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Recht Verhandeln Argumentieren Begründen Und Entscheiden Im Diskurs Des Rechts

**Timothy Endicott, Hafsteinn Dan
Kristjánsson, Sebastian Lewis**



Recht Verhandeln Argumentieren Begründen Und Entscheiden Im Diskurs Des Rechts:

Recht verhandeln Kent D. Lerch, 2005 Das juristische Alltagsverständnis von der Aufgabe der Gesetzesanwendung ist nach wie vor geprägt von der rechtspositivistischen Vorstellung es gelte nur das Recht das in den Rechtstexten enthalten sei aus diesen herauszuparieren da dort die Entscheidung jedes einzelnen Rechtsfalls im Prinzip bereits vorweggenommen sei Durch richtige Auslegung finde man das richtige Recht und könne es dann anwenden Kritik an dieser Vorstellung vom bloßen Auffinden und Anwenden des Rechts erfolgte erstmals in den fünfziger Jahren als man sich auf die klassische Rhetorik als eine Argumentationstheorie zurückbesann mit der sich präziser als mit traditioneller Semantik oder Logik begreifen lässt was vor sich geht wenn Juristen Entscheidungen fällen Die Beiträge des Bandes untersuchen die pragmatische Seite der juristischen Argumentation z.B. den Aufbau einer Gerichtsrede oder bestimmte persuasive Techniken mit dem Instrumentarium der modernen Kommunikations- und Sprechakttheorie Pluspunkte Die Band vervollständigen das dreibändige Kompendium zur modernen Rechtslinguistik Fundierte Analysen zu den kommunikations- und medientheoretischen Aspekten der Rechtsvermittlung und -auslegung Grundlegende Studien zum Verhältnis von Sprache und Recht aus pragmatischer und soziolinguistischer Perspektive Wegweisende Ergebnisse eines groß angelegten Projekts der Berlin Brandenburgischen Akademie der Wissenschaften

Formal Linguistics and Law Günther Grewendorf, Monika Rathert, 2009-12-15 This volume explores new interfaces between linguistics and jurisprudence Its theoretical and methodological importance lies in showing that many questions asked within the field of language and law receive satisfactory answers from formal linguistics The book starts with a paper by the two editors in which they explain why the volume as a whole and with its individual papers is an innovation in the field of language and law In addition an overview about the most important research projects on language and law is given The first chapter of the book is on understanding the law Jurists and laypersons always ask for the precise meaning of a certain piece of the law In linguistics the discipline investigating meaning is semantics thus it is to be expected that semantics can contribute to a correct understanding of the law Chapter 1 also investigates the alleged incomprehensibility of legal language with the help of psycholinguistics Chapter 2 is on identifying the criminal To find the author of a blackmailer's letter text corpus linguistics is instrumental If the blackmailer uses the telephone instead of the letter speaker identification and phonetics are necessary The BKA stores all blackmailing letters in a database but databases are only one possibility of organizing legal systems another possibility is the application of tools from computational linguistics and artificial intelligence These tools can be useful to handle terminology to retrieve information or to model legal theorizing in a formal system Chapter 3 demonstrates a variety of examples of organizing legal systems The topic of chapter 4 is multilingualism and the law The European legislation is a product of legal and linguistic diversity as the member states do not only differ in languages but also in their legal systems One paper shows how Switzerland handles its multilingualism in legal drafting The input of translation studies is of course vital in this field of

research An index for both subjects and persons complements the volume Popularisierung als Methode der Wissensvermittlung in der Rechtslinguistik / Popularisation as a Method of Knowledge Mediation in Legal Linguistics Karin Luttermann, Jan Engberg, 2023 The focus of Legal Linguistics Rechtslinguistik has shifted from lexical syntactic and terminological issues to expert lay communication This volume focuses on popularisation as a method of knowledge mediation in the law It deals with different forms of communication e g explanatory videos brochures websites addressees e g children adolescents adults topics e g empathy emotions trust settings e g courts law firms EU institutions and finally specific areas of law e g inheritance law criminal law environmental law The contributions written in German and English discuss theoretical issues and apply them practically to the corpus The book is stimulating for anyone wanting to delve more deeply into the topic of popularisation

The Language of Canon Law Judith Hahn, 2023 In this book Judith Hahn explores the legal order of the Roman Catholic Church to better understand how the Roman Catholic Church communicates as a legal institution She argues that the language of canon law reveals the political ideology of the church hierarchy and she takes up the tools of language and law scholarship to examine and challenge that language Hahn examines the grammar and terminology of canon law and how canon law language makes use of linguistic tricks and techniques to create its typical sound and discusses the comprehension difficulties that arise out of ambiguities in the law out of transfer problems between legal and common language and out of canon law s confusing mix of legal doctrinal and moral norms

Constitutionally Conforming Interpretation – Comparative Perspectives Matthias Klatt, 2023-11-02 This is the first part of a 2 volume set that presents an in depth investigation into the canon of constitutionally conforming interpretation These volumes address the fundamental issues the canon raises in the national supranational and international contexts In volume 1 experts from 19 jurisdictions including Brazil Canada India the UK and the USA present reports which give concise overviews of the approaches and debates on constitutionally conforming interpretation These reports cover the structural background the conditions of application as well as issues of competence Further aspects discussed are its perceived normativity and popularity in everyday legal practice Together with volume 2 which explores the canon s use and theoretical impact beyond the national context in a comparative and critical manner this book fills an important gap in legal scholarship and sets the stage for cross national discourse

Interdisziplinäre Rechtsforschung Christian Boulanger, Julika Rosenstock, Tobias Singelnstein, 2018-12-18 Der Band bietet eine Einführung in die Rechtssoziologie und die interdisziplinäre Rechtsforschung die sich im Anschluss an die Socio legal Studies und die Law and Society Forschung im angelsächsischen Raum auch im deutschsprachigen Raum herausbildet Die 16 Beiträge erschließen in exemplarischer Weise die theoretischen methodischen und inhaltlichen Grundlinien der Beforschung von Recht in den verschiedenen wissenschaftlichen Disziplinen darunter z B Soziologie Politikwissenschaft Rechtswissenschaft Kriminologie Ethnologie und Philosophie Sie geben den LeserInnen einerseits einen fundierten Überblick im Sinne einer Bestandsaufnahme Andererseits werden zentrale Fragestellungen zu

nftiger Forschungen und damit Perspektiven des Feldes skizziert Neben den theoretischen und methodischen Grundlagen der Rechtsforschung entsteht so anhand von beispielhaften Forschungsfragen ein multiperspektivisches Bild der wissenschaftlichen Befassung mit Recht als sozialem Ph nomen in den verschiedenen Disziplinen Der Schwerpunkt liegt dabei auf empirischen zeitgen ssischen und gesellschaftswissenschaftlichen Fragestellungen in den Bereichen Funktion Genese und Wirkung Recht Anwendung und Durchsetzung von Recht sowie Wandel von Recht Hierin zeigt sich der Charakter der interdisziplin ren Rechtsforschung als einer Grundlagendisziplin die auf eine lange Forschungstradition in Rechtssoziologie Rechtstatsachenforschung und Rechtswirkungsforschung aufbaut Die HerausgeberInnen Dr Christian Boulanger ist Wissenschaftlicher Mitarbeiter an der Humboldt Universit t zu Berlin Dr Julika Rosenstock ist Wissenschaftliche Angestellte der Hamburger Stiftung zur F rderung von Wissenschaft und Kultur Prof Dr Tobias Singelnstein lehrt an der Ruhr Universit t Bochum

Aristotle on Emotions in Law and Politics Liesbeth Huppes-Cluysenaer,Nuno M.M.S. Coelho,2018-02-13 In this book experts from the fields of law and philosophy explore the works of Aristotle to illuminate the much debated and fascinating relationship between emotions and justice Emotions matter in connection with democracy and equity they are relevant to the judicial enforcement of rights legal argumentation and decision making processes in legislative bodies and courts The decisive role that emotions feelings and passions play in these processes cannot be ignored not even by those who believe that emotions have no legitimate place in the public sphere A growing body of literature on these topics recognizes the seminal insights contributed by Aristotle This book offers a comprehensive analysis of his thinking in this context as well as proposals for inspiring dialogues between his works and those written by a selection of modern and contemporary thinkers As such the book offers a valuable resource for students of law philosophy rhetoric politics ethics and history but also for readers interested in the ongoing debate about legal positivism and the relevance of emotions for legal and political life in today s world

Philosophical Foundations of Precedent Timothy Endicott,Hafsteinn Dan Kristjánsson,Sebastian Lewis,2023-03-27 *Philosophical Foundations of Precedent* offers a broad deep and diverse range of philosophical investigations of the role of precedent in law adjudication and morality The forty chapters present the work of a large and inclusive group of authors which comprises of well established leaders in the discipline and new voices in legal philosophy The magnitude of the resulting project is extraordinary presenting a diverse array of innovative and creative philosophical investigations of the practice of adhering to past decisions in law and allied fields of practical reasoning And by the same token the contributions elucidate the reasons that courts and other decision makers may have for departing from what has been done before The phenomena under investigation include the law and practice of common law and civil jurisdictions around the world In addition to its fundamental relevance to common law jurisdictions this work will be of broad and significant interest to theoretically minded audiences in continental Europe Latin America and Asia because it involves an extensive study of practices of precedent in civil law systems as well as common law systems

The Concept of Argument Harald R. Wohlrapp, 2014-06-26 Arguing that our attachment to Aristotelian modes of discourse makes a revision of their conceptual foundations long overdue the author proposes the consideration of unacknowledged factors that play a central role in argument itself These are in particular the subjective imprint and the dynamics of argumentation Their inclusion in a four dimensional framework subjective objective structural procedural and the focus on thesis validity allow for a more realistic view of our discourse practice Exhaustive analyses of fascinating historical and contemporary arguments are provided These range from Columbus s advocacy of the Western Passage to India over the trial of King Louis XVI during the French Revolution to today s highly charged controversies surrounding euthanasia and embryo research Excavating foundational issues such as the purpose of argument itself assent of an audience or critical examination of validity claims and the contested role of argument as a generator of knowledge the book culminates in a discussion of the relationship between rationality and reasonableness and criticizes the restrictions of rational argument relying on fixed logical economic or cultural criteria that in reality are mutable Here a true open argument requires the infusion of Paul Lorenzen s principle of transsubjectivity which recognizes but transcends the partiality of the individual and which can be seen in the pragmatic and expanding consensus that humanity can control itself to safeguard the future of a fragile damaged world

Objektivität und Flexibilität im Recht Carsten Bäcker, Stefan Baufeld, 2005 Jochen Bung
 Objektivität im Recht als Wahrheitsbezug Andreas Funke Lasst sich juristische Objektivität auf eine Allgemeine Rechtslehre gründen Vanessa Heinz Schleier des Nichtwissens und Gesetzgebung Christian Schmid Der Schleier des Nichtwissens Peng Hsiang Wang Recht Semantik und Objektivität Steffen Wesche Objektive Bedingungen und relative Normen Carsten Backer Die diskurstheoretische Notwendigkeit der Flexibilität im Recht Verena Klappstein Demokratische Legitimation und Grenzen der Verlagerung von Entscheidungen auf den Rechtsanwender Sascha Ziemann Ist Rechtskraft noch zeitgemäss Zur Unflexibilität des Rechtssystems bei der Durchführung von Strafverfahren Nils Teifke Flexibilität der Menschenwürde Zur Struktur des Art 1 Abs 1 GG Sebastian Kneisel Vom Internationalen zum Transnationalen Recht Die Entstaatlichung der Schiedsgerichtsbarkeit Anusheh Rafi Chaos im Recht Auf der Suche nach einer Ordnung ohne Grund oder einer grundlosen Normativität Stefan Baufeld Diesseits der Logik Warum die Logik zur Lösung juristischer Probleme wenig beiträgt und warum die topische Rhetorik dies kann Bernhard Jakl Flexibilität im Recht und Flexibilität des Rechts in der Wertungsjurisprudenz und der kantischen Rechtsphilosophie

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