

Rechtsdiskurs, Rechtsprinzipien, Rechtsbegriff

Elemente einer diskursiven Theorie fundamentaler Rechte. Symposium zum 75. Geburtstag von Robert Alexy
Herausgegeben von Carsten Bäcker

[Legal Discourse, Legal Principles, Concept of Law. Elements of a Discursive Theory of Fundamental Rights.
Symposium on the 75th Birthday of Robert Alexy.]

2022. IX, 473 pages.
ISBN 978-3-16-161810-9
cloth 109,00 €

ISBN 978-3-16-161907-6
eBook PDF 109,00 €

Published in German.

Robert Alexy's Theory of Constitutional Rights was developed based on the constitutional rights of the German constitution, the Grundgesetz, yet was never chained to them. Rather, it is conceived as a general theory of fundamental rights, focusing in particular on the structural peculiarities of fundamental rights as legal principles. His theory of legal argumentation, shaped by discourse theory, forms the basis of a substantive justification of fundamental rights, especially of the most important human rights. On this basis of a discourse-theoretical justification of human rights rests his understanding of the concept and validity of law, which aligns with a (moderate) legal non-positivism along the lines of Gustav Radbruch's formula. The contributions collected in this volume critically approach these three elementary building blocks of Alexy's theory of fundamental rights, questioning core theses, expanding contexts, and thus opening up alternative approaches to both constitutional and human rights.

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