

# Beiträge zur Rechtsgeschichte des 20. Jahrhunderts

Edited by Hans-Peter Haferkamp, Joachim Rückert, Christoph Schönberger und Jan Thiessen

[Contributions to the History of Law in the 20th Century]

Twenty years after it was founded in 1988, this series has seen the publication of 60 volumes. Owing to its receptiveness to various methodologies and subjects, it has become firmly established as an important forum for research on the law and legal policies in the 20th century. Those works accepted for publication dealt with the history of civil and criminal law, with public law and social law, the history of jurisprudence and the judiciary. It was inevitable that the main emphasis was on the injustice and the law of National Socialism to begin with, but this was soon followed by the commercial law and labor law of the Weimar Republic and then the main legal issues in both German states during the post-war era. Numerous studies of the life and works of influential legal scholars contributed to the history of jurisprudence.

The editors are all firmly convinced that it is essential to offer strong support and encouragement to those writing about the history of the law in the 20th and 21st centuries, since this has a present-day relevance and is indispensable for research and education.

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Thiessen, Jan

## Der Ausschluss aus der GmbH

als 'praktische Durchführung einer verbrecherischen Irrlehre' – eine Rechtsfortbildungsgeschichte

2021. Approx. 200 pages.  
forthcoming in June

ISBN 9783161542572  
cloth approx. 65,00 €

ISBN 9783161561511  
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There is no provision to expel shareholders in Germany's Closed Corporations Act. In 1942, the German Supreme Court nevertheless adopted exactly this doctrine to the detriment of a Jewish shareholder. The infamous ruling, its controversial reception among practitioners and academic writers and eventually the fate of the expelled shareholder form this study's narrative.

Becker, Hans-Jürgen

## Die neue Kölner Rechtswissenschaftliche Fakultät von 1919 bis 1950

Volume 118  
2021. XIII, 588 pages.

ISBN 9783161601965  
cloth 59,00 €

ISBN 9783161601972  
eBook PDF 59,00 €

In 1919 Konrad Adenauer succeeded in establishing a second university to sit alongside Bonn in Prussian Rhineland. In a short space of time and thanks to its founding members – F. Stier-Somlo, H. Lehmann, H. Planitz, G. J. Ebers, A. von Tuhr, A. Baumgarten, and G. Böhne – Cologne University's Faculty of Law developed into an eminent institution. However, when six of its members (G. J. Ebers, H. W. Goldschmidt, F. Haymann, H. Kelsen, L. Waldecker, and L. Wieruszowski) were forced to resign during the National Socialist regime, closure threatened. The faculty's fortunes were revived after 1945 by scholars such as H. C. Nipperdey (Labour Law), H. Jahrreiß (Constitutional and International Law), G. Kegel (International Private Law) and B. Rehfeld (History of Law), who renewed and expanded the range of disciplines. Federal Presidents Gustav Heinemann and Karl Carstens were among later faculty members.

Paas, Susanne Karoline

## Das bewegliche System

Zur Karriere einer juristischen Denkfigur

Volume 117  
2021. XVI, 277 pages.

ISBN 9783161600463  
sewn paper 79,00 €

ISBN 9783161601293  
eBook PDF 79,00 €

Susanne Karoline Paas studies the history of the flexible system from its »discovery« by Walter Wilburg to the adaptations by Franz Bydliński and Claus-Wilhelm Canaris and the numerous applications in current jurisprudence. The legends surrounding its origins prove to be in need of correction, as does the idea still being spread today that there is a uniform understanding of the »flexible system.«

Gluth, Sophia

## Der apokryphe Nietzsche

Auf den Spuren des Denkens von Friedrich Nietzsche in Rechtsphilosophie und -theorie

Volume 116  
2021. XIII, 289 pages.

ISBN 9783161595769  
sewn paper 69,00 €

ISBN 9783161595776  
eBook PDF 69,00 €

Sophia Gluth examines Nietzsche's impact on German legal discourse and discovers that it was predominantly legal theorists calling for change who made use of Nietzsche in the twentieth century. The proponents of the free-law movement, the so-called Conservative Revolution, National Socialists as well as postmodern thinkers are among those scrutinised in this study.

Dröner, Nadine

## Das 'Homosexuellen-Urteil' des Bundesverfassungsgerichts aus rechtshistorischer Perspektive

Volume 115  
2020. XV, 289 pages.

ISBN 9783161575716  
cloth 84,00 €

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In a ruling nowadays heavily criticized, the First Senate of Germany's Constitutional Court declared the criminalization of male homosexuality to be constitutional. Nadine Dröner undertakes a thorough legal-historical analysis and reveals the ruling as a decision made for a particular moment in time, which ultimately made the liberalization of sex offence law possible.

Becker, Malte Johannes

## Notverordnung und Decreto-Legge

Der Ausnahmezustand in den Verfassungstraditionen Deutschlands und Italiens

Volume 114  
2020. XIV, 255 pages.

ISBN 9783161593628  
cloth 84,00 €

ISBN 9783161593635  
eBook PDF 84,00 €

Germany and Italy have fundamentally different approaches to emergency legislation instruments. Whereas such tools seem to be ubiquitous in Italian political life, they have completely vanished from the German perspective. Malte Becker unravels the postwar discussions that led to the constitutional provisions that now shape the two countries' experiences.

Schmidt, Jan-Robert

## Will das Kind sein Wohl?

Eine Untersuchung über Kindeswille und Kindeswohl im Sorge- und Umgangsrecht nach Scheidungen von 1946 bis 2016

Volume 113  
2020. XVIII, 379 pages.

ISBN 9783161592737  
cloth 109,00 €

ISBN 9783161592744  
eBook PDF 109,00 €

How did the concept of child welfare develop in the post-war years and its definition change over the decades? Jan-Robert Schmidt examines historical aspects and confronts the associated legal-theoretical problems of using such a concept.

Ohlenroth, Juliane

## Der Oberste Gerichtshof für die Britische Zone und die Aufarbeitung von NS-Unrecht

Unter besonderer Berücksichtigung der Bedeutung für die Fortentwicklung der Strafrechtsdogmatik

Volume 112  
2020. XXII, 398 pages.

ISBN 9783161591709  
cloth 99,00 €

ISBN 9783161591716  
eBook PDF 99,00 €

The balance sheet for the prosecution of Nazi crimes through West German courts is a sobering sight. Juliane Ohlenroth shows that in contrast to the jurisprudence of the country's Federal Court and contemporary legal doctrine, the decision-making practice of the Supreme Court for the British Zone would have enabled a more commensurate handling of NS injustice.



Hansen, Marike

## Erna Scheffler (1893–1983)

### Erste Richterin am Bundesverfassungsgericht und Wegbereiterin einer geschlechtergerechten Gesellschaft

Volume 111  
2019. X, 209 pages.

ISBN 9783161576027  
sewn paper 64,00 €

ISBN 9783161576034  
eBook PDF 64,00 €

Erna Scheffler was not only an exceptional lawyer – as the first woman to serve on the German Constitutional Court, she played a significant role in the shaping of the legal development of the early Federal Republic of Germany – but was also one of the twentieth century's most influential proponents of equality for women. Marike Hansen's intricate study traces the life of this remarkable figure within the context of evolving women's rights in Germany.

## Scheidung ohne Schuld?

### Genese und Auswirkungen der Eherechtsreform 1977

Hrsg. v. Martin Löhnig

Volume 110  
2019. VIII, 241 pages.

ISBN 9783161583483  
sewn paper 74,00 €

ISBN 9783161583490  
eBook PDF 74,00 €

After a long-running and controversial debate, German divorce law was reformed and assumed its current form on July 1, 1977. This volume's multidisciplinary contributions uncover the origins and reception of the reform.

Survey of contents

*Martin Löhnig:* Einleitung: Scheidung ohne Schuld? Das Erste Gesetz zur Reform des Ehe- und Familienrechts aus transdisziplinärer Perspektive – *Thomas Schlemmer:* Wendezeiten: Die Bundesrepublik Deutschland 1969 bis 1982 – *Christopher Neumaier:* Jenseits eines Kompromisses? Kontroversen um das Familienrecht und die Ordnung der westdeutschen Gesellschaft (1975–1985) – *Hannah Lausen:* Die Scheidungsrechtsreform von 1977 im Horizont des Diskurses über die evangelische Trauung – *Sven Jüngerkes:* »Dieses ist kein Gesetz für Casanova«, Die Ehe- und Scheidungsrechtsreform in der SPD-Bundestagsfraktion 1969–1972 – *Lisa Eisenkrätzer:* Bis dass der Staat euch scheidet: Die Rechtsentwicklung des Zerrüttungsprinzips im deutsch-deutschen Vergleich – *Kamila Staudigl-Ciechowicz:* Zur Wirkung der deutschen Scheidungsrechtsreform 1977 auf das österreichische Scheidungsrecht – *Jan-Robert Schmidt:* Von der Scheidungsschuld zum Kindeswohl? Die Bedeutung der Eherechtsreform von 1977 für die Sorgerechtszuteilung nach Trennung und Scheidung – *Martin Otto:* »Selbst nach der Scheidung kann sich die Frau nicht beliebig frei bewegen, jedenfalls nicht, solange sie den Namen des Mannes trägt.« – Nacheheliche Namensführung und Scheidungsreform – *Patrizia Weigl:* Die Scheidungsrechtsreform in der Geschichtspraxis der frühen 1980er Jahre

Hoeppel, Alexander

## NS-Justiz und Rechtsbeugung

### Die strafrechtliche Ahndung deutscher Justizverbrechen nach 1945

Volume 109  
2019. XX, 585 pages.

ISBN 9783161570223  
sewn paper 109,00 €

ISBN 9783161570230  
eBook PDF 109,00 €

In the aftermath of 1945, why were practitioners of law rarely sentenced for the crimes they committed during the Nazi era? Was it because the judges themselves were former Nazi party members or sympathisers? For Alexander Hoeppel, this train of thought does not go far enough: his study reveals that German jurisprudence actually went to the extent of adopting a legal doctrine that shielded judges and other legal professionals from being prosecuted for crimes committed in office – and continues to do so even to this day.

Neumann, Almut

## Preußen zwischen Hegemonie und »Preußenschlag«

### Hugo Preuß in der staatsrechtlichen Föderalismusdebatte



Volume 108  
2019. XV, 339 pages.

ISBN 9783161575464  
sewn paper 79,00 €

ISBN 9783161575471  
eBook PDF 79,00 €

How did Hugo Preuß, father of the Weimar Constitution, conceptualize federalism? According to Almut Neumann, Prussia – which was both the German Empire's and the Weimar Republic's biggest single state, and went from hegemonic dominion to bulwark of democracy before being stripped of power in 1932 – is the key to understanding Preuß's innovative take on federalism.

Etzold, Raphaela

## Gleichberechtigung in erster Instanz

Deutsche Scheidungsurteile der 1950er Jahre im Ost-/West-Vergleich

Volume 107  
2019. XVI, 213 pages.

ISBN 9783161567100  
sewn paper 79,00 €

ISBN 9783161567117  
eBook PDF 79,00 €

In the early 1950s, equal rights for men and women presented courts in East and West Germany with challenges. Raphaela Etzold asks how judges overcame these hurdles by placing such first instance divorce decrees side-by-side and seeking out their similarities and differences.

Erkkilä, Ville

## The Conceptual Change of Conscience

Franz Wieacker and German Legal Historiography 1933–1968

Volume 106  
2019. XIII, 314 pages.

ISBN 9783161566912  
sewn paper 69,00 €

ISBN 9783161566929  
eBook PDF 69,00 €

How did the drastic experiences of the turbulent twentieth century affect the works of a legal historian? What kind of an impact did they have on the ideas of justice and rule of law prominent in legal historiography? Ville Erkkilä analyses the way in which the concepts of 'Rechtsgewissen' and 'Rechtsbewusstsein' evolved over time in the works of the prestigious legal historian Franz Wieacker. With the help of previously unavailable sources such as private correspondence, the author reveals how Franz Wieacker's personal experiences intertwined in his legal historiography with the tradition of legal science as well as the social and political destinies of twentieth century Germany.

Reuter, Marc

## Ghettorenten

Eine rechtsmethodische und -historische Untersuchung zum Umgang mit nationalsozialistischem Unrecht in der Sozialversicherung

Volume 105  
2019. XVIII, 296 pages.

ISBN 9783161565731  
cloth 89,00 €

ISBN 9783161565748  
eBook PDF 89,00 €

Are survivors of Nazi persecution who had to work in ghettos during World War II entitled to German state pensions? Marc Reuter dissects the methodical and dogmatic challenges this question raises and which German social courts refused to face for a long time.

Würfel, Martin

## Das Reichsjustizprüfungsamt

Volume 104  
2019. XIV, 228 pages.  
ISBN 9783161562990  
cloth 79,00 €  
ISBN 9783161563003  
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That law students in the Nazi era sat their state exams underneath swastikas hardly comes as a surprise; after all, an education provided by the state is also one for the state, and is thus both an outflow and reproduction of the prevailing law. Martin Würfel tells the story of the forgotten authority responsible for selecting young jurists for the »new« National Socialist state.

Würfel, Martin

## Das Reichsjustizprüfungsamt

Volume 104  
Unchanged paper edition 2020; first  
edition 2019. XIV, 228 pages.  
ISBN 9783161594434  
paper 59,00 €

That law students in the Nazi era sat their state exams underneath swastikas hardly comes as a surprise; after all, an education provided by the state is also one for the state, and is thus both an outflow and reproduction of the prevailing law. Martin Würfel tells the story of the forgotten authority responsible for selecting young jurists for the »new« National Socialist state.

Stopp, Heike

## Hans Welzel und der Nationalsozialismus

Zur Rolle Hans Welzels in der nationalsozialistischen Strafrechtswissenschaft und zu den Auswirkungen der Schuldtheorie in den NS-Verfahren der Nachkriegszeit

Volume 103  
2018. X, 189 pages.  
ISBN 9783161564109  
sewn paper 59,00 €  
ISBN 9783161564116  
eBook PDF 59,00 €

The study of criminal justice has still not succeeded in coming to terms with its own National Socialist past. Heike Stopp aims to move things forward with her contribution examining the influence exerted on criminal law and justice by the German professor Hans Welzel prior to 1945 and in post-war proceedings against Nazi criminals.

Wulfert-Markert, Hendrike

## Clive M. Schmitthoffs Konzeption eines transnationalen Welthandelsrechts

Ein Beitrag zum Leben und Werk von Clive M. Schmitthoff (1903–1990)

Volume 102  
2018. XV, 272 pages.  
ISBN 9783161556333  
sewn paper 64,00 €  
ISBN 9783161562471  
eBook PDF 64,00 €

The present study is dedicated to the life and work of the lawyer Clive M. Schmitthoff. Its thematic focus is directed towards Schmitthoffs concept of a transnational international trade law, which is considered to be a foundational theory of a modern *lex mercatoria*. The volume's main focus is the question of what prompted Schmitthoff to formulate the theses of his theory on a transnational trade law. Applying an analytical approach, Hendrike Wulfert-Markert examines the inextricable links between Schmitthoffs scholarly works and his biography in a bid to trace the evolution of his observations and ideas on the development of a new international law. The author contends that no singular event inspired Schmitthoffs key concept; instead, various contexts proved essential for its emergence, particularly his international perspective that of a lawyer with expertise in comparative law and educated in both Western legal systems, those of civil and common law.

Weichert, Maik

## Kunst und Verfassung in der DDR

Kunstfreiheit in Recht und Rechtswirklichkeit

Volume 101  
2018. XVIII, 455 pages.

ISBN 9783161540417  
sewn paper 69,00 €

ISBN 9783161561528  
eBook PDF 69,00 €

What impact did the constitutional law of the German Democratic Republic have on artists and vice versa? Maik Weichert recounts the legal-historical development of the freedom of the arts in East Germany from 1945 to 1990 – a story full of victims, but ultimately one with a happy end.

## Deutsche Diktatorische Rechtsgeschichten?

Perspektiven auf die Rechtsgeschichte der DDR. Gedächtnissymposium für Rainer Schröder (1947–2016)

Hrsg. v. Hans-Peter Haferkamp, Jan Thiessen, Christian Waldhoff in Verb. m. d. Deutschen

Notarrechtlichen Vereinigung e.V.

Volume 100  
2018. XIII, 147 pages.

ISBN 9783161566950  
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ISBN 9783161566967  
eBook PDF 49,00 €

With the »winding up« of the German Democratic Republic, its legal system also ceased to exist. Looking back on this from the viewpoint of a new generation, the time has now come to explore East German legal history as well as the legal unification of Germany. This should be conducted in a manner devoid of accusation and apologia from a juridical, methodological and historical perspective.

Survey of contents

*Christian Waldhoff:* Begrüßung – *Rainer Kanzleiter:* Dank an Rainer Schröder – *Hans-Peter Haferkamp:* Rainer Schröder als DDR-Forscher – *Jan Schröder:* Juristische Methodenlehre in der DDR – *Inga Markovits:* Drei Geschichten einer Fakultät. Ostdeutsche Juraprofessoren im Sozialismus – *Oliver Vossius:* Landwirtschaftsanpassung und Sachenrechtsbereinigung. Härtestes für einen Berufsstand – *Ute Schneider:* Zweierlei Erbe. Erbrecht in Deutschland. Überlegungen zu einer Verflechtungsgeschichte in Erinnerung an Rainer Schröder – *Moritz Vormbaum:* Wirtschaftsstrafrecht in der DDR – *Uta Wiedenfels:* Offene Vermögensfragen. Anspruch und Wirklichkeit – *Jan Thiessen:* Ein kurzes Vierteljahrhundert. Erinnerungen an Rainer Schröder in Berlin

Liebrecht, Johannes

## Die junge Rechtsgeschichte

Kategorienwandel in der rechtshistorischen Germanistik der Zwischenkriegszeit

Volume 99  
2018. XIV, 471 pages.

ISBN 9783161565465  
cloth 99,00 €

ISBN 9783161565472  
eBook PDF 99,00 €

Between the world wars German scholars committed themselves to a search for new methods of engaging with legal history. In addition to this an obvious generational change – almost a rupture – took place among German legal historians. Johannes Liebrecht depicts the characteristics of young legal history and its entanglement with the crisis of historicism between the 1880s and 1930s.

Krüll, Nadja

## Die nationalsozialistische Disziplinaramnestie des Jahres 1933

Volume 98  
2018. XVIII, 284 pages.

ISBN 9783161558337  
sewn paper 74,00 €

ISBN 9783161561498  
eBook PDF 74,00 €

The NS-amnesty of June 23, 1933 allowed the complete rehabilitation of officials who had been punished or subjected to other disciplinary measures prior to 1933 because of their Nazi sympathies and opposition to the Weimar Republic. Nadja Krüll examines the theory and practice of this legislation.

Plüss, Martina

## Der Mordparagraf in der NS-Zeit

Zusammenhang von Normtextänderung, Tätertypenlehre und Rechtspraxis – und ihr Bezug zu schweizerischen Strafrechtsdebatten

Volume 97  
2018. XIX, 339 pages.

ISBN 9783161558986  
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ISBN 9783161561504  
eBook PDF 79,00 €

The murder paragraph that came into force in 1941 largely corresponds to today's Section 211 in the German Criminal Code. Martina Plüss traces the history of its development and asks who was responsible for its introduction, what the origin of its wording is, and whether a perpetrator typology is inherent in the murder paragraph.

Rückert, Joachim

## Unrecht durch Recht

Zur Rechtsgeschichte der NS-Zeit

Volume 96  
2018. VIII, 386 pages.

ISBN 9783161559297  
cloth 109,00 €

The perversion of the law that took place under the swastika is still a constant theme in contemporary history. This new volume from Joachim Rückert pinpoints just how the National Socialist regime created wrongful law through the law itself and rendered injustice lawful. An analysis discussing historiographical profiles of the Nazi era and phrases like the »Third Reich« and »a sound instinct among the people« (gesundes Volksempfinden) introduces twelve studies on central disciplines such as criminal law, legal history, administrative law and its implementation as well as the long-lasting influence of Nazi jurisprudence. Three of the studies – one detailing the well-known dissidence of the »Kreisau Circle«, another Eugen Bolz's political integrity and his opposition to the dictatorship, and a third examining the situation at the University of Halle – enable critical reflection on some of the severe problems caused by the imbalanced way of dealing with this cruel history. By deliberately choosing *Wrongful Law by Law* as a title over the very common but inadequate formulations »Wrongful Law in the Law« or »The Dual State«, the emphatic aim is to reiterate and complement the intention of 2015's *Parting with Injustice* to free the picture of our past from its strong political chains.

Peters, Verena

## Der »germanische« Code civil

Zur Wahrnehmung des Code civil in den Diskussionen der deutschen Öffentlichkeit

Volume 95  
2018. XVI, 279 pages.

ISBN 9783161552199  
sewn paper 64,00 €

Since round about the birth of France's civil code in 1804, some in Germany have perceived it as a so-called Germanic law. Verena Peters traces how this idea evolved, particularly by taking into consideration the political situation between France and Germany. The perception of a Germanic »Code civil« varies from it being the result of serious scholarly effort, to it being a tool for propaganda. On the one hand, it could be taken as an example of two nations' friendship, on the other, as a basis for racist ideology.

Hövermann, Jan

## Recht und Elektrizität

Der juristische Sachbegriff und das Wesen der Elektrizität 1887 bis 1938

Volume 94  
2018. XVI, 361 pages.

ISBN 9783161552298  
sewn paper 94,00 €

Electrification created pressing legal challenges both in civil and criminal law at the turn of the 20th century. Taking the example of electricity, Jan Hövermann analyses how lawyers transpose scientific knowledge into a legal context and determine the legal system's degree of autonomy from other disciplines.



Busam, Kristina

## Kriegsfolgenbewältigung in der Rechtsprechung

Der Umgang mit kriegsbedingt veränderten Umständen in der Zivilrechtsjudikatur des Landgerichts Bonn nach dem Zweiten Weltkrieg

Volume 93  
2017. XV, 331 pages.

ISBN 9783161548666  
sewn paper 79,00 €

In the years directly after the second world war and until monetary reform took place, day-to-day civil law rulings were characterised by a disintegration of law and reality brought about by the war. Kristina Busam shows that in dealing with this exceptional situation, the judges' varying methods brought varying results.

Menne, Jonas

## »Lombroso redivivus?«

Biowissenschaften, Kriminologie und Kriminalpolitik von 1876 bis in die Gegenwart

Volume 92  
2017. XIV, 312 pages.

ISBN 9783161550638  
cloth 84,00 €

Jonas Menne investigates the development of biological theories of crime from the end of the 19th century till today. In so doing, he analyses and compares historical and current attempts to explain the source of criminal behaviour. Besides the question of continuity and discontinuity, focus is placed on criminal political demands and the development of criminal and penal sanctions.

Johst, David

## Begrenzung des Rechtsgehorsams

Die Debatte um Widerstand und Widerstandsrecht in Westdeutschland 1945–1968

Volume 91  
2016. XII, 254 pages.

ISBN 9783161531026  
sewn paper 59,00 €

The foundation of the Federal Republic of Germany saw the formation of a new constitution although a general right of resistance has only been contained in it since 1968. What were the reasons for this subsequently-made change? The central hypothesis is that after 1945, resistance and legal disobedience were no longer seen as just being a threat to public order and peace under the law, but also came to be regarded as an opportunity and a political imperative.

Bräunig, Christoph

## Herbert Dorn (1887–1957)

Pionier und Wegbereiter im Internationalen Steuerrecht

Volume 90  
2016. XV, 393 pages.

ISBN 9783161537448  
cloth 79,00 €

Modern international tax law was born in the 1920s. Germany played a key role in the development of international agreements to avoid tax evasion and double taxation. Its protagonist and pioneer Herbert Dorn decisively influenced German fiscal politics, the Fiscal Committee of the League of Nations and the new science of international tax law.

Thompson, Dominik A.

## Krieg ohne Schaden

Vertragsstreitigkeiten und Haftpflichtprozesse im Kontext von Kriegswirtschaft und Amtshaftungskonjunktur ausgehend von der Rechtsprechung des Landgerichts Bonn während des Zweiten Weltkrieges (1939–1945)

Volume 89  
2015. XII, 338 pages.

ISBN 9783161535703  
sewn paper 74,00 €

During the Second World War, no one else was sued more often in the regional court of Bonn than the German Reich itself – and it also lost more often than others. Dominik A. Thompson shows that this happened not despite the national socialist policy of total war, but because of it.

Löffelsender, Michael

## Kölner Rechtsanwälte im Nationalsozialismus

Eine Berufsgruppe zwischen »Gleichschaltung« und Kriegseinsatz

Volume 88  
2015. XI, 208 pages.

ISBN 9783161542152  
sewn paper 74,00 €

The Nazi's rise to power in 1933 fundamentally changed Germany's legal landscape. Self-administration was abolished and lawyers were racially and politically marginalised. Michael Löffelsender chronicles the story and careers of Cologne's law professionals during this time of resistance, adaptation and self-mobilisation.

Rückert, Joachim

## Abschiede vom Unrecht

Zur Rechtsgeschichte nach 1945

Volume 87  
2015. VIII, 563 pages.

ISBN 9783161541360  
cloth 164,00 €

The task of parting with injustice still dominates today's study of contemporary legal history following the end of World War II. This volume offers 19 studies in three sections covering appraisal, methodological and constitutional change as well as alternatives, wherein philosophy and history of science and methodology, general and legal history are all put into context. Rather than stressing once more the political use of the past in general and legal history, the book seeks to raise awareness and free them from their political shackles.

Grieß, Martin

## »Im Namen des Rechts«

Der Oberste Gerichtshof für die Britische Zone als Höchstgericht in Zivilsachen zwischen Tradition und Neuordnung

Volume 86  
2015. XVIII, 420 pages.

ISBN 9783161539800  
sewn paper 89,00 €

Within the legal profession, the Federal Court of Justice is deemed to have replaced the Reichsgericht (Imperial Court). Martin Grieß shows that a line of tradition running between these two institutions can not be considered without attention being paid to the British Zone's Supreme Court of Justice.

Burkhardt, Anika

## Das NS-Euthanasie-Unrecht vor den Schranken der Justiz: eine strafrechtliche Analyse

Volume 85  
2015. XXXIII, 677 pages.  
ISBN 9783161536236  
sewn paper 124,00 €

Anika Burkhardt analyzes the entire western and eastern German administration of justice on NS Euthanasia. In so doing, she evaluates the actual findings, as well as the legal appraisals, of the courts. The author describes the processes and form of the organized system of killing and delivers an extensive insight into the various ways that justice dealt with one of the Third Reich's most grotesque crimes.

## Rechtsphilosophisches Denken im Osten Europas

Dokumentation und Analyse rechtsphilosophischer Schriften aus Russland, Polen, Ungarn und Tschechien in der ersten Hälfte des 20. Jahrhunderts  
Hrsg. v. Angelika Nußberger u. Caroline von Gall

Volume 84  
2015. XIII, 527 pages.  
ISBN 9783161536618  
sewn paper 79,00 €

Little is known in German-speaking countries about legal thinking in Central and Eastern Europe. This volume provides an overview of the most important pre-revolutionary legal thinkers in Russia, Hungary, the Czech Republic and Poland with translations and introductions to and of their texts.

Survey of contents

### Einführung

*Angelika Nußberger*: Rechtsphilosophisches Denken im Osten Europas – ein verschüttetes Erbe?

### Rußland

#### Analyse

*Caroline von Gall*: Russische Rechtsphilosophie

#### Textdokumentation

*Boris Čičerin*: »Eigentum und Staat« (1882) – *Leon Petrażycki*: »Die Theorie des Staats und Rechts in Verbindung mit der Theorie der Sittlichkeit« (1909) – *Novgorodcev*: »Einführung in die Philosophie des Rechts. Krise des modernen Rechtsbewusstseins« (1909) – *Gabriel Szerszeniewicz*: »Rechtfertigung des Rechts« (1910)

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#### Analyse

*Bolesław Banaszekiewicz*: Polnische Rechtsphilosophie der Zwischenkriegszeit

#### Textdokumentation

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Gruenewaldt, Arthur von

## Die Richterschaft des Oberlandesgerichts Frankfurt am Main in der Zeit des Nationalsozialismus

Die Personalpolitik und Personalentwicklung

Volume 83  
2015. XVII, 403 pages.

ISBN 9783161538438  
sewn paper 89,00 €

What effect did the leaders of the Third Reich have on judicial officers? Because the system obtained legitimation through judicial adjudication, it was necessary for the regime to have loyal judges. Arthur von Gruenewaldt takes Frankfurt's Higher Regional Court as an example in order to examine and detail the dismissal, replacement and disenfranchisement of judges on political or racist grounds and how they were replaced with either so-called old fighters, convinced national socialists, careerists or opportunists. In this volume, the careers and political behaviors of high judicial officers and the persecuted, as well as the self-seekers, are set out in comprehensive collective and individual biographies. To round off, the author looks at the post-war reconstruction of Hessian law and considers continuity of personnel.

Lubini, Julian

## Die Verwaltungsgerichtsbarkeit in den Ländern der SBZ/DDR 1945–1952

Volume 82  
2015. XVII, 319 pages.

ISBN 9783161535260  
sewn paper 74,00 €

Whereas after World War II the rule of law was nearly perfected in the occupied zones of the west and the Federal Republic of Germany, the jurisdiction of administrative courts in the Soviet zone and early German Democratic Republic hardly had a chance. Along with the »Länder« (states), these courts seemed like historical relics, although they did briefly come into effect.

Haßlinger, Nikolas

## Max von Rümelin (1861–1931) und die juristische Methode

Volume 81  
2014. XIV, 205 pages.

ISBN 9783161533518  
sewn paper 64,00 €

Max von Rümelin is considered to be one of the co-founders and leading advocates of the methodology of the jurisprudence of interests, which was predominant in the first third of the 20th century. Nikolas Haßlinger attempts to give a comprehensive account of Rümelin's life and his work in legal methodology. In addition to Rümelin's approach to the so-called jurisprudence of concepts, he focuses on Rümelin's view of the law and legal methodology.

Sörgel, David

## Die Implementation der Grundlagenfächer in der Juristenausbildung nach 1945

Volume 80  
2014. XIV, 322 pages.

ISBN 9783161524134  
sewn paper 69,00 €

David Sörgel describes the establishment and the implementation of core subjects such as the history of law, the philosophy of law, the sociology of law as well as the theory of law for law students in Germany and illustrates this by dealing with the higher education acts and the lectures held at selected universities from 1945 to 2002. With the help of his empirical studies, he is able to draw conclusions about the practical relevance of the subjects.

Küffer, Rafael

## Eine liberale Kritik am Notrecht

### Zaccaria Giacometti als Protagonist der Schweizer Notrechtsdebatte

Volume 79  
2014. XVI, 232 pages.

ISBN 9783161530869  
cloth 79,00 €

Rafael Küffer examines Zaccaria Giacometti's position on the legitimacy of state emergency law in its political, economic and scholarly context. In doing so, he sheds a completely new light on Giacometti's theories.

Mehring, Reinhard

## Kriegstechniker des Begriffs

### Biographische Studien zu Carl Schmitt

Volume 78  
2014. XII, 195 pages.  
ISBN 9783161534522  
sewn paper 64,00 €

The studies depict the 'crown jurists' of the Weimar presidential system and the national socialists as being eccentric bohemians, aesthetes and virtuosos of life, who lived under a state of emergency and were polemically marginalized by congenial adversaries, such as Martin Heidegger, Walter Benjamin and Ernst Jünger, and as a result developed radical forms of a so-called concept's war technique.

## Weimarer Zivilrechtswissenschaft

Hrsg. v. Martin Löhnig u. Mareike Preisner

Volume 77  
2014. XI, 175 pages.

Civil law during the Weimar Republic was surprisingly productive and effective. This volume is a collection of articles on individual sectors of civil law between 1918/19 and 1933 and explores the influences on the present doctrine of civil law.

ISBN 9783161533259  
sewn paper 54,00 €

Survey of contents

*Mareike Preisner:* Weimarer Schuldrechtswissenschaft. Der Begriff des Schuldverhältnisses – *Martin Otto:* »Die Materie war rechtlich schwierig«. Das Arbeitsrecht der Weimarer Republik in Wissenschaft und Praxis am Beispiel des »Ruhreisenstreits« – *Matthias Maetschke:* Preis, Rationalisierung, Leistung. Überlegungen zu Hans Carl Nipperdeys Konzept des Leistungswettbewerbs von 1930 – *Louis Pahlow:* Objektivierung und Entpersönlichung. Zum Unternehmensbegriff in der Privatrechtswissenschaft der Weimarer Republik – *Mareike Preisner:* Weimarer Familienrechtswissenschaft – *Martin Löhnig:* Weimarer Zivilprozessrecht – *Jan Schröder:* Gab es eine (Privat-) Rechtstheorie der Weimarer Republik?

Keppeler, Lutz Martin

## Oswald Spengler und die Jurisprudenz

Die Spenglerrezeption in der Rechtswissenschaft zwischen 1918 und 1945, insbesondere innerhalb der »dynamischen Rechtslehre«, der Rechtshistoriographie und der Staatsrechtswissenschaft

Volume 76  
2014. XVI, 328 pages.

In his famous work *The Decline of the West*, which received a great deal of attention from the legal profession, Oswald Spengler dealt with the evolution of law. It was his irrational way of thinking and his philosophy of life in particular which made his »dynamic conception of law« very popular in certain legal circles.

ISBN 9783161527692  
sewn paper 69,00 €

Manthe, Barbara

## Richter in der nationalsozialistischen Kriegsgesellschaft

Beruflicher und privater Alltag von Richtern des Oberlandesgerichtsbezirks Köln, 1939–1945

Volume 75  
2013. XII, 379 pages.

Barbara Manthe analyzes the everyday history of judges in the higher regional court district of Cologne during the Second World War. She asks how judges implemented and produced national socialist ideas of the »Volksgemeinschaft« (people's community) in their jurisdiction, how they managed their private life during the bombing, and examines the activities of judges from the Cologne district in occupied Poland.

ISBN 9783161527548  
sewn paper 79,00 €

## Kölner Juristen im 20. Jahrhundert

Beiträge zu einer Ringvorlesung an der Universität zu Köln, Sommersemester 2010 und Wintersemester 2010/2011

Hrsg. v. Steffen Augsberg u. Andreas Funke

Volume 74  
2013. VI, 249 pages.

This edited volume contains the lectures given at a lecture series at the University of Cologne. Against the backdrop of the 20th century's chequered history, both the biographies and the works of seminal Cologne jurists are subjected to thorough and critical scrutiny.

ISBN 9783161524301  
cloth 74,00 €

Survey of contents

*Sibylle Hofer:* Andreas von Tuhr: Das Phänomen eines gelobten Begriffsjuristen – *Marc-Philippe Weller:* Heinrich Lehmann:



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Foljanty, Lena

## Recht oder Gesetz

### Juristische Identität und Autorität in den Naturrechtsdebatten der Nachkriegszeit

Volume 73  
2013. XVIII, 412 pages.

ISBN 9783161520037  
cloth 109,00 €

After 1945, everyone was talking about »natural law« for a few years. Jurists saw it as a chance to make a clean break with National Socialist legal doctrine. Lena Foljanty reconstructs the debates on natural law in their historical context and shows how jurists used them to communicate about their professional self-concept and their future role in society.

Krings, Sylvia

## Die Vorgeschichte des Vertrags mit Schutzwirkung zu Gunsten Dritter im Mietrecht

Volume 72  
2012. XIV, 195 pages.

ISBN 9783161521713  
sewn paper 59,00 €

The creation of the contract with a protective effect for the benefit of third parties is one of the basic socially minded decisions of the 20th century, a decision which gives family members contractual protection for the first time. Sylvia Krings analyzes 19th century judicature and shows that there were already protective measures in landlord and tenant law before this time.

Herbers, Matthias

## Organisationen im Krieg

### Die Justizverwaltung im Oberlandesgerichtsbezirk Köln 1939–1945

Volume 71  
2012. XIII, 433 pages.

ISBN 9783161518874  
sewn paper 79,00 €

In his study of the administration of justice in the higher regional court district of Cologne between 1939 and 1945, which was an important instrument of National Socialist repression, Matthias Herbers analyzes the functions, the structures and the institutional everyday life of this organization.

Löffelsender, Michael

## Strafjustiz an der Heimatfront

### Die strafrechtliche Verfolgung von Frauen und Jugendlichen im Oberlandesgerichtsbezirk Köln 1939–1945

Volume 70  
2012. XII, 494 pages.

ISBN 9783161517372  
sewn paper 89,00 €

Michael Löffelsender provides a detailed analysis of the criminal prosecution of women and young persons during the Second World War. He studies all the stages of the criminal proceedings and presents the first analysis of the influence of key social concepts, gender stereotypes and criminological knowledge in the practice of criminal law.

## Staat und Recht in Teilung und Einheit

Hrsg. v. Julian Krüper u. Heiko Sauer

Volume 69  
2012. VIII, 269 pages.

ISBN 9783161509834  
sewn paper 54,00 €

German reunification was the major historic and political event at the end of the 20th century. In fourteen articles, politicians, historians and legal experts address the basic issues of the division and the unification of Germany, partially from the perspective of their own involvement in the events and consequences of reunification and partially from the scholarly viewpoint.

Siebels, Volker

### Ernst Landsberg (1860–1927)

Ein jüdischer Gelehrter im Kaiserreich

Volume 68  
2011. XI, 233 pages.

ISBN 9783161507687  
sewn paper 54,00 €

Volker Siebels' biography of Ernst Landsberg (1860–1927), a legal historian from Bonn, deals with Landsberg's main work, a three-volume history of German jurisprudence, which is still regarded as a standard work today. In spite of the recognition he received from his colleagues, the fact that he was a Jew hampered his professional and financial advancement.

Ditt, Thomas

### »Stoßtruppfakultät Breslau«

Rechtswissenschaft im »Grenzland Schlesien« 1933–1945

Volume 67  
2011. XIV, 318 pages.

ISBN 9783161503740  
cloth 89,00 €

In January 1935, the Faculty of Law at the University of Breslau was declared a »political shock troop faculty.« In this work, Thomas Ditt presents the first study of the development of this Faculty of Law during the Nazi era, and in doing so focuses on the strained relationship between politics and academia.

Bastian, Daniell

### Westdeutsches Polizeirecht unter alliierter Besatzung (1945–1955)

Daniell Bastian presents the first comprehensive study of the first decade of police law, one which was particularly important for its history, between the surrender in 1945 and the termination of the Occupation Statute in 1955.

Volume 66  
2010. X, 289 pages.

ISBN 9783161504242  
sewn paper 64,00 €

Hahn, Philip

### Die Stiftungssatzung

Geschichte und Dogmatik

Volume 65  
2010. XXX, 535 pages.

ISBN 9783161505546  
sewn paper 89,00 €

The foundation statute is generally established in perpetuity, as is the foundation with legal capacity. In this work, the author studies its special significance for jurisprudence from the perspective of legal history and legal dogmatics.



Weber, Thomas

## Die Ordnung der Rechtsberatung in Deutschland nach 1945

### Vom Rechtsberatungsmissbrauchsgesetz zum Rechtsdienstleistungsgesetz

Volume 64  
2010. XX, 405 pages.

ISBN 9783161503788  
sewn paper 79,00 €

Thomas Weber provides the first overview of the legal advice system in Germany after 1945. Against the backdrop of the prerequisites of law, economics, special interest politics and politics in general, he shows why it was not until 2008 that the Legal Services Act replaced the preceding politically compromised regulation.

Will, Martin

## Die Entstehung der Verfassung des Landes Hessen von 1946

Volume 63  
2009. XXVI, 602 pages.

ISBN 9783161498947  
cloth 104,00 €

The Hesse constitution, signed in 1946, is the oldest German constitution in force. In many respects, the Hesse constitution influenced the German Grundgesetz (Basic Law). It does, however, differ strongly from the Grundgesetz, since it outlines the concept of a socialistic society and economic system. Examples of this are far-reaching social human rights and an economy whose purpose is to serve the welfare and the needs of the people, including the socialization of entire industries. On the basis of extensive research in various archives, Martin Will tells the intriguing story of how the Hesse constitution originated.

Mertens, Bernd

## Rechtsetzung im Nationalsozialismus

Volume 62  
2009. XII, 182 pages.

ISBN 9783161501036  
cloth 44,00 €

Lawmaking in the Nazi era had an essential and up to now often underestimated importance for the implementation of political and ideological goals. It did however not consist of parliamentary legislation in the traditional sense, but rather of a complex patchwork amalgamation of governmental laws, »Führer« decrees, ministerial regulations and decrees by special committees. In view of this background, is it possible to identify a specific legislative technique, orderly methods and typical characteristics of lawmaking in the Nazi era? Bernd Mertens seeks answers to these questions, thereby contributing to the broader issue of the ways and means by which the Nazi regime ruled. The book gives insights into the inner workings of Nazi rule from a perspective which had previously rather been in the shadow of the monstrous injustice of the Nazi state.

»Der Anhang bietet statistische Auswertungen des Reichsgesetzblatts, z.B. der vom NS-Regime neu erlassenen Gesetze, der Führer-Erlasse etc. Damit zeigt sich erneut, dass diese prägnante Arbeit stets nahe an den Quellen operiert und dass sie zu einer wohlabgewogenen Synthese eines bisher weitgehend vernachlässigten Forschungsbereichs gelangt.«  
Die ungekürzte Rezension von Martin Moll finden Sie auf  
<http://www.koeblergerhard.de/ZRG127/Internetrezensionen2010/MertensBernd-RechtsetzungimNationalsozialismus.htm>  
(12/2009)

Schädler, Sarah

## 'Justizkrise' und 'Justizreform' im Nationalsozialismus

### Das Reichsjustizministerium unter Reichsjustizminister Thierack (1942–1945)

Volume 61  
2009. XII, 376 pages.

ISBN 9783161496752  
sewn paper 69,00 €

Sarah Schädler deals with the Ministry of Justice under Dr. Otto Georg Thierack, who was the Minister of Justice during the final stages of the National Socialism. She focuses on the National Socialist judicial reform, which was partially implemented during the last years of the war. She analyzes a multitude of source material, most of which had not been published until now. In her study, she shows that the National Socialist leadership was trying to redefine the functions of justice entirely. Apart from the changes made in the organization of the Ministry of Justice itself, the author deals with the major legal projects initiated by Thierack, in particular the draft of the »Community Aliens Act« (*Gemeinschaftsfremdengesetz*). The description of that act demonstrates not only the National Socialist vision of society but also shows the competition between the political police and the justice of National Socialism. The book won the Werner Pünder Award.

Hansen, Thomas

## Martin Wolff (1872–1953)

### Ordnung und Klarheit als Rechts- und Lebensprinzip

Volume 60  
2009. XII, 357 pages.

ISBN 9783161498374  
sewn paper 64,00 €

Thomas Hansen deals with the life and works of Martin Wolff – one of the most well-known legal scholars of the first half of the 20th century, who received a great deal of praise for his textbook on property law. He focuses on Wolff's career up to the seizure of power by the National Socialists, when he was forced to leave Germany because of his Jewish background. In doing so, the author has made use of extensive material from the archives and examines the fate of Wolff's family as well as that of some of his colleagues and students. In the second part of the book, the author deals with the question of whether or not Wolff's views can be classified as part of the dispute over methodology in the early 20th century as well as with the theory that Wolff adhered to a liberal private law mode. In the course of this study, the author shows that Wolff can be called a pragmatic dogmatist who was in touch with reality and who was also a *homo politicus*.

Willing, Matthias

## »Sozialistische Wohlfahrt«

### Die staatliche Sozialfürsorge in der Sowjetischen Besatzungszone und der DDR (1945–1990)

Volume 59  
2008. XI, 433 pages.

ISBN 9783161498220  
sewn paper 79,00 €

Public welfare played an important part in overcoming the enormous social problems in the post-war period. For the first time, Matthias Willing outlines the development of state social welfare from its beginnings in the Soviet occupation zone up to the collapse of the German Democratic Republic in 1990 and analyzes the transformation of the basic socialist welfare system into the social landscape of the Federal Republic of Germany. In doing so, he deals with the financial and the legal situation of the welfare recipients in East Berlin and the GDR as well as the homes dominated by the state. This also included the non-governmental institutions such as the Home Mission, charitable organizations, the German Red Cross and the »*Volkssolidarität*«, the socialist welfare institution. He also studies the aid given to socially disadvantaged persons in the GDR and the way the state party of the GDR dealt with so-called antisocial persons.

Scheffczyk, Fabian

## Der Provinzialverband der preußischen Provinz Brandenburg 1933–1945

### Regionale Leistungs- und Lenkungsverwaltung im Nationalsozialismus

Volume 58  
2008. XVI, 273 pages.

ISBN 9783161497612  
sewn paper 59,00 €

Fabian Scheffczyk examines the history of the *Provinzialverband* in the Prussian province of Brandenburg from 1933 to 1945. He puts a special emphasis on the function of the administration of regional services of general interest during National Socialism. He investigates how the *Provinzialverband* was integrated into the Nazi system of government and how it executed the new aims of administration. Furthermore, he describes how the *Provinzialverband* interacted with other state and non-state institutions. By securing control over a part of the social and material needs of the population, the *Provinzialverband* was part of the totalitarian state. Thus, a functioning administration of services of general interest was a constitutive and stabilizing element of national socialist rule.

Otto, Martin

## Von der Eigenkirche zum Volkseigenen Betrieb: Erwin Jacobi (1884–1965)

### Arbeits-, Staats- und Kirchenrecht zwischen Kaiserreich und DDR

Volume 57  
2008. XVII, 453 pages.

ISBN 9783161495021  
cloth 104,00 €

Martin Otto has written the first scholarly biography of Erwin Jacobi. Jacobi, who was educated in ecclesiastical law, was not only one of the founders of modern labor law, he was also a respected teacher of constitutional law in the Weimar period and, together with Carl Schmitt, participated in the dispute on methodology. In 1933 he was dismissed by the National Socialists and in 1946 he returned to the University of Leipzig, with which he remained associated for the rest of his life. The author looks into Jacobi's private and public life and also investigates the network of the most significant political scandal in which Jacobi was involved (Prussia versus Reich, 1932). He also describes the struggle for the autonomy of the university and of jurisprudence in the early GDR.

Schmerbach, Folker

## Das »Gemeinschaftslager Hanns Kerrl« für Referendare in Jüterbog 1933–1939

During the Nazi period, training camps for individual professions were common instruments for indoctrination, disciplinary action and the selection process, and they also claimed to integrate those taking part into the so-called »people's community«. Using a camp for young legal professionals as an example, Folker Schmerbach begins by analyzing the anti-intellectual and anti-individualist elements and then questions whether or not these camps had the success they wanted. In doing so, he fills a gap in the research on the functioning and effectiveness of this camp, which he compares with similar organizations for young university graduates in a second step. The author also provides contemporary witness accounts: What memories did the 20,000 in the Jüterbog camp have of that time? Is Sebastian Haffner's view that the camp contained »the Third Reich in a nutshell« correct?

Volume 56  
2008. XIII, 325 pages.

ISBN 9783161495854  
sewn paper 59,00 €

Herbe, Daniel

## Hermann Weinkauff (1894–1981). Der erste Präsident des Bundesgerichtshofs

Volume 55  
2008. XIX, 312 pages.

ISBN 9783161494611  
sewn paper 64,00 €

In contemporary legal history, Hermann Weinkauff is associated primarily with his term as President of the German Federal Supreme Court in Karlsruhe (1950–1960) and his participation in the so-called post-war renaissance of natural law in theory and in practice. However, most people are unaware of his many other occupations, for example in Bavaria as a public prosecutor in the Bavarian Ministry of Justice or later as president of the district court and as a member of the Bavarian constitutional court. Daniel Herbe looks into these and his various other activities. For the first time, he evaluates new sources which were made accessible to him from Weinkauff's estate, which is privately owned, and numerous archives. The result is an entirely new and more complete and differentiated image of Hermann Weinkauff as a person and of his works.

Rücker, Simone

## Rechtsberatung

### Das Rechtsberatungswesen von 1919–1945 und die Entstehung des Rechtsberatungsmisbrauchsgesetzes von 1935

Volume 54  
2007. XX, 517 pages.

ISBN 9783161493393  
sewn paper 79,00 €

In this work, Simone Rücker provides a survey of the legal advice system in Germany during the Weimar Republic and the National Socialist era and the creation of the so-called »law on legal advice«, which was passed in 1935. In choosing a broad approach to the subject, she is able to present new ideas and concepts which can contribute to the discussions on the history of law, to social history and political science. She focuses on the practice of lawyers and other legal advisers and, taking into account the changing political systems, she analyzes the economic, social and political premises of their work. In studying the conflict between academics and laymen, and in analyzing the politics of German lawyers, the author makes a significant contribution to the history of lawyers in Germany.

Nörr, Knut Wolfgang

## Die Republik der Wirtschaft

### Recht, Wirtschaft und Staat in der Geschichte Westdeutschlands. Teil II: Von der sozial-liberalen Koalition bis zur Wiedervereinigung

Volume 53  
2007. X, 303 pages.

ISBN 9783161494994  
cloth 114,00 €

As seen in the context of its economic order and constitution, Knut Wolfgang Nörr presents a history of the Federal Republic of Germany, in this case of the two decades from the social-liberal coalition up to German reunification (1970–1990). The development adhered to the ambiguity of the economic system – free market economy here and organized economy there; for example, the introduction of merger control was carried out according to the free market economy, the codetermination of labor was in accordance with the planned economy. The author also traces the legislation and judicial decisions in corporate law, accounting, capital market law and fiscal law as it relates to corporations. In analyzing the comprehensive »policies« as well as the individual branches of law, he also deals with European influences.

Kauhausen, Ilka

## Nach der 'Stunde Null'

### Prinzipiendiskussionen im Privatrecht nach 1945

Volume 52  
2007. XVII, 297 pages.

ISBN 9783161490293  
sewn paper 64,00 €

After 1945, Germany was faced with a new beginning. In dealing once again with the Civil Code of 1900, legal experts revived the principles of private law. Ilka Kauhausen examines positions in private law from 1945 up to the late seventies. She establishes the fundamental phases and groups and shows that it was mainly 'cultural law' and human rights which were given priority until the end of the fifties. It was not until the sixties that the compliance with the German Basic Law gained acceptance, and this had a considerable effect on private law. As a result, fundamental issues were increasingly left up to constitutional interpretation and public law – and the consequences for the theory of private law were serious.

Hollstein, Thorsten

## Die Verfassung als »Allgemeiner Teil«

### Privatrechtsmethode und Privatrechtskonzeption bei Hans Carl Nipperdey (1895–1968)

Volume 51  
2007. XV, 395 pages.  
ISBN 9783161490804  
sewn paper 79,00 €

Thorsten Hollstein studies Nipperdey's biography, his methodology and his legal philosophy as well his conception of private law ranging from the Weimar Republic to the Nazi period and up to the Federal Republic. Instead of focusing on collective labor law, which was the strongest component in Nipperdey's work, the author deals with general civil law and commercial and economic constitutional law. He shows that Nipperdey's main concern starting with the Weimar Republic was the question of freedom, which was posed as a question of free or social private law. The author examines how Nipperdey answered this question between the extremes of freedom and social commitments in three different political systems.  
This doctoral thesis was awarded the »Werner Pünder Prize« for work on the subject of 'Freedom and Totalitarianism'.

Al-Shamari, Nadia

## Die Verkehrssitte im § 242 BGB: Konzeption und Anwendung seit 1900

Volume 50  
2006. XIII, 237 pages.  
ISBN 9783161491504  
sewn paper 64,00 €

Nadia Al-Shamari studies the prevailing practice in paragraph 242 of the German Civil Code, in whose official heading of 2002 mention is made of »performance in good faith«. However in the wording of this rule there is no mention of the fact that the »performance« is to comply with good faith. The regulation pertains only to the way the performance is brought about. This should also not only comply with the concept of good faith but with the concept of what »good faith demands in consideration of prevailing practice«. Nadia Al-Shamari studies the conception of paragraph 242 of the German Civil Code according to the authors of the Civil Code, and in doing so she underscores the significance of prevailing practice and compares this with the actual role of prevailing practice after 1900.

Keiser, Thorsten

## Eigentumsrecht in Nationalsozialismus und Fascismo

Volume 49  
2005. IX, 266 pages.  
ISBN 9783161487576  
cloth 99,00 €

Property theories are usually based on the conflict between the individual and society. Governments in the 19th century resolved this conflict principally by acting in favor of the freedom of the individual to enforce his property rights. Lawyers working during the eras of fascism and National Socialism tried to work out alternative property concepts and to adapt the law to the political goals of the regimes. Thorsten Keiser analyzes the lawyers' attempts to reshape property law to resolve the conflict between the social function of the law and the need to take advantage of the economic potential of private property. He then examines the fundamental differences between the various German and Italian concepts of property.

Kaiser, Christian

## Kündigungsschutz ohne Prinzip

### Der Weimarer Entwurf eines Arbeitsvertragsgesetzes und seine Bezüge zum heutigen Recht

Volume 47  
2005. XV, 401 pages.  
ISBN 9783161486111  
sewn paper 79,00 €

Christian Kaiser examines the Weimar draft of an employment contract law, which originated in the early days of modern German labor law, from the standpoint of its history, dogmatics and basic principles. After giving a thorough description of the circumstances surrounding its origins, the author outlines the protection against unfair dismissal, a law which is still the cause of a great deal of controversy in Germany today. Against this backdrop, Christian Kaiser analyzes the draft of the text in regard to the basic question of »protection of the employee only or freedom for both contracting parties as well«?

Blanke, Sandro

## Soziales Recht oder kollektive Privatautonomie?

### Hugo Sinzheimer im Kontext nach 1900

Volume 46  
2005. XII, 238 pages.  
ISBN 9783161486296  
sewn paper 54,00 €

Hugo Sinzheimer is considered to be one of the fathers of German collective labor law, and in fact the basic dogmatic structures of the current law concerning collective bargaining are based substantially on Sinzheimer's work. Although it has become a matter of course for labor law dogmatics today to use the range of legal measures created by Sinzheimer, there is a great deal of disagreement in regard to the assessment of his basic theoretical and methodical assumptions on which his writings on labor law are based. Sandro Blanke closes this gap by analyzing Sinzheimer's work on labor law in the context of his other writings on legal policy, legal philosophy and the sociology of law. He shows that Sinzheimer's basic theoretical assumptions differed clearly from those of the other advocates of the labor law jurisprudence which was becoming established in Weimar at that time.

Eisfeld, Jens

## Die Scheinehe in Deutschland im 19. und 20. Jahrhundert

Volume 45  
2005. XIII, 294 pages.

ISBN 9783161485893  
sewn paper 59,00 €

In this work, Jens Eisfeld expresses his objections to solving the problem of sham marriages by using marriage law, which means he opposes regarding the sham marriage as an impediment which can justify the registrar's obligation to refuse to marry a couple or can enable a marriage to be subsequently annulled. He presents a study of the history of the sham marriage in the 19th and 20th centuries, written from the standpoint of the history of law, providing political and dogmatic arguments against present law according to which a sham marriage can be used as a reason for annulling a marriage (Section 1314 Sub-Section 2 No. 5 of the Civil Code), a law which has been in force since 1998. Among other things, the author focuses on the Third Reich, which he also analyzes from the standpoint of the history of law. The National Socialists were the first to pass a law stating that a sham was an impediment to marriage, which contributed considerably to the creation of a National Socialist marriage law.

Wegerich, Christine

## Die Flucht in die Grenzenlosigkeit

Justus Wilhelm Hedemann (1878–1963)

Volume 44  
2004. XVI, 256 pages.

ISBN 9783161484162  
sewn paper 59,00 €

Those studies which take a biographical approach facilitate the access to legal history, since from this perspective all those situations in which a certain action or orientation are required are of particular interest to researchers. Justus Wilhelm Hedemann is an ideal subject for study, since he experienced so many different eras in his lifetime. He was born in 1878 and died in 1963, which meant he was alive during the Wilhelminian Empire, the Weimar Republic, the Third Reich and the first years of the Federal Republic of Germany. In addition to describing Hedemann's life and works, Christine Wegerich also analyzes his jurisprudence and defines his approach to this as a »mode of thought«, which was typical of his time and made it possible for Hedemann to adapt astonishingly well to the different political systems.

Murach-Brand, Lisa

## Antitrust auf deutsch

Der Einfluß der amerikanischen Alliierten auf das Gesetz gegen Wettbewerbsbeschränkung (GWB) nach 1945

Volume 43  
2004. XIII, 403 pages.

ISBN 9783161482793  
cloth 104,00 €

The influence of the American allies on the creation of the Act against Restraints of Competition is the history of a far-reaching conflict between different ideologies. The American antitrust collided with the Continental European cartel law tradition in Germany after 1945. The allied antitrust policy of the USA was linked closely to the question of German sovereignty and the German economic system. At the same time there was a connection between the German and the European cartel policies, since both of them had been created as a common concept of concurrent decision-makers. Using recently declassified documents from the National Archives in Koblenz, London and Washington D.C., Lisa Murach-Brand examines how various people and powers influenced the creation of the German Act against the Restraints of Competition.

Willing, Matthias

## Das Bewahrungsgesetz (1918–1967)

Eine rechtshistorische Studie zur Geschichte der deutschen Fürsorge

Volume 42  
2003. XII, 447 pages.

ISBN 9783161482045  
sewn paper 69,00 €

The purpose of the »Correctional Custody Law« was to commit »antisocial« persons (for example prostitutes) to closed welfare institutions. For the first time, Matthias Willing describes in detail the history of this repressive law in the Weimar Republic, during National Socialism, in the Western occupation zones and the Federal Republic of Germany until compulsory correctional custody was prohibited by the Federal Constitutional Court in 1967. In doing so, he shows that there was continuity in the fundamental directions which German welfare services took for socially disadvantaged persons in the 20th century.

Naas, Stefan

## Die Entstehung des Preußischen Polizeiverwaltungsgesetzes von 1931

Ein Beitrag zur Geschichte des Polizeirechts in der Weimarer Republik

Volume 41  
2003. XI, 395 pages.

ISBN 9783161481208  
sewn paper 74,00 €

Using records from the archives which had not previously been evaluated, Stefan Naas reconstructs the history of the origin of the Prussian police administration law of 1931, a law whose influence is still felt today. This can be traced back to the president of the Prussian Higher Administrative Court, Bill Drews, who had drafted this as a reform act at the beginning of the 1920s. Drews failed at the beginning of the republic, but his concept did in the end become reality. The police administration law completed the organizational changes in the police which had started in 1918. It unified and modernized police actions, as well as making them more efficient, and thus became an integral part of modern German administration law.

Utz, Friedemann

## Preuße, Protestant, Pragmatiker

### Der Staatssekretär Walter Strauß und sein Staat

Volume 40  
2003. XVI, 545 pages.

ISBN 9783161481062  
sewn paper 99,00 €

Friedemann Utz examines the contributions made by the jurist Walter Strauß (1900–1976) to the legal development of the early Federal Republic of Germany against the backdrop of his personal career. Born to Jewish parents in Berlin, Strauß was dismissed from his position in the Reich ministry in 1935. He survived National Socialism in Berlin and became a founding member of the CDU (Christian Democratic Union). As a result of the many years he spent as an undersecretary in the Federal Ministry of Justice, significant decision-making processes which took place during the early years of the Federal Republic become the focus of this study. Due to the diversity of the fields of law influenced by Walter Strauß, this volume is able to contribute a great deal of new facts to the history of law in postwar Germany and in the first decades of the Federal Republic of Germany.

Hilger, Christian

## Rechtsstaatsbegriffe im Dritten Reich

### Eine Strukturanalyse

Volume 39  
2003. XIV, 249 pages.

ISBN 9783161480577  
sewn paper 59,00 €

Among other things, the existing rule of law terminology of the German constitutional states of the 19th and 20th centuries came under fire from rule of law literature at the beginning of the Third Reich. This literature reduced the terminology to a negative and almost homogeneous caricature of the civil-liberal concept of the state governed by the rule of law. Nevertheless, the talk of a state governed by the rule of law did not cease. Christian Hilger describes the arguments given for and against the further use of the term 'rule of law'. In the main part of his study, he analyzes newly-formed terms used for the state governed by the rule of law, some of them created by relatively unknown authors, others by well-known authors such as for example Otto Kroellreutter, Carl Schmitt and Julius Binder. He concludes by categorizing these terms with regard to their common content, their potential functions as well as their basis in epistemology and political philosophy.

Urban, Nikolaus

## Die Diätenfrage

### Zum Abgeordnetenbild in Staatsrechtslehre und Politik 1900–1933

Volume 38  
2003. XI, 222 pages.

ISBN 9783161479861  
sewn paper 59,00 €

Nikolaus Urban examines how German constitutional law and politics during the late empire and the Weimar Republic reacted to the changing conditions of parliamentary effectiveness, in a society that had undergone a fundamental political and industrial revolution since the foundation of the empire. Basing his study on the remuneration for members of parliament, he explores the changing image of members of parliament during a time when politics and parliamentary representation became professionalised, a process that met with considerable resistance not only from experts in constitutional law.

Distel, Joachim

## Die Errichtung des westdeutschen Zentralbanksystems mit der Bank deutscher Länder

Volume 37  
2003. XVIII, 254 pages.

ISBN 9783161480812  
cloth 94,00 €

Joachim Distel deals with the decentralization of the German Reichsbank after the Second World War. He examines the opposing views on this held by the American and the British occupying powers, and outlines the compromise made between the two powers which resulted in the establishment of a decentralized Länder Central Bank system with the Bank of the German Länder as its head office.

Mikesic, Ivana

## Sozialrecht als wissenschaftliche Disziplin

### Die Anfänge 1918–1933

Volume 36  
2002. XIII, 222 pages.  
ISBN 9783161478666  
sewn paper 59,00 €

Ivana Mikešić examines the paradigms of the development and specialization of administrative law in Germany's Weimar Republic. Against the backdrop of the so-called »positivism dispute,« which flared up in German constitutional law doctrine after the First World War, the author demonstrates how the new, more intervening disciplines of administrative law – in particular social law, but also labour law, tax law and administrative law pertaining to planning and regulation – influenced and changed the commonly held view of the structure and the character of the entire legal system. As an example, the author studies the beginnings of social law as an independent scientific discipline.

Wagner-Kern, Michael

## Staat und Namensänderung

### Die öffentlich-rechtliche Namensänderung in Deutschland im 19. und 20. Jahrhundert

Volume 35  
2002. XVII, 459 pages.  
ISBN 9783161477188  
sewn paper 79,00 €

The same law pertaining to a change of name has been valid in Germany, apart from a few slight changes, since January 5, 1938. Michael Wagner-Kern shows that when this law was created by the National Socialist legislators it was done so simply to devise a legal basis for an 'exclusion' of the Jewish population 'by name.' The author examines the relationship between Jewish emancipation and/or antisemitism on the one hand and the development and change in the law pertaining to a change of name under public law on the other hand. In this context, he analyzes the dissolution of the traditional jurisdiction of the *Länder* over name changes under public law, and makes it clear that even before 1933 there had been ideas for a legal registration of an official name change which had anti-Jewish motives.

Depping, Andre

## Das BGB als Durchgangspunkt

### Privatrechtsmethode und Privatrechtsleitbilder bei Heinrich Lehmann (1876–1963)

Volume 34  
2002. XVI, 356 pages.  
ISBN 9783161477058  
cloth 94,00 €

André Depping has taken the unusual step of writing a small history of private law in the 20th century using the biography and the works of one person: Heinrich Lehmann. He focuses on the development of the German Civil Code from 1900 on and on Lehmann's rejection of the Code which he called a 'point of transition'. In doing so, he also does an in-depth study of Lehmann's role during the National Socialist era. The author concludes the work with an appendix containing a previously unpublished draft, written by Lehmann, of the basic rules of the National Civil Code of 1942.

Emmert, Jochen

## Auf der Suche nach den Grenzen vertraglicher Leistungspflichten

Volume 32  
2001. XIII, 477 pages.  
ISBN 9783161476631  
paper 79,00 €

With the beginning of the First World War, the law of contract almost broke down under the weight of the history being made at that time. In an epidemic number of cases, the courts were called upon to define the boundaries of contractual obligation when the lawmakers and the contracting parties could or would not act. Jochen Emmert traces this development and examines its background from the perspective of history and legal theory.

Mohr, Philipp C.

## Kein Recht zur Einmischung?

### Die politische und völkerrechtliche Reaktion Grossbritanniens auf Hitlers 'Machtergreifung' und die einsetzende Judenverfolgung

Volume 31  
2002. XVI, 405 pages.  
ISBN 9783161476105  
cloth 109,00 €

1933 and 1934 were critical years for the reaction of Great Britain to Hitler's seizure of power. In this work, the author demonstrates how the most influential European power and guarantor of the Treaties of Versailles and Locarno replied to the Nazi threat in the heart of Europe. What role did international law play in the response to the swift abolition of democracy and the persecution of Germany's Jews? This study provides fascinating insights into how the international community reacted to Germany's discrimination of Jews in the early years of the Third Reich. Philipp Mohr analyzes a wide array of unpublished documents from the British cabinet, the Foreign Office, the German Auswärtiges Amt, and private papers as well as the discussions held by the British parliament and the opinions of the British press in order to ascertain the British state of mind regarding the emerging Nazi dictatorship. The author also describes the discussions of the Council of the League of Nations in regard to the discrimination of the Jews in Germany.

Grohmann, Marc

## Exotische Verfassung

Die Kompetenzen des Reichstags für die deutschen Kolonien in Gesetzgebung und Staatsrechtswissenschaft des Kaiserreichs (1884–1914)

Volume 30  
2001. XVI, 324 pages.

ISBN 9783161475320  
cloth 99,00 €

Marc Grohmann examines the constitutional jurisdiction of the Reichstag for the German colonies in Africa and Asia which were acquired after 1884. In 1886, the parliament waived a strong control over the colonies in an enabling act in favor of the Kaiser, thus creating an 'exotic constitution'. After the turn of the century attempts were made to enable the Reichstag to increase its influence. Marc Grohmann examines the content, the origin and the application of the decisive laws in this case. In addition, he analyzes their contemporary reflection in legal science.

Nörr, Knut Wolfgang

## Die Republik der Wirtschaft

Recht, Wirtschaft und Staat in der Geschichte Westdeutschlands. Teil I: Von der Besatzungszeit zur Grossen Koalition

Volume 25  
1999. X, 269 pages.

ISBN 9783161472138  
cloth 104,00 €

Knut Wolfgang Nörr presents a legal history of the Federal Republic of Germany, from its origins up to the Grand Coalition, as seen in the context of its economic system and constitution. He shows the development of a 'two-lane' economic system in the Federal Republic between the Weimar tradition and the new ordoliberalism, which was stabilized by the broad, consensus-producing principle of social market economy. He analyzes inter alia the origins of various basic statutes, the independence of the federal bank, and the unions' struggle for co-determination. The fundamental, though unsolved problem of economic power may be called the leitmotif of the study.

Becker, Lothar

## Schritte auf einer abschüssigen Bahn

Das Archiv des öffentlichen Rechts (AöR) im Dritten Reich

Volume 24  
1999. XI, 268 pages.

ISBN 9783161472121  
paper 59,00 €

Lothar Becker examines the Archiv des öffentlichen Rechts during the years 1933 to 1944, demonstrating that it does give a subtly differentiated portrayal of the decline of the study of constitutional and administrative law in Germany during the Third Reich. He describes the literary and scientific bureaucracy, established by the National Socialists after 1933, along with its deviations in the field of scholarly publications, and deals with the concrete constraint and scope of action experienced by those in charge of journals during the Third Reich.

Schäfer, Herwig

## Juristische Lehre und Forschung an der Reichsuniversität Straßburg 1941–1944

Volume 23  
1999. XIV, 273 pages.

ISBN 9783161470974  
cloth 69,00 €

Herwig Schäfer describes the institutional prerequisites and the subjects of legal research and teaching at the Reich University of Strassburg. He begins with the founding of the university in 1941 and then focuses on the structure and the activities of the faculty of law. How were the chairs filled? What kind of research did the professors do? Was a special National Socialist mission fulfilled by the academic staff or the subject matter with which legal research and teaching were concerned? Herwig Schäfer presents an example of legal training under National Socialism and gives a particularly vivid description of the specific problems Alsatian law students encountered in their inner conflict between conformity and Resistance.

Survey of contents

Juristisches Studium in Straßburg vom 16. Jahrhundert bis zum 2. Weltkrieg – Aufbau der Reichsuniversität Straßburg 1940/41 – Besetzung der juristischen Lehrstühle – Die juristische Ausbildung – Forschungstätigkeit der juristischen Ordinarien – Elsässische Jurastudenten zwischen Anpassung und Résistance – Hochburg der NS-Rechtswissenschaft? / Nachfolgerin der 'Kieler Schule'? – Das Ende der Fakultät



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