

Deconstruction of Civil Law Scholarship: The Meaning of Civil Law Theories

KONNO Masanori

Abstract

The meaning of Professor Yoshida's civil law theories can be conceived as deconstructive critical theoretical practice regarding still dominant classical legal doctrines. His deconstructive legal practice has been typically performed as multifaceted relational contract theories as opposed to classical/neo-classical contract doctrines, influenced by Professor Macneil. He also develops this deconstructive theory in the field of health law, especially with regard to the classical "informed consent" notion of doctor-patient relationship, and thus introduces neo-institutional economics into the health care financing field. His Derridian critique based on his 'différance' idea could also be noticed in his critique of Professor Kawashima's over-commodified property theory, in accordance with Professor Radin's personality theory. His critical theoretical deconstructive practice, covering business torts, artificial medicine, housing, environment, and informational property etc., depends on concrete and empirical situational analysis, and thus, can be named "pragmatic" critical interpretative civil law theory.

Keywords

Deconstruction of civil law interpretation, différance theory, relational contract theory, personal property theory, pragmatism