



QK1732345

JOURNAL OF COMPARATIVE LAW

比较法研究

中国政法大学主办 · 比较法学研究院编辑

■王 轶

法律规范类型区分理论的比较与评析

■黄 辉

“一国两制”背景下的香港与内地证券监管合作体制：历史演变与前景展望

■刘 畅

独立担保的独立性：法理内涵与制度效力

■于改之 吕小红

刑法解释中平等原则的适用

■张 骥

论中国案例指导制度向司法判例制度转型的必要性与正当性

5

2017年第5期

(双月刊·总第153期)

目 录

【论文】

- 法律规范类型区分理论的比较与评析 王 轶(1)
- “一国两制”背景下的香港与内地证券监管合作体制:历史演变与前景展望
..... 黄 辉(12)
- 独立担保的独立性:法理内涵与制度效力
- 兼评最高人民法院独立保函司法解释 刘 斌(26)
- 美国公司法视角下控制股东信义义务的本义与移植的可行性 朱大明(45)
- 董事信义义务转化的法律构造
- 以美国判例法为研究中心 陈 鸣(59)
- 个人信息保护法保护客体之辨
- 兼论个人信息保护法和民法适用上之关系 杨 芳(74)
- 刑法解释中平等原则的适用 于改之 吕小红(87)
- 过失犯的客观归责:以结果避免可能性为中心 孙运梁(103)
- 在自由与规制之间的动态平衡
- 法国司法制度及其对我国司法改革的启示 刘宇琼(120)
- 论中国案例指导制度向司法判例制度转型的必要性与正当性 张 骥(131)
- 美国问责的探源与解析 曹 鑑(146)

【法政时评】

- 美国转基因食品标识制度的嬗变及对我国的启示 胡加祥(158)
- 版权登记制度革新的第三条道路
- 基于交易的版权登记 吕炳斌(170)

【人物与思想】

- 哈罗德·J·伯尔曼:美国当代法律宗教学之父 钟瑞华(182)

JOURNAL OF COMPARATIVE LAW

Bimonthly

Serial No. 153 Sept. 2017 No. 5

Contents

Articles

- Comparison and Comment on the Theory of Classification of Legal Norms *Wang Yi* (1)
- The Prospect and Evolution of the Securities Regulatory Cooperative Regime between Hong Kong and Mainland China under the ‘One Country, Two Systems’ Arrangement *Robin Hui Huang* (12)
- The Independence Principle of Independent Guarantees: Its Jurisprudence and Institutional Effect
—Comments on the Independent Guarantee Interpretation by Supreme People’s Court *Liu Bin* (26)
- The Nature of Fiduciary Duty of Controlling Shareholders under American Corporation Law and the Plausibility of Its Transplantation *Zhu Daming* (45)
- The Legal Structure on the Shift of Directors’ Fiduciary Duty: Focusing on the United States’ Case Law *Chen Ming* (59)
- On the Object of Protection of Personal Information Protection Law: On the Relationship between Personal Information Protection Law and Civil Law *Yang Fang* (74)
- The Application of Equality Principle in Criminal Law Interpretation *Yu Gaizhi & Lü Xiaohong* (87)
- The Objective Imputation of Negligent Crime: Centered on the Possibility of Avoiding Result *Sun Yunliang* (103)
- The Dynamic Balance between Freedom and Regulation: The Judicial System in France and the Enlightenment to Chinese Judicial Reform *Liu Yuqiong* (120)
- On the Necessity and Legitimacy of Transforming Chinese Case Guiding System into Judicial Precedent System *Zhang Qi* (131)
- The Origins and Analyses of the Accountability in the USA *Cao Liu* (146)

Comments on Legislation and Jurisdiction

- Study on the Change of US GM Food Labeling Law and Its Impact on China *Hu Jiaxiang* (158)
- A Third Alternative to Copyright Registration Renovation: Copyright Registration for the Purpose of Exchange *Lü Bingbin* (170)

Figures and Thought

- Harold J. Berman: The Father of the Study of Law and Religion in Contemporary America *Zhong Ruihua* (182)

Journal of Comparative Law

Bimonthly

Serial No. 153 Sept. 2017 No. 5

Selected Articles

■ Wang Yi

Comparison and Comment on the Theory of Classification of Legal Norms

■ Robin Hui Huang

The Prospect and Evolution of the Securities Regulatory Cooperative Regime between
Hong Kong and Mainland China under the 'One Country, Two Systems' Arrangement

■ Liu Bin

The Independence Principle of Independent Guarantees: Its Jurisprudence and Institutional
Effect

■ Yu Gaizhi & Lü Xiaohong

The Application of Equality Principle in Criminal Law Interpretation

■ Zhang Qi

On the Necessity and Legitimacy of Transforming Chinese Case Guiding System into
Judicial Precedent System

ISSN 1004-8561



9 771004 856177

国际标准刊号：ISSN 1004-8561

国内统一刊号：CN11-3171/D

定 价：30.00元