

<<解读中国刑事诉讼法>>

图书基本信息

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内容概要

In the eyes of the majority of westerners, china's criminal procedure is full of torture, menace, enticement and other types of inhuman methods. this is understandable because they got information about china's criminal procedure primarily from the media, the job of which is to attract the public's attention, or from scholars' articles, papers and books that focus on china's ancient legal system, or police practice at or before the "great culture revolution", and thus gives them an uninformed conception of china's criminal procedure that is limited in informal areas or ancient times. many times, our focus is distracted by inadequate, and biased information, and thus hampers us from seeking the truth.

this book is to give a concise but comprehensive introduction of chinese criminal procedure to people who do not know chinese language but are interested in learning about chinese law. in order to make the introduction easily accessible, this book discusses problems which are commonly examined and debated by western scholars in a way that western legal scholars are familiar with. since a significant amount of western criminal procedure laws concerns citizens' constitutional rights, this book focuses on the protections of citizens' constitutional rights in the context of criminal procedure.

In particular, this book seeks to address the following questions: in what extent does the contemporary chinese criminal procedure law protect citizens' houses, privacy and personal freedom? does the suspect have the right to remain silent when being interrogated? shall the defendant be presumed innocent when facing a criminal charge? in what extent does a defendant have the right to a fair trial? these questions will be addressed in turn in this book, providing detailed analysis and explanations for each of the issues identified.

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作者简介

YI Yanyou is an Associate Professor and the Director of the Evidence Law Research Center, School of Law, Tsinghua University. In addition to working in the Law Department, he holds the position of Deputy Chief Procurator of the People's Procuratorate of Yanqing County. YI teaches and researches in the area of criminal procedure law, evidence law, and judicial system. He is the author of Chinese Criminal Procedure and Chinese Society, Peking University Press, September 2010; The System and Spirit of Evidence Law-With Special Reference to Anglo- American Law, Peking University Press, June 2010; Law of Criminal Procedure, Law Press, third edition 2008, first edition 2003; Jury Trial and the Adversary System, Taipei, Sanming Bookstore, November 2004; On the Right to Remain Silent, China University of Politics and Law Press, August 2001. Yi's publications also include more than 30 scholarly articles and essays published in law reviews and journals including Tsinghua China Law Review, Punishment and Society: The International Journal of Penology, Social Science in China, Chinese Journal of Law, Tribune of Political Science and Law, Journal of Comparative Law, and Peking University Law Journal, etc.

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章节摘录

版权页：The Criminal Procedure Law does not require a witness to testify at a people's court. Although Article 47 of the Criminal Procedure Law says that "the testimony of the witness may be used as a basis in deciding a case only after it has been questioned and cross-examined in the courtroom by both sides", the term "question" and "cross-examination" is not the term used in Anglo-American legal system. Instead, the terms "question" and "cross-examination" mean that the opposite parties shall have the opportunity to check or examine both the written statement of a witness and the oral statement that the witness presents in the courtroom. This meaning becomes clear when it is related to Article 157 of the Criminal Procedure Law. Article 157 states that "the records of the testimony of witnesses who are not present in court shall be read out in court" and that "the judges shall hear the opinions of the public prosecutor, the parties, the defenders and the agents and litigants". According to this provision, the term "zhizhen" in Article 47 has two meanings. In cases that the witness presents his testimony in court, the parties shall have an opportunity to cross-examine him. In cases that a witness does not testify in the courtroom, the record of his testimony shall be shown to the parties and the parties shall have an opportunity to express their.

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