

# 北方法学

刊名题字:文怀沙

## • 理论法前沿 •

### 5 平等是一门科学

——就业歧视法律控制的比较研究 ..... 张千帆

### 19 论社会基本制度的正义

——对罗尔斯正义理论的讨论 ..... 齐延平

### 39 论柄谷行人“阅读马克思” ..... 陈根发

### 46 现代宪法的理论基础:自由主义抑或共和主义? ..... 杨福忠

## • 部门法专论 •

### 55 论我国商会制度的源起、演变与现状 ..... 肖海军

### 63 我国股东代表诉讼制度评判与适用

——兼评《公司法解释(二)(征求意见稿)》的相关规定 ..... 王建文

### 72 犯罪与刑事违法性关系论纲 ..... 邵维国 沈志民

### 80 论我国以人为本的刑事诉讼制度的应有结构

——科学发展观的刑事司法解读 ..... 谢佑平 江涌

### 90 论反垄断法上的公平价值 ..... 叶卫平

### 97 现行跨国公司之法律管制缺陷评析 ..... 贾琳

主管单位:黑龙江大学

网 址:<http://beifangfaxue.fyfz.cn/>

主办单位:黑龙江大学

印 刷:哈尔滨工业大学印刷厂

编稿出版:《北方法学》编辑部

发行范围:国内外公开发行

出版日期:单月25日

国内发行:哈尔滨市邮局

地 址:哈尔滨市南岗区学府路74号

国内订阅:全国各地邮局

黑龙江大学汇文楼822室

国内邮发代号:14-235

邮政编码:150080

国外发行:中国国际图书贸易总公司

电 话:(0451)86608750

国外发行代号:BM4999

传 真:(0451)86609781

邮购地址:本刊编辑部

电子信箱:beifangfaxue@sina.com

2007年第4期(第1卷总第4期)双月刊·单月25日出版

• 中外法史研究 •

- 104 中国传统法之和谐价值考察 ..... 孙光妍

• 实践论坛 •

- 116 未成年人犯罪刑罚适用区域性考察及其罚则改革研究(上) ..... 屈学武 周振杰

- 129 当前阻碍人民警察执行职务的现状、成因及对策

——对辽宁省沈阳、鞍山和辽阳市阻碍警察执法情况的调研报告 ..... 余凌云 徐伟红

• 青年学人论坛 •

- 136 侵犯隐私权的构成及类型化研究 ..... 马特

- 143 过错及因果关系推定与证明责任倒置

——从事实到价值的思考 ..... 叶名怡

• 名家讲坛 •

- 152 既然当了和尚,那就撞好自己的钟 ..... 苏力

• 译评文丛 •

- 155 反思“上帝的审判”

——评巴特莱特的《中世纪神判》 ..... 徐昕

主 编:于逸生

刑法学:董玉庭

副 主 编:钱福臣

民法学:孙毅

常务副主编:赵立程

商法学:董惠江

编辑部主任:李凤梅

经济法学:王妍

栏目编辑:丁玉翠

国际法学:辛柏春

学科编辑

诉讼法学:于海生

法学理论:唐永春

执行编辑:李凤梅

法律史学:孙光妍

英文翻译:严明

宪法与行政法学:刘春萍

封面设计:徐高

# NORTHERN LEGAL SCIENCE

(Bimonthly No.4,2007 Vol.1)

## Contents

### Science of Equality

- Comparative Study on Legal Control of Employment Discrimination ..... Zhang Qian-fan 5

### On Justice of Social Basic System

- Discussion about Rawls' Theory of Justice ..... Qi Yan-ping 19

### On "Reading Marx" by the Japanese Scholar Karatani Kojin ..... Chen Gen-fa 39

### Theoretical Basis of the Modern Constitution: Liberalism or Republicanism? ..... Yang Fu-zhong 46

### On the Origin, Evolution and Actuality of the Commerce Chamber System in China ..... Xiao Hai-jun 55

### Reviews on the Shareholder Represents Lawsuit and its Application

- Concurrent Discussion about Relevant Regulations on the Exposure Draft of the Interpretation

- of the Corporation Law of PRC (Second) ..... Wang Jian-wen 63

### Outline Review on the Relationship of Crimes and the Criminal Illegality ..... Shao Wei-guo, Shen Zhi-min 72

### On the Proper Structure of the Criminal Lawsuit System on the Basis of Humanism

- Criminal Judicial Interpretation of the Scientific Development Ideas ..... Xie You-ping, Jiang Yong 80

### On Value of Fairness of the Anti-trust Law ..... Ye Wei-ping 90

### Deficiency Analysis of the Current Legal Regulation on Multinational Corporations ..... Jia Lin 97

### Exploration of the Harmony Value in Chinese Traditional Law ..... Sun Guang-yan 104

### Regional Research into Punishments on Juvenile Delinquent and Reform of Principles of Punishment in

- Juvenile Justice (First Part) ..... Qu Xue-wu, Zhou Zhen-jie 116

### The Status Quo, Reasoning and Countermeasures Analysis on the Current Obstruction of Performing Public Duty by People's Policemen

- Research on Obstruction of Performing Public Duty by Policemen in Shenyang, Anshan and

- Liaoyang of Liaoning Province ..... Yu Ling-yun, Xu Wei-hong 129

### A Study of the Formation and Categorization of Privacy Infringement ..... MA Te 136

### Fault, Causality Presumption and Inverted Burden of Proof

- Thoughts from the Facts Perspective to the Value Perspective ..... Ye Ming-yi 143

### Being the Buddhist Monk, Duty-bound to Toll the Bell ..... Su Li 152

### Introspection of "the Judgment of the God"

- Review on the Devine Judgment in the Middle Ages by Bartlett ..... Xu Xin 155

Publisher: Heilongjiang University

Edited and Published by the Editorial Office the  
Northern Legal Science

Date of Issue: 25th of Odd Months

Add: Room 822, Hui Wen Building, 74 Xue Fu  
Road, Nan Gang District, Harbin

Postal Code: 150080

Tel: (0451) 86608750

Fax: (0451) 86609781

E-mail: beifangfaxue@sina.com

[Http://beifangfaxue.fyfz.cn/](http://beifangfaxue.fyfz.cn/)

Printed by Harbin Institute of Technology

Printing Factory

Area of Distribution: Distributed at Home and  
Abroad

Domestic Distribution: Harbin Bureau of Post

Domestic Subscription: Post Offices across the  
Country

Mailing Code: 14-235

Mail Order: The Editorial Office of the Journal

Overseas Distributor: China International Book  
Trading Corporation

Code No: BM4999