

Thomas Osterkamp

Juristische Gerechtigkeit

Rechtswissenschaft jenseits von Positivismus und Naturrecht

[Legal Justice. Jurisprudence beyond Positivism and Natural Law.]

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Is justice a possible subject matter of legal science? For Thomas Osterkamp, this question is linked to the term »legal justice«. He is opposed to a strict separation of law and morality and to a remoralization of legal thinking which is not bound to the law. The proposed reconciliation between legal positivism and the theories of natural law attempts to reconcile a legal system's claim to an ethical-moral legitimation with the application criteria of sovereign laws and social effectiveness. From a methodical standpoint, this would require the creation of an institutional concept of morality, which in the modern constitutional state can be developed with the use of constitutional theory. However this means that not only the possibilities but also the limits and the aporia of a »legal justice« are outlined in advance.

Thomas Osterkamp Geboren 1973; Studium der Rechtswissenschaft in Regensburg und Berlin; 1998 – 2001 wissenschaftlicher Mitarbeiter an der Humboldt – Universität Berlin; 2003 Promotion; zur Zeit Rechtsreferendar.



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