West

Normative Jurisprudence

Normative Jurisprudence aims to reinvigorate normative legal scholarship that both criticizes positive law and suggests reforms for it, on the basis of stated moral values and legalistic ideals. It looks sequentially and in detail at the three major traditions in jurisprudence – natural law, legal positivism and critical legal studies – that have in the past provided philosophical foundations for just such normative scholarship. Over the last fifty years or so, all of these traditions, although for different reasons, have taken a number of different turns – toward empirical analysis, conceptual analysis or Foucaultian critique – and away from straightforward normative criticism. As a result, normative legal scholarship – scholarship that is aimed at criticism and reform – is now lacking a foundation in jurisprudential thought. The book criticizes those developments and suggests a return, albeit with different and in many ways larger challenges, to this traditional understanding of the purpose of legal scholarship.

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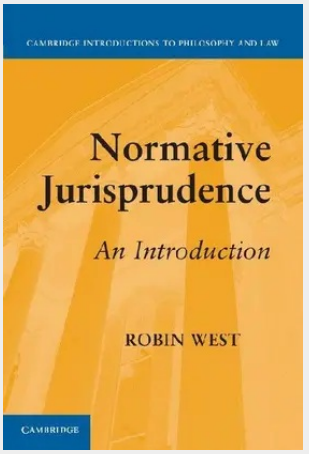

46,80 €
46,80 € (zzgl. MwSt.)

Lieferfrist: bis zu 10 Tage

Artikelnummer: 9780521738293
Medium: Buch
ISBN: 978-0-521-73829-3
Verlag: Cambridge University Press
Erscheinungstermin: 03.11.2011
Sprache(n): Englisch
Auflage: 1. Auflage 2011
Serie: Cambridge Introductions to Philosophy and Law
Produktform: Kartoniert
Gewicht: 326 g
Seiten: 220
Format (B x H): 152 x 229 mm

Kundenservice Verlag Dr. Otto Schmidt KG
Neumannstraße 10, 40235 Düsseldorf | kundenservice@otto-schmidt.de | 0221-93738-997 (Inland)