

<<法哲学与法社会学论丛>>

图书基本信息

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内容概要

本书主要内容包括：特稿；主题研讨：部门法中的法哲学；法哲学研究；法治理论；人权问题；法社会学研究。

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书籍目录

特稿 法的合法性 Summarizing Statement on the Main Topics of “ Between Facts and Noms ” 主题研讨：部门法中的法哲学 国家刑罚的法哲学问题 Staatsphilosophie seit Kant 法哲学研究 “ Spirit of the People ” :Savigny and Liang Shu-ming ’ s Historical Dimension on Law 中世纪欧洲的法哲学——西方法律传统的中世纪渊源法治理论 西方的法治理论 From "the Justice in the Open Air" To "The Justice in the Theatre"—a Perspective of Semiotics 法律自治——法治的另一种思考人权问题 关于人权与责任的亚洲法理学 附《世界人权宣言》和《人类责任宣言（草案）》 法社会学研究 让·加尔博利埃和他的法律社会学思想 政府能力建设与规制能力评估——宪政发展的一个重要方面 欧洲一体化对法律专业学习的影响——从国家法律家到欧洲法律家

章节摘录

In the context of Chinese legal culture, as Liang Shu-ming accounts, human reason as a faculty of finding truth, judging right or wrong, has been sought to be embedded within law traditionally. It is by relying upon this human faculty that the sense of right and wrong transcends itself to connect with the deepest level of sources of law, i.e., the Heaven Principle or Way of Heaven (universal principles of heaven) and human feeling by which beliefs could be proved right or wrong. Also, it is relied upon this human faculty that law can be rethought from its basic principles, and its huge body would be reorganized along the lines of these principles. In addition, through this process universal reason and historical facts are combined together in grounding law. If law shares the nature of the world and of life, then this way of transcendence demonstrates an ultimate concern and basic principle around which the Chinese legal culture orients itself towards the end of creating a social order, of perfecting a human life, and of comforting the human mind. As early as in 1865, while still at the Harvard Law School, Oliver Wendell Holmes Jr., seems to have understood that he would create a dynamic intellectual autobiography in the law. "What he cared about," explains Felix Frankfurter much later, "was transforming thought." By quoting this, an American lawyer remarked that Holmes' success is one more indication, to use the language of cultural anthropology, " that legal thought is constructive of social realities rather than merely reflective of them".

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