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Why Law Matters - Hardcover - Alon Harel - Oxford ...
Why Law Matters is an indispensable resource for anyone committed to thinking seriously about the justification of the legal institutions and processers that comprise a liberal legal order. While Harel neither purports to offer a general criticism of legal instrumentalism nor a general defense of its non-instrumentalist counterpart, he deftly navigates the challenges surrounding the justification of rights, public institutions, and constitutional arrangements.

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'Why Law Matters' argues that public institutions and legal procedures are valuable and matter as such, irrespective of their instrumental value. Examining the value of rights, public institutions, and constitutional review, the book criticises instrumentalist approaches in political theory, claiming they fail to account for their enduring appeal.

Why Law Matters argues that public institutions and legal procedures are valuable and matter as such, irrespective of their instrumental value. Examining the value of rights, public institutions, and constitutional review, the book criticises instrumentalist approaches in political theory, claiming they fail to account for their enduring appeal.

Through an extensive exploration of comparative constitutional endeavours past and present, near and far, Ran Hirschl shows how attitudes towards engagement with the constitutive laws of others reflect tensions between particularism and universalism as well as competing visions of who 'we' are as a political community. Drawing on insights from social theory, religion, history, political science, and public law, Hirschl argues for an interdisciplinary approach tocomparative constitutionalism that is methodologically and substantively preferable to merely doctrinal accounts. The future of comparative constitutional studies, he contends, lies in relaxing thesharp divide between constitutional law and the social sciences.

This work offers a new theory of what it means to be a legal person and suggests that it is best understood as a cluster property. The book explores the origins of legal personhood, the issues afflicting a traditional understanding of the concept, and the numerous debates surrounding the topic.

Comparative study has emerged as the new frontier of constitutional law scholarship as well as an important aspect of constitutional adjudication. Increasingly, jurists, scholars, and constitution drafters worldwide are accepting that 'we are all comparativists now'. And yet, despite this tremendous renaissance, the 'comparative' aspect of the enterprise, as a method and a project, remains under-theorized and blurry. Fundamental questions concerning the very meaning and purpose of comparative constitutional inquiry, and how it is to be undertaken, are seldom asked, let alone answered. In this path-breaking book, Ran Hirschl addresses this gap by charting the intellectual history and analytical underpinnings of comparative constitutional inquiry, probing the various types, aims, and methodologies of engagement with the constitutive laws of others through the ages, and exploring how and why comparative constitutional inquiry has been and ought to be pursued by academics and jurists worldwide. Through an extensive exploration of comparative constitutional endeavours past and present, near and far, Hirschl shows how attitudes towards engagement with the constitutive laws of others reflect tensions between particularism and universalism as well as competing visions of who 'we' are as a political community. Drawing on insights from social theory, religion, history, political science, and public law, Hirschl argues for an interdisciplinary approach to comparative constitutionalism that is methodologically and substantively preferable to merely doctrinal accounts. The future of comparative constitutional studies, he contends, lies in relaxing the sharp divide between constitutional law and the social sciences. Comparative Matters makes a unique and welcome contribution to the comparative study of constitutions and constitutionalism, sharpening our understanding of the historical development, political parameters, epistemology, and methodologies of one of the most intellectually vibrant areas in contemporary legal scholarship.

Are legislatures able to form and act on intentions? The question matters because the interpretation of statutes is often thought to centre on the intention of the legislature and because the way in which the legislature acts is relevant to the authority it does or should enjoy. Many scholars argue that legislative intent is a fiction: the legislative assembly is a large, diverse group rather than a single person and it seems a mystery how the intentions of the individual legislators might somehow add up to a coherent group intention. This book argues that in enacting a statute the well-formed legislature forms and acts on a detailed intention, which is the legislative intent. The foundation of the argument is an analysis of how the members of purposive groups act together by way of common plans, sometimes forming complex group agents. The book extends this analysis to the legislature, considering what it is to legislate and how members of the assembly cooperate to legislate. The book argues that to legislate is to choose to change the law for some reason: the well-formed legislature has the capacity to consider what should be done and to act to that end. This argument is supported by reflection on the centrality of intention to the nature of language use. The book then explains in detail how members of the assembly form and act on joint intentions, which do not reduce to the intentions of each member, before outlining some implications of this account for the practice of statutory interpretation. Developing a robust account of the nature and importance of legislative intention, the book represents a significant contribution to the literature on deliberative democracy that will be of interest to all those thinking about legal interpretation and constitutional theory.

This Oxford Handbook ambitiously seeks to lay the groundwork for the relatively new field of comparative foreign relations law. Comparative foreign relations law compares and contrasts how nations, and also supranational entities (for example, the European Union), structure their decisions about matters such as entering into and exiting from international agreements, engaging with international institutions, and using military force, as well as how they incorporate treaties and customary international law into their domestic legal systems. The legal materials that make up a nation's foreign relations law can include constitutional law, statutory law, administrative law, and judicial precedent, among other areas. This book consists of 46 chapters, written by leading authors from around the world. Some of the chapters are empirically focused, others are theoretical, and still others contain in-depth case studies. In addition to being an invaluable resource for scholars working in this area, the book should be of interest to a wide range of lawyers, judges, and law students. Foreign relations law issues are addressed regularly by lawyers working in foreign ministries, and globalization has meant that domestic judges, too, are increasingly confronted by them. In addition, private lawyers who work on matters that extend beyond their home countries often are required to navigate issues of foreign relations law. An increasing number of law school courses in comparative foreign relations law are also now being developed, making this volume an important resource for students as well. Comparative

foreign relations law is a newly emerging field of study and teaching, and this volume is likely to become a key reference work as the field continues to develop.

International Law in the U.S. Legal System provides a wide-ranging overview of how international law intersects with the domestic legal system of the United States, and points out various unresolved issues and areas of controversy. Curtis Bradley explains the structure of the U.S. legal system and the various separation of powers and federalism considerations implicated by this structure, especially as these considerations relate to the conduct of foreign affairs. Against this backdrop, he covers all of the principal forms of international law: treaties, executive agreements, decisions and orders of international institutions, customary international law, and jus cogens norms. He also explores a number of issues that are implicated by the intersection of U.S. law and international law, such as treaty withdrawal, foreign sovereign immunity, international human rights litigation, war powers, extradition, and extraterritoriality. This book highlights recent decisions and events relating to the topic, including various actions taken during the Trump administration, while also taking into account relevant historical materials, including materials relating to the U.S. Constitutional founding. Written by one of the most cited international law scholars in the United States, the book is a resource for lawyers, law students, legal scholars, and judges from around the world.

The law enables private parties to undo the wrongs committed against them, allowing victims to seek redress. A distinctive kind of justice governs our legal rights of redress, different from the leading corrective justice approaches. Through analysis of this key idea, The Right of Redress helps to make sense of tort, contract, fiduciary law, and unjust enrichment doctrine. When a wrong is remedied, the authorship of that remedy matters. The justice in private law is sensitive to a right holder's authorship, and understanding how solves a number of legal theory puzzles. Many forms of redress are only available with state assistance, and a full account of private law requires an account of the state's responsibility to assist. It also requires an explanation of those cases in which the state declines to assist. Prior accounts have drawn on Kantian principles or a Lockean social contract theory, where The Right of Redress, drawing on public fiduciary theory, develops a distinctive account of the state's role. This book offers a new take on various modern features of the private law landscape, ranging from equity, to damage caps, to arbitration, to corporate claims, to class actions. The Right of Redress thus offers a pathbreaking account of the justice in private law, the political theory that underlies it, and the contemporary features that shape our rights of redress today.

The Oxford Handbook of International Trade Law explores the law of the World Trade Organization and its broader context. It examines the discipline of international trade law itself and also the outside face of international trade law and its intersection with states and with other aspects of the international system. It covers the economic and institutional context of the world trading system, the substantive law of the WTO, the WTO dispute settlement system,and the interaction between trade and other disciplines and fields of international law.