



Acerca de lo universal y lo particular del Derecho Penal (Spanish Edition)

Emiliano Borja Jiménez

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¿Existe un Derecho Penal universal? ¿Qué principios son comunes a todo ordenamiento punitivo y cuáles son distintos? ¿Hay muchas diferencias en el catálogo de delitos, de penas y en el proceso establecido para enjuiciar a los sospechosos del sistema sancionador de sociedades postindustriales frente a otras civilizaciones? ¿Se está creando un Derecho Penal de la globalización? ¿Está legitimada toda sociedad para establecer los delitos e imponer las penas que considere oportuno, o tiene límites por encima de su voluntad general? ¿Dónde se encuentran el fundamento y los límites de todo Derecho Penal, con independencia del espacio geopolítico o cultural en el que se desarrolla? Esta obra pretende responder a dichas cuestiones (y otras similares) con el fin de desentrañar lo común a los principios, a los delitos, a las penas y al proceso del Derecho Penal de civilizaciones y órbitas culturales muy alejadas entre sí. Para ello se opta por una metodología comparativa entre varios modelos. Se toman en consideración tendencias universales como las derivadas de la globalización, del Derecho Penal internacional o de la Dogmática jurídicopenal. Y se contrastan con un modelo particular, el modelo antropológico que refleja los resultados de investigaciones anteriores sobre el derecho sancionador de algunas comunidades indígenas de Latinoamérica. A partir de ahí, se plantea lo común y general de todo Derecho Penal, su fundamento y sus límites. Y se establecen las líneas que legitiman las peculiaridades que derivan de cada cosmovisión, cultura o civilización. Se define así, en definitiva, lo universal y lo particular del Derecho Penal.

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