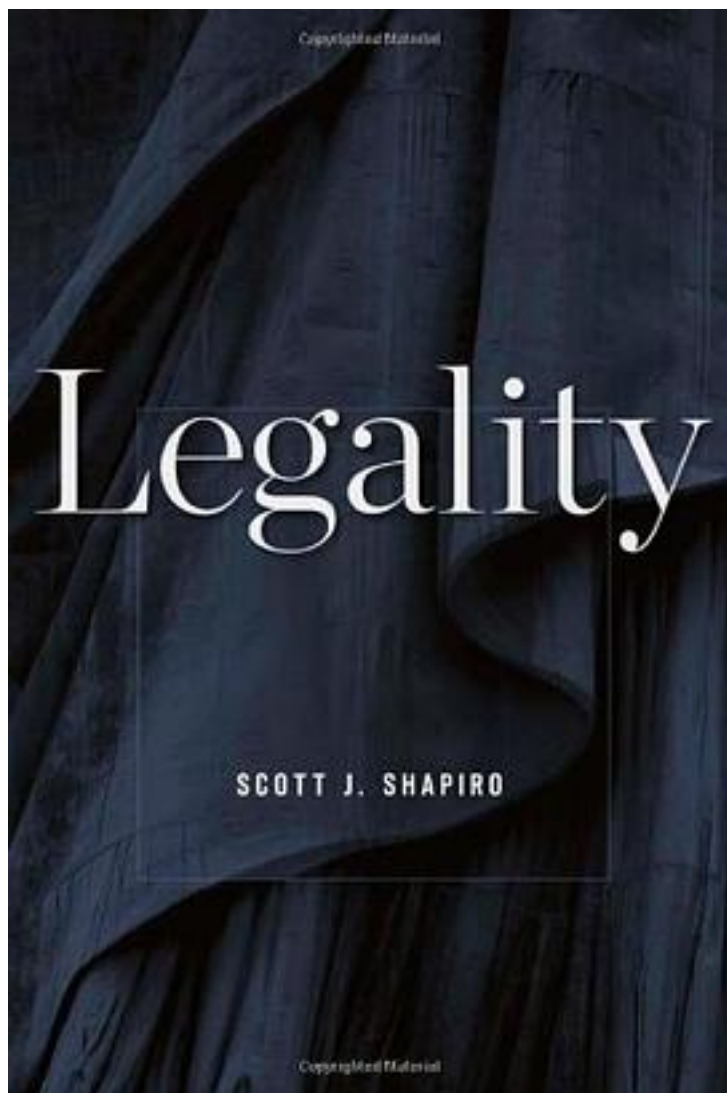# Legality

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著者:Scott J. Shapiro

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What is law? This question has preoccupied philosophers from Plato to Thomas Hobbes to H. L. A. Hart. Yet many others find it perplexing. How could we possibly know how to answer such an abstract question? And what would be the point of doing so? In Legality, Scott Shapiro argues that the question is not only meaningful but vitally important. In fact, many of the most pressing puzzles that lawyers confront - including who has legal authority over us and how we should interpret constitutions, statutes, and cases - will remain elusive until this grand philosophical question is resolved. Shapiro draws on recent work in the philosophy of action to develop an original and compelling answer to this age-old question. Breaking with a long tradition in jurisprudence, he argues that the law cannot be understood simply in terms of rules. Legal systems are best understood as highly complex and sophisticated tools for creating and applying plans. Shifting the focus of jurisprudence in this way - from rules to plans - not only resolves many of the most vexing puzzles about the nature of law but has profound implications for legal practice as well. Written in clear, jargon-free language, and presupposing no legal or philosophical background, "Legality" is both a groundbreaking new theory of law and an excellent introduction to and defense of classical jurisprudence.

作者介绍:

斯科特·夏皮罗（Scott. J. Shapiro），耶鲁大学法学院Charles F. Southmayd法律教授和哲学教授。研究领域包括法理学、国际法、宪法理论、行动理论和权威理论，被视为法律实证主义阵营继哈特、拉兹之后的第三代领军人物之一。

目录:

Legality_下载链接1_

标签

法哲学

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法理学

英美法哲学

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法理

law

评论

规划理论对标德沃金对分离命题的批判以及对于理论争议的处置。惜乎貌似契约论翻版，且对柔性实证主义与德翁"循环论证"的批判禁不住推敲。陈述哈特德沃金之争颇见功力，对分离命题的辩护贡献大而对法律解释的分析无法自洽。

书评