

CONTENTS

<i>Acknowledgements</i>	xiii
<i>Chronological table of reprinted articles and chapters</i>	xv
<i>Preface</i>	xix
Introduction	1
BRIAN BIX	
PART 1	
Analytical legal philosophy – methodology	19
<i>A General Considerations</i>	
1 The nature of legal philosophy	21
ROBERT ALEXY	
2 The legality of law	33
JOHN GARDNER	
<i>B Conceptual Analysis</i>	
3 Conceptual questions and jurisprudence	48
BRIAN BIX	
4 On the nature of law	63
JOSEPH RAZ	
5 Raz on necessity	94
BRIAN H. BIX	
6 Hart's Postscript and the character of political philosophy	113
RONALD DWORKIN	

CONTENTS

C Naturalist Challenge to Conceptual Analysis

- 7 Beyond the Hart/Dworkin debate: the methodology problem in jurisprudence** 153
BRIAN LEITER

PART 2

Legal positivism 189

A Early Legal Positivism

- 8 John Austin reconsidered** 191
ROBERT J. MOLES
- 9 John Austin** 224
BRIAN BIX
- 10 Logic and coercion in Bentham's theory of law** 234
DAVID LYONS

B Hartian Legal Positivism

- 11 Positivism and the separation of law and morals** 259
H. L. A. HART
- 12 The concept of law revisited** 291
LESLIE GREEN
- 13 Law as experience: theory and the internal aspect of law** 321
THOMAS MORAWETZ

VOLUME II

Acknowledgements ix

C Inclusive vs. Exclusive Legal Positivism

- 14 Authority, law and morality** 1
JOSEPH RAZ

CONTENTS

15	Constraints on the criteria of legality	29
	JULES L. COLEMAN	
16	Law, morality, and the guidance of conduct	43
	SCOTT J. SHAPIRO	
17	Authority and the practical difference thesis: a defense of inclusive legal positivism	89
	W. J. WALUCHOW	
18	Incorporation by law	128
	JOSEPH RAZ	
<i>D Kelsenian Legal Positivism</i>		
19	What is the Pure Theory of Law?	146
	HANS KELSEN	
20	The pure theory of law and analytical jurisprudence	154
	HANS KELSEN	
21	On the basic norm	176
	HANS KELSEN	
22	The neo-Kantian dimension of Kelsen's Pure Theory of Law	180
	STANLEY L. PAULSON	
23	An antimony in Kelsen's Pure Theory of Law	207
	EUGENIO BULYGIN	
PART 3		
	Critics of legal positivism	225
<i>A Natural Law Tradition</i>		
24	The basic ideas in the philosophy of law of St. Thomas Aquinas as found in the 'Summa Theologica'	227
	ANTON-HERMANN CHROUST AND FREDERICK A. COLLINS, JR.	
25	Natural law and legal reasoning	245
	JOHN FINNIS	
26	The 'natural law tradition'	259
	JOHN FINNIS	

CONTENTS

27	On the incoherence of legal positivism	263
	JOHN FINNIS	
28	On the dividing line between natural law theory and legal positivism	277
	BRIAN BIX	
29	Natural law jurisprudence	289
	MARK C. MURPHY	
 <i>B Lon Fuller</i>		
30	Positivism and fidelity to law – a reply to Professor Hart	318
	LON L. FULLER	
31	Scrupulousness without scruples: a critique of Lon Fuller and his defenders	353
	MATTHEW KRAMER	
 <i>C Ronald Dworkin</i>		
32	Legal theory and the problem of sense	384
	RONALD DWORKIN	
33	Interpretivist theories of law	395
	NICOS STAVROPOULOS	
34	Dworkin: a new link in the chain	408
	JOSEPH RAZ	
35	On reason and authority in <i>Law's Empire</i>	425
	JOHN FINNIS	

VOLUME III

vii

Acknowledgements

1

PART 4

Normative and critical theory I: Legal realism

A American Legal Realism, and Predecessors

3

36	The path of the law
	OLIVER W. HOLMES, JR.

CONTENTS

37	Some realism about realism – responding to Dean Pound	21
	KARL N. LLEWELLYN	
38	Transcendental nonsense and the functional approach	58
	FELIX S. COHEN	
39	Coercion and distribution in a supposedly non-coercive state	98
	ROBERT L. HALE	
 <i>B Scandinavian Legal Realism, and Predecessors</i>		
40	Tû-tû	120
	ALF ROSS	
41	The legal theories of Axel Hägerström and Vilhelm Lundstedt	133
	KARL OLIVECRONA	
 PART 5		
	Normative and critical theory II: Rational choice theory	155
 <i>A Economic Analysis of Law</i>		
42	The problem of social cost	157
	R. H. COASE	
43	Property rules, liability rules, and inalienability: one view of the cathedral	203
	GUIDO CALABRESI AND A. DOUGLAS MELAMED	
44	Economic analysis of law: some realism about nominalism	241
	ARTHUR ALLEN LEFF	
45	Law and economics in common-law, civil-law, and developing nations	270
	RICHARD A. POSNER	
 <i>B Game Theory</i>		
46	Law and economics: intellectual arbitrage	285
	RANDAL C. PICKER	

CONTENTS

C Public Choice Theory

- 47 The jurisprudence of public choice** **304**
DANIEL A. FARBER AND PHILIP P. FRICKEY

D Behavioural Law and Economics

- 48 Behavioral analysis of law** **365**
CASS R. SUNSTEIN

VOLUME IV

Acknowledgements

vii

- PART 6** **1**
Normative and critical theory III: Modern critical theories

A Critical Legal Studies

- 49 Legal education and the reproduction of hierarchy** **3**
DUNCAN KENNEDY
- 50 Rights** **28**
MORTON J. HORWITZ
- 51 Of law and the river** **40**
PAUL D. CARRINGTON

B Feminist Legal Theory

- 52 Reflections on sex equality under law** **48**
CATHARINE A. MACKINNON
- 53 The difference in women's hedonic lives: a phenomenological
critique of feminist legal theory** **102**
ROBIN L. WEST

C Critical Race Theory

- 54 Racial realism** **172**
DERRICK BELL

CONTENTS

55	Affirmative action and legal knowledge: planting seeds in plowed-up ground	188
	MARI MATSUDA	
56	Critical race theory: the decline of the universalist ideal and the hope of plural justice – some observations and questions of an emerging phenomenon	202
	GERALD TORRES	
<i>D</i>	<i>Law and Literature</i>	
57	What can a lawyer learn from literature?	216
	JAMES BOYD WHITE	
58	Violence and the word	251
	ROBERT M. COVER	
<i>E</i>	<i>Habermas and Legal Theory</i>	
59	Paradigms of law	282
	JÜRGEN HABERMAS	
<i>F</i>	<i>Autopoiesis</i>	
60	Operational closure and structural coupling: the differentiation of the legal system	295
	NIKLAS LUHMANN	
<i>G</i>	<i>Pragmatism and Postmodernism</i>	
61	The banality of pragmatism and the poetry of justice	316
	RICHARD RORTY	
62	Dennis Martinez and the uses of theory	325
	STANLEY FISH	
	<i>Index</i>	352