

# **Proportionality and the Rule of Law**

**Rights, Justification,  
Reasoning**



**Edited by Grant Huscroft, Bradley W. Miller,  
and Grégoire Webber**

CAMBRIDGE

# And Proportionality Rule Law Justification Reasoning

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## **And Proportionality Rule Law Justification Reasoning:**

**Constitutionalism Justified** Ester Herlin-Karnell, Matthias Klatt, Héctor A. Morales Zúñiga, 2020 This volume analyzes Rainer Forst's theory of the right to justification from legal philosophical and constitutional theoretical perspectives The contributions address issues such as the philosophical foundations of justification and constitutionalism the justification of human rights the requirements of social justice and important elements of constitutional law Forst responds to the contributions in a concluding chapter

**The European Court of Justice** Gráinne De Búrca, Joseph Weiler, 2001 This collection of essays aims to look afresh at an institution which although already the subject of numerous academic analyses and extensive legal research remains of central importance to all who are interested in the development of European Union law and policy Various contributions seek to develop particular avenues of analysis which despite the significant increase in the range and volume of literature on the Court of Justice have not yet been very fully explored They include a legal philosophical account of the ECJ's reasoning a sociological analysis of patterns of litigation before the Court and an investigation of the impact and presence of gender in the Court's work and on its institutional position Other contributions look anew at the more topical and sometimes controversial subject of the relationship between national courts and the Court of Justice both under the preliminary reference procedure and in other contexts and a final essay considers the likely effect on the Court of Justice and the Court of First Instance of the reforms to the judicial structure proposed during the Nice Intergovernmental Conference

Interconnected Intellectual Property Graeme W. Austin, Andrew F. Christie, Andrew T. Kenyon, Megan Richardson, 2020-03-12 A timely examination of fundamental issues in intellectual property IP law with international perspectives looking across regimes jurisdictions disciplines and professions

**The Constitution of the Environmental Emergency** Jocelyn Stacey, 2018-04-19 This book argues for a reframing of environmental law It starts from the premise that all environmental issues confront lawmakers as emergencies Environmental issues pose a fundamental challenge to law because it is impossible to reliably predict which issues contain the possibility of an emergency and what to do in response to such an unforeseen event These features undermine the conventional understanding of the rule of law This book argues that approaching environmental issues from the emergency perspective leads us to an understanding of the rule of law that requires public justification This requirement recentres the debates in environmental law around the question of why governance under the rule of law is something worth having in the environmental context It elaborates what the rule of law requires of decision makers in light of our ever present vulnerability to catastrophic environmental harm Controversial compelling and above all timely this book presents an important new perspective on environmental law

**Historical and Philosophical Foundations of European Legal Culture** Dawid Bunikowski, 2017-01-06 This ambitious book examines the historical theoretical and axiological foundations of European legal culture and explores their practical impacts on current European law and legal ways of thinking in Europe Including considerations about the history of law as well contemporary

legal issues the book consists of seven chapters authored by scholars from across the globe from Italy to Taiwan This volume shows that it is possible to speak of one European legal culture in terms of various countries common legal origins Roman law Greek philosophy and medieval jurisprudence as the *ius commune* while also discussing distinct national legal cultures and traditions in Europe However to understand the present day law and legal profession it is necessary to go back to the values theories and thinkers which were influential in the progress of European law from ancient times to the 19th century The book not only presents the theoretical and historical issues of European legal culture but also acquaints the audience with the true axiological foundations of our contemporary legal institutions and the methods of legal thinking in Europe It is clear that many of our current legal concepts and institutions come from theorists such as Aristotle Ulpian Aquinas Hobbes and Savigny The book will be of particular interest to scholars and students of legal history jurisprudence and European law especially in the context of the origins of European legal culture Moreover it will also appeal to all lawyers working in both the common law and the civil law traditions wishing to gain a greater understanding of European legal heritage

**Legal Philosophy** International Association for Philosophy of Law and Social Philosophy. World Congress,2002 Contents M Strasser The Image of Man S Kirste The Temporality of Law and the Plurality of Social Times V Luizzi Law as Acts of Citizens A Visegrady Zur Effektivität des Rechts K Campbell Custom as a Source of Law M Pavcnik Traps of the Nature of Law N Struchiner The Meaning of Justice L F Coelho A Contribution to a Critical Theory of Law A Verza Neutrality Toward Microdifferences Toleration Toward Macrodifferences C Bellon Rights and Autonomy R Martin On Hohfeldian Liberties L Moral Soriano Balancing Reasons at the European Court of Justice W Ott Did East German Border Guards Along the Berlin Wall Act Illegally P Warren Self Ownership Talent Pooling and Reciprocity O Astorga La imaginación jurídica R A Grover Thomas Hobbes and the Global State of Nature W E Conklin The Place of the People in John Austin's Structuralism V Karam De Chueiri The Chain of Law

Proportionality and the Rule of Law Grant Huscroft,Bradley Wayne Miller,Grégoire Charles N. Webber,2014 To speak of human rights in the twenty first century is to speak of proportionality Proportionality has been received into the constitutional doctrine of courts in continental Europe the United Kingdom Canada New Zealand Israel South Africa and the United States as well as the jurisprudence of treaty based legal systems such as the European Convention on Human Rights Proportionality provides a common analytical framework for resolving the great moral and political questions confronting political communities But behind the singular appeal to proportionality lurks a range of different understandings This volume brings together many of the world's leading constitutional theorists proponents and critics of proportionality to debate the merits of proportionality the nature of rights the practice of judicial review and moral and legal reasoning Their essays provide important new perspectives on this leading doctrine in human rights law

University of British Columbia Law Review University of British Columbia,2016 **Essays on the Nature of Law and Legal Reasoning** Robert S. Summers,1992 *Justifying Judgment* Vincent Joseph Samar,1998 Samar philosophy Loyola U

seeks to develop a metatheory of law that judges could use to decide very hard cases in which the law offers no firm precedents or it is not clear whether the applicable law is just He discusses theories of political philosophy that set a foundation for the duty to obey law presents a natural law justification for a legal system containing morally just laws uses his metatheory to resolve five historically significant constitutional cases and offers suggestions for legal education Annotation copyrighted by Book News Inc Portland OR      *Legal Reasoning and Judicial Interpretation of European Law* Angus I. L. Campbell, Meropi Voyatzis, Alexander John Mackenzie-Stuart (Lord Mackenzie-Stuart), 1996      **The Pacific Reporter**, 1919      *Legal Ethics* Ronald D. Rotunda, John S. Dzienkowski, 2010      Brotherhood of Locomotive Firemen and Enginemen's Magazine, 1904      *The Northwestern Reporter*, 1922      **Michigan Law Review**, 1914      *Cases in Constitutional Law* Sir David Lindsay Keir, Frederick Henry Lawson, 1928      **The British Architect**, 1911      **The Europeanisation of Administrative Law** Karl-Heinz Ladeur, 2002 This volume is based on a workshop held at the European University Institute Florence November 1999 The papers have since been revised and updated and focus on the growing impact of European law on the core elements of member states administrative law and especially on their different conception of procedure The first article confirms the American experience that autonomy of procedural rationality is not easy to picture and that implementing a similar procedure in Europe will face difficulty The other articles look at the procedures that exist in different member states and how a change in procedure could possibly undermine national law and procedure without replacing it with anything substantial      **Law Notes**, 1921

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