

Abstract

Through the pure legal theory, within the thesis of normativity (without the thesis of morality) and the thesis of separation (without the thesis of reductive), Hans Kelsen proposes an object of legal science that is different from the one proposed by the philosophy schools of natural law and empirical-positivistic law. The idea transforms the legal science into a unique and distinctive science. Based on the philosophical research method, a legal norm, according to Hans Kelsen, must have two characters: the meaning of actions that want legal norm; and the relative moral norms with normative characteristics.

Keywords: Kelsen, legal norm, ontology.

Ontologi Ilmu Hukum: Tawaran Hans Kelsen dalam 'Pure Theory of Law'

Abstrak

Di dalam pure theory of law, melalui tesis normativitas (tanpa tesis moralitas) dan tesis keterpisahan (tanpa tesis reduktif), Hans kelsen menawarkan objek ilmu hukum yang berbeda dengan madzhab filsafat hukum alam, dan madzhab filsafat hukum empiris-positivistik, sehingga ilmu hukum memiliki objek ilmu yang khas. Berdasarkan metode penelitian filsafat, dapat diketahui bahwa norma yang dapat menjadi norma hukum menurut Hans Kelsen, harus memiliki dua karakter yaitu norma hukum sebagai makna tindakan berkehendak norma hukum, sebagai norma moral relatif yang berkarakter normatif.

Kata kunci: hukum norma, Kelsen, ontologi.

A. Introduction

The presence of Pure Theory of Law in the treasury of theory and philosophy of law reminds scientists and law philosophers that the science of law has not yet had a distinctive scientific character that can distinguish it from other scientific disciplines. This is mainly due to the inclusion of "alien" elements in legal theory, as seen in the

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Theory Of Legal Science

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Theory Of Legal Science:

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the social sciences citing fundamental methodological differences Others have attempted to bridge gaps revealing common challenges and similar objects of inquiry Collecting the work of authors such as Martin Krygier David Nelken Brian Tamanaha Lewis Kornhauser Gunther Teubner and Nicola Lacey this volume the second in a three volume series provides an overview of the major developments in the last thirty years The volume is divided into three sections each discussing an aspect of the relationship of legal theory and the social sciences 1 methodological disputes and collaboration 2 common problems especially as they concern different modes of explanation of social behaviour and 3 common objects including most prominently the study of language in its social context and normative pluralism

The Methodology of Legal Theory Michael Giudice, Wil Waluchow, 2017-07-05 The last decade has witnessed a particularly intensive debate over methodological issues in legal theory The publication of Julie Dickson's *Evaluation and Legal Theory* 2001 was significant as were collective returns to H L A Hart's *Postscript to The Concept of Law* While influential articles have been written in disparate journals no single collection of the most important papers exists This volume the first in a three volume series aims not only to fill that gap but also propose a systematic agenda for future work The editors have selected articles written by leading legal theorists including among others Leslie Green Brian Leiter Joseph Raz Ronald Dworkin and William Twining and organized under four broad categories 1 problems and purposes of legal theory 2 the role of epistemology and semantics in theorising about the nature of law 3 the relation between morality and legal theory and 4 the scope of phenomena a general jurisprudence ought to address

User-friendly Legal Science Petri Mäntysaari, 2017-03-28 This book defines the characteristics of a new discipline that is both legal and scientific user friendly legal science Focusing on how legal tools and practices can be used to achieve objectives in different contexts it offers an alternative to doctrinal research law and something disciplines and the traditional interdisciplinary approach The book not only defines the new discipline's research approach point of view theory building and research methods it also shows how it relates to other scientific disciplines and how existing doctrinal legal disciplines can be upgraded into scientific disciplines

The Decline of Juridical Reason Nigel E. Simmonds, 1984

The Foundations of Legal Liability: Theory and principles of tort Thomas Atkins Street, 1906

Legal Fictions in Theory and Practice Maksymilian Del Mar, William Twining, 2015-03-11 This multi disciplinary multi jurisdictional collection offers the first ever full scale analysis of legal fictions Its focus is on fictions in legal practice examining and evaluating their roles in a variety of different areas of practice e g in Tort Law Criminal Law and Intellectual Property Law and in different times and places e g in Roman Law Rabbinic Law and the Common Law The collection approaches the topic in part through the discussion of certain key classical statements by theorists including Jeremy Bentham Alf Ross Hans Vaihinger Hans Kelsen and Lon Fuller The collection opens with the first ever translation into English of Kelsen's review of Vaihinger's *As If* The 17 chapters are divided into four parts 1 a discussion of the principal theories of fictions as above with a focus on Kelsen Bentham Fuller and classical pragmatism 2 a discussion of the relationship between fictions and language 3 a theoretical and

historical examination and evaluation of fictions in the common law and 4 an account of fictions in different practice areas and in different legal cultures The collection will be of interest to theorists and historians of legal reasoning as well as scholars and practitioners of the law more generally in both common and civil law traditions

The Theory of Legal Duties and Rights William Edward Hearn, 1883 The Theory of Justice Rudolf Stammler, 1925 *Studies in the Theory and Philosophy of Law*, 1990 *Medico-legal Studies* Clark Bell, 1898 Columbia Law Review, 1912

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