Articles
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What U.S. Law Reformers Can Learn from Germany's Value-Explicit Approach to Self-Defense

The exercise of self-preferential force to fend off an actual or perceived threat finds itself at the center of today's simmering criminal justice reform debate, particularly in the wake of the carefully watched (and oft-misunderstood) Rittenhouse and McMichael/Arbery cases. Never before has where - and how - to draw the boundary between governmental power and individual rights received so much attention. Unfortunately, the scholarship on this core criminal law topic has largely atrophied. We seem to be making little progress when it comes to gaining a better understanding of when, how, and why the state should authorize defensive force against another.

Sometimes a look beyond our own borders is needed to kick-start reform-minded thinking. Whether in the context of police use of force, battered intimate partner cases, or other defense of person or property situations, no group of scholars has given the critical value-judgments anchoring this "ancient civil right" more attention than those in Germany's legal academy. But despite a scholarly output on these topics that is unsurpassed in terms of both analytical depth and sheer volume, surprisingly little is known in the English-speaking world about Germany's unique approach to this controversial topic.

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