



QK1818868

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

■ 王利明

论人格权编与侵权责任编的区分与衔接

■ 李永军

物权的本质属性究竟是什么？

■ 秦前红

合宪性审查的意义、原则及推进

■ 孔祥俊

《民法总则》新规域下的反不正当竞争法

■ 姜 涛

在契约与功能之间：刑法体系的合宪性控制

2

2018年第2期  
(双月刊·总第156期)

## 目 录

### 【民法典编纂】

- 论人格权编与侵权责任编的区分与衔接 ..... 王利明( 1 )  
守成与创新的务实结合:《中华人民共和国民法人格权编(草案)》评析 ..... 石佳友( 12 )  
物权的本质属性究竟是什么?  
——《物权法》第2条的法教义学解读 ..... 李永军( 24 )  
论我国民法典《物权编(草案)》的构造、创新与完善 ..... 陈华彬( 39 )  
民法典物权编担保物权制度的完善 ..... 程 嗣( 52 )

### 【论文】

- 合宪性审查的意义、原则及推进 ..... 秦前红( 66 )  
合宪性审查的法理基础、制度模式与中国路径 ..... 李少文( 78 )  
《民法总则》新视域下的反不正当竞争法 ..... 孔祥俊( 92 )  
《民法总则》表见代理的类型化分析 ..... 迟 颖( 117 )  
虚假广告治理中的侵权诉讼 ..... 邵 海( 131 )  
人工智能技术与责任法的变迁  
——以自动驾驶技术为考察 ..... 冯洁语( 143 )  
在契约与功能之间:刑法体系的合宪性控制 ..... 姜 涛( 156 )  
PPP项目中政府介入权法律问题研究 ..... 邢 钢( 173 )

### 【法政时评】

- 法律中的标准  
——以法律文本为分析对象 ..... 柳经纬 许林波( 188 )

# JOURNAL OF COMPARATIVE LAW

Bimonthly

Serial No. 156 Mar. 2018 No. 2

## Contents

### Codification of Civil Law

- The Distinction and Articulation between the Book of the Personality Rights and That of the Tort in the Chinese Civil Code ..... *Wang Liming* ( 1 )
- The Pragmatic Combination of Tradition and Innovation: Review of the Draft of the Book on Personality Rights of Chinese Civil Code ..... *Shi Jiayou* ( 12 )
- What Is the Essential Characteristics of Property Rights: The Interpretation of Article 2 of the Real Right Law in Dogmatics of Law ..... *Li Yongjun* ( 24 )
- Discussion on Construction , Innovation and Improvement of Property Volume ( Draft ) in Civil Code ..... *Chen Huabin* ( 39 )
- Perfection of Secured Property Rights of Civil Code ..... *Cheng Xiao* ( 52 )

### Articles

- The Significance , Principles and Advancement of the Constitutional Review ..... *Qin Qianhong* ( 66 )
- The Jurisprudential Basis , System Model and Chinese Plan of Constitutional Review ..... *Li Shaowen* ( 78 )
- Understanding of the Anti - Unfair Competition Law in the New Perspective of General Principles of the Civil Law ..... *Kong Xiangjun* ( 92 )
- Type Analyses of Agency by Estoppel in General Principles of the Civil Law ..... *Chi Ying* ( 117 )
- Tort Litigation in the Regulation of False Advertising ..... *Shao Hai* ( 131 )
- Artificial Intelligence Technology and Change of Liability Law: Autopilot as an Object of Investigation ..... *Feng Jieyu* ( 143 )
- Between Function and Contract: The Constitutional Control of Criminal Law System ..... *Jiang Tao* ( 156 )
- A Study on the Legal Issues of Authority Step - in Rights in PPP Project ..... *Xing Gang* ( 173 )

### Comments on Legislation and Jurisdiction

- The Standard Contained in the Law: Taking Legal Text as the Object of Analysis

..... *Liu Jingwei & Xu Linbo* ( 188 )

# Journal of Comparative Law

Bimonthly

Serial No. 156 Mar. 2018 No. 2

## Selected Articles

■ Wang Liming

The Distinction and Articulation between the Book of the Personality Rights and That  
of the Tort in the Chinese Civil Code

■ Li Yongjun

What Is the Essential Characteristics of Property Rights

■ Qin Qianhong

The Significance, Principles and Advancement of the Constitutional Review

■ Kong Xiangjun

Understanding of the Anti-Unfair Competition Law in the New Perspective of General  
Principles of the Civil Law

■ Jiang Tao

Between Function and Contract: The Constitutional Control of Criminal Law System

ISSN 1004-8561



9 771004 856184



国际标准刊号：ISSN 1004-8561

国内统一刊号：CN11-3171/D

定 价：50.00元