingly collected, transferred, and stored. This controversial and difficult subject is one into which Professor Wacks, a leading expert in this field, is uniquely qualified to offer important insights.

Contents P. Capps: Positivism in Law and International Law D. von Daniels: Is Positivism a State Centered Theory? K. E. Himma: Legal Positivism's Conventionality Thesis and the Methodology of Conceptual Analysis R. Nunan: A Modest Rehabilitation of the Separability Thesis A. Oladosu: Choosing Legal Theory on Cultural Grounds: An African Case for Legal Positivism C. Orrego: Hart's Last Legal Positivism: Morality Might Be Objective; Legality Certainly is Not M. Pavcnik: Die (Un)Produktivitat der Positivistischen Jurisprudenz M. Haase: The Hegelianism in Kelsen's Pure Theory of Law S. Papaefthymiou: The House Kelsen Built U. J. Pak: Legal Practitioners' Need of Reflective Application of Legal Philosophy in Korea U. Schmill: Jurisprudence and the Concept of Revolution D. Venema: Judicial Discretion: a Necessary Evil? J. Baker: Rights, Obligations, and Duties, and the Intersection of Law, Conventions and Morals S. Bertea: Legal Systems' Claim to Normativity and the Concept of Law J. Dalberg-Larsen: On the Relevance of Habermas and Theories of Legal Pluralism for the Study of Environmental Law A. Philippopoulos-Mihalopoulos: A Connection of No-Connection in Luhmann and Derrida

The Blackwell Guide to the Philosophy of Law and Legal Theory is a handy guide to the state of play in contemporary philosophy of law and legal theory. Comprises 23 essays critical essays on the central themes and issues of the philosophy of law today, written by an international assembly of distinguished philosophers and legal theorists Each essay incorporates essential background material on the history and logic of the topic, as well as advancing the arguments Represents a wide variety of perspectives on current legal theory

Focusing on contemporary debates in philosophy and legal theory, this ground-breaking book provides a compelling enquiry into the nature of human dignity. The author not only illustrates that dignity is a concept that can extend our understanding of our environmental impacts and duties, but also highlights how our reliance on and relatedness to the environment further extends and enhances our understanding of dignity itself.

This Major Reference series brings together a wide range of key international articles in law and legal theory. Many of these essays are not readily accessible, and their presentation in these volumes will provide a vital new resource for both research and teaching. Each volume is edited by leading international authorities

who explain the significance and context of articles in an informative and complete introduction.

This book brings together the uBuntu jurisprudence of South Africa, as well as the most cutting-edge critical essays about South African jurisprudence on uBuntu. Can indigenous values be rendered compatible with a modern legal system? This book raises some of the most pressing questions in cultural, political, and legal theory.

In the wake of apartheid, Law and Sacrifice draws on the uniquely expansive protection of fundamental rights now entrenched in the South African Constitution to outline a new theory of law. The South African Constitution not only protects the rights of people against abuses of power by the state, but also against abuses of power by private legal subjects. Drawing upon the work of contemporary thinkers such as Martin Heidegger, Hannah Arendt, George Bataille, Jacques Derrida Emmanuel Levinas and Jean-Luc Nancy, the author elicits the radical democratic potential of this 'horizontal' notion of rights. Johan van der Walt argues that apartheid must be understood as more than a racist abuse of power, and here he articulates its 'sacrificial logic'. It is in going beyond this logic, he maintains, that the truly democratic potential of the South African Constitution can be understood: in a radical formal and substantive equality that offers the legal basis for rethinking a post-apartheid future. Combining a rigorous theoretical understanding with a subtle political engagement, Law and Sacrifice is a dazzling interrogation of the limits and possibilities of democratic pluralism. It will be of interest to political and legal theorists as well as to those who are concerned with South African law and politics.

The focus of this book is the idea of equality as a moral, political and jurisprudential concept. The author is motivated primarily by a concern to better understand conundrums in the justification, interpretation and application of discrimination law. Nicholas Smith aims to provide a clearer understanding of the nature of the value that the law is trying to uphold - equality. He rejects the notion that the concept of equality is vacuous and defends the idea as the proper range of moral concern. After discussing the general characteristics of the denial of equality and some types of discrimination, Smith considers prominent views on the point of equality law. He argues that human rights lawyers should step back from the business of trying to steer courts towards vague equality goals informed by conceptions of equality that are either empty or even more abstract than the notion of equality itself. If they do, Smith thinks that the meaning of 'equality' will be apparent, though abstract, and our difficulties will be shown to be, in the first instance, moral ones. These moral issues will require more rigorous attention before we can draft discrimination law which gives clear effect to a widely legitimate understanding of what it means to uphold and promote equality. This book will be a valuable resource for students and researchers working in the areas of legal philosophy, political theory, public law, and human rights law.

No Marketing Blurb

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

This is an introductory book on African legal philosophy. The book claims that African legal philosophy exists and is intelligible in the context of African culture, just as every other legal philosophy has its cultural foundation. What law is, how it is thought, how it is interpreted, and how it is applied takes place with thing the parameters of African culture. At a time when the imposition of Western culture on Africans has to be reckoned with, African legal philosophy is, in part, a response to this imposition. It ought to have a liberating effect.

The book reconciles the conflicts and legal ambiguities between African Union and ECOWAS law on the use of force on the one hand, and the UN Charter and international law on the other hand. In view of questions relating to African Union and UN relationship in the maintenance of international peace and security in Africa in recent years, the book examines the legal issues involved and how they can be resolved. By explaining the legal theory underpinning the validity of the AU-ECOWAS laws, the work provides a legal basis for the adoption of the AU-ECOWAS laws as the frameworks for the implementation of the R2P in Africa.

First published in 2009. Routledge is an imprint of Taylor & Francis, an informa company.

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

African Law and Legal TheoryDartmouth Publishing Company

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.

Derived from the renowned multi-volume International Encyclopaedia of Laws, this practical analysis of competition law and its interpretation in the South Africa covers every aspect of the subject – the various forms of restrictive agreements and abuse of dominance prohibited by law and the rules on merger control; tests of illegality; filing obligations; administrative investigation and enforcement procedures; civil remedies and criminal penalties; and raising challenges to administrative decisions. Lawyers who handle transnational commercial transactions will appreciate the explanation of fundamental differences in procedure from one legal system to another, as well as the international aspects of competition law. Throughout the book, the treatment emphasizes enforcement, with relevant cases analysed where appropriate. An informative introductory chapter provides detailed information on the economic, legal, and historical background, including national and international sources, scope of application, an overview of substantive provisions and main notions, and a comprehensive description of the enforcement system including private enforcement. The book proceeds to a detailed analysis of substantive prohibitions, including cartels and other horizontal agreements, vertical restraints, the various types of abusive conduct by the dominant firms and the appraisal of concentrations, and then goes on to the administrative enforcement of competition law, with a focus on the antitrust authorities' powers of investigation and the right of defence of suspected companies. This part also covers voluntary merger notifications and clearance decisions, as well as a description of the judicial review of administrative decisions. Its succinct yet scholarly nature, as well as the practical quality of the information it provides, make this book a valuable time-saving tool for business and legal professionals alike. Lawyers representing parties with interests in the South Africa will welcome this very useful guide, and academics and

researchers will appreciate its value in the study of international and comparative competition law.

The book examines the theory and practice of law and development. It reviews the evolution of law and development studies and presents a general theory of law and development. The general theory sets the conceptual parameters of "law" and "development" and explains the mechanisms by which law impacts development. In the second part, the book applies the general theory to analyze the development cases of South Korea and South Africa from legal and institutional perspectives. The book also adopts, for the first time, the law and development approaches to analyze the economic issues of the United States. It discusses why it is critical to develop the Analytical Law and Development Model or "ADM."

Utilizing detailed case studies from Nigeria, Ethiopia, and South Africa, this title traces African constitutionalism from precolonial times to the present. The volume offers a new framework for understanding African constitutionalism and a range of practical proposals for its future development.

The eighteenth-century Enlightenment saw the birth of an era which sought legitimacy not from the past but from the future. No longer would human beings invoke the authority of tradition; instead, modern societies emerging in the West justified themselves by their success at increasing, through the application of scientific knowledge, human control over the world. Ever since this notion of modernity was formulated it has provoked intense debate. In this wide-ranging historical introduction to social theory, Alex Callinicos explores the controversies over modernity and examines the connections between social theory and modern philosophy, political economy and evolutionary biology. He offers clear and accesssible treatments of the thought of Montesquieu, Adam Smith and the Scottish Enlightenment, Hegel, Marx, Tocqueville, Maistre, Gobineau, Darwin, Spencer, Kautsky, Nietzsche, Durkheim, Weber, Simmel, Freud, Lukacs, Gramsci, Heidegger, Keynes, Hayek, Parsons, the Frankfurt School, Levi-Strauss, Althusser, Foucault, Habermas and Bourdieu, and concludes by surveying the state of contemporary social thought. A remarkably comprehensive and lucid primer, Social Theoryis essential reading for students of politics, sociology and social and political thought.

The increasing transnationalisation of regulation – and social life more generally – challenges the basic concepts of legal and political theory today. One of the key concepts being so challenged is authority. This discerning book offers a plenitude of resources and suggestions for meeting that challenge.

The book is a collection of essays, which aim to situate African legal theory in the context of the myriad of contemporary global challenges; from the prevalence of war to the misery of poverty and disease to the crises of the environment. Apart from being problems that have an indelible African mark on them, a common theme that runs throughout the essays in this book is that African legal theory has been excluded, under-explored or under-theorised in the search for solutions to such contemporary problems. The essays make a modest attempt to reverse this trend. The contributors investigate and introduce readers to the key issues, questions, concepts, impulses and problems that underpin the idea of African legal theory. They outline the potential offered by African legal theory and open up its key concepts and impulses for critical scrutiny. This is done in order to develop a better understanding of the extent to which African legal

theory can contribute to discourses seeking to address some of the challenges that confront African and non-African societies alike.

This innovative book looks at the topic of migration through the prism of law and literature. The author uses a rich mix of novels, short stories, literary realism, human rights and comparative literature to explore the experiences of African migrants and asylum seekers. The book is divided into two. Part one is conceptual and focuses on art activism and the myriad ways in which people have sought to 'write justice.' Using Mazrui's diasporas of slavery and colonialism, it then considers histories of migration across the centuries before honing in on the recent anti-migration policies of western states. Achiume is used to show how these histories of imposition and exploitation create a bond which bestows on Africans a “status as co-sovereigns of the First World through citizenship.” The many fictional examples of the schemes used to gain entry are set against the formal legal processes. Attention is paid to life post-arrival which for asylum seekers may include periods in detention. The impact of the increased hostility of receiving states is examined in light of their human rights obligations. Consideration is paid to how Africans navigate their post-migration lives which includes reconciling themselves to status fracture-taking on jobs for which they are over-qualified, while simultaneously dealing with the resentment borne of status threat on the part of the citizenry. Part two moves from the general to consider the intersections of gender and status focusing on women, LGBTI individuals and children. Focusing on their human rights and the fictional literature, chapter four looks at women who have been trafficked as well as domestic workers and hotel maids while chapter five is on LGBTI people whose legal and literary stories are only now being told. The final substantive chapter considers the experiences of children who may arrive as unaccompanied minors. Using a mixture of poetry and first person accounts, the chapter examines the post-arrival lives of children, some of whom may be citizens but who are continually made to feel like outsiders. The conclusion follows, starting with two stories about walls by Hadero and Lanchester which are used to illustrate the themes discussed in the book. Few African lawyers write about literature and few books and articles in Western law and literature look at books by or about Africans, so a book that engages with both is long overdue. This book provides fascinating reading for academics, students of law, literature, gender and migration studies, and indeed the general public.

This carefully selected set of readings presents some of the mostimportant articles in the field. The collection is essentialreading for anyone with an interest in legal philosophy. Gathers together some of the most important articles in thefield of philosophy of law and legal theory. Complements Dennis Patterson's A Companion to Philosophy ofLaw and Legal Theory (Blackwell, 1999). Represents essential reading for the beginning lawstudent.

The papers presented in this volume aim to contribute to the development of African legal theory. Issues discussed include: legal anthropology, customary law in the state legal system; legal concepts; and procedural and substantive justice.

Law and Legal TheoryEdited by brings together some of the most important essays in the area of the philosophy of law written by leading, international scholars and offering significant contributions to how we understand law and legal theory to help shape future debates.

This book grew out of the conviction that the original concepts of the Pozna? School of

Legal Theory are still perfectly suited for application today, in the era of moral pluralism and multicentric legal systems. Moreover, since we are in the midst of a period of heated disputes over the grounds of the normativity of law, and are confronting controversies about the basis for the legitimacy of court decisions, over the results of legal interpretation, and concerning the coherence of legal systems, it would seem that the legal-theoretical proposals put forward by the circle of Pozna? legal theorists, supported as they are by firm methodological foundations, have not by any means lost their value.