

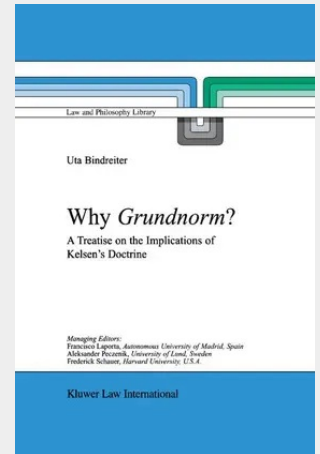
Why Grundnorm?

A Treatise on the Implications of Kelsen's Doctrine

Who presupposes Kelsen's basic norm? Is it possible to defend the presupposition in a way that is convincing? And what difference does the presupposition make? Endeavouring to highlight the role of basic assumptions in the law, the author argues that the verb 'to presuppose', with Kelsen, has not only a conceptual but also a normative dimension; and that the expression 'presupposing the basic norm' is adequate in so far as it marks the descriptive-normative nature of utterances made in specifically legal speech-situations.

Addressed to legal theorists in general, the treatise purports to show that Kelsen's doctrine lends itself to an interpretation according to which the very act of "presupposing" the Grundnorm can be understood as a Grund, i.e. normative source of all positive law; and, what is more, that this interpretation admits of addressing the issue of the (formal) legitimacy of supra-national and directly applicable rules and other norms.

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