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The latest issue of RabelsZ has just been released. It focuses on “legal methodology” and contains the following articles:

Reinhard Zimmermann, Reinhard, Juristische Methodenlehre in Deutschland (Legal Methodology in Germany), pp. 241 et seq

> *The existence of a method, and thus also of a methodology, is very widely regarded as essential for an academic discipline. In Germany, law is, and has always been, an academic discipline. It is the object of what is referred to as Rechtswissenschaft (literally: legal “science”; less literally: scholarship relating to the law), characterized by a specifically legal methodology. Legal methodology is a foundational subject taught in German law faculties and set out in a rich body of legal literature. The present essay attempts to assess, on the basis of that literature, how lawyers are conceived (or perhaps rather: supposed) to operate in Germany. A specificity of the German discourse is the conceptual distinction between statutory interpretation and judicial development of the law. The essay provides an analysis of the various factors relevant within the enterprise of statutory interpretation, and of the prerequisites, the different levels, and the legitimacy of judicial development of the law. It also alerts the reader to the political experiences overshadowing the methodological discourse in Germany. The essay starts with five observations of a more general nature focusing on (i) methodological commonalities in Germany, Switzerland, and Austria; (ii) the normative character of the methodological discourse; (iii) (emerging) methodological differences between different fields of law; (iv) the place of Rechtsdogmatik (legal doctrine and the scholarship associated with its creation); and (v) the historical background of the German discourse.*

Gregor Christandl, Juristische Methodenlehre in Italien oder: Kurze Geschichte der italienischen Zivilrechtswissenschaft ab dem 19. Jahrhundert (Legal Methodology in Italy – A Brief History of Italian Private Law Scholarship since the 19th Century), pp. 288 et seq

> *In Italy, as in other continental legal systems, it is common to refer to "legal science" (scienze giuridiche) with regard to legal scholarship. Since the main purpose of such a legal science is the solution of practical cases or legal problems, it requires a method, or in other words, a prescribed process of single steps that lead to a solution. It is the purpose of this article to find out whether there is any discussion of such legal methodology in Italy, what role it plays in academic legal education and how it has developed since the 19th century. If one agrees that all legal methodology comes down to methods of interpretation of the law, the history of methodology is a history of interpretation. This article therefore also recounts the major developments in the history of interpretation of Italian private law and critically assesses the latest stage of "Italian legal style" in the last fifty years.*

Coro Jansen, The Methodology of Dutch Private Law from the Nineteenth Century Onwards, pp. 316 et seq

> *– No abstract available –*

Gerhard Dannemann, Juristische Methodenlehre in England (Legal Methodology in England), pp. 330 et seq

> *There is no equivalent to the German juristische Methodenlehrein English law. Four of its aspects have appeared to different degrees, in different combinations, and at different times in English legal education and textbooks: (i) the development of case law through the doctrine of binding precedent; (ii) the interpretation of statutes; (iii)*

jurisprudence; and (iv) the classification and systematization of English law. Based on a historical review of legal education at English universities, the article describes that aspects (i) and (ii) continue to be taught, but separately from (iii), which no longer is a core element at many universities, and that (iv), never a strength of the common law, is frequently neglected. The article offers six reasons why something akin to juristische Methodenlehre has never taken off in English law: (i) when legal methodology was refined and developed in 19th century Germany, English law was facing very different problems and only saw the beginnings of university education; (ii) unlike in Germany, legal methodology has never been a compulsory element of legal education; (iii) employers, whose professional organizations still determine the compulsory elements of the legal education syllabus, expect more practical than methodological skills; (iv) student demand for legal methodology has been consistently low; (v) a three-year syllabus for an English LL.B. can accommodate fewer subjects than a four- to five-year syllabus for a German first degree in law; and (vi) English law has demonstrated with its development of case law over the last decades in particular that it is nevertheless quite capable of achieving the goals which German legal methodology seeks to attain, doing so arguably better than German law.

Hans Petter Graver, Teaching Legal Method in Norway, pp. 346 et seq

– No abstract available –

Gabriele Koziol, Juristische Methodenlehrein Japan (Legal Methodology in Japan), pp. 361 et seq

Starting in the 1920s, legal methodology established itself as the object of lively discussions in Japan. Unlike in Germany, however, the discussion did not focus on concrete

problems of statutory interpretation, being led instead on a more abstract level. Issues discussed included, for instance, the question of how to deal with law imported from Western countries at the end of the 19th century and the importance of legal dogmatics, considering also the relationship of case law and statutes. While for some time a pragmatic approach prevailed – an approach sometimes even rejecting the binding nature of statutes – in recent years there has once again been a tendency towards a more systematic-functional approach. In legal practice, a set of interpretation methods is generally acknowledged which by and large resemble those adopted under German law. However, some peculiarities of Japanese court practice can be found with regard to the acknowledged sources of law as well as, for example, the use of analogy. In legal education at universities, legal methodology does not play an important role. Nevertheless, the academic discussion on methodological issues has also dealt with the question of what legal education should look like. Currently, the discourse on methodological questions is witnessing a revival, partly due to an increased interest in law and economics. Also, the recent reform of the law of obligations could bring about some changes in the approach to statutory interpretation.