

The Foundation of the Juridico-Political

Concept Formation in Hans Kelsen and
Max Weber

Edited by
Ian Bryan, Peter Langford and
John McGarry



Foundation Juridico Political Concept Formation Kelsen

Rodrigo Garcia Cadore



Foundation Juridico Political Concept Formation Kelsen:

The Foundation of the Juridico-Political Ian Bryan, Peter Langford, John McGarry, 2015-10-23 Hans Kelsen and Max Weber are conventionally understood as initiators not only of two distinct and opposing processes of concept formation but also of two discrete and contrasting theoretical frameworks for the study of law The Foundation of the Juridical Political Concept Formation in Hans Kelsen and Max Weber places the conventional understanding of the theoretical relationship between the work of Kelsen and Weber into question Focusing on the theoretical foundations of Kelsen's legal positivism and Weber's sociology of law and guided by the conceptual frame of the juridico political the contributors to this interdisciplinary volume explore convergences and divergences in the approach and stance of Kelsen and Weber to law the State political science modernity legal rationality legal theory sociology of law authority legitimacy and legality The chapters comprising The Foundation of the Juridical Political uncover complexities within as well as between the theoretical and methodological principles of Kelsen and Weber and thereby challenge the enduring division between legal positivism and the sociology of law in contemporary discourse

The Foundation of the Juridico-Political Ian Bryan, Peter Langford, John McGarry, 2015-10-23 Hans Kelsen and Max Weber are conventionally understood as initiators not only of two distinct and opposing processes of concept formation but also of two discrete and contrasting theoretical frameworks for the study of law The Foundation of the Juridical Political Concept Formation in Hans Kelsen and Max Weber places the conventional understanding of the theoretical relationship between the work of Kelsen and Weber into question Focusing on the theoretical foundations of Kelsen's legal positivism and Weber's sociology of law and guided by the conceptual frame of the juridico political the contributors to this interdisciplinary volume explore convergences and divergences in the approach and stance of Kelsen and Weber to law the State political science modernity legal rationality legal theory sociology of law authority legitimacy and legality The chapters comprising The Foundation of the Juridical Political uncover complexities within as well as between the theoretical and methodological principles of Kelsen and Weber and thereby challenge the enduring division between legal positivism and the sociology of law in contemporary discourse

Hans Kelsen and the Natural Law Tradition Peter Langford, Ian Bryan, John McGarry, 2019-03-19 Hans Kelsen and the Natural Law Tradition provides the first sustained examination of Hans Kelsen's critical engagement itself founded upon a distinctive theory of legal positivism with the Natural Law Tradition This edited collection commences with a comprehensive introduction which establishes the character of Kelsen's critical engagement as a general critique of natural law combined with a more specific critique of representative thinkers of the Natural Law Tradition The subsequent chapters are then devoted to a detailed analysis of Kelsen's engagement with prominent theorists from the Natural Law Tradition The volume concludes with an exploration focusing upon the delineation of a non positivist legal theory in the debate between Robert Alexy and Joseph Raz of the continued presence of Kelsenian legal positivism in contemporary legal theory

The Life and Death of States Natasha Wheatley, 2023-06-13 An intellectual

history of sovereignty that reveals how the Habsburg Empire became a crucible for our contemporary world order Sprawled across the heartlands of Europe the Habsburg Empire resisted all the standard theories of singular sovereignty The 1848 revolutions sparked decades of heady constitutional experimentation that pushed the very concept of the state to its limits This intricate multinational polity became a hothouse for public law and legal philosophy and spawned ideas that still shape our understanding of the sovereign state today The Life and Death of States traces the history of sovereignty over one hundred tumultuous years explaining how a regime of nation states theoretically equal under international law emerged from the ashes of a dynastic empire Natasha Wheatley shows how a new sort of experimentation began when the First World War brought the Habsburg Empire crashing down the making of new states Habsburg lands then became a laboratory for postimperial sovereignty and a new international order and the results would echo through global debates about decolonization for decades to come Wheatley explores how the Central European experience opens a unique perspective on a pivotal legal fiction the supposed juridical immortality of states A sweeping work of intellectual history The Life and Death of States offers a penetrating and original analysis of the relationship between sovereignty and time illustrating how the many deaths and precarious lives of the region's states expose the tension between the law's need for continuity and history's volatility

Secession in International Law with a Special Reference to the Post-Soviet Space Júlia

Miklasová, 2024-08-19 The open access publication of this book has been published with the support of the Swiss National Science Foundation International law is increasing in relevance to the topic of secession This book demonstrates that if a secessionist entity's effectiveness is achieved in violation of peremptory norms the emergence of statehood is precluded thereby challenging a classical view of secession as purely factual and meta-legal Dr Júlia Miklasová coins the term illegal secessionist entity demonstrates the pervasive effects of the original illegality on the subsequent relations of such entities purported diplomatic treaty economic relations acts and laws and outlines the overlapping regimes of the law of occupation human rights law and duty of non-recognition Post-Soviet secessionist entities result from an illegal use of force They are thus prohibited from becoming States and further consequences of their illegality apply

Kelsenian Legal Science and the Nature of Law Peter Langford, Ian Bryan, John McGarry, 2017-05-16 This book critically examines the conception of legal science and the nature of law developed by Hans Kelsen It provides a single dedicated space for a range of established European scholars to engage with the influential work of this Austrian jurist legal philosopher and political philosopher The introduction provides a thematization of the Kelsenian notion of law as a legal science Divided into six parts the chapter contributions feature distinct levels of analysis Overall the structure of the book provides a sustained reflection upon central aspects of Kelsenian legal science and the nature of law Parts one and two examine the validity of the project of Kelsenian legal science with particular reference to the social fact thesis the notion of a science of positive law and the specifically Kelsenian concept of the basic norm Grundnorm The next three parts engage in a critical analysis of the relationship of

Kelsenian legal science to constitutionalism practical reason and human rights The last part involves an examination of the continued pertinence of Kelsenian legal science as a theory of the nature of law with a particular focus upon contemporary non positivist theories of law The conclusion discusses the increasing distance of contemporary theories of legal positivism from a Kelsenian notion of legal science in its consideration of the nature of law **Remaking Central Europe** Peter

Becker,Natasha Wheatley,2020-12-29 Over the last two decades the new international order of 1919 has grown into an expansive new area of research across multiple disciplines With the League of Nations at its heart the interwar settlement s innovations in international organizations international law and many other areas shaped the world we know today This book presents the first study of the relationship between this new international order and the new regional order in Central and Eastern Europe after the collapse of the Habsburg empire An analysis of the co implication of these two orders is grounded in four key scholarly interventions understanding the legacies of empire in international organizations examining regionalism in the work of interwar international institutions creating an integrated history of the interwar order in Europe and testing recent claims of the conceptual connection between nationalism and internationalism With chapters covering international health international financial oversight human trafficking minority rights scientific networks technical expertise passports commercial treaties borders and citizenship and international policing this book pioneers a regional approach to international order and explores the origins of today s global governance in the wake of imperial collapse *Science, Freedom, Democracy* Péter Hartl,Adam Tamas Tuboly,2021-03-21 This book addresses the complex relationship between the values of liberal democracy and the values associated with scientific research The chapters explore how these values mutually reinforce or conflict with one another in both historical and contemporary contexts The contributors utilize various approaches to address this timely subject including historical studies philosophical analysis and sociological case studies The chapters cover a range of topics including academic freedom and autonomy public control of science the relationship between scientific pluralism and deliberative democracy lay expert relations in a democracy and the threat of populism and autocracy to scientific inquiry Taken together the essays demonstrate how democratic values and the epistemic and non epistemic values associated with science are interconnected *Science Freedom Democracy* will be of interest to scholars and graduate students working in philosophy of science history of philosophy sociology of science political philosophy and epistemology

The Anthem Companion to Max Weber Alan Sica,2016-09-19 The Anthem Companion to Max Weber offers the best contemporary work on Max Weber written by the best scholars currently working in this field Original authoritative and wide ranging the critical assessments of this volume will make it ideal for Weber students and scholars alike **Ethics Out of Law** Dana Hollander,2021-06-17 This is the first book in English to lay out the philosophical ethics and philosophy of law of Hermann Cohen one of the leading figures in both Neo Kantian and Jewish philosophy **The Cambridge Companion to Judaism and Law** Christine Hayes,2017-02-17 The Cambridge Companion to Judaism and Law

explores the Jewish conception of law as an essential component of the divine human relationship from biblical to modern times as well as resistance to this conceptualization. It also traces the political, social, intellectual, and cultural circumstances that spawned competing Jewish approaches to its own divine law and the non-divine law of others, including that of the modern secular state of Israel. Part I focuses on the emergence and development of law as an essential element of religious expression in biblical Israel and classical Judaism through the medieval period. Part II considers the ramifications for the law arising from political emancipation and the invention of Judaism as a religion in the modern period. Finally, Part III traces the historical and ideological processes leading to the current configuration of religion and state in modern Israel, analysing specific conflicts between religious law and state law.

Law, Violence and Constituent Power Héctor López Bofill, 2021-05-30. This book challenges traditional theories of constitution making to advance an alternative view of constitutions as being founded on power which rests on violence. The work argues that rather than the idea of a constitution being the result of political participation and deliberation, all power instead is based on violence. Hence, the creation of a constitution is actually an act of coercion where, through violence, one social group is able to impose itself over others. The book advocates that the presence of violence be used as an assessment of whether genuine constitutional transformation has taken place and that the legitimacy of a constitutional order should be dependent upon the absence of killing. The book will be essential reading for academics and researchers working in the areas of constitutional law and politics, legal and political theory, and constitutional history.

Aristotle on Emotions in Law and Politics Liesbeth Hupperts-Cluysenaer, Nuno M.M.S. Coelho, 2018-02-13. In this book, experts from the fields of law and philosophy explore the works of Aristotle to illuminate the much-debated and fascinating relationship between emotions and justice. Emotions matter in connection with democracy and equity; they are relevant to the judicial enforcement of rights, legal argumentation, and decision-making processes in legislative bodies and courts. The decisive role that emotions, feelings, and passions play in these processes cannot be ignored, not even by those who believe that emotions have no legitimate place in the public sphere. A growing body of literature on these topics recognizes the seminal insights contributed by Aristotle. This book offers a comprehensive analysis of his thinking in this context, as well as proposals for inspiring dialogues between his works and those written by a selection of modern and contemporary thinkers. As such, the book offers a valuable resource for students of law, philosophy, rhetoric, politics, ethics, and history, but also for readers interested in the ongoing debate about legal positivism and the relevance of emotions for legal and political life in today's world.

The Routledge International Handbook on Max Weber Alan Sica, 2022-09-20. This book explores the latest thinking about Max Weber and his continuing influence on theoretical and empirical interests today. Bringing together the work of leading scholars from a variety of disciplines, it illuminates Weber's thought in a number of key areas, including the methodology and philosophy of social science, comparative religion, the rationalization process, political sociology, the sociology of law, and the Protestant ethic and the

development of capitalism An international collection that demonstrates the enduring importance of Weber's thought to contemporary sociology and the discipline's major concerns The Routledge International Handbook on Max Weber will appeal to scholars in a range of disciplines including sociology social theory politics philosophy law and international relations

Sociology in Germany Stephan Moebius, 2021-07-02 This open access book traces the development of sociology in Germany from the late 19th century to the present day providing a concise overview of the main actors institutional processes theories methods topics and controversies Throughout the book the author relates the discipline's history to its historical economic political and cultural contexts The book begins with sociology in the German Reich the Weimar Republic National Socialism and exile before exploring sociology after 1945 as a key discipline of the young Federal Republic of Germany and reconstructing the periods from 1945 to 1968 and from 1968 to 1990 The final chapters are devoted to sociology in the German Democratic Republic and the period from 1990 to the present day This work will appeal to students and scholars of sociology and to a general readership interested in the history of Germany

The Oxford Handbook of Max Weber Edith Hanke, Lawrence A. Scaff, Sam Whimster, 2019 Active at the time when the social sciences were founded Max Weber's social theory contributed significantly to a wide range of fields and disciplines Considering his prominence it makes sense to take stock of the Weberian heritage and to explore the ways in which Weber's work and ideas have contributed to our understanding of the modern world Using his work as a point of departure The Oxford Handbook of Max Weber investigates the Weberian legacy today identifying the enduring problems and themes associated with his thought that have contemporary significance the nature of modern capitalism neo liberal global economic policy nationalism religion and secularization threats to legality the culture of modernity bureaucratic rule and leadership politics and ethics the value of science power and inequality These problems are global in scope and the Weberian approach has been used to address them in very different societies Thus the Handbook also features chapters on Europe Turkey Islam Judaism China India and international politics The Handbook emphasizes the use and application of Weber's ideas It offers a journey through the intellectual terrain that scholars continue to explore using the tools and perspectives of Weberian analysis The essays explore how Weber's concepts hypotheses and perspectives have been applied in practice and how they can be applied in the future in social inquiry not only in Europe and North America but globally The volume is divided into six parts exploring in turn Capitalism in a Globalized World Society and Social Structure Politics and the State Religion Culture and Science and Knowledge

The Reconstruction of the Juridico-Political Ian Bryan, Peter Langford, John McGarry, 2015-12-22 Hans Kelsen and Max Weber are conventionally understood as the original proponents of two distinct and opposed processes of concept formation generating two separate and contrasting theoretical frameworks for the study of law The Reconstruction of the Juridico Political Affinity and Divergence in Hans Kelsen and Max Weber contests the conventional understanding of the theoretical relationship between Kelsen's legal positivism and Weber's sociology of law Utilising the

conceptual frame of the juridico political the contributors to this interdisciplinary volume analyse central points of affinity and divergence in the work of these two influential figures Thus the chapters collected in The Reconstruction of the Juridico Political offer a comprehensive reconsideration of these affinities and divergences through a comparison of their respective reconstruction of the notions of democracy the State legal rights and the character of law From this reconsideration a more complex understanding of their theoretical relationship emerges combined with a renewed emphasis upon the continued contemporary relevance of the work of Kelsen and Weber

ad Hans Kelsen. Rechtspositivist und Demokrat Horst Dreier, 2021-05-06 Hans Kelsen 1881 1973 gilt vielen als der Jurist des 20. Jahrhunderts Diese Hochschätzung verdankt sich vor allem seinem zentralen rechtstheoretischen Werk der Reinen Rechtslehre Aber er war gleichzeitig sehr viel mehr als nur der Begründer der scharfsinnigsten und elaboriertesten Theorie des Rechtspositivismus Die drei hier versammelten Aufsätze führen in das umfangreiche Schaffen des Gelehrten ein Während der erste Beitrag einen Gesamtüberblick über Leben und Werk bietet widmen sich die beiden folgenden Aufsätze der Demokratietheorie Sie analysieren deren sozialphilosophische Grundlegung und zeigen ihre Strukturelemente auf Der letzte Text konzentriert sich in besonderer Weise auf die wertrelativistische Grundlegung von Kelsens Lehre

Pensiero forte Alberto Cardillo, 2024-12-13 Può esistere una democrazia senza partiti Riscoprire le radici per illuminare il futuro In un'epoca di smarrimento culturale e ideologico questo libro si immerge nelle profondità del pensiero politico europeo cercando l'antidoto per una rinascita Un viaggio alla ricerca della politica intesa come summa di culture e idee forti una luce nel buio dell'indifferenza e dell'antipolitica che avanza In un mondo dove le grandi ideologie del '900 sono svanite e si stanno formando nuovi ordini mondiali tempo di ridefinire i contorni della democrazia liberale Kelsen padre del costituzionalismo moderno diventa il fulcro di una nuova ricostruzione della politica dei partiti del parlamentarismo Questo libro non solo un'analisi ma un invito alla condivisione di idee che possano scongiurare il disordine eversivo e la babele antipolitica ristabilendo i punti fermi di una democrazia decidente Perché i partiti devono tornare a essere utili al popolo che rappresentano non solo a piccole liste Questo libro un appello alla riflessione un invito a guardare oltre l'orizzonte del presente per costruire un futuro in cui la politica torni a essere uno strumento di progresso e di coesione sociale Una lettura imprescindibile per chi cerca chiarezza e prospettive nell'attuale panorama politico Perché il futuro inizia dalle radici del passato

"Rechtswidriges Recht" Rodrigo Garcia Cadore, 2024-05-23 In Bezug auf das Problem des rechtswidrigen Rechts herrschte eine Kontroverse zwischen zwei Schulern Hans Kelsens 1881 1973 Adolf Julius Merkl 1890 1970 und Fritz Sander 1889 1939 Auf dem Spiel stand nicht weniger als die Frage wer über die Rechtmässigkeit einer Rechtsentscheidung entscheidet und welche Konsequenzen daraus folgen Während Merkl der Rechtswissenschaft das Primat zuschrieb beharrte Sander auf dem Primat des Rechtsverfahrens bzw der Rechtspraxis Rodrigo Garcia Cadore bietet eine Polemographie an eine Ideen- und intellektuellgeschichtlich informierte rechtswissenschaftstheoretische Rekonstruktion einer Polemik die bislang nicht erschlossenes Archivmaterial nutzt und die Vielfalt

der Reinen Rechtslehre n durch die Aufdeckung von grundlegend unterschiedlichen Ansichten zum Umgang des Rechts mit Fehlern innerhalb der Wiener Schule zum Ausdruck bringt Somit wird die Reine Rechtslehre durch Wiederentdeckung für die heutige rechtstheoretische Diskussion anschlussfähiger gemacht Die Arbeit wurde mit dem Werner von Simson Preis 2022 der Universität Freiburg für die beste Doktorarbeit auf dem Gebiet des Europarechts und der Staatstheorie und mit dem Carl von Rotteck Promotionspreis 2022 der Universität Freiburg ausgezeichnet worden

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