Abstract

The current paper intends to study the appearance and evolution of critical legal studies and compare it to the methodology of positivism. We will present a brief survey of the major authors and schools of critical legal theory and also of legal positivism. Through an observation of the current globalized world and of the decisions and legal interpretations, we will analyze whether it is feasible the application of critical legal theory in legal decisions now a days. The comparative study between critical theory and positivism will allows us to discover how to decide and interpret the laws and the legal system in the current reality and the impact of critical legal theory in modern society. We will proceed with an assessment of the current legal scenario in a dynamic society and a complex global community and what impact that would cause in legal positivist systems. We will also discuss about the applicability of critical legal theory, its scope and methodology and how to use the best of it, and discard what does not fit with the current legal system. The new methods of decision and interpretation of the law will be discussed from the perspective of these theories and we will verify how to apply the best methodology. Throughout the work will critically analyze both theories and discuss what philosophers and theorists ponder them.

Keywords

Key words, Juridical Methodology. Positivism. Critical Legal Studies.