

ISSN 1352-3252



# LEGAL THEORY

Volume 4  
Number 1

March  
1998

**CAMBRIDGE  
UNIVERSITY PRESS**

# LEGAL THEORY

ISSN 1352-3252

---

## EDITORS

Jules L. Coleman, *Yale Law School*

Larry Alexander, *University of San Diego School of Law*

Frederick Schauer, *Harvard University, John F. Kennedy School of Government*

---

## EDITORIAL BOARD

Bruce Ackerman, *Yale University*

Robert Alexy, *University of Kiel*

Anita Allen, *Georgetown University*

Lea Brilmayer, *New York University*

Ruth Chang, *Rutgers University*

Robert Cooter, *University of California, Berkeley*

Richard Craswell, *University of Chicago*

Meir Dan-Cohen, *University of California, Berkeley*

Antony Duff, *Stirling University*

Gerald Dworkin, *University of California, Davis*

Ronald Dworkin, *New York University; Oxford University*

Robert Ellickson, *Yale University*

Joel Feinberg, *University of Arizona*

John Finnis, *Oxford University*

Ruth Gavison, *Hebrew University*

Kent Greenawalt, *Columbia University*

Thomas Grey, *Stanford University*

Michael Hechter, *University of Arizona*

Douglas Heckathorn, *University of Connecticut*

Risto Hilpinen, *University of Miami*

Heidi Hurd, *University of Pennsylvania*

Frances Kamm, *New York University*

Louis Kaplow, *Harvard University*

Mark Kelman, *Stanford University*

Lewis Kornhauser, *New York University*

Jody Kraus, *University of Virginia*

Kenneth Kress, *University of Iowa*

Brian Leiter, *University of Texas, Austin*

Saul Levmore, *University of Virginia*

David Lyons, *Boston University*

Neil MacCormick, *Edinburgh University*

Andrei Marmor, *University of Tel Aviv*

Frank Michelman, *Harvard University*

Michael Moore, *University of Pennsylvania*

Stephen Munzer, *University of California, Los Angeles*

Jeffrie Murphy, *Arizona State University*

Dennis Patterson, *Rutgers University*

Stephen Perry, *University of Pennsylvania*

Gerald Postema, *University of North Carolina*

Margaret Jane Radin, *Stanford University*

Joseph Raz, *Oxford University*

Donald Regan, *University of Michigan*

Janet Radcliffe Richards, *The Open University, UK*

Carol Rose, *Yale University*

Roger Shiner, *University of Alberta*

Walter Sinnott-Armstrong, *Dartmouth College*

Patricia Smith, *University of Kentucky*

Cass Sunstein, *University of Chicago*

Csaba Varga, *Budapest University*

Jeremy Waldron, *Columbia University*

Steven Walt, *University of Virginia*

Wil Waluchow, *McMaster University*

Richard Wasserstrom, *University of California, Santa Cruz*

Alan Wertheimer, *University of Vermont*

Robin West, *Georgetown University*

---

**Editorial Office:** *Legal Theory*, Yale Law School, 127 Wall Street, New Haven, Connecticut 06511, USA; e-mail: coleman@mail.law.yale.edu; fax: 203-432-1040.

**Publishing, Subscription, and Advertising Offices:** Cambridge University Press, 40 West 20th Street, New York NY 10011; or Cambridge University Press, The Edinburgh Building, Shaftesbury Road, Cambridge CB2 2RU, England.

*Legal Theory* is published quarterly. Annual subscription rates for Volume 4, 1998: Institutions: \$105.00 in the USA, Canada, and Mexico; UK£66.00 in all other countries. Individuals: \$50.00 in the USA, Canada, and Mexico; UK£33.00 in all other countries. Prices include postage and insurance; airmail outside the USA, Canada, and Mexico is £20.00 extra.

Copyright ©1998 Cambridge University Press. All rights reserved. No part of this publication may be reproduced, in any form or by any means, electronic, photocopying or otherwise, without permission from Cambridge University Press. Photocopying information for users in the USA: The Item-Fee Code for this publication (1352-3252/98 \$9.50) indicates that copying for internal or personal use beyond that permitted by Sec. 107 or 108 of the US Copyright Law is authorized for users duly registered with the Copyright Clearance Center (CCC) Transaction Reporting Service, provided that the appropriate remittance of \$9.50 per article is paid directly to: CCC, 222 Rosewood Drive, Danvers, MA 01923. Specific written permission must be obtained from Cambridge University Press for all other copying. Contact the ISI Tearsheet Service, 3501 Market Street, Philadelphia, PA 19104, for single copies of separate articles.

Periodicals postage paid at New York, NY, and additional mailing offices. Forwarding and Return Postage Guaranteed, Address Correction Requested. Postmaster: Send address changes in the USA and Canada to: *Legal Theory*, Cambridge University Press, Journals Fulfillment Dept., 110 Midland Ave., Port Chester, NY 10573-4930.

Printed in the United States of America.