

The Philosophy Of Customary Law

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The Philosophy Of Customary Law

The Philosophy of Customary Law brings greater theoretical clarity to the often murky topic of custom by showing that custom must be analyzed into two more logically basic concepts: convention and habit.

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Despite its title, The Philosophy of Customary Law deals relatively little with customary law as we know it. Most of the discussion of contemporary customary law occurs in the book's introduction, where Murphy entirely ignores tribal, indigenous, and other customary law systems, instead minimizing the importance of customary law to that of a "gap-filler" only occasional referenced by Western common law courts in situations where no written law applies.

Book Review: The Philosophy of Customary Law | DipLawMatic ...

The very expression of customary law brings us to a first, preliminary acknowledgment: speaking of a customary law compels to single out the genus (law) from the species (the so-called customary law). Customary law appears then like a specific form of law, sharing with it the general features and categories of a legal approach.

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