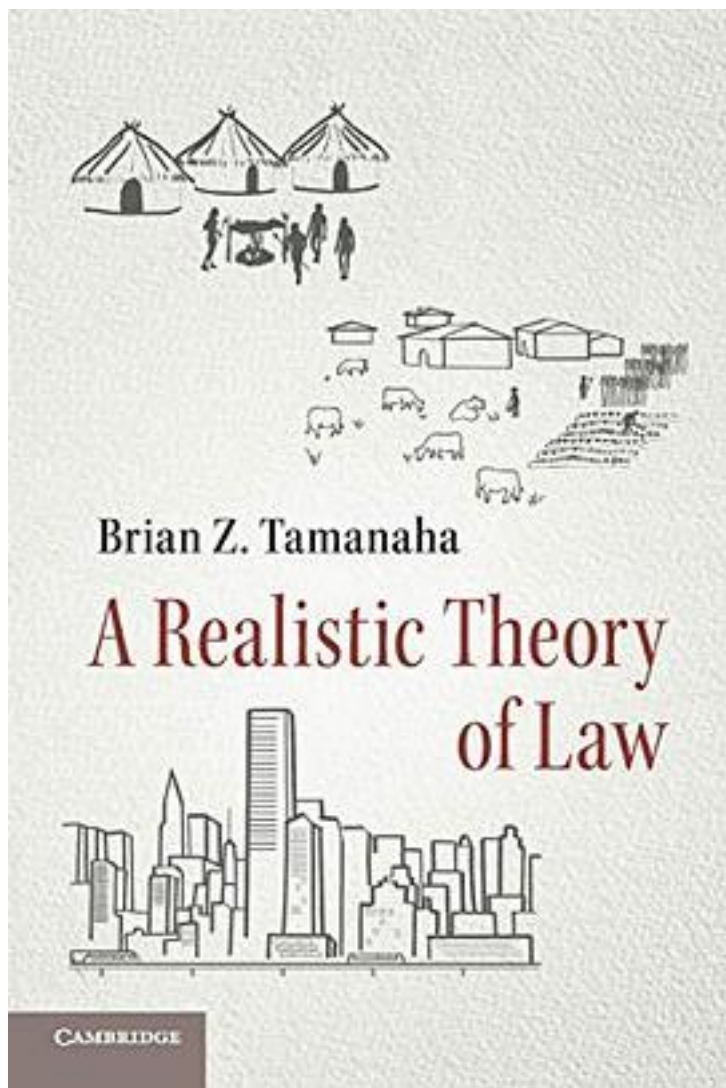


A Realistic Theory of Law



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著者:Brian Z. Tamanaha

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This book articulates an empirically grounded theory of law applicable throughout history and across different societies. Unlike natural law theory or analytical jurisprudence, which are narrow, abstract, ahistorical, and detached from society, Tamanaha's theory presents a holistic vision of law within society, evolving in connection with social, cultural, economic, political, ecological, and technological factors. He revives a largely forgotten theoretical perspective on law that runs from Montesquieu through the legal realists to the present. This book explains why the classic question 'what is law?' has never been resolved, and casts doubt on theorists' claims about necessary and universal truths about law. This book develops a theory of law as a social institution with varying forms and functions, tracing law from hunter-gatherer societies to the modern state and beyond. Tamanaha's theory accounts for social influences on law, legal influences on society, law and domination, multifunctional governmental uses of law, legal pluralism, international law, and other legal aspects largely overlooked in jurisprudence.

作者介绍:

Brian Tamanaha is William Gardiner Hammond Professor of Law at Washington University, St Louis School of Law. He is the author of eight books, including the prize-winning *A General Jurisprudence of Law and Society* (2001).

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标签

法哲学

法理学

法社会学

法理

评论

虽然倡导现实社会法理论，但风格非常analytical。可能是作者最优秀的法理论作品，勾勒“一般法理学”失败根源的同时，提出法律是什么的答案应当回溯于共同体中人们习惯性称之为“法”的规范。第三章（有关法律的必然与普遍真理？）发表于今年Ratio Juris

塔玛纳哈最有理论野心的一本书了，提倡基于社会-历史的realistic法理论，但似乎他并没搞清楚法哲学分析路径对本质问题的研究是意图说明什么，因此本来是不悖的路径被简单对立起来。

花了三天功夫重读了一遍，找到几个问题点。

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书评

2017 Washington University Law Review Symposium Exploring Jurisprudence October 20, 2017 at Washington University School of Law in St. Louis The Washington University School of Law and the Washington University Law Review are excited to present the 2017 sym...

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