

兩岸檢察制度差異性之研究

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摘 要

刑事案件苟未經檢察官依法提起公訴，法官即不能加以裁判、以實現司法公平正義程序，為期國家有效落實預防犯罪，達成刑事追訴之任務，於是檢察制度乃應運而生。

首先，本文之目的，係由比較法之面向，來檢討兩岸檢察制度差異性之規定，因此擬就我國與大陸地區之檢察制度之區別分由六項層面予以論述，首先由比較法立場，就兩岸之檢察制度之性質、地位、任務、組織、職權內容及監督方式比較其不同點，且加以分析整理，其次，針對兩岸司法制度之良窳優劣，進行檢討並對我國與大陸地區兩岸檢察制度各自應加改革與努力之方向，提出看法與若干建議事項，進而促進兩岸司法制度之良性競逐與相互參酌，期供兩岸司法主管機關未來修法之參考。

Comparative Study in the Prosecution Systems of Both Sides of the Taiwan Strait

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Abstract

If criminals are not prosecuted by the prosecutor, the judge cannot make case decisions and enforce the procedures of judicial justice. To enable a nation effectively prevent crimes and enforce the retroactive criminal laws, various systems of public prosecutions has thus been established.

The objective of this study is to examine the differences between the systems of public prosecutions in China and Taiwan from the perspective of comparative law. The differences were discussed from six aspects: (1) From the perspective of comparative law, the connotation of the systems of public prosecution adopted by the two countries was explained. (2) The systems of public prosecutions of the two countries were compared and also their individual qualities, status, missions, organizations, duties, and ways of supervision were found, compiled, analyzed, and collated. (3) Based on the advantages and disadvantages, the conclusion proposed several analysis results and suggestions, which can serve not only as a reformative guide that encourages constructive competition between the systems of public prosecutions of the two countries, but also as reference when the judicial authority intend to make law amendments.