

DOWNLOAD PDF TRUTH LAW AND JUSTICE : THE CALL OF THE OTHER IN THE DISADJUSTED TIME OF THE PRESENT

Chapter 1 : Law and Morality | blog.quintoapp.com

Chapter 4: Truth, Law and Justice: responding to the stolen generations in the disadjusted time of the present - in - Identity Politics in Deconstruction.

And because its truths are eternal, it will still be read when another century has passed. He did most of his writing during the years just before—and immediately following—the Revolution of February. This was the period when France was rapidly turning to complete socialism. As a Deputy to the Legislative Assembly, Mr. Bastiat was studying and explaining each socialist fallacy as it appeared. And he explained how socialism must inevitably degenerate into communism. But most of his countrymen chose to ignore his logic. The Law is here presented again because the same situation that existed in the France of , exists in practically every country today. The same socialist-communist ideas and plans that were then adopted in France are now sweeping the world. The explanations and arguments then advanced against socialism by Mr. Bastiat are—word for word—equally valid today. His ideas deserve a serious hearing. It is responsible to no outside person or group—either in government, business, labor, or agriculture. Its sole purpose is a search for truth in economics, political science, and related subjects. Further information, including a list of publications, will be sent on request. His objective was an accurate rendering of Mr. A nineteenth century translation of The Law, made in in England by an unidentified contemporary of Mr. Bastiat, was of much value as a check against this translation. In addition, Dean Russell had his work reviewed by Bertrand de Jouvenel, the noted French economist, historian, and author who is also thoroughly familiar with the English language. Russell bears full responsibility for the translation. Copyright , by Dean Russell. Permission to reprint granted without special request. The Law The law perverted! And the police powers of the state perverted along with it! The law, I say, not only turned from its proper purpose but made to follow an entirely contrary purpose! The law become the weapon of every kind of greed! Instead of checking crime, the law itself guilty of the evils it is supposed to punish! If this is true, it is a serious fact, and moral duty requires me to call the attention of my fellow-citizens to it. This gift is life—physical, intellectual, and moral life. But life cannot maintain itself alone. The Creator of life has entrusted us with the responsibility of preserving, developing, and perfecting it. In order that we may accomplish this, He has provided us with a collection of marvelous faculties. And He has put us in the midst of a variety of natural resources. By the application of our faculties to these natural resources we convert them into products, and use them. This process is necessary in order that life may run its appointed course. Life, faculties, production—in other words, individuality, liberty, property—this is man. And in spite of the cunning of artful political leaders, these three gifts from God precede all human legislation, and are superior to it. Life, liberty, and property do not exist because men have made laws. On the contrary, it was the fact that life, liberty, and property existed beforehand that caused men to make laws in the first place. What, then, is law? It is the collective organization of the individual right to lawful defense. Each of us has a natural right—from God—to defend his person, his liberty, and his property. These are the three basic requirements of life, and the preservation of any one of them is completely dependent upon the preservation of the other two. For what are our faculties but the extension of our individuality? And what is property but an extension of our faculties? If every person has the right to defend—even by force—his person, his liberty, and his property, then it follows that a group of men have the right to organize and support a common force to protect these rights constantly. Thus the principle of collective right—its reason for existing, its lawfulness—is based on individual right. And the common force that protects this collective right cannot logically have any other purpose or any other mission than that for which it acts as a substitute. Thus, since an individual cannot lawfully use force against the person, liberty, or property of another individual, then the common force—for the same reason—cannot lawfully be used to destroy the person, liberty, or property of individuals or groups. Such a perversion of force would be, in both cases, contrary to our premise. Force has been given to us to defend our own individual rights. Who will dare to say that force has been given to us to destroy the equal

DOWNLOAD PDF TRUTH LAW AND JUSTICE : THE CALL OF THE OTHER IN THE DISADJUSTED TIME OF THE PRESENT

rights of our brothers? Since no individual acting separately can lawfully use force to destroy the rights of others, does it not logically follow that the same principle also applies to the common force that is nothing more than the organized combination of the individual forces? If this is true, then nothing can be more evident than this: The law is the organization of the natural right of lawful defense. It is the substitution of a common force for individual forces. And this common force is to do only what the individual forces have a natural and lawful right to do: A Just and Enduring Government If a nation were founded on this basis, it seems to me that order would prevail among the people, in thought as well as in deed. It seems to me that such a nation would have the most simple, easy to accept, economical, limited, nonoppressive, just, and enduring government imaginable whatever its political form might be. Under such an administration, everyone would understand that he possessed all the privileges as well as all the responsibilities of his existence. No one would have any argument with government, provided that his person was respected, his labor was free, and the fruits of his labor were protected against all unjust attack. When successful, we would not have to thank the state for our success. And, conversely, when unsuccessful, we would no more think of blaming the state for our misfortune than would the farmers blame the state because of hail or frost. The state would be felt only by the invaluable blessings of safety provided by this concept of government. It can be further stated that, thanks to the non-intervention of the state in private affairs, our wants and their satisfactions would develop themselves in a logical manner. We would not see poor families seeking literary instruction before they have bread. We would not see cities populated at the expense of rural districts, nor rural districts at the expense of cities. We would not see the great displacements of capital, labor, and population that are caused by legislative decisions. The sources of our existence are made uncertain and precarious by these state-created displacements. And, furthermore, these acts burden the government with increased responsibilities. The Complete Perversion of the Law But, unfortunately, law by no means confines itself to its proper functions. And when it has exceeded its proper functions, it has not done so merely in some inconsequential and debatable matters. The law has gone further than this; it has acted in direct opposition to its own purpose. The law has been used to destroy its own objective: It has been applied to annihilating the justice that it was supposed to maintain; to limiting and destroying rights which its real purpose was to respect. The law has placed the collective force at the disposal of the unscrupulous who wish, without risk, to exploit the person, liberty, and property of others. It has converted plunder into a right, in order to protect plunder. And it has converted lawful defense into a crime, in order to punish lawful defense. How has this perversion of the law been accomplished? And what have been the results? The law has been perverted by the influence of two entirely different causes: Let us speak of the first. A Fatal Tendency of Mankind Self-preservation and self-development are common aspirations among all people. And if everyone enjoyed the unrestricted use of his faculties and the free disposition of the fruits of his labor, social progress would be ceaseless, uninterrupted, and unending. But there is also another tendency that is common among people. When they can, they wish to live and prosper at the expense of others. This is no rash accusation. Nor does it come from a gloomy and uncharitable spirit. The annals of history bear witness to the truth of it: This fatal desire has its origin in the very nature of man in that primitive, universal, and insuppressible instinct that impels him to satisfy his desires with the least possible pain. Property and Plunder Man can live and satisfy his wants only by ceaseless labor; by the ceaseless application of his faculties to natural resources. This process is the origin of property. But it is also true that a man may live and satisfy his wants by seizing and consuming the products of the labor of others. This process is the origin of plunder. Now since man is naturally inclined to avoid pain and since labor is pain in itself it follows that men will resort to plunder whenever plunder is easier than work. History shows this quite clearly. And under these conditions, neither religion nor morality can stop it. When, then, does plunder stop? It stops when it becomes more painful and more dangerous than labor.

DOWNLOAD PDF TRUTH LAW AND JUSTICE : THE CALL OF THE OTHER IN THE DISADJUSTED TIME OF THE PRESENT

Chapter 2 : The Law, by Frederic Bastiat

During his time political upheaval threatened to sweep away democratic justice. Amidst that first crisis in B.C., Aeschylus produced the Oresteia, the greatest tragic drama in human history. It is a window into the evolution of Athenian justice, the principles underlying its law, and the threats to justice inherent in human passions.

Economy[edit] The party supports a state-guaranteed minimum social safety net and state intervention in the economy within market economy bounds. PiS opposes cutting social welfare spending, and also proposed the introduction of a system of state-guaranteed housing loans. PiS supports state provided universal health care. PiS advocates increased criminal penalties. It postulates aggressive anti-corruption measures including creation of an Anti-Corruption Bureau CBA , open disclosure of the assets of politicians and important public servants , as well as broad and various measures to smooth the working of public institutions. PiS is a strong supporter of lustration lustracja , a verification system created ostensibly to combat the influence of the Communist era security apparatus in Polish society. While current lustration laws require the verification of those who serve in public offices, PiS wants to expand the process to include university professors, lawyers, journalists, managers of large companies, and others performing "public functions". Those found to have collaborated with the security service , according to the party, should be forbidden to practice in their professions. Diplomacy and defense[edit] The party is in favour of strengthening the Polish Army through diminishing bureaucracy and raising military expenditures, especially for modernization of army equipment. PiS planned to introduce a fully professional army and end conscription by in August , compulsory military service was abolished in Poland. It supports economic integration and tightening the cooperation in areas of energetic security and military, but is skeptical about closer political integration. It is against formation of European superstate or federation. PiS is in favor of strong political and military alliance of Poland with the United States. In the European Parliament it is a member of the European Conservatives and Reformists , a group founded in to challenge the prevailing pro-federalist ethos of the European Parliament and address the perceived democratic deficit existing at a European level. Family policies[edit] The party strongly promotes itself as a pro-family party and encourage marry couples to have more children. Prior to elections, it promised to build 3 million inexpensive housing units as a way to help young couples start a family. Once in government, it passed legislation lengthening parental leaves. It also revived the idea of a housing programme based on state-supported construction of inexpensive housing units. The party is also against euthanasia and comprehensive sex education. It has also proposed a ban of in-vitro fertilisation. LGBT rights in Poland The party opposes granting additional rights to homosexual people beyond what is afforded by current legislation. In particular, it opposes same-sex marriages or any other form of legal recognition of same-sex couples. Active homosexuals surely not, in any case", but that homosexuals "should not be discriminated otherwise".

DOWNLOAD PDF TRUTH LAW AND JUSTICE : THE CALL OF THE OTHER IN THE DISADJUSTED TIME OF THE PRESENT

Chapter 3 : American Center for Law and Justice

Solidarity's leadership wanted to back Law and Justice in , but was held back by the union's last experience of party politics, in backing Solidarity Electoral Action. Today, the party enjoys great support among working class constituencies and union members.

This was a bold statement by a group of Christian Palestinians which told the truth about the tragic situation in their country under Israeli occupation. The decision-makers content themselves with managing the crisis rather than committing themselves to the serious task of finding a way to resolve it. Religious liberty is severely restricted; the freedom of access to the holy places is denied under the pretext of security. Jerusalem and its holy places are out of bounds for many Christians and Muslims from the West Bank and the Gaza strip. Even Jerusalemites face restrictions during the religious feasts. Some of our Arab clergy are regularly barred from entering Jerusalem. Jerusalem is the heart of our reality. It is, at the same time, a symbol of peace and sign of conflict. While the separation wall divides Palestinian neighbourhoods, Jerusalem continues to be emptied of its Palestinian citizens, Christians and Muslims. Their identity cards are confiscated, which means the loss of their right to reside in Jerusalem. Their homes are demolished or expropriated. Jerusalem, city of reconciliation, has become a city of discrimination and exclusion, a source of struggle rather than peace. Also part of this reality is the Israeli disregard of international law and international resolutions, as well as the paralysis of the Arab world and the international community in the face of this contempt. We also declare that the Israeli occupation of Palestinian land is a sin against God and humanity because it deprives the Palestinians of their basic human rights, bestowed by God. We declare that any theology, seemingly based on the Bible or on faith or on history, that legitimizes the occupation, is far from Christian teachings, because it calls for violence and holy war. We believe it is necessary to challenge the deafening silence of most churches in the face of the continuing injustice of dispossession and denial of basic human and political rights. We support Palestinians in their non-violent resistance to Israeli injustice and oppression. We endorse their call for boycott, disinvestment and sanctions BDS and other forms of non-violent direct action. We call on Christians to put pressure on governments and the European Union to demonstrate a commitment to justice for Palestinians and security for all people. The former had been seeking a just and lasting peace in the region based on the realisation of full human and political rights for all. The latter supported the Sabeel Theology Centre in Jerusalem, encouraged the Christian community in the Holy Land in their life and witness, and raised awareness in the UK of Christians in the Holy Land and promoted links with them. Let us hope the marriage bears fruit. At the same time, the American embassy was relocated to Jerusalem in violation of international law. The transgressor is the great power that should call on others to respect international law. The West Bank must be liberated and the people in it regain their freedom and complete equality must be ensured for all inhabitants. This is the 70th year of this painful truth: We call upon churches to be the conscience of humanity and hear the cry of the oppressed in the Holy Land. We call upon them to condemn the Christian Zionists whom we saw in these days contradicting the Gospel of love and peace, by supporting oppression and injustice, under the pretext of prophecies, and standing with the powerful of this world in their injustices. We call upon it to exert every pressure, even sanctions if necessary, to force Israel to follow the path of peace and justice. Sabeel is inviting local and international individuals and organizations to join and work as a united force. The Kumi project, they say, is founded on these three values: Its aim is to raise awareness about Palestine and exert pressure on the powerful decision makers of the world to do what is right and end the occupation. With their deep knowledge they have drafted as good a description of the dire situation as I have seen: The ugly reality of the present situation has created a feeling of hopelessness for many Palestinians. In our attempt to stand firm in the face of oppression, many believe that we have no chance of success and rightfully feel that we have reached rock-bottom. From global to local levels, we are disheartened by the current reality. First, at the highest level, the United Nations continues to prove that they are not

DOWNLOAD PDF TRUTH LAW AND JUSTICE : THE CALL OF THE OTHER IN THE DISADJUSTED TIME OF THE PRESENT

capable or willing to implement their own resolutions when it comes to Palestine, nor are they able to pass new resolutions to protect the Palestinian people living under military occupation without being blocked by a veto from the United States. Second, the major players in the international community, including the European Union, UK, China, and Russia, have not shown real political will to help Palestinians achieve their rights. Third, the United States of America, considered the superpower of the world today, continues to disregard international law and ignores the call to stand for Palestinian rights. Both Democrat and Republican governments have failed to advocate for justice and lasting peace in the land. Fourth, Israel has become a captive of its own fears and fundamentalist views. Fifth, we Palestinians feel overwhelmed with what is happening in the Arab World. From the failure of the Arab Spring to bring true and lasting reform, the escalating sectarian wars, the disrespect of human rights, to the growth of religious extremism, we do not expect help from our Arab brothers and sisters. Sixth, we witness the lack of true coordination between human rights organizations in Palestine, Israel, and around the world developing a clear road map so that a solution based on justice and international law is achieved. Finally, the internal divisions and disputes among Palestinians have restricted our ability to resist as one united people. These divisions have not only broken our resistance but have also broken our spirits, making us feel completely helpless in the face of oppression. Thankfully, Sabeel-Kairos maintains credibility by managing to separate themselves from the usual religious windbags who shy away from politics. Oodles of interfaith dialogue there. At top level too. But it made no difference. Sacks revealed himself in his true colours especially when it emerged that he had been promoting and leading the notoriously provocative March of the Flags each year on Jerusalem Day, which is an out-and-out religious hate fest designed to terrorise Palestinians in their own homeland. This appeared in Haaretz last year: The march, largely attended by bussed-in yeshiva students, is associated with hate speech and violence. Oh, the irony of it. Israel, said Sacks, is the place where his people were born almost 4, years ago. Can he demonstrate ancestral ties to the ancient Holy Land? What Sabeel-Kairos says helps campaigners and civil society keep focus on some of the essential issues in the big struggle ahead. I pick out the following: Equality must be ensured for all inhabitants; The international community must shoulder its responsibilities and the UN must show itself capable or willing to implement its own resolutions or dissolve; Internal divisions have destroyed Palestinian resistance and undermined international support. The causes must be removed urgently.

DOWNLOAD PDF TRUTH LAW AND JUSTICE : THE CALL OF THE OTHER IN THE DISADJUSTED TIME OF THE PRESENT

Chapter 4 : A Court Without A Center: Kagan Laments Loss Of Swing Justice – JONATHAN TURLEY

In fact, the ancient "law of the talion" (an ethical standard originating in Babylonian law and present as well in the Bible and early Roman law) focuses on what is commonly known (but.

Hoffman For the past several months, Book Riot has been getting a lot of requests for recommendations for books explaining why our political and legal systems are the way they are. Law is not just something that happens in courtrooms and legislatures; it infuses our whole lives. While most of these books about the law are focused on the United States, our neighbors to the north have not been left out, with some stellar examples of Canadian legal history. There are also a few selections from Europe, Latin America, and South Africa, but full coverage will have to wait for a future list. Without further ado—books about the law and more. The New Jim Crow: Policing the National Body: But how reliable is this account? Graham Burnett recovers the strange story of *Maurice v. Judd*, an trial that pitted the new sciences of taxonomy against the then-popular—and biblically sanctioned—view that the whale was a fish. The trial fueled a sensational public debate in which nothing less than the order of nature—and how we know it—was at stake. Camp and Christina Heatherton: *Misconceptions* argues that child welfare measures which simultaneously seek to rescue children and punish errant women will not, and cannot, succeed in alleviating child or maternal poverty. *Sisters in the Struggle*: Only recently have historians begun to recognize the central role women played in the battle for racial equality. *The Long, Lingering Shadow*: Showing that this history is best appreciated in a comparative perspective, *The Long, Lingering Shadow* looks at the parallel legal histories of race relations in the United States, Brazil, and Spanish America. *Freedom Is a Constant Struggle: Governing Immigration Through Crime*: Amidst increasing anti-immigrant sentiment, unauthorized migrants have been cast as lawbreakers. *Governing Immigration Through Crime* offers a comprehensive and accessible introduction to the use of crime and punishment to manage undocumented immigrants. Reflecting the most recent attitudes of the Supreme Court, Professor Duane argues that it is now even easier for police to use your own words against you. *A Nation of Rights* explores the implications of this major change by bringing legal history into dialogue with the scholarship of other historical fields. *Law and the Gay Rights Story*: But he also tells the story of those individuals who were willing to make waves by fighting for those rights, taking enormous personal risks at a time when the tide of public opinion was against them. *The Legal Ideology of Removal*: This common view minimizes the impact on Indian sovereignty of some little-known legal cases at the state level. Evelyn Nakano Glenn untangles this complex history in a unique comparative regional study from the end of Reconstruction to the eve of World War II. Charismatic democracy activist Yvonne Pascal and her fellow refugees had no contact with the outside world, no lawyers, and no hope. The criminal justice system—and especially the age-old law of vagrancy—served not only to maintain safety and order but also to enforce conventional standards of morality and propriety. A person could be arrested for sporting a beard, making a speech, or working too little. Yet by the end of the s, vagrancy laws were discredited and American society was fundamentally transformed. *Greenhouse* was the first print reporter to have access to the extensive archives of Justice Harry A. Blackmun —99, the man behind numerous landmark Supreme Court decisions, including *Roe v. Remarkably*, she was acquitted, and award winning popular historian Charlotte Gray explains how this happened. *New York Times v. Hall and Melvin I. The Alien and Sedition Acts of* The left asserts that the electoral process is rife with corruption. The right protests that the real aim of campaign limits is to suppress political activity and protect incumbents. Meanwhile, money flows freely on both sides. But in , it was Holmes who wrote a dissenting opinion that would become the canonical affirmation of free speech in the United States. *Only What We Could Carry: No Constitutional Right to Be Ladies: Country of My Skull*: The narrative is often traumatic, vivid, and provocative. *Summer for the Gods*: Four of the ten selected cases established the field of environmental law, three others refined it, and the final three have sought to limit its effectiveness and reach. This selection mirrors the development of the field of environmental law, from the

DOWNLOAD PDF TRUTH LAW AND JUSTICE : THE CALL OF THE OTHER IN THE DISADJUSTED TIME OF THE PRESENT

first, heady days of its creation to its current conflicts with other laws and values, including some embedded in the Constitution. Under the existing blueprint, we can neither rid ourselves of incompetent presidents nor assure continuity of government following catastrophic attacks. Less important, perhaps, but certainly problematic, is the appointment of Supreme Court judges for life. Adding insult to injury, the United States Constitution is the most difficult to amend or update of any constitution currently existing in the world today. Democratic debate leaves few stones unturned, but we tend to take our basic constitutional structures for granted. Levinson boldly challenges the American people to undertake a long overdue public discussion on how they might best reform this most hallowed document and construct a constitution adequate to our democratic values. *The King is Dead*: Historians have disagreed over its intended meaning, its authenticity and validity, and the circumstances of its creation. At the beginning of the eighteenth century, its sinfulness was preached by ministers and the right to imprison debtors was unquestioned. By , imprisonment for debt was under attack and insolvency was no longer seen as a moral failure, merely an economic setback. In *Republic of Debtors*, Bruce H. Mann illuminates this crucial transformation in early American society. *At the Dark End of the Street*: Seven white men, armed with knives and shotguns, ordered the young woman into their green Chevrolet, raped her, and left her for dead. In taking on this case, Parks launched a movement that exposed a ritualized history of sexual assault against black women and added fire to the growing call for change. *Ritchie, and Kay Whitlock*: The first trade book to tell these untold stories, *Pushout* exposes a world of confined potential and supports the growing movement to address the policies, practices, and cultural illiteracy that push countless students out of school and into unhealthy, unstable, and often unsafe futures. *The Condemnation of Blackness*: Chronicling the emergence of deeply embedded notions of black people as a dangerous race of criminals by explicit contrast to working-class whites and European immigrants, this fascinating book reveals the influence such ideas have had on urban development and social policies. *The First Civil Right: The Majesty of the Law*: Insiders thus shared important legal disabilities with outsiders. Patterson takes readers through the dramatic case and its fifty-year aftermath. *The Good Girls Revolt*: It was the first female class action lawsuit—the first by women journalists—and it inspired other women in the media to quickly follow suit. *Six Women of Salem: Killing the Black Body: Women and the Law*: Schneider and Stephanie M. This volume utilizes subject areas common to many women and law casebooks: Using historical research, original organizational case studies, and personal interviews, the authors illuminate how women of color have led the fight to control their own bodies and reproductive destinies. *Cannibalism and the Common Law*: It tells the tragic story of the yacht *Mignonette*, which foundered on its way from England to Australia in . The killing and eating of one of the crew, Richard Parker, led to the leading case in the defence of necessity, *R. It resulted in their being convicted and sentenced to death, a sentence subsequently commuted. Now, with a candor and intimacy never undertaken by a sitting Justice, she recounts her life from a Bronx housing project to the federal bench, a journey that offers an inspiring testament to her own extraordinary determination and the power of believing in oneself.* *Stanley and Nat Smith*: Stanley and Nat Smith bring together current and former prisoners, activists, and academics for a new understanding of how race, gender, ability, and sexuality are lived under the crushing weight of captivity. *Steiker and Jordan M. Courting Death* traces the unusual and distinctive history of top-down judicial regulation of capital punishment under the Constitution and its unanticipated consequences for our time. *The Buffalo Creek Disaster*: It was one of the deadliest floods in U. This is the story of their triumph over incredible odds and corporate irresponsibility, as told by Gerald M. Stern, who as a young lawyer and took on the case and won. Now he draws upon his more than three decades on the Court, during which he was involved with many of the defining decisions of the modern era, to offer a book like none other. *Free Speech in Wartime*: Stone delineates the consistent suppression of free speech in six historical periods from the Sedition Act of to the Vietnam War, and ends with a coda that examines the state of civil liberties in the Bush era. *Down, Out, and Under Arrest*: Thomas and Tracey Jean Boisseau: *The Run of His Life*: Simpson trial, *The Run of His Life* is a prodigious feat of reporting that could have been written only by the foremost legal journalist of our time.

DOWNLOAD PDF TRUTH LAW AND JUSTICE : THE CALL OF THE OTHER IN THE DISADJUSTED TIME OF THE PRESENT

Chapter 5 : A History of Justice: Origins of Law and Psychiatry

Our call for others to be Christians is not a call to work for God or to earn his approval by doing deeds of righteousness or love. We are calling for people to renounce all self-reliance and rely entirely on the saving life and death of Jesus Christ.

I fear for Lady Justice The dismissal of the fundamental rules of our justice system is stunning. This is a rush transcript from "Justice with Judge Jeanine," September 22, This copy may not be in its final form and may be updated. Breaking tonight, a tentative agreement for Christine Blasey Ford to testify before a Senate committee on Thursday. Hello, and welcome to "Justice. A tentative agreement for the woman accusing Supreme Court nominee Brett Kavanaugh of an attempted sexual assault to testify before the committee this Thursday. But again, this is tentative and both parties are still talking and hammering out the details. But first to my open. I have actually fought on that battlefield for more than three decades where justice is sought for victims. And I have long fought for a level playing field, particularly for women. The often silent and forgotten victim of crime. As District Attorney, I created a sex crimes bureau. My crusade for women and children existed long before the MeToo Movement. Our criminal justice system is the most revered in the world. The constitutional rights of all Americans are etched in stone. Number one, due process requires equal protection under the law for the victim as well as the accused. Number two, in all criminal prosecutions, the accused shall enjoy the right to a speedy trial. Number three, no warrant shall issue or criminal charge filed without probable cause. Number four, the accused has the right to a trial by an impartial jury. The right to remain silent. The right to not only confront his accuser but to cross-examine as well. Number five, the burden of proof in every criminal case is beyond a reasonable doubt and the burden of proof is on the prosecutor. Number six, as for the accused, there is absolutely no burden to speak or even present a case. So let us apply this foundational truth to the Christine Ford and Brett Kavanaugh situation. What motivation might someone have to come forward 36 years after an event and how credible could such an accusation be? The woman has to be believed and he is guilty. Forget a trial, due process or even hearing from the victim, the Constitution be damned. Not only do women like Dr. Ford who bravely comes forward need to be heard, but they need to be believed. They need to be believed. I believe the survivor here. I believe Professor Ford. The dismissal of the fundamental rules of our justice system by congressmen, senators, congresswomen is stunning. Anyone who has prosecuted sex crimes cases knows that. Criminals rarely commit crimes in public or while a videotape is running. But here, the alleged victim does not know the address, the date, the owner of the house, how she got home that night. What was her appearance when she got home. Did her mother see her? Did he suffer a behavioral change? Did her grades go down? To whom did he complain and when? In sex crime cases in particular, recent outcry is compelling and reliable. When the memory is fresh is when you would most expect the complaint. When is the first time she even used the name Kavanaugh? Here, there is no indication of any of that. Physical evidence such as torn clothes, injuries, visits to a doctor, a hospital, photographs. And finally, does the complaint ring true? And a complaint does not gain credibility based on the name of the accused. And what of the credibility and background of the accused. Sixty five women who have gone to school with him, dated him, worked for him and know him have come forward to say that his whole life has been about respecting women. Why, if there is such a high recidivism rate, a repeat of these crimes in violent sex crimes cases have we never heard anything like this after six FBI investigations? Whenever a complaint is old any prosecutor would ask why now? Ford said she was outed. Well it was she who contacted two Democrat congress women six weeks before she came forward, and 36 years after it allegedly happened. And why take a lie detector test if she believed what she was saying? Might it be part of a long hatched plan to reveal? Investigators ask for lie detector tests. Now while Ford is highly political, one incident is even more compelling. The judge ruled against them. The judge was a woman. Many time victims are teed up by attorneys who want to become famous or rich. This just came out 48 hours ago. No, not 48 hours ago, 36 years

DOWNLOAD PDF TRUTH LAW AND JUSTICE : THE CALL OF THE OTHER IN THE DISADJUSTED TIME OF THE PRESENT

ago. She was an intern in Hawaii a few years ago. How did she make that trip? Did she drive or surf across the ocean from California to Hawaii. If you want an investigation, call the local police or Women are to be believed not because a political party thinks they should be, but when they sound credible and present a believable scenario. And believability does not depend on the party of the complainant. And all men who are accused have a right to be cloaked in the presumption of innocence unless and until proof beyond a reasonable doubt shatters that presumption. And it matters not what your politics are, that Lady Justice is blind, has been the truth in our system from time immemorial. I have honored that lady. But now I fear for her. I fear for Lady Justice. But not just Lady Justice, our institutions and our bedrock constitutional rules that have made America what Ronald Reagan referred to as the shining city on the hill. We can never allow that to happen. Joining me now with exclusive reaction to that and more, counselor to the President, Kellyanne Conway. Thank you for being with us on this Saturday night. Well, those who are searching for the truth and transparency and accountability, ought to file that one away, along with the fact that as we know earlier this week, it was revealed that her two female lawyers were headlining an event for Senator Tammy Baldwin. So lots of different conflicts, but I think those who appreciate transparency and accountability are calling for it ought to know that, and guess who is leading that charge, one Judge Brett Kavanaugh. You know, Jeanine, last Sunday was the first time Judge Kavanaugh heard the name of the - got the identity of his accuser, Dr. But he did so less than 24 hours of even knowing her identity. Because his story has never changed. But it goes beyond that, Jeanine. All he wants to do is show up. Well, let me tell you, no conditions, no demands. Let me tell you, Kellyanne, you and I are both lawyers. We get it, okay. I tried cases for 30 years. To what are you responding? A Washington Post report? The nonsense of the senators? I mean, Judge Kavanaugh spent 30 hours under oath, but not a single senator did, now did they? Not a single senator have listened. You know, Judge, have you ever had a problem or have been accused or have been at a party, anything? Take note of that. But more importantly, there were private conversations between Senator Feinstein for example, who sat on this letter and Chairman Grassley understand - and judge Kavanaugh. One would think this would qualify as a sensitive matter. So two things, quickly, one is - it is completely at the seat of Senator Feinstein and the Democrats that Dr.

DOWNLOAD PDF TRUTH LAW AND JUSTICE : THE CALL OF THE OTHER IN THE DISADJUSTED TIME OF THE PRESENT

Chapter 6 : Must-Read Books about the Law and Social Justice

Yale Journal of Law & the Humanities Volume 2 Issue 2 *Yale Journal of Law & the Humanities Article 4 Time, Deconstruction, and the Challenge to Legal Positivism: The Call for Judicial Responsibility.*

Iustitia was introduced by emperor Augustus , and was thus not a very old deity in the Roman pantheon. Justice was one of the virtues celebrated by emperor Augustus in his clipeus virtutis , and a Temple of Iustitia was established in Rome 8 January 13 BC by emperor Tiberius. This section needs additional citations for verification. Please help improve this article by adding citations to reliable sources. Unsourced material may be challenged and removed. The personification of justice balancing the scales dates back to the goddess Maat , and later Isis , of ancient Egypt. The Hellenic deities Themis and Dike were later goddesses of justice. Themis was the embodiment of divine order, law, and custom, in her aspect as the personification of the divine rightness of law. There are three distinctive features of Lady Justice: Different depictions show different hands holding the scales. The Greek goddess Dike is depicted holding a set of scales. Bacchylides, Fragment 5 trans. Greek Lyric IV Greek lyric c. If some god had been holding level the balance of Dike Justice. The scales represent the weighing of evidence, and the scales lack a foundation in order to signify that evidence should stand on its own. Blindfold[edit] 18th-century Lady Justice at the Castellania Since the 16th century, Lady Justice has often been depicted wearing a blindfold. The blindfold represents impartiality , the ideal that justice should be applied without regard to wealth, power, or other status. The earliest Roman coins depicted Justitia with the sword in one hand and the scale in the other, but with her eyes uncovered. For example, atop the Old Bailey courthouse in London , a statue of Lady Justice stands without a blindfold; [7] the courthouse brochures explain that this is because Lady Justice was originally not blindfolded, and because her "maidenly form" is supposed to guarantee her impartiality which renders the blindfold redundant. The drawing showed a bunch of figures evoking reactionary politics emerging from the Capitol. One of the figures was Lady Justice lifting her blindfold, implying that the then-composition of Congress had politicized the criminal justice system. Sword[edit] The sword represented authority in ancient times, and conveys the idea that justice can be swift and final.

DOWNLOAD PDF TRUTH LAW AND JUSTICE : THE CALL OF THE OTHER IN THE DISADJUSTED TIME OF THE PRESENT

Chapter 7 : Justice Quotes (quotes)

Lady Justice (Latin: Iustitia) is an allegorical personification of the moral force in judicial systems. Her attributes are a blindfold, a balance, and a sword. She often appears as a pair with Prudentia, who holds a mirror and a snake.

As far back in ancient Greek literature as Homer, the concept of dikaion, used to describe a just person, was important. From this emerged the general concept of dikaiosune, or justice, as a virtue that might be applied to a political society. The issue of what does and does not qualify as just could logically lead to controversy regarding the origin of justice, as well as that concerning its essence. In his trial, Socrates was at pains to dissociate himself from them, after his conviction refusing to save himself, as a typical Sophist would, by employing an act of civil disobedience to escape Dialogues, pp. The brief answer is, their relativism and their skepticism. Gorgias Plato named dialogues after both of them is remembered for a striking three-part statement of skepticism, holding that nothing really exists, that, even if something did exist, we could not grasp it, and that, even if we could grasp something real, we could never express it to anyone else. We can easily anticipate how readily Sophists would apply such relativism and skepticism to justice. But the most significant Sophist statement regarding justice arguably comes from Antiphon, who employs the characteristic distinction between custom *nomos* and nature *physis* with devastating effect. He claims that the laws of justice, matters of convention, should be obeyed when other people are observing us and may hold us accountable; but, otherwise, we should follow the demands of nature. The laws of justice, extrinsically derived, presumably involve serving the good of others, the demands of nature, which are internal, serving self-interest. He even suggests that obeying the laws of justice often renders us helpless victims of those who do not First, pp. If there is any such objective value as natural justice, then it is reasonable for us to attempt a rational understanding of it. On the other hand, if justice is merely a construction of customary agreement, then such a quest is doomed to frustration and failure. With this as a backdrop, we should be able to see what motivated Plato and Aristotle to seek a strong alternative. Socrates easily demolishes this simplistic view with the effective logical technique of a counter-example: Secondly, Polemarchus, the son of Cephalus, jumps into the discussion, espousing the familiar, traditional view that justice is all about giving people what is their due. But the problem with this bromide is that of determining who deserves what. Polemarchus may reflect the cultural influence of the Sophists, in specifying that it depends on whether people are our friends, deserving good from us, or foes, deserving harm. It takes more effort for Socrates to destroy this conventional theory, but he proceeds in stages: If the first inadequate theory of justice was too simplistic, this second one was downright dangerous. The third, and final, inadequate account presented here is that of the Sophist Thrasymachus. Thrasymachus cannot mean physically stronger, for then inferior humans would be superior to finer folks like them. He clarifies his idea that he is referring to politically powerful people in leadership positions. But, next, even the strongest leaders are sometimes mistaken about what is to their own advantage, raising the question of whether people ought to do what leaders suppose is to their own advantage or only what actually is so. Had Thrasymachus phrased this in terms of what serves the interest of society itself, the same appearance versus reality distinction would apply. But, beyond this, Socrates rejects the exploitation model of leadership, which sees political superiors as properly exploiting inferiors Thrasymachus uses the example of a shepherd fattening up and protecting his flock of sheep for his own selfish gain, substituting a service model in its place his example is of the good medical doctor, who practices his craft primarily for the welfare of patients. Socrates suggests three criteria for judgment: Thus, by the end of the first book, it looks as if Socrates has trounced all three of these inadequate views of justice, although he himself claims to be dissatisfied because we have only shown what justice is not, with no persuasive account of its actual nature *ibid*. Likewise, in Gorgias, Plato has Callicles espouse the view that, whatever conventions might seem to dictate, natural justice dictates that superior people should rule over and derive greater benefits than inferior people, that society artificially levels people because of a bias in favor of equality. Socrates is then made to

DOWNLOAD PDF TRUTH LAW AND JUSTICE : THE CALL OF THE OTHER IN THE DISADJUSTED TIME OF THE PRESENT

criticize this theory by analyzing what sort of superiority would be relevant and then arguing that Callicles is erroneously advocating injustice, a false value, rather than the genuine one of true justice Gorgias, pp. Glaucon reminds us that there are three different sorts of goods—“intrinsic ones, such as joy, merely instrumental ones, such as money-making, and ones that are both instrumentally and intrinsically valuable, such as health—in order to ask which type of good is justice. Socrates responds that justice belongs in the third category, rendering it the richest sort of good. In that case, Glaucon protests, Socrates has failed to prove his point. If his debate with Thrasymachus accomplished anything at all, it nevertheless did not establish any intrinsic value in justice. He proposes to do this in three steps: Almost as soon as Glaucon finishes, his brother Adeimantus jumps in to add two more points to the case against justice: In defending justice against this Sophist critique, Plato has Socrates construct his own positive theory. This is set up by means of an analogy comparing justice, on the large scale, as it applies to society, and on a smaller scale, as it applies to an individual soul. Thus justice is seen as an essential virtue of both a good political state and a good personal character. The strategy hinges on the idea that the state is like the individual writ large—“each comprising three main parts such that it is crucial how they are interrelated—and that analyzing justice on the large scale will facilitate our doing so on the smaller one. In Book IV, after cobbling together his blueprint of the ideal republic, Socrates asks Glaucon where justice is to be found, but they agree they will have to search for it together. If they can properly identify the other three of those four, whatever remains that is essential to a completely good society must be justice. Wisdom is held to be prudent judgment among leaders; courage is the quality in defenders or protectors whereby they remain steadfast in their convictions and commitments in the face of fear; and temperance or moderation is the virtue to be found in all three classes of citizens, but especially in the producers, allowing them all to agree harmoniously that the leaders should lead and everyone else follow. Now we move from this macro-level of political society to the psychological micro-level of an individual soul, pressing the analogy mentioned above. A good soul is wise, in having good judgment whereby reason rules; it is courageous in that its spirited part is ready, willing, and able to fight for its convictions in the face of fear; and it is temperate or moderate, harmoniously integrated because all of its parts, especially its dangerous appetitive desires, agree that it should be always under the command of reason. And, again, what is left that is essential is justice, whereby each part of the soul does the work intended by nature, none of them interfering with the functioning of any other parts. We are also told in passing that, corresponding to these four pivotal virtues of the moral life, there are four pivotal vices, foolishness, cowardice, self-indulgence, and injustice. One crucial question remains unanswered: The answer is that, of course, we can because justice is the health of the soul. Now let us quickly see how Plato applies this theory of justice to a particular social issue, before briefly considering the theory critically. In a remarkably progressive passage in Book V of his Republic, Plato argues for equal opportunity for women. He holds that, even though women tend to be physically weaker than men, this should not prove an insuperable barrier to their being educated for the same socio-political functions as men, including those of the top echelons of leadership responsibility. While the body has a gender, it is the soul that is virtuous or vicious. Despite their different roles in procreation, child-bearing, giving birth, and nursing babies, there is no reason, in principle, why a woman should not be as intelligent and virtuous—including as just—as men, if properly trained. As much as possible, men and women should share the workload in common Republic, pp. Nevertheless, many of us today are sympathetic to this application of justice in support of a view that would not become popular for another two millennia. The negative part of it—“his critique of inadequate views of justice—is a masterful series of arguments against attempts to reduce justice to a couple of simplistic rules Cephalus , to treating people merely in accord with how we feel about them Polemarchus , and to the power-politics mentality of exploiting them for our own selfish purposes Thrasymachus. Thus, in refuting them, Plato, in effect, is refuting the Sophists. However, after the big buildup, the positive part—“what he himself maintains justice is—“turns out to be a letdown. His conception of justice reduces it to order. While some objective sense of order is relevant to justice, this does not adequately capture the idea of respecting all persons, individually and collectively, as

DOWNLOAD PDF TRUTH LAW AND JUSTICE : THE CALL OF THE OTHER IN THE DISADJUSTED TIME OF THE PRESENT

free rational agents. What, for example, of the Christian virtue of love or the secular virtue of benevolence? Finally, the argument from analogy, showing that justice must be intrinsically, and not merely instrumentally, valuable because it is like the combination good of health proves, on critical consideration, to fail. Nevertheless, one cannot help hoping that a more cogent theory might yet be developed. Aristotle After working with Plato at his Academy for a couple of decades, Aristotle was understandably most influenced by his teacher, also adopting, for example, a virtue theory of ethics. Book V of his great *Nicomachean Ethics* deals in considerable depth with the moral and political virtue of justice. It begins vacuously enough with the circular claim that it is the condition that renders us just agents inclined to desire and practice justice. But his analysis soon becomes more illuminating when he specifies it in terms of what is lawful and fair. In general, citizens should obey such law in order to be just. The problem is that civil law can itself be unjust in the sense of being unfair to some, so that we need to consider special justice as a function of fairness. He analyzes this into two sorts: If a member of a community has been unfairly benefited or burdened with more or less than is deserved in the way of social distributions, then corrective justice can be required, as, for example, by a court of law. Notice that Aristotle is no more an egalitarian than Plato was—while a sort of social reciprocity may be needed, it must be of a proportional sort rather than equal. Like all moral virtues, for Aristotle, justice is a rational mean between bad extremes. But, since individuals tend to be selfishly biased, the law should be a product of reason rather than of particular rulers. Aristotle is prepared to distinguish between what is naturally just and unjust, on the one hand, such as whom one may legitimately kill, and what is merely conventionally just or unjust, on the other, such as a particular system of taxation for some particular society. But the Sophists are wrong to suggest that all political justice is the artificial result of legal convention and to discount all universal natural justice *ibid*. What is allegedly at stake here is our developing a moral virtue that is essential to the well-being of society, as well as to the flourishing of any human being. A decent person might selfishly benefit from being a stickler regarding following the law exactly but decide to take less or give more for the sake of the common good. In this way, decency can correct the limitations of the law and represents a higher form of justice *Nicomachean*, pp. In his *Politics*, Aristotle further considers political justice and its relation to equality. Justice rather requires inequality for people who are unequal. But, then, oligarchy is also intrinsically unjust insofar as it involves treating equals as unequal because of some contingent disparity, of birth, wealth, etc. Rather, those in a just political society who contribute the most to the common good will receive a larger share, because they thus exhibit more political virtue, than those who are inferior in that respect; it would be simply wrong, from the perspective of political justice, for them to receive equal shares. Thus political justice must be viewed as a function of the common good of a community. But inferiors have a vested interest in thinking that those who are equal in some respect should be equal in all respects, while superiors are biased, in the opposite direction, to imagine that those who are unequal in some way should be unequal in all ways. Thus, for instance, those who are equally citizens are not necessarily equal in political virtue, and those who are financially richer are not necessarily morally or mentally superior. All he can suggest, for example in some of his comments on the desirable aristocratic government, is that it must involve moral and intellectual virtue *Politics*, pp. Let us now consider how Aristotle applies his own theory of justice to the social problem of alleged superiors and inferiors, before attempting a brief critique of that theory. While Plato accepted slavery as a legitimate social institution but argued for equal opportunity for women, in his *Politics*, Aristotle accepts sexual inequality while actively defending slavery. Anyone who is inferior intellectually and morally is properly socio-politically inferior in a well-ordered polis. Aristotle holds that some are marked as superior and fit to rule from birth, while others are inferior and marked from birth to be ruled by others. It was the custom notice the distinction, used here, between custom and nature in antiquity to make slaves of conquered enemies who become prisoners of war. So the fact that a human being is defeated or captured is no assurance that he is fit for slavery, as an unjust war may have been imposed on a nobler society by a more primitive one. If our moral intuitions are correct against Aristotle and some would even call his views here sexist and racist, he may be mistaken about a matter of fact or about a value judgment or both. Surely he is wrong about all women

DOWNLOAD PDF TRUTH LAW AND JUSTICE : THE CALL OF THE OTHER IN THE DISADJUSTED TIME OF THE PRESENT

and non-Greeks, as such, being essentially inferior to Greek males in relevant ways, for cultural history has demonstrated that, when given opportunities, women and non-Greeks have shown themselves to be significantly equal. But it appears that Aristotle may also have been wrong in leaping from the factual claim of inequality to the value judgment that it is therefore right that inferiors ought to be socially, legally, politically, and economically subordinate—like Plato and others of his culture for which he is an apologist here, Aristotle seems to have no conception of human rights as such. Like Plato, he is arguing for an objective theory of personal and social justice as a preferable alternative to the relativistic one of the Sophists. It also leaves Aristotle with little viable means of establishing a universal perspective that will respect the equal dignity of all humans, as such.

DOWNLOAD PDF TRUTH LAW AND JUSTICE : THE CALL OF THE OTHER IN THE DISADJUSTED TIME OF THE PRESENT

Chapter 8 : Lady Justice - Wikipedia

Divine Law revealed in the New Testament through the life and teaching of Jesus Christ and through the witness and teaching of the Apostles. The New Law perfects the Old Law and brings it to fulfillment. Also called the Law of Love.

This is a consequence of the loss of the sense of any "truth" about man, and of the banishment of the idea of the natural law. It undermines any sense of true human rights, leaves the individual defenseless against unjust laws, and opens the way to different forms of totalitarianism. Moral law distinguishes right and wrong in free human actions. It is aimed above all at personal improvement and ultimately at salvation. Political-civil law is aimed at making it possible for people to live together in community: Its concern is not directly supernatural, although in creating the conditions for true justice and truly human behavior, it indirectly favors it. Human civilization is not possible without law and morality, standing in right relationship. The growing modern crisis of the West, shaking its culture and civilization to its foundations, stems from separating both, seeing no necessary relationship between them. But this is to relativise justice and truth in human relations, and to reject any concept of objective truth capable of uniting men. The bond of unity between men is tenuous when they simply share material interests; this is an association of self-interests always prone to clash. Unity goes deeper and is stronger against potential divisions when people have common values to look up to: Law "Law", according to the Encyclopedia Britannica, "refers to the specialized form of social control familiar in modern, secular, politically organized societies". The thomistic and christian view understands law otherwise: The purpose of human law is the common good more than the good of individuals I-II, q. It is to establish a certain order, so as to protect social living. Without law, there is no society, only the jungle, the rule of might "If there is justice, and if law is based on a discernment of what is just, dialogue can begin and benevolence can appear; so we come to what is ours in common. The first form of culture is law. Its effectiveness means that barbarism has been overcome: Morality Ethics or morals is the study of what we ought to do; i. Fundamental moral concepts such as right and wrong are necessarily universal. If they are treated as relative and subjective, then they become inapplicable to the social sphere; and hence to the whole area of human law. If what is wrong to me may legitimately be right to someone else, then one may perhaps debate the opportuneness of this or that law, but not its justice. Without an interior sense of a moral order, there can be little respect for the law; for this can only come from feeling oneself bound from within to observe the law. Here we note that the almost universal modern concept of law as a system of rules created by the state - which ensures its application through a system of courts and a coercive power - leaves the law without any interior appeal or authority, except insofar as one may recognize the need for some minimum of common rules. It also exposes the individual to the tendency to regard the law as purely external imposition to be evaded, if one can, whenever it is considered personally inconvenient. The purpose of morality is to ensure the uprightness of individual conscience the law cannot force a conscience to be upright. Yet christian morality is not individualistic; it leads one into community. Law and freedom Both law and morality imply human freedom. Clearly, without freedom one cannot speak of morality. But the same holds for law, for if it were automatically and not freely obeyed, men would be mere robots. Law is not a simple indication of what happens, such as the law of physics; it is an admonition to free persons about what they are required to do if they wish to live freely and responsibly in society; and it normally carries with it a sanction or punishment to be imposed on whoever is shown to have acted against given norms of conduct. Just law, properly understood, appeals to freedom. Nevertheless one of the most generalized liberal ideas is that law is by nature the enemy of freedom. Servais Pinckaers holds that Catholic moralists have gone through many centuries under the influence of this mentality which has led, by reaction, to the anti-law approach of much of contemporary moral theology. In this view, law and freedom were seen as "two opposed poles, law having the effect of limitation and imposing itself on freedom with the force of obligation. Freedom and law faced each other as two proprietors in dispute over the field of human actions. The moralists commonly said, "Law governs this act, freedom governs that

DOWNLOAD PDF TRUTH LAW AND JUSTICE : THE CALL OF THE OTHER IN THE DISADJUSTED TIME OF THE PRESENT

one Today we witness a strong tendency to invert the roles; the moralists now regard themselves as defenders of freedom and of personal conscience" [as against the law] [3]. Law and justice Law cannot attempt to regulate the purely interior sphere of personal conduct; morality can. Human or civil law is connected with external actions, precisely insofar and because they impinge on the rights or lawful actions of others. Hence the necessary connection of law with justice. For the regulation of interpersonal relations must work from the basic principle of justice: Hence arises the fundamental question of what is due to each one, and from this the further question of human rights. To each his due. Something is due to each. This is the sense of equality before the law. If there is an expression of the unity of the human race and of equality between all human beings, this expression is rightly given by the law, which can exclude no one from its horizon under pain of altering its specific identity" [4]. Even for those who see law and freedom in mutual opposition, the whole concept of law is essentially connected with that of justice. The ancient principle *lex iniusta non est lex* an unjust law is not a law, is at the basis of so many modern protests in the name of freedom. But justice is a moral concept; so these protests bear out the intrinsic connection between law and morality, "There is another crucial link between the virtues and law, for knowing how to apply the law is itself possible only for someone who possesses the virtue of justice" [5]. Justice must remain the norm, and sometimes the law must regain ground for justice. Basis and justification of law and authority Social harmony, among persons capable of free choice, and hence of justice or injustice towards each other, is not possible without law. But whence do we derive the authority of the law? The first view has been proposed since ancient times. In this view, law loses all interior force, it becomes essentially coercive; its force deriving mainly from the threat of its sanctions. This view is held by those who profess an extreme positivism, rejecting any concept of a natural law binding on all men. In a well-known lecture in , Oliver Wendell Holmes [6], then a justice of Supreme Court of Massachusetts, sought to reduce the whole function of the law to a simple indication of what the courts will do, or a person may have to suffer, in the event of a particular mode of conduct. The prophecies of what the courts will do in fact, and nothing more pretentious, are what I mean by the law The duty to keep a contract at common law means a prediction that you must pay damages if you do not keep it - and nothing else" [7]. This immanent view makes the law justify itself. What is enacted in law must be obeyed. There is no common court of higher appeal. An apparently "democratic" version of this is that the authority of the law comes from the people: But this still leaves minorities with no basis for any rights except those that the majority or the manipulators of the majority grant them [8]. Natural Law The only true alternative to positivism is the view that the authority of the law derives from what man is; and that man can find within himself a measure of the rightness or wrongness of the law. This view of the law goes back to the most ancient times; it has been the common wisdom of the ages. Among the Romans, Cicero taught: If in some respect it diverges from the natural law, it is no longer a law but a corruption of the law" [10]. The Nuremberg trials after World War II seemed to promise a revival of the notion of the Natural law, standing higher than any state law. But this tendency was soon strongly countered by the positive school dominant in modern jurisprudence, perhaps because it was realized that the natural law necessarily points to a higher authority than man himself, governing all the affairs of mankind. The Encyclopedia Britannica, in an article entitled "Law, morality and natural law", treats of the natural law very marginally and almost dismissively. For man, this means what he is when the powers and qualities distinguishing him from other creatures, namely, his reason and his impulse to social living, are fully developed. A major difficulty presented by this attempt to develop normative standards appears to be that it is very difficult to demonstrate, let alone create a sense of obligation towards values that are only immanent". One simply cannot prove by any empirical means the worth of values nor can one demonstrate which are higher among them. Either one holds that any scale of values is entirely subjective, or else allows that certain immanent values or norms the desire for truth or justice, the sense that the truth can only be one, and that justice means "to each his due" are present, however submergedly, in all men. The whole history of law shows that law loses its stability and its moral authority The tragic consequences of disregard for truth have been especially evident in our own century, in regimes which have sought systematically to

DOWNLOAD PDF TRUTH LAW AND JUSTICE : THE CALL OF THE OTHER IN THE DISADJUSTED TIME OF THE PRESENT

suppress the truth, presuming to deprive people of their inalienable rights in the name of some higher justice, or showing a readiness to sacrifice the rights of individuals to the rights of the State and its programmes" [11]. To quote Servais Pinckaers again: From that time on, rights refer not to what I owe others, but to what others, and society, owe me. Rights have changed hands: I think now in terms of my own rights, not those of others. The fundamental orientation of justice has been reversed: Justice no longer implies a quality of soul, a movement outward toward others; it concentrates on the defense of external rights. In this sense it is a matter of taking rather than giving. This was no longer based on a natural human inclination but became instead an artificial creation, set up to meet human needs and to prevent destructive rivalry. Under these conditions the relation between justice and charity degenerated, with consequent serious problems. Since the two were now moving in opposite directions, the one giving and the other taking, these virtues could no longer operate harmoniously. Justice, with its stronger, more immediate claims, left little to charity but a supplementary generosity, which could easily be included among the duties of justice as far as the law allowed. As a result, Christian terms such as charity, bounty, mercy, benevolence, and almsgiving were considerably devalued" [12] Pope John Paul II, in *Evangelium Vitae*, says that in order to save true democracy and freedom, "there is a need to recover the basic elements of a vision of the relationship between civil law and moral law, which are put forward by the Church, but which are also part of the patrimony of the great juridical traditions of humanity" no. The denial of any common natural law utterly undermines any philosophy of human rights. Pope John Paul insisted that it can lead to "totalitarianism [which] arises out of a denial of truth in the objective sense. If there is no transcendent truth, in obedience to which man achieves his full identity, then there is no sure principle for guaranteeing just relations between people. Their self-interest as a class, group or nation would inevitably set them in opposition to one another. If one does not acknowledge transcendent truth, then the force of power takes over, and each person tends to make full use of the means at his disposal in order to impose his own interests or his own opinion, with no regard for the right of others" Centesimus Annus, , This type of liberalism has in it the roots of democratic totalitarianism. Alistair McIntyre says that any sincere claim that the institutions of law embody the virtue of justice "represents the appeal to an absolute standard that lies beyond all secular and particular codifications. On this medieval view, as on the ancient, there is no room for the modern liberal distinction between law and morality, and there is no room for this because of what the medieval kingdom shares with the polis, as Aristotle conceived it. Both are conceived as communities in which men in company pursue the human good and not merely as - what the modern liberal state takes itself to be - providing the arena in which each individual seeks his or her own private good" After Virtue, p. Right or wrong have to be proposed, proved, judged upon.

DOWNLOAD PDF TRUTH LAW AND JUSTICE : THE CALL OF THE OTHER IN THE DISADJUSTED TIME OF THE PRESENT

Chapter 9 : Life Comes From It: Navajo justice, by Chief Justice Robert Yazzie

2 Legal and political theorists since the time of Plato have wrestled with the problem of whether justice is part of law or is simply a moral judgment about law.

Justice as we know it dates back to sixth century B. Athens with the genius of Solon. Poet, philosopher, soldier, merchant, practical economist as well as social critic he came to power in revolutionary times with a mission to put an end to the cycles of retaliatory violence that had plagued Greece for centuries. Athens wanted peace and order, and turned to the man who had communicated his vision of social order and the need for justice through his poetry. Solon laid the foundation for a democratic system of justice through the first of a series of constitutions that gave birth to democracy. He instituted changes and established a legal code that brokered a non-violent social revolution and transformed the passion for vengeance into a justice system. This system was based on rule of and equality before the law, a redistribution of power through law, and resolution of conflict through a public court system with juries of peers in an adversarial process before the presiding judge. Religion was separated from the administration of justice for the first time in human history. Solon converted private revenge into public justice. He harnessed wild justice and made it a central part of democracy. These developments occurred in the context of the birth of science that recognized emotional human nature as a part of nature, to be understood by natural means. Psychological concepts were incorporated into the law. Understanding what was in the mind of the accused became a priority. Manslaughter and intentional homicide had been differentiated even earlier under Draco, but intent and motive became more important issues under Solon - long presaging and laying the foundation of the mens rea concept. Instead of absolute liability the law looked to specific underlying differentiating factors and punishment was proportional. Preventing violence and maintaining public order were stated purposes of law. This was 6th century B. The influence of Athenian democratic justice can be seen today in every courtroom in our land. However, we would not have that influence but for the genius of another man coming some years after Solon. Aeschylus was also poet, philosopher, soldier, and like Solon, a fighter for justice, but his genius lay in drama. As Solon was creator of democracy, Aeschylus was creator of tragic drama and he used his art form as a weapon for democracy, law, and the peaceful resolution of conflict. During his time political upheaval threatened to sweep away democratic justice. Amidst that first crisis in B. It is a window into the evolution of Athenian justice, the principles underlying its law, and the threats to justice inherent in human passions. The play is a transcendental plea. The third part of the trilogy Its final act portrays a courtroom trial in which the mental state of the defendant is central with all the elements of what today we call legal insanity. The Oresteia, immortalized and carried the message of justice through millennia. This powerful drama kept alive the idea of humanistic justice, through the eclipse of the Roman Empire and submersion in the Dark Ages, through the Renaissance when the classics resurfaced, to the British Isles, and to our courtrooms. The Athenian legal system served as a frame of reference for the first codification of Roman law. Greek drama, and the sociological, scientific and, psychological principles underlying ancient law played a role in the evolution of a great and complex Roman jurisprudence. Then as Rome declined and fell, civilization sank into the darkness of "the worst of times" and justice seemed to be extinguished by societies ruled by greed, cruel power, and raw vengeance. The Furies retook Justice. Primitive magical thinking and belief in the supernatural buried the scientific attitude. Then dDemonology and witchcraft metamorphosed into a malignant scapegoating preoccupation that became twin to the Plague and rendering human understanding comatose. But Justice and Science lay dormant, hibernating in those literary treasuries of classical Greece and Rome, stored away in Islamic libraries and Ecclesiastical archives. It has been a slow and fitful reawakening. Classical heritage passed to England Threatened by the Moslem infidel, the Eastern Church transferred to the safety of Rome the original manuscripts of the Greek cultural masterpieces that had been presumed lost for a thousand years. Classical heritage passed from east to west, Italy to Ireland, Scotland, the British Isles and the

DOWNLOAD PDF TRUTH LAW AND JUSTICE : THE CALL OF THE OTHER IN THE DISADJUSTED TIME OF THE PRESENT

Continent, laying the foundation for momentous changes resulting in the founding of English common law between and As English society developed in a more representative direction, the adversary system, verdict power of the jury, and the concept of equality before the law emerged. With the growth of the adversary system in England the legal profession gained strength and gradually replaced the ecclesiastical jurists. The last great ecclesiastical jurist, also a classical scholarscholar was Henry de Bracton known for his recognition of psychological factors in legal issues and for contributions to the then embryonic insanity defense. Author of the treatise *On the Law of England*, he is a link between justice as developed in Greece and Rome and the evolving jurisprudence in England. After Bracton, intent again entered considerations of justice. There was more recognition of "unsound mind" vis a vis witchcraftvis witchcraft,, and by the 14th century complete madness was a defense. By the 16th century the concept of non compos mentis, legal insanity, was complex with the recognition there could be lucid intervals, - an observation sometimes lost in our courts. Humanistic ideals were reborn and with justice at the center. Universities were founded, feeding social institutions with a rediscovered appreciation for scientific curiosity. There was a return to seeking rational explanations for , that natural phenomena. This was the beginning of the struggle against demonology and its more modern derivative, "evil". In that struggle the ancient Greek ideal of a rational approach to the understanding of nature, humankind, and society has been opposed by residua of our medieval legacy. The warriors and their battlegrounds, cases resound through modern history as well as ancient. Johan Weyer confronted the law in maintaining confessions of witches were the result of severe mental illness. His views were dismissed as merely those of a physician. Mental illness was demonized, driving a wedge between psychiatry and the law that has not been completely bridged to this day. Yet Coke, Hale, and Francis Bacon were responsive to psychological developments, which they attempted to integrate with law. Although English law continued to trail scientific growth, during the 18th and 19th centuries advances in psychiatric knowledge began to infiltrate. Scotland produced two great minds, one legal and the other psychiatric. His work focused on the influence of emotions on thinking processes and he had an influence on the contributed to the development of modern psychiatry. Law and psychiatry were joined. They took the law into the complexities of mental illness focusing on the relevance of delusions in legal insanity. Forensic psychiatry was germinating, nurtured by a spectrum of developments in the psychological and neurosciences. William Cullen, a pathologist, published his study of insanity and his influence was extended by his studentsstudents extended his influence, to America by Benjamin Rush in American and to France by Pinel in France. Pinel, Pritchard, Esquirol and Isaac Ray were raising issues of the forensic implications of the impact of emotions on the ability to control behavior. But the English courts were still grappling with the issues of mental illness, reluctant to give up old notions of global cognitive dysfunction as the legal definition of mental illness in criminal cases. The cases of Arnold and Ferrers are examples. The last years In Isaac Ray in *A Treatise on the Medical Jurisprudence of Insanity* sifted and synthesized the developing psychiatry and applied it to an understanding of criminal behavior. Ray took psychiatry into more complex and less readily knowable areas of the mind than the Hadfield case considered. His work led to the conceptualization of what he called "irresistible impulse", of how distorted, diseased emotions can overwhelm rational thinking, sometimes in sudden explosive acts, but also over time with a gradual losing struggle to keep from doing what the rational mind abhors. He emphasized that "the affective as well as the intellectual facultiesintellectual faculties are subject to derangement. He laid this out for all to read. It reverberated in at the trial of Daniel McNaughton. The acquittal struck a raw nerve in society, the law, and psychiatry, fuelling fear and threatening the sense of social order. It set in motion waves of opposition to the insanity defense and psychiatry, interspersed with attempts to reconcile justice with psychiatry, to find ways of bringing scientific understanding of the mind into legal deliberations. The last years has seen a turbulent struggle to solve this very old and complex problem of revenge in society. If people would gratify the passion of revenge outside of the law, if the law did not help them, the law has no choice but to satisfy the craving itself, and thus avoid the greater evil of private retribution. But this leaves us approaching the year , a somemere years from Johan Weyer, and from Isaac

**DOWNLOAD PDF TRUTH LAW AND JUSTICE : THE CALL OF THE OTHER
IN THE DISADJUSTED TIME OF THE PRESENT**

Raystill, still emerging from the Dark Ages, technologically enlightened, but with justice just partially tamed.