

<<北大法律评论 ( 第2辑 ) >>

图书基本信息

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内容概要

After its exciting debut in 2008, the Peking University Journal of Legal Studies has received worldwide attention and acclaim and has been included in leading global academic databanks such as HeinOnline. In this volume, we have included an even more dynamic collection of scholarships, on a variety of topics valuable to the Chinese legal development and from a diversified group of authors both at home and a-broad.

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Transactions in Mainland China: ,Judicial Relaxation of Real Estate Transaction Regulation The Competitive  
Edges of China's Resource-for-Infrastructure Investment Contracts in Africa

## 章节摘录

插图：So far, there are various theories of purpose of criminal punishment, which can be generally categorized into three groups: Absolute Theory, Relative Theory and Mixed Theory. Absolute Theory includes various arguments in support of retaliation, vengeance or revenge, and especially retribution. Relative Theory represents the concept of deterrence, education, and rehabilitation, and it is generally known as general prevention and specific prevention. Mixed Theory is a general term covering all approaches that combine two or more theories or hypotheses to establish a purpose of criminal sanction. Absolute Theory has been suffering significant critiques for its severe nature and its support of the death penalty and corporal punishment, though its core rationale is commonly accepted by modern theories of criminal punishment, which argues that punishment should be limited by the guilt of a criminal, as contained in the principles of proportion and guilt. Relative Theory has been appraised for its spirits of social protection and resocialization, which is, to deter an individual from committing crime again through imposing criminal punishment ( negative aspect of specific prevention ) , to educate the individual during criminal punishment ( resocialization ) in order to prevent him from committing crime again ( positive aspect of specific prevention ) , to inflict criminal punishment upon an individual to deter others from committing crime ( negative aspect of general prevention ) or to encourage others in abiding by the law ( positive aspect of general prevention ) . However, it is commonly deemed as weakness that Relative Theory does not provide limitation for punishment, which could allow a State's unrestrained power to punish.

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