

全球化时代法律比较中的比较方法和多元化

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摘要

这篇文章深入研究了有可比性的法律查询中, 不同方法学工具之间的关系。目前影响这些查询的因素有几个, 比如规范新领域的出现, 确定中心和边缘(国家)之间关系配置的跨国行动者的出现。法律多元化的不同形式和愿景可以描述一种文化传统、各国不同存在方式的特点, 拥有多元化法律体系, 彼此相互作用。此外, 还可以考虑多元化不同形式的出现, 即多元化的多元化, 意味着重新考虑比较法中方法论的充分性, 具有持续和迫切的需要。因此, 我们可以使用不同的方法, 因为比较所追求的目的不同, 尽管横向比较是比较分析的普遍趋势, 从方法论角度来看, 不管是自上而下还是自下而上的方法, 我们都需要考虑纵向比较的重要性。

关键词

比较方法论, 多元化, 全球化

Abstract

This article grew to look deeper into the relationship between different methodological tools in comparative law enquiries. There are several factors that currently affect these enquiries, such as the emergence of new spheres of normativity and transnational actors determining a new configuration of the relationship between centre and periphery. Different forms and visions of legal pluralism could characterise a cultural tradition and different ways, in which existing nations, which have a pluralistic legal system, interact. Furthermore, one might add the consideration that the presence of different forms of pluralism—a pluralism of pluralisms—implies a constant and urgent need to reconsider the adequacy of the methodologies in comparative law. Hence, we can use different approaches because there are different purposes that the comparison pursues. Though the horizontal comparison is certainly a widespread tendency for comparative analyses, from a methodological point of view, we need to consider the importance of forms of vertical comparison, both a top-down and bottom-up approach.

Keywords

Comparative Methodology, Pluralism, Globalization
