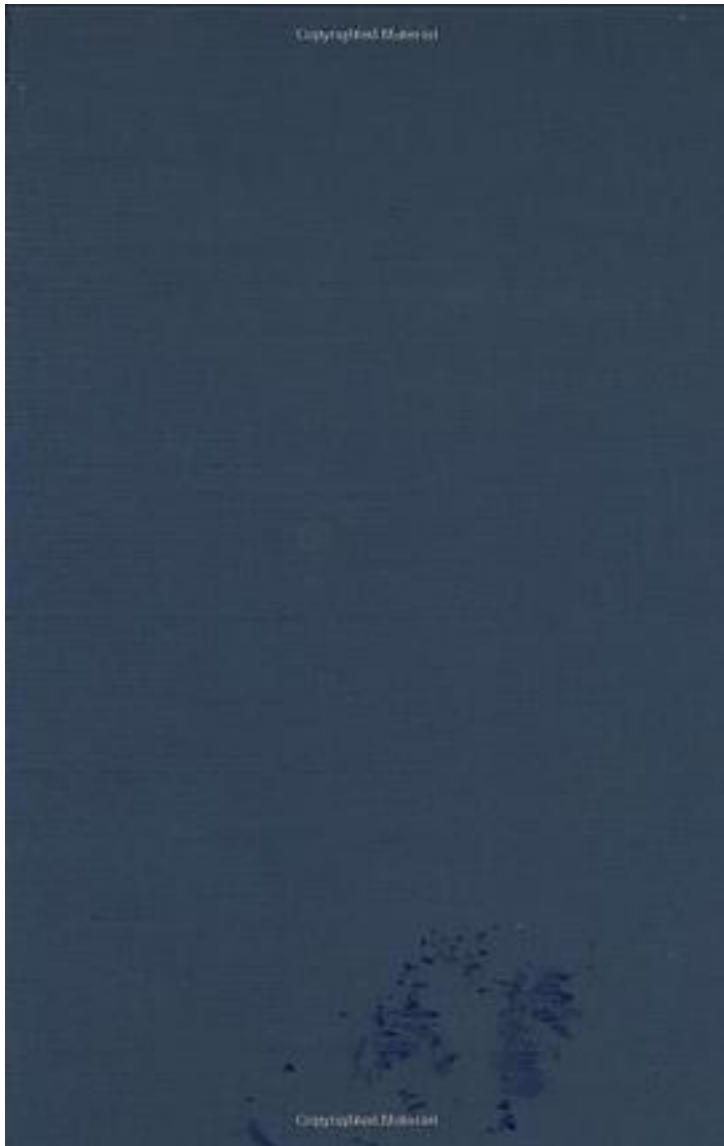


The Idea of Private Law



[The Idea of Private Law 下载链接1](#)

著者:Weinrib, Ernest J.

出版者:

出版时间:1995-2

装帧:

isbn:9780674442122

Private law applies our deepest intuitions about personal responsibility and justice to the property we own and use, to the injuries we inflict or avoid and to the contracts which we make or break. This text offers a new perspective on the phenomenon of private law. Rejecting the functionalism popular among legal scholars, it advances the idea that private law is an autonomous and non-instrumental moral practice, with its own structure and rationality. Weinrib draws on Kant and Aristotle to set out a formalist approach to private law that repudiates the identification of law with politics or economics, arguing that private law is to be understood not as a mechanism for promoting efficiency but as a juridical enterprise in which coherent public reason elaborate the norms implicit in the parties' interaction. The book combines philosophical exposition and legal analysis and pays special attention to issues of tort law. Private law, Weinrib tells us, embodies a special morality that links the doer and the sufferer of harm. He elucidates the standpoint internal to this morality, in opposition to functionalists, who view private law as an instrument in the service of external and independently justifiable goals. After establishing the inadequacy of functionalist approaches, Weinrib traces the implications of the formalism he proposes for our ideas of the structure, coherence and normative grounding of private law. Furthermore, the author shows how this formalism manifests itself in the leading doctrines of private law liability. Finally, he describes the public but non-political role of the courts in articulating the special morality of private law.

作者介绍:

目录:

[The Idea of Private Law_ 下载链接1](#)

标签

评论

被功能论边缘化了, 要发声

[The Idea of Private Law_ 下载链接1](#)

[The Idea of Private Law 下载链接1](#)