

1983年10月创刊

法律科学

主 编 韩 松
副 主 编 周少华

(西北政法大学学报)

双 月 刊

2011年第3期(总第187期)

2011年5月10日出版

目 次

法律文化与法律价值

- 现代法治文明元叙事中的社群主义修辞学 程关松(3)
论西方福利法治国的成因 刘 丽(17)

法律思维与法律方法

- “无责赔付”之匡正——法律解释方法的视角 孙五红(23)
诠释学视野下的刑法解释学 付玉明(30)
司法竞技、法律诊所与现实主义法学教育——从耶鲁的法律现实主义传统展开
..... 胡 铭(44)

部门法理

- 论金融危机下发展权面临的挑战与出路 汪习根, 王康敏(52)
民法与人性的哲学考辨 胡光志(63)
法益理论的发展源流及其启示 苏 青(76)
论规范的构成要件要素之主观明知 高 巍(84)
论罪数评价 刘 刚(90)

法律制度探微

- 解读无人领会的语言——医疗侵权诉讼举证责任分配规则评析 胡学军(98)
论隐名代理的构成与效力 尹 飞(107)
论行政处罚的适用条件及其与刑罚的适用关系 王周户, 王 漾(115)
画落谁家?——处理用他人材料绘画问题的罗马人经验及其现代影响 徐国栋(122)
商标转让的理论建构与制度设计 彭学龙(132)
对“文本”的扬弃: WTO 条约解释方法的一种修正
——以服务贸易具体承诺表的解释为分析起点 房 东(142)
民事诉讼调解社会化的根据、原则与限度 刘加良(151)

法律实践

- 藏区习惯法“回溯”问题研究 穆赤·云登嘉措(160)
农民土地维权行动方式考察及法律对策研究 刘云生, 李晓伟(171)

立法研究

- 为判例制度正名——关于构建我国判例制度的思考 魏胜强(182)
我国生态环境恢复立法析要 王 江, 黄锡生(193)

期刊基本参数: CN61-1470/D * 1983 * b * A4 * 200 * zh * p * ¥15.00 * 2000 * 21 * 2011-05

本期责任编辑 马治选

SCIENCE OF LAW

Journal of Northwest University of
Political Science and Law (Bimonthly)

NO. 3, 2011

(Serial No. 187)

Publishing Date: May 10, 2011

First Published in October, 1983

Editor-in-Chief

HAN Song

English Editor

TU Yongqian

CONTENTS

The Communitarianism Rhetoric in Metanarrative Rhetoric in Modern Civilization of Rule of Law	CHENG Guansong(3)
The Cause of the Western Welfare State	LIU Li(17)
The Rectification of the Rule of Compensation without Liability: the Perspective of Legal Interpretation Method	SUN Yuhong(23)
Criminal Law Hermeneutics from the Perspective of Hermeneutics	FU Yuming(30)
Judicial Competitive, Legal Clinic and the Realistic Legal Education: from the Evolution of Legal Realism Tradition in Yale	HU Ming(44)
The Challenges Right to Development Facing and Its Way – out of in Financial Crisis	WANG Xigen & WANG Minkang(52)
The Philosophical Research on Civil Law and Human Nature	HU Guangzhi(63)
The Origin and Development of Legal Interest's Theory with Its Enlightenment	SU Qing(76)
The Full Awareness of the Normative Elements?	GAO Wei(84)
The Evaluation on Quantity of Crime	LIU Gang(90)
The Interpretation of the Language Nobody Understands: Concerning the Allocation Rules of Burden of Proof in Medical Tort Litigation	HU Xuejun(98)
On Elements and Effects of Unidentified Principal Agency	YIN Fei(107)
The Application Conditions of Administrative Penalty and the Application Relationship with Criminal Penalty	WANG Zhouhu & WANG Yang(115)
Who Is to Possess the tabula picturae cedere?: the Experience of the Roman Dealing with the Relationship between Painter and Owner of Canvas and Its Modern Influence	XU Guodong(122)
Theoretic Construction and System Design of Trademark Assignment	PENG Xuelong(132)
The Abandonment of Text: a Correction of the Interpretation of WTO Treaty	FANG Dong(142)
The Basis, Principle and Limits of the Socialization of Civil Litigation Mediation	LIU Jialiang(151)
The Resurgence of Tibetan Customary Law	Mu – khri · Yundun Rgya Mtsho(160)
Observation on the Behavioral Mode of Protecting Farmers' Land Right and Corresponding Legal Strategy	LIU Yunsheng & LI Xiaowei(171)
Justification for the Judicial Precedent System: Reflections on the Construction of Precedent System	WEI Shengqiang(182)
The Legislative Research on Eco – environment Restoration and Reconstruction	WANG Jiang & HUANG Xisheng(193)