



The Apriori Foundations of the Civil Law (Realistische Phänomenologie / Realist Phenomenology)

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The phenomenologists were concerned to show that essential structures of being, knowable by rational insight, are found far more abundantly than is commonly thought. In his great monograph Reinach shows that in the civil law, where one usually thinks that there are only legal structures of human devising, there are in fact many essential structures, such as the structure of promising or of owning. These pre-positive structures, which are something different from the moral norms relevant to the positive law, provide the civil law with a foundation that can be known by philosophical insight. Though the enactments of the civil law are changeable, these essential foundations are not changeable. Of particular significance and originality is Reinach's concept of a social act, that is, of an act that addresses another and has to be heard by the other in order to be complete. Reinach shows that the essence of legally relevant acts such as promising, comes to evidence when they are understood as social acts. The concept of a social act, in fact, has significance far beyond the part of legal philosophy in which Reinach first discovers it.

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