#### **LEGAL THEORY**

### Index to Volume 19, 2013

Alexander, Larry. Yaffe on Attempts, 124 Amaya, Amalia. Coherence, Evidence, and Legal Proof, 1

Bratman, Michael E. Yaffe on Criminal Attempts, 101

Brink, David O. First Acts, Last Acts, and Abandonment, 114

Darwall, Stephen. Forcing Freedom, 89 Duke, George. Finnis on the Authority of Law and the Common Good, 44

Edmundson, William A. Why Legal Theory is Political Philosophy, 331

Essert, Christopher. Legal Obligation and Reasons, 63

Fissell, Brenner M. Jury Nullification and the Rule of Law, 217

Green, Michael S. On Hart's Category Mistake, 347 Kramer, Matthew H. In Defense of Hart, 370

Moore, Michael S. Yaffe's *Attempts*, 136 Plunkett, David and Sundell, Timothy. Dworkin's Interpretivism and the Pragmatics of Legal Disputes, 242

Shanske, Darien. Thucydides and Law: A Response to Leiter, 282

Sherwin, Emily. Legality and Rationality: A Comment on Scott Shapiro's *Legality*, 403

Simpson, Robert Mark. Intellectual Agency and Responsibility for Belief in Free-Speech Theory, 307

Yaffe, Gideon. Trying to Defend Attempts: Replies to Bratman, Brink, Alexander, and Moore, 178

# **C**AMBRIDGE

# Outstanding Titles in Legal Theory from Cambridge University Press



#### Teaching Law

Justice, Politics, and the Demands of Professionalism

#### Robin West

\$90.00: HB: 978-1-107-04453-1 \$32.99: PB: 978-1-107-67819-4: 252 pp.

#### Law and Language

Effective Symbols of Community

Harold J. Berman Edited by John Witte, Jr. Afterword by Tibor Várady \$90.00: HB: 978-1-107-03342-9: 218 pp.

#### Beyond Race, Sex, and Sexual Orientation

Legal Equality without Identity Sonu Bedi

\$99.00: HB: 978-1-107-01835-8: 289 pp.

## Dressing Constitutionally

Hierarchy, Sexuality, and Democracy from Our Hairstyles to Our Shoes

#### Ruthann Robson

\$90.00: HB: 978-0-521-76165-9 \$32.99: PB: 978-0-521-14004-1: 266 pp.

# The Constitution of Risk

#### Adrian Vermeule

\$85.00: HB: 978-1-107-04372-5 \$32.99: PB: 978-1-107-61897-8: 205 pp.



#### On Dissent

Its Meaning in America

Ronald K. L. Collins and David M. Skover

\$24.99: HB: 978-0-521-76719-4: 194 pp.

## Dimensions of Politics and English Jurisprudence

Sean Coyle

\$120.00: HB: 978-0-521-19659-8: 397 pp.

#### Nationalism and the Rule of Law

Lessons from the Balkans and Beyond

lavor Rangelov

\$95.00: HB: 978-1-107-01219-6: 224 pp.

## Promoting the Rule of Law in Post-Conflict States

Laura Grenfell

\$115.00: HB: 978-1-107-02619-3: 329 pp.

#### **Human Rights**

The Hard Questions

Edited by Cindy Holder
and David Reidy

\$99.00: HB: 978-1-107-00306-4 \$34.99: PB: 978-0-521-17626-2: 488 pp.

Prices subject to change.

www.cambridge.org/law @CambUP Law



# **JOURNALS**

# Leiden Journal of International Law

Published for The Foundation of the Leiden Journal of International Law

#### **Editors-in-Chief**

Carsten Stahn, Leiden University, The Netherlands Eric de Brabandere, Leiden University, The Netherlands

Firmly established as one of Europe's leading journals in the field, the *Leiden Journal of International Law (LJIL)* provides a forum for two vital areas, namely international legal theory and international dispute settlement. It is unique in providing the most comprehensive coverage of the world's most important international tribunals in The Hague (such as the ICJ, ICTY, ICC and others) and elsewhere, as well as examining new trends in international legal thinking. *LJIL* is essential reading for academics and practitioners who need to stay abreast of recent developments in these areas.



#### Leiden Journal of International

*Law* is available online at: http://journals.cambridge.org/ljl

#### To subscribe contact Customer Services

#### in Cambridge:

Phone +44 (0)1223 326070 Fax +44 (0)1223 325150 Email journals@cambridge.org

#### in New York:

Phone (845) 353 7500 Fax (845) 353 4141 Email subscriptions\_newyork@cambridge.org

#### Free email alerts

Keep up-to-date with new material – sign up at

journals.cambridge.org/ljl-alerts

For free online content visit: http://journals.cambridge.org/ljl



# **JOURNALS**

# Netherlands International Law Review

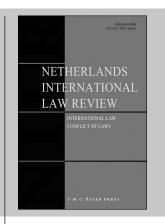
Marketed and distributed for T.M.C. Asser Press

#### **Editor-in-Chief**

P. Vlas, Free University of Amsterdam, The Netherlands

The Netherlands International Law Review (NILR) addresses relevant topics and recent trends in international law and the conflict of laws, including their comparative legal aspects. Articles are combined with English-language reports on topical Dutch judicial decisions, surveys of the case law on the topic of civil jurisdiction and enforcement of judgments in Europe, an update on the current developments regarding The Hague's international tribunals, an overview of the Hague Conventions on Private International Law, book reviews, and occasionally, a short commentary on case law or legislation. The journal serves as a reliable source of information for scholars and practitioners and anyone who wants to stay up-to-date with the most important developments in these fields.

\*\*Please note a subscription includes an annual volume of the Netherlands Yearbook of International Law (NYIL)\*\*



#### Netherlands International Law Review

is available online at: http://journals.cambridge.org/nlr

#### To subscribe contact Customer Services

#### in Cambridge:

Phone +44 (0)1223 326070 Fax +44 (0)1223 325150 Email journals@cambridge.org

#### in New York:

Phone (845) 353 7500 Fax (845) 353 4141 Email subscriptions\_newyork@cambridge.org

#### Free email alerts

Keep up-to-date with new material – sign up at

journals.cambridge.org/nlr-alerts

For free online content visit: http://journals.cambridge.org/nlr



| UN<br>POS   | T/  | L SERVICE . (All Periodicals Pub  | olication                          | s Ex   | Ma<br>ce     | na<br>pt                  | R   | eme<br>equ             | ent, a<br>leste     | and Circulation<br>r Publications)               |
|---|---|---|------------------------------------|--|--------------|---------------------------|---|------------------------|---------------------|--|
| 1. Publication Titl<br>Legal Theo   | e<br>ry                                     |   | 2. Publication                     | 6 _  | 6            | 4                         | 3   | T                      | -1                  | g Date<br>./2013                                 |
| 4. Issue Frequen  | 5. Number of I                              |   | ublish                             | hed  | Ann          | ually                     | 1   | ual Subscription Price |                     |  |
| 7. Complete Mail  | it, city, county,                           | state, a  | nd ZIF                             | P+4  | 8)           |                           | \$348<br>Contac   | -t Darenn              |                     |  |
| Cambridge University Press 32 Ave. of the Americas, New York, NY 10013-2473 8. Complete Mailing Address of Headquarters or General Business Office of Publisher (Not printer) |   |   |                                    |  |              |                           |   |                        | Teleph              | n Sunakawa<br>ione (include area code)<br>484411 |
|   |   | ddress of Headquariers or General Business Office of Pu<br>versity Press<br>Liding, Cambridge CB2 2RU, England  | ublisher (Not pr                   | inter)   |              |                           |   |                        |                     |  |
| 9. Full Names an  | d Co  | mplete Mailing Addresses of Publisher, Editor, and Mana-  | ging Editor (Do                    | not lea  | ve ble       | ank)                      | )   |                        |                     |  |
|   |   | complete making address)<br>rersity Press<br>: Americas, New York, NY 10013-2473  |                                    |  |              |                           |   |                        |                     |  |
| Editor (Name and  | cor   | plete mailing address)  |                                    |  |              | _                         |   |                        |                     |  |
|   |   | er, Duke Univ, School of Law, Larry<br>: , Univ of California, San Diego, Sc  | Alexander                          | , Uni<br>apiro   | ver          | sit                       | by b  | of S                   | an Di               | ego Law School,<br>, USA                         |
| Simon Ross,   | C   | ne and complete making address)  mbridge University Press, 32 Ave. of   |                                    |  |              |                           |   |                        |                     |  |
| 10. Owner (Do no<br>names and a   | t lei<br>idre                               | we blank. If the publication is owned by a corporation, giv<br>sees of all stockholders owning or holding 1 percent or mo<br>sees of the individual owners. If owned by a partnership o | re the name an<br>ore of the total | d addre<br>amount  | ss of sto    | the<br>ock.               | corp<br>If no   | oratio                 | n immed<br>led by a | liately followed by the<br>corporation, give the |
| names and a<br>each individu<br>Full Name   | ddre<br>al ou                               | mer. If the publication is published by a nonprofit organize  | ation, give its n                  | ame an   | a soa        | give<br>fres:             | e its<br>s.)  | name                   | and add             | iress as well as those of                        |
| Cambridge U   | Complete Mailing Address Edinburgh Building |   |                                    |  |              |                           |   |                        |                     |  |
|   | Shaftesbury Rd                              |   |                                    |  |              |                           |   |                        |                     |  |
|   | Cambridge                                   | CB2   | 2RU,                               | , В  | ing!         | land                      |   |                        |                     |  |
|   |   |   |                                    |  |              |                           |   |                        |                     |  |
| 11. Known Bondi   | olde  | rs, Mortgagees, and Other Security Holders Owning or H  | lolding 1 Perce                    | nt or Mo   | ore of       | Tot                       | lal Aı  | noun                   | of Bond             | ls, Mortgages, or                                |
| The Securities. If none, check box   ► None  Complete Mailing Add  Complete Mailing Add   |   |   |                                    |  |              |                           | _   |                        |                     |  |
|   | _   |   |                                    |  |              |                           |   |                        |                     |  |
|   |   |   |                                    |  |              |                           |   |                        |                     |  |
|   | ·   |   |                                    |  |              |                           |   |                        |                     |  |
|   |   | · · · · · · · · · · · · · · · · · · ·   |                                    |  |              |                           |   |                        |                     |  |
| 12. Tax Status (F   | or co                                       | mpletion by nonprofit organizations authorized to mail at<br>tion, and nonprofit status of this organization and the exe  | nonprofit rates                    | (Chec  | k one,       | )                         |   |                        |                     |  |
| ☐ Has Not C   | han   | tion, and nonprofit status of this organization and the exe<br>ged During Preceding 12 Months<br>During Preceding 12 Months (Publisher must submit expl                                 |                                    |  |              |                           |   |                        | 15:                 |  |
| 13. Publication 1   | itte  | San g i coccing it morning it abitation must decimil expe   | 200000101010101                    | -ye  |              |                           |   |                        | for Circu           | lation Data Below                                |
| Legal Theory  15. Extent and Nature of Circulation  |   |   |                                    |  |              | 03/13                     |   |                        |                     |  |
| 10. Extent and 1  |   |   |                                    | Average No. Copies<br>Each Issue During<br>Preceding 12 Months |              | Copies<br>uring<br>Months | No. Copies of Single<br>Issue Published<br>Nearest to Filing Date |                        |                     |  |
| a. Total Number of Copies (Net press run)   |   |   |                                    |  | T            |                           |   | 529                    |                     | 559  |
|   | (1)   | Mailed Outside-County Paid Subscriptions Stated on PS Form 3541 (Include paid distribution above nominal rate, advertiser's proof copies, and exchange copies)                          |                                    |  |              |                           |   | 147                    |                     | 135  |
| b. Paid<br>Circulation<br>(By Mell<br>and<br>Outside<br>the Mell)   | (2)   | Mailed in-County Paid Subscriptions Stated on PS Form<br>tribution above naminal rate, advertiser's proof copies, an  | ~~~~                               | +  | 0            |                           |   |                        | 0                   |  |
|   | (3)   | Paid Distribution Outside the Mails Including Sales Through Dealers and Carriers, Street Vendors, Counter Sales, and Other Paid Distribution Outside USPS®                              |                                    |  |              |                           |   | 109                    |                     | 98   |
|   | (4)   | Paid Distribution by Other Classes of Mail Through the USPS (e.g., First-<br>Class Mail <sup>(9)</sup> )  |                                    |  |              |                           |   | 0                      |                     | 0  |
| c. Total Paid Distribution (Sum of 15b (1), (2), (3), and (4))  |   |   |                                    |  | $^{\dagger}$ |                           |   | 256                    |                     | 233  |
| d. Free or<br>Nominal   | on PS Form 35                               | 41  | +                                  |  |              | 57                        |   | 54                     |                     |  |
| d. Free or<br>Nominal<br>Rate<br>Distribution<br>(By Mail<br>and<br>Outside<br>the Mail   | (2)   | Free or Nominal Rate In-County Copies Included on PS  | Form 3541                          |  | +            |                           |   | 0                      |                     | 0  |
| and<br>Outside<br>the Mail)   | (3)   | Free or Nominal Rate Copies Mailed at Other Classes 1 (e.g., First-Class Mail)  | Through the US                     | PS   | T            | -                         |   | 0                      |                     | 0  |
|   | (4)   | Free or Nominal Rate Distribution Outside the Mail (Car   | miers or other n                   | neans)   | İ            |                           |   | 35                     |                     | 34   |
| e. Total Free or Nominal Rate Distribution (Sum of 15d (1), (2), (3) and (4))   |   |   |                                    |  |              |                           | 92  |                        | 88                  |  |
| f. Total Distr  | f. Total Distribution (Sum of 15c and 15e)  |   |                                    |  |              | 348                       |   |                        |                     | 321  |
| g. Copies not Distributed (See Instructions to Publishers #4 (page #3))   |   |   |                                    |  | 181 238      |                           |   | 238                    |                     |  |
|   |   |   |                                    |  |              | 529                       |   |                        |                     | 559  |
| i, Percent Paid (15c divided by 15f times 100)  |   |   |                                    |  |              |                           |   | 74%                    |                     | 73%  |
| 16. Total circ  | ilatio                                      | n includes electronic copies. Report circulation on PS F  | Form 3526-X w                      | orkshee  | t.           |                           |   |                        |                     |  |
| 17. Publication of S  |   | ment of Ownership<br>n is a general publication, publication of this statement is   | required, Will I                   | e printe   | BSI          | methic                    |   |                        | D. ANI              | tion and an air-                                 |
| in the  |   | Issue of this publication.  | squms20. YYIII I                   | p1886  |              |                           |   | L                      | Publica             | ition not required.                              |
| 18. Signature and   | Title                                       | of Editor, Publisher, Business Manager, or Owner  |                                    |  |              |                           |   |                        |                     | Date   |
| 67  | Ü   | llw Jeenkur   |                                    |  |              |                           |   |                        |                     | 10/1/2013  |
| 1/6   |   |   |                                    |  |              |                           |   |                        |                     |  |

# **LEGAL THEORY**

#### INSTRUCTIONS FOR CONTRIBUTORS

Legal Theory is a quarterly, peer-reviewed journal that is edited to the highest standards with the assistance of a prestigious international editorial board. Legal Theory encompasses a broad range of topics, including but not limited to analytical jurisprudence, normative jurisprudence, policy analyses of legal institutions and doctrines, theories of law as a social or cultural phenomenon, and critical perspectives on law and legal institutions.

Legal Theory encompasses a broad range of topics, including but not limited to analytical jurisprudence, normative jurisprudence, policy analyses of legal institutions and doctrines, theories of law as a social or cultural phenomenon, and critical perspectives on law and legal institutions.

Submitted articles, books for review, and editorial correspondence should be sent to *Legal Theory* at legaltheory@sandiego.edu. Attention: Alessandria Driussi.

**Preparation of manuscript.** A separate title page should be prepared including the article title, short title for use as a running head (not to exceed 45 characters), author's full name and affiliation, and complete contact information (including phone number and e-mail address).

Manuscripts should be submitted in Word and should conform to *Chicago* style (however, see below concerning preparation of reference and note material). Manuscripts should be shorter than 15,000 words exclusive of notes. A separate abstract of no more than 150 words should be included. Submissions directly commenting on other works in the existing literature are welcome.

The entire manuscript (including notes and references) should be typed double-spaced with wide margins for copyediting. Manuscript pages should be numbered consecutively. Authors of accepted articles will be asked to prepare a final version in the journal's style and to submit it on disk together with a hard copy version.

The cover letter, title page, abstract, and manuscripts are to be submitted via separate email attachments in MS Word.

*Figures.* If the manuscript is accepted for publication, the author must provide figures that are ready for photographic reproduction; they cannot be redrawn by the publisher, unless the author pays for the cost of such work. Charts, graphs, or other artwork must be drawn by a professional artist or computer generated on a laser printer, in black ink on white paper, and should remain legible after a 50% reduction. All labels and details on figures should be clearly printed.

References and notes. References should conform to the legal style of *The Bluebook: A Uniform System of Citation*, 17th edition, published by the Harvard Law Review Association.

*Copyediting and proofreading.* The publisher reserves the right to copyedit and proofread all articles accepted for publication, but authors will be consulted in the case of any substantial changes. Page proofs of each article will be sent to the lead author for correction of typographical errors only.

*General.* Submitting an article to *Legal Theory* implies that it has not been published elsewhere and is not being considered for publication elsewhere. Authors must obtain written permission to publish any material for which they do not own copyright. They will be asked to assign the copyright of their article, under certain conditions, to Cambridge University Press. Offprints may be purchased if ordered at proof stage on the form provided.

# LEGAL THEORY

#### SPECIAL ISSUE: SHAPIRO'S LEGALITY

- 331 Why Legal Theory is Political PhilosophyWilliam A. Edmundson
- 347 On Hart's Category Mistake
  Michael S. Green
- 370 In Defense of Hart

  Matthew H. Kramer
- 403 Legality and Rationality: A Comment on Scott Shapiro's *Legality*Emily Sherwin
- 422 Index to Volume 19, 2013

Cambridge Journals Online
For further information about this journal please
go to the journal web site at
http://www.journals.cambridge.org/leg



