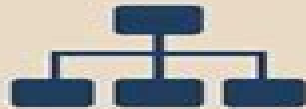


HANS KELSEN'S PURE THEORY OF LAW

An overview of the core principles of Kelsen's legal theory

BASIC NORM (GRUNDNORM)



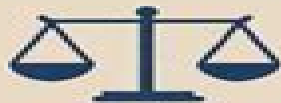
Law is founded upon a fundamental norm that is presupposed and from which all other norms derive their validity

HIERARCHY OF NORMS



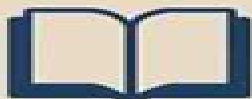
Legal norms are organized in a hierarchical structure with the constitution at the top, followed by statutes, regulations, and decrees

SEPARATION OF LAW AND MORALITY



Law should be analyzed independently of moral or ethical considerations; legality is distinct from morality

LEGAL SCIENCE



Study of law should be "pure" and free from political, sociological, or moral elements, focusing on law as a system of norms

Pure Theory Of Law Hans Kelsen

Hans Kelsen



Pure Theory Of Law Hans Kelsen:

Pure Theory of Law Hans Kelsen, 2005 Reprint of the 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 jurist 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 Pure Theory of Law Hans Kelsen, 2024-03-29 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 This title is part of UC Press s Voices Revived program which commemorates University of California Press s mission to seek out and cultivate the brightest minds and give them voice reach and impact Drawing on a backlist dating to 1893 Voices Revived makes high quality peer reviewed scholarship accessible once again using print on demand technology This title was originally published in 1967 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 deri Introduction to the Problems of Legal Theory Hans Kelsen, 1992 Hans Kelsen is considered to be one of the foremost legal theorists and philosophers of the twentieth century His writing made

significant contributions to many areas especially those of legal theory and international law Over a number of decades he developed an important legal theory which 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 the first edition of that work It covers such topics as law and morality the legal system and its hierarchical structure and the state and international law

Hans Kelsen's Pure Theory of Law Lars Vinx,2007-09-06 Hans Kelsen is commonly considered to be among the founding fathers of modern legal philosophy Despite Kelsen s prominence as a legal theorist his political theory has so far been mostly overlooked This book argues that Kelsen s legal theory the Pure Theory of Law needs to be read in the context of Kelsen s political theory It offers the first comprehensive interpretation of the Pure Theory that makes systematic use of Kelsen s conception of the rule of law of his theory of democracy his defense of constitutional review and his views on international law Once it is read in the context of Kelsen s political works Kelsen s analysis of legal normativity provides us with a notion of political legitimacy that is distinct from any comprehensive and contestable theory of justice It shows how members of pluralist societies can reasonably acknowledge the binding nature of law even where its content does not fully accord with their own substantive views of the requirements of justice provided it is created in accordance with an ideal of fair arbitration amongst social groups This result leads to a fundamental re evaluation of the Pure Theory of Law The theory is best understood as an attempt to find a middle ground between natural law and legal positivism Later positivist legal theorists inspired by Kelsen s work failed to appreciate the political theoretical context of the Pure Theory and turned to a narrow instrumentalism about the functions of law The perspective on Kelsen offered in this book aims to reconnect positivist legal thought with normative political theory *General Theory of Law and State* Hans Kelsen,1999 Classic work by a noted Austrian jurist Hans Kelsen 1881 1973 in which he advances his theories of the pure nature of law and of the state as separate from a philosophy of justice The appendix includes an analysis of the natural law doctrine in its opposition to legal positivism Hans Kelsen's Pure Theory of Law Lars Vinx,2007 By showing how Kelsen s theory of law works alongside his political philosophy the book shows the Pure Theory to be part of a wider attempt to understand how political power can be legitimately exercised in pluralist societies *The Pure Theory of Law* William Ebenstein,1945 Kelsen Revisited Luís Duarte d'Almeida,John Gardner,Leslie Green,2014-07-18 Forty years after his death Hans Kelsen 1881 1973 remains one of the most discussed and influential legal philosophers of our time This collection of new essays takes Kelsen s Pure Theory of Law as a stimulus aiming to move forward the debate on several central issues in contemporary jurisprudence The essays in Part I address legal validity the normativity of law and Kelsen s famous but puzzling idea of a legal system s basic norm Part II engages with the difficult issues raised by the social realities of law and the actual practices of legal officials Part III focuses on conceptual features of legal systems and the logical structure of legal norms All the essays were written for this volume by internationally renowned scholars from seven countries Also included in English translation is an important

polemical essay by Kelsen himself **Legal Norms and Legal Science** Ronald Moore,1978 **General Theory of Norms** Hans Kelsen,1991 Hans Kelsen is considered by many to be the foremost legal thinker of the twentieth century During the last decade of his life he was working on what he called a general theory of norms Published posthumously in 1979 as *Allgemeine Theorie der Normen* the book is here translated for the first time into English Kelsen develops his pure theory of law into a general theory of norms and analyzes the applicability of logic to norms to offer an original and extreme position which some have called normative irrationalism Examining the views of over 200 philosophers and legal theorists on law morality and logic and revising several of his own earlier positions Kelsen s final work is a mandatory resource for legal and moral philosophers Introduction to the General Theory of Law ,2023 **Why Grundnorm?** Uta Bindreiter,2002-12-31 Who presupposes Kelsen s basic norm Is it possible to defend the presupposition in a way that is convincing And what difference does the presupposition make Endeavouring to highlight the role of basic assumptions in the law the author argues that the verb to presuppose with Kelsen has not only a conceptual but also a normative dimension and that the expression presupposing the basic norm is adequate in so far as it marks the descriptive normative nature of utterances made in specifically legal speech situations Addressed to legal theorists in general the treatise purports to show that Kelsen s doctrine lends itself to an interpretation according to which the very act of presupposing the Grundnorm can be understood as a Grund i e normative source of all positive law and what is more that this interpretation admits of addressing the issue of the formal legitimacy of supra national and directly applicable rules and other norms The Construction of Law ,2014

Essays on Kelsen Richard Tur,William Twining,1986 A very important collection of essays on the legal philosophy of Hans Kelsen The collection has a pleasant unity and includes a superb introduction by the editors that provides a framework for the essays and a perspective from which to evaluate Kelsen s contributions to legal theory Choice **The Idea of a Pure Theory of Law** Christoph Kletzer,2018-01-25 Most contemporary legal philosophers tend to take force to be an accessory to the law According to this prevalent view the law primarily consists of a series of demands made on us force conversely comes into play only when these demands fail to be satisfied This book claims that this model should be jettisoned in favour of a radically different one according to the proposed view force is not an accessory to the law but rather its attribute The law is not simply a set of rules incidentally guaranteed by force but it should be understood as essentially rules about force The book explores in detail the nature of this claim and develops its corollaries It then provides an overview of the contemporary jurisprudential debates relating to force and violence and defends its claims against well known counter arguments by Hart Raz and others This book offers an innovative insight into the concept of Pure Theory In contrast to what was claimed by Hans Kelsen the most eminent contributor to this theory the author argues that the core insight of the Pure Theory is not to be found in the concept of a basic norm or in the supposed absence of a conceptual relation between law and morality but rather in the fundamental and comprehensive reformulation of how to model the functioning of the law intended as an

ordering of force and violence Sovereignty and the Limits of International Law Todd Berry, 2023-11-29 The inspiration for this book comes from negotiations that are taking place under the auspices of the United Nations by an intergovernmental conference for a new International Legally Binding Instrument ILBI under the United Nations Convention on the Law of the Sea UNCLOS on the conservation and sustainable use of marine biological diversity of Areas Beyond National Jurisdiction ABNJ The proposed ILBI is attempting to fill existing gaps under international law over marine biodiversity and Marine Genetic Resources MGR in ABNJ One way it is attempting to do this is by having an Access and Benefit Sharing ABS schema over these resources in ABNJ that the United Nations Convention on Biological Diversity CBD and its Nagoya Protocol NP do not currently cover These existing frameworks that regulate genetic resources are grounded in the notion of sovereignty Effectively States have sovereign rights over their biological resources The ILBI however is attempting to regulate marine biodiversity and MGR in ABNJ Thus the notion that negotiators representing nation States under the auspices of the United Nations can regulate ABNJ is paradoxical are these areas beyond nation States jurisdiction or not Implicitly the negotiators are acting as though they have sovereignty over resources located in what has been historically a sovereign free space Thus the purpose of this book is to investigate this paradox Essentially this book critiques the notion that ABNJ can actually be regulated under the auspices of the United Nations by nation State negotiators The Role of the Grundnorm in Hans Kelsen's Pure Theory of Law J. A. Henry Paquin, 1972 *Normativity and Norms* Stanley L. Paulson, Bonnie Litschewski Paulson, 1998 This remarkable collection contains some of the very best work on themes developed by Hans Kelsen regarded by many as the most influential legal philosopher of the twentieth century The volume addresses in rich detail the topic where debate on Kelsen's work has been liveliest normativity as Kelsen's alternative to both traditional legal positivism and natural law theory The book boasts a truly international list of contributors with authors from Europe North and South America and Australia a dozen countries in all *The Continuity of Legal Systems in Theory and Practice* Benjamin Spagnolo, 2015-10-22 The Continuity of Legal Systems in Theory and Practice examines a persistent and fascinating question about the continuity of legal systems when is a legal system existing at one time the same legal system that exists at another time The book's distinctive approach to this question is to combine abstract critical analysis of two of the most developed theories of legal systems those of Hans Kelsen and Joseph Raz with an evaluation of their capacity in practice to explain the facts attitudes and normative standards for which they purport to account That evaluation is undertaken by reference to Australian constitutional law and history whose diverse and complex phenomena make it particularly apt for evaluating the theories explanatory power In testing whether the depiction of Australian law presented by each theory achieves an adequate fit with historical facts the book also contributes to the understanding of Australian law and legal systems between 1788 and 2001 By collating the relevant Australian materials systematically for the first time it presents the case for reconceptualising the role of Imperial laws and institutions during the late nineteenth and early twentieth centuries and clarifies the

interrelationship between Colonial State Commonwealth and Imperial legal systems both before and after Federation The International Legal Personality of the Individual Astrid Kjeldgaard-Pedersen, 2018-08-09 This is the first monograph to scrutinize the relationship between the concept of international legal personality as a theoretical construct and the position of the ultimate subject the individual as a matter of positive international law By testing the four main theoretical conceptions of international legal personality against historical and existing norms of positive international law that regulate the conduct of individuals the book argues that the common narrative in contemporary scholarship about the development of the role of the individual in the international legal system is flawed Contrary to conventional wisdom international law did not apply to states alone until World War II only to transform during the second half of the 20th century so as to include individuals as its subjects Rather the answer to the question of individual rights and obligations under international law is and always was strictly empirical It follows of course that the entities governed by a particular norm tell us nothing about the legal system to which that norm belongs Instead the distinction between international law and national law turns exclusively on whether the source of the norm in question is international or national in kind Against the background of these insights the book shows how present day international lawyers continue to allow an idea which was never more than a scholarly invention of the 19th century to influence the interpretation and application of international law This state of affairs has significant real world ramifications as international legal rights and obligations of individuals and other non state entities are frequently applied more restrictively than interpretation without presumptions regarding personality would merit

Unveiling the Energy of Verbal Beauty: An Emotional Sojourn through **Pure Theory Of Law Hans Kelsen**

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