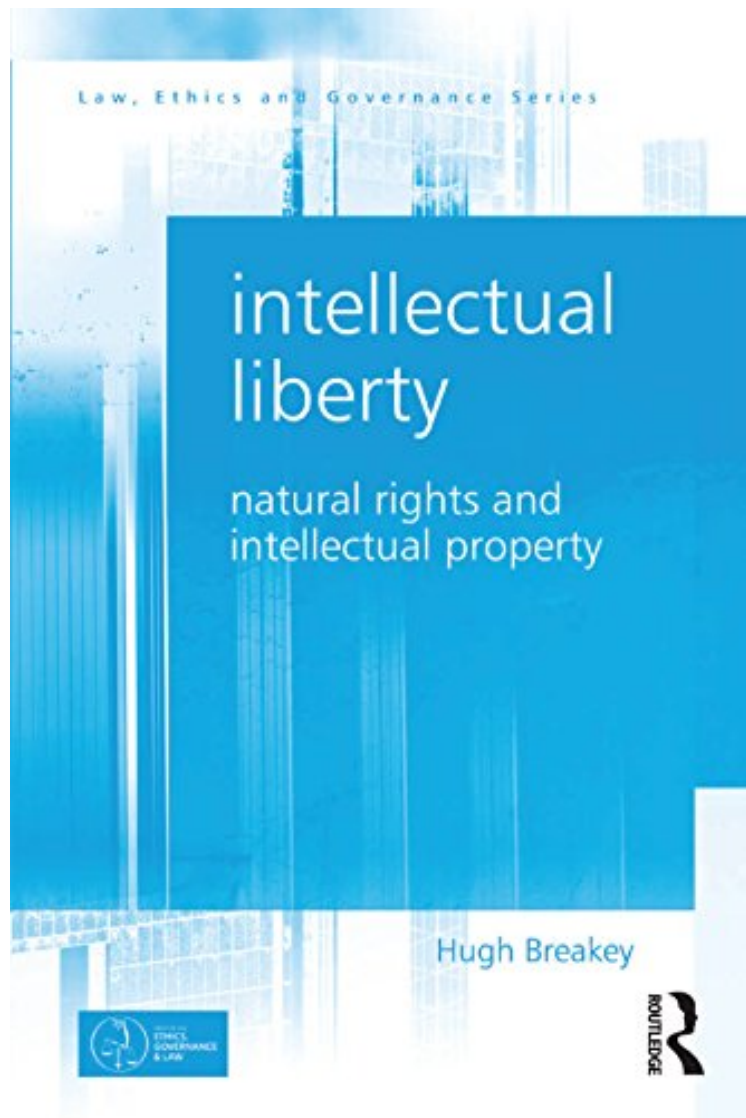


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## Intellectual Liberty: Natural Rights and Intellectual Property (Law, Ethics and Governance)

*Hugh Breakey*

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**Hugh Breakey : Intellectual Liberty: Natural Rights and Intellectual Property (Law, Ethics and Governance)** before purchasing it in order to gauge whether or not it would be worth my time, and all praised Intellectual Liberty: Natural Rights and Intellectual Property (Law, Ethics and Governance):

0 of 0 people found the following review helpful. Developing a legal theory....By Phillip Taylor

MBE[[VIDEOID:mo1657RNE6TKBWN]]ON INTELLECTUAL PROPERTYAn appreciation by Phillip Taylor

MBE and Elizabeth Taylor of Richmond Green Chambers Published recently by Ashgate, this book is the latest title in that publisher's admirable 'Law, Ethics and Governance' Series which upholds good governance as 'necessary, if not crucial, for economic success and human development' and which examines issues of good governance from the standpoint of a range of disciplines, from law, ethics and politics to economics and management theory. The author, Hugh Breakey, of Australia's Griffith University takes an overtly philosophical approach to his subject matter as indicated in the sub-title 'natural rights and intellectual property' and it utilizes, primarily, the work of John Locke. The book was written as part of his postdoctoral fellowship under the aegis of that university and certainly contributes considerable food for thought, analysis and contemplation to what may be seen as an ongoing debate as to whether intellectual property is actually the unassailable property of the individual who created it, or whether more of it should be more accessible via the public domain. As he readily acknowledges, much of his material is influenced by a range of learned publications from 'The Philosophical Quarterly' to 'The Modern Law Review' (in which he himself has published) and Intellectual Property Quarterly. He argues that 'natural rights theories must include space for intellectual liberties, and so require the limitation of intellectual property rights, such as copyright and patent'. Natural rights in the jurisprudential sense may also be interpreted, we assume, as 'user's rights' frequently referred to in the text of this book. Intellectual property lawyers may make of all this what they will! Writers, artists and designers working across a range of media and probably starving in garrets are likely to be rendered apoplectic. The author does point out that before 17th century there was no copyright law as we now know it. One could argue that there was no mass literacy or mass media either before that period, in the form of the widespread use of the printing press, for example not to mention the thousands of other inventions that at the time had yet to be invented. Nonetheless, the author constructs a most interesting argument substantiated for the most part by copious and wide-ranging research as evidenced by the massive bibliography. He relies greatly on the philosophy of John Locke and references a host of other thought provoking quotes from other thinkers on this vast subject, from Hume and Rousseau to, momentarily, that twentieth century darling of the far right, Ayn Rand, referred to as 'libertarian'. On the whole, the author's thesis, although controversial, is carefully argued nonetheless and concludes that freedom, i.e. intellectual liberty, requires a balanced approach in general as well as in particular, to intellectual property rights. Students of philosophy as well as jurisprudence and legal theory will find much in this book to commend it.

Considering the steady increase in intellectual property rights in the last century, does it make sense to speak of 'user's rights' and can limitations on intellectual liberty be justified from a rights-based perspective? This book philosophically defends the importance of the public domain and 'user's rights' through the use of natural-rights thought. Utilizing primarily the work of John Locke, it contends that considerations of natural justice and human freedom impose powerful constraints on the proper reach and substance of intellectual property rights, especially copyright. It investigates both the internal and external natural-rights constraints on intellectual property, and argues in particular for the importance to human freedom of the right to intellectual liberty - the right to inform one's actions by learning about the world. It concludes that respect for fundamental freedom-based interests require a balanced approach to the scope, strength and duration of intellectual property rights.

'Intellectual liberty is set to become a key reference point in the emerging field of the philosophy of intellectual property. Breakey argues that rather than offering justifications for strong regimes of intellectual property rights, natural rights theories point towards effective and sustainable users' rights. Intellectual property rights do not stand as trumps but as components in systems of rights and liberties, in particular "intellectual liberties", such as the freedom to learn about the world and to use what one has learned to inform one's actions. These intellectual liberties frame and cabin the reach of justifiable intellectual properties. Breakey's argument is made with the care, sophistication, clarity, and verve. Lionel Bently, University of Cambridge, UK About the Author Dr Hugh Breakey is a Postdoctoral Fellow at the Institute for Ethics, Governance and Law, and the Key Centre for Ethics, Law, Justice and Governance, at Griffith University, Australia. His research interests include the philosophy and ethical dimensions of property rights, intellectual property, the structure of natural, human and legal rights, classical liberalism, and civilian protection and international law. He has published widely on these and related areas. His current research, as part of a larger international project, and in association with the United Nations University, involves rights-based investigation of international civilian protection norms, including the Responsibility to Protect and International Humanitarian Law. He is a member of the Executive Committee of the Australian Association for Professional and Applied Ethics.