



QK2243837

CSSCI来源期刊扩展版  
中国人文社会科学AMI扩展期刊  
全国高校社科精品期刊  
甘肃省优秀期刊

JOURNAL OF GANSU UNIVERSITY OF POLITICAL SCIENCE AND LAW

# 甘肃政法大学学报



国内统一刊号: CN 62-1219/D  
国际标准刊号: ISSN 2096-9392

ISSN 2096-9392



9 772096 939229

万方数据

中国·兰州·甘肃政法大学  
LANZHOU CHINA

2022/4

| 双月刊 (总第 183 期)

# 甘肃政法大学学报

2022年第4期目次

(总第183期)

2022年7月30日

## · 探索争鸣

- 比例原则的立法适用与展开 梅扬·1·
- 环境公益诉讼之“诉讼标的”辨析 张辉·15·
- 刑事证明标准的经济分析?  
——与桑本谦、戴昕教授商榷 赵常成·28·

## · 学术视点

- 交强险“第三者”认定的困境与逻辑回归  
——基于《民法典》第1213条的展开 赵银仁·43·
- 没收组成犯罪行为之物的实质解释 冯文杰·57·
- 医师刑事责任的限缩：假定同意理论之提倡 徐前·71·

## · 法学论坛

- 我国民事诉讼争点整理的历史源流、制度演进及功能重塑 刘韵·84·
- 有限责任公司股东除名的司法图景与工具转向 莫志·98·
- 法概念论：以实证法概念为核心的要素分析 刘浩·114·

## · 法律与实践

- 工期延误的类型分析与法律救济  
——兼论情事变更原则的适用可能 张永·129·
- 从法律系统走向社会系统：我国侦查裁量权的具体检视 赵安晓宇，马忠红·144·

期刊基本参数：CN62-1219/D \* 1985 \* B \* 16 \* 156 \* ZH \* P \* 15.00 \* 2000 \* 11 \* 2022-04



**Journal of Gansu University  
of Political Science and Law**  
(Bimonthly)  
Sum No. 183  
No. 4 2022

**Editor-in-chief**  
Chen Junwu  
**Deputy Editor**  
Gao Chengjun, Xin Chunxia  
Published on July 30, 2022

---

## CONTENTS

---

- The Application and Development of the Principle of Proportionality in Legislation ..... Mei Yang (1)
- Analysis of the Subject Matter of Environmental Public Interests Litigation ..... Zhang Hui (15)
- An Economic Analysis of Criminal Proof Standards?  
—Debating with Professor Sang Benqian and Professor Dai Xin ..... Zhao Changcheng (28)
- The Dilemma and Logic of Identification of “Third Party” in Compulsory Traffic Accident Liability Insurance  
—Based on the Article 1213 of *Civil Code* ..... Zhao Yinren (43)
- The Substantive Explanation of Confiscation of Things Constituting Criminal Acts ..... Feng Wenjie (57)
- The Limitation of Physician Criminal Liability: Advocacy of Presumed Consent ..... Xu Qian (71)
- The Historical Origin, Institutional Evolution and Functional Reshaping of Collation of Contentious Points in  
Civil Litigation in China ..... Liu Yun (84)
- Judicial Picture and Instrumental Turn of Expulsion of Shareholders in Limited Liability Companies .....  
..... Mo Zhi (98)
- On the Concept of Law: Analysis of Elements Centered on the Concept of Positive Law ... Liu Hao (114)
- Typological Analysis and Legal Remedies for Delay in Project Schedule  
—On Application of the Principle of Change of Circumstances ..... Zhang Yong (129)
- From Legal System to Social System: A Specific Review of Investigative Discretion in China .....  
..... Zhao Anxiaoyu, Ma Zhonghong (144)



甘肃政法大學學報

2022/4

| 双月刊 (总第183期)

JOURNAL OF GANSU UNIVERSITY OF  
POLITICAL SCIENCE AND LAW

Bimonthly NO.4, 2022

(Sum No. 183)

主管单位: 甘肃省教育厅

主办单位: 甘肃政法大学

编辑出版: 《甘肃政法大学学报》编辑部

主 编: 陈君武

副 主 编: 高成军 辛春霞

承 印: 甘肃省人民政府办公厅印刷厂

发 行: 兰州市邮政局

订 阅: 全国各地邮局

地 址: 甘肃省兰州市安宁西路6号

邮政编码: 730070

电 话: 0931-7601471

网 址: <http://gszf.cbpt.cnki.net>

出版日期: 2022.7.30

Competent Department: Education Department of Gansu Province

Sponsored by Gansu University of Political Science and Law

Edited and Published by Editorial Department of

*Journal of Gansu University of Political Science and Law*

Editor-in-chief: Chen Junwu

Deputy Editor: Gao Chengjun, Xin Chunxia

Printed by Printing Plant of General Office of the People's Government  
of Gansu Province

Distributor: Post Office of Lanzhou City

Subscription: Post Offices across China

Address: No.6 West Anning Road, Anning District,

Lanzhou, Gansu, P.R. China, 730070

Tel: 0931-7601471

Website: <http://gszf.cbpt.cnki.net>

Date of publication: 2022.7.30

国内统一刊号: CN 62-1219/D

国际标准刊号: ISSN 2096-9392

邮发代号: 54-95

广告许可证: 02-4010

定 价: 15.00

万方数据