

Matthias Jestaedt

Grundrechtsentfaltung im Gesetz

Studien zur Interdependenz von Grundrechtsdogmatik und Rechtsgewinnungstheorie

[Implementation of Fundamental Rights in Statutory Law. Studies of the Interdependence between the Dogmatics of Fundamental Rights and the Theory of Finding the Law. By Matthias Jestaedt.]



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Due to the implementation of fundamental rights based on the decisions of the German Federal Constitutional Court and the dogmatics of fundamental rights which accompanies this, the issue of fundamental rights has gained enormous importance. However the drawback to this development is that in this process statutory laws are losing their importance. All present attempts to preserve the law's independence or to safeguard the role of the lawmaker in relation to the Federal Constitutional Court have suffered from the fact that their approach was solely dogmatic, or at best theoretical. However the enormous 'growth of fundamental rights' is in almost all elements not only and not alone the result of the dogmatics of fundamental rights, it is also caused in the main by the choice of the theoretical and the methodological framework as it pertains to fundamental rights.

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