世界150餘國物權法的比較、經濟、實證分析

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摘要

In terms of comparative law, this book is by far the largest-scale comparative property law endeavor, and each property doctrine is documented in a systematic way. Chapters 3–13 will all start with a typology of a doctrine. The prior comparative property law literature mostly focuses on the laws in certain developed countries; as a result, many interesting legal designs to a well-known problem have been ignored.

In terms of empirical analysis, this book is situated in the emerging trend of empirical comparative law. A number of research teams have, together or separately, compiled data on the contents of constitutional law around the world. Notable scholars in this camp include Tom Ginsburg, Mila Versteeg, David Law, and Stefan Voigt. Anu Bradford and Adam Chilton have created a panel data set on antitrust law. The pioneering efforts on collecting comparative law data on a certain legal issue in dozens of countries started with the famous LLSV "law and finance" article. Holger Spamann, among others, has expanded and corrected the coding of comparative corporate law. My property data set appears to be the only systematic coding of legal contents within private law. In the empirical overview in Chapter 1 and Conclusion, I will use quantitative methods to analyze the property law data.

In Chapters 3–13, after laying out the similarities and differences among countries, the second part of each chapter will analyze which rule is the most efficient. Using plain language instead of formal mathematical models, I aim to introduce to traditional property scholars the economic pros and cons of different designs of property doctrines. Chapter 2 will define economic efficiency and introduce the economic tools used in the following chapters.

技術優勢

In terms of comparative law, this book is by far the largest-scale comparative property law endeavor. In terms of empirical analysis, this book is situated in the emerging trend of empirical comparative law.

應用範圍

This is the first book that comprehensively covers property law around the world. I have coded in detail the contents of property law and will advance a typology for each studied doctrine. In addition, I will use, among others, supervised and unsupervised machine-learning methods to tease out the inter-relationships ("legal family") among countries. Existing law-and-economics studies often analyze stylized mathematical models and propose an efficient mechanism, but traditional lawyers often find such models unrealistic. In this book, I limit the analyzed materials to a regime that has already been adopted somewhere in the world. In each chapter, I will point out the pros and cons of various regimes currently adopted and come away with a conclusion on which legal systems have adopted the more efficient rules. When I propose a new design for a doctrine, I will make sure that the proposal is realistic and low in cost.

The scope of this book includes 156 jurisdictions and more than 200 dimensions of property law in each jurisdiction.

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