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论公正审判权的思想渊源

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摘要: 公正审判权的目的是为了实现在正义。西方的自然法思想自诞生以来就是与正义紧密相连的一种理论, 渊源于自然法思想的自然正义原则更是与公正审判权存在直接的联系。从程序正义理论来看, 公正审判是正当法律程序思想不可缺少的重要组成部分。从西方国家法治思想的历史演变以及西方国家的法治实践来看, 公正审判权是法治的必然要求。因而, 公正审判权的思想渊源可以从自然法思想、正当法律程序思想和法治思想中去追溯。

关键字: 公正审判权; 自然法; 正当法律程序; 法治

On origin of the thought of the right to a fair trial

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Abstract: The main purpose of the right to a fair trial is to realize justice, and from the origin of the thought of the natural law, it is a theory that relates closely with justice. Especially, there is direct relation between the principle of natural justice which stems from the thought of the natural law and the right to a fair trial. Seen from the theory of the procedural justice, a fair trial is a necessary and important part of the thought of the due process. Seen from the historic changes and the practices of the thought of rule of law in the West, and the right to a fair trial is an inevitable demand. So, origin of thought of the right to a fair trial can be traced from the thought of the natural law, the thought of the due process and the thought of rule of law.

KeyWords: right to a fair trial; natural law; the due process; rule of law