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JOURNAL OF COMPARATIVE LAW

Bimonthly

Serial	No. 137	Jan.	2015	No. 1
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56 *Davis v. United States* 131 S. Ct. 2419 2011 .

57 *Id.*

58 *Id.*

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22 See Cross & Harris *supra* note 1 at 69.

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24 See Ingman *supra* note 10 at 225.

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Terrorism Risk Insurance

Zhou Xuefeng

Abstract The government should establish compensation system for the loss caused by large scale terrorism attack. In view of the inability of the private insurance market the government should intervene in the terrorism risk insurance market. The government could support the private insurer to insure the terrorism risk through the public finance and establish co-pay insurance system with multiple layers coverage among the private insurer terrorism risk reinsurer and public finance.

Keywords terrorism insurance terrorism risk insurance

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Study Commissioned by the European Commission 2007 at 12.

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23 David G. Hoopes & Danny Miller *Ownership Preferences Competitive Heterogeneity and Family-controlled Businesses* 2 Family Business Review 89 89 – 101 2006 .

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Plural Allocation of Stockholders ' Rights in Joint-Stock Corporation Draw on Extraterritorial Experiences for Legislation of China

Wang Qingsong

Abstract Extraterritorial public corporations have abundant stocks types which are different from single stocks ' type in joint-stock corporations of China. In legislations articles of different corporate acts are various but their mechanisms to realize plural allocation of stockholders ' rights are all by means of multiple rights or benefits exchange. Its effects will take the forms of unified or separated rights structure preferred of inferior rights exercise enlarged or narrowed rights calculation and added or reduced rights content. It is urgent to introduce plural allocation of stockholders ' rights into joint-stock corporations of China. Corporation law of China should modifies mandatory rules which hinder plural allocation of stockholders ' rights and bring in such as class rights and provide normative path for plural allocation of stockholders ' rights in joint-stock corporations by multilevel legislations.

Keywords joint-stock corporation stockholders ' rights classified stocks class rights

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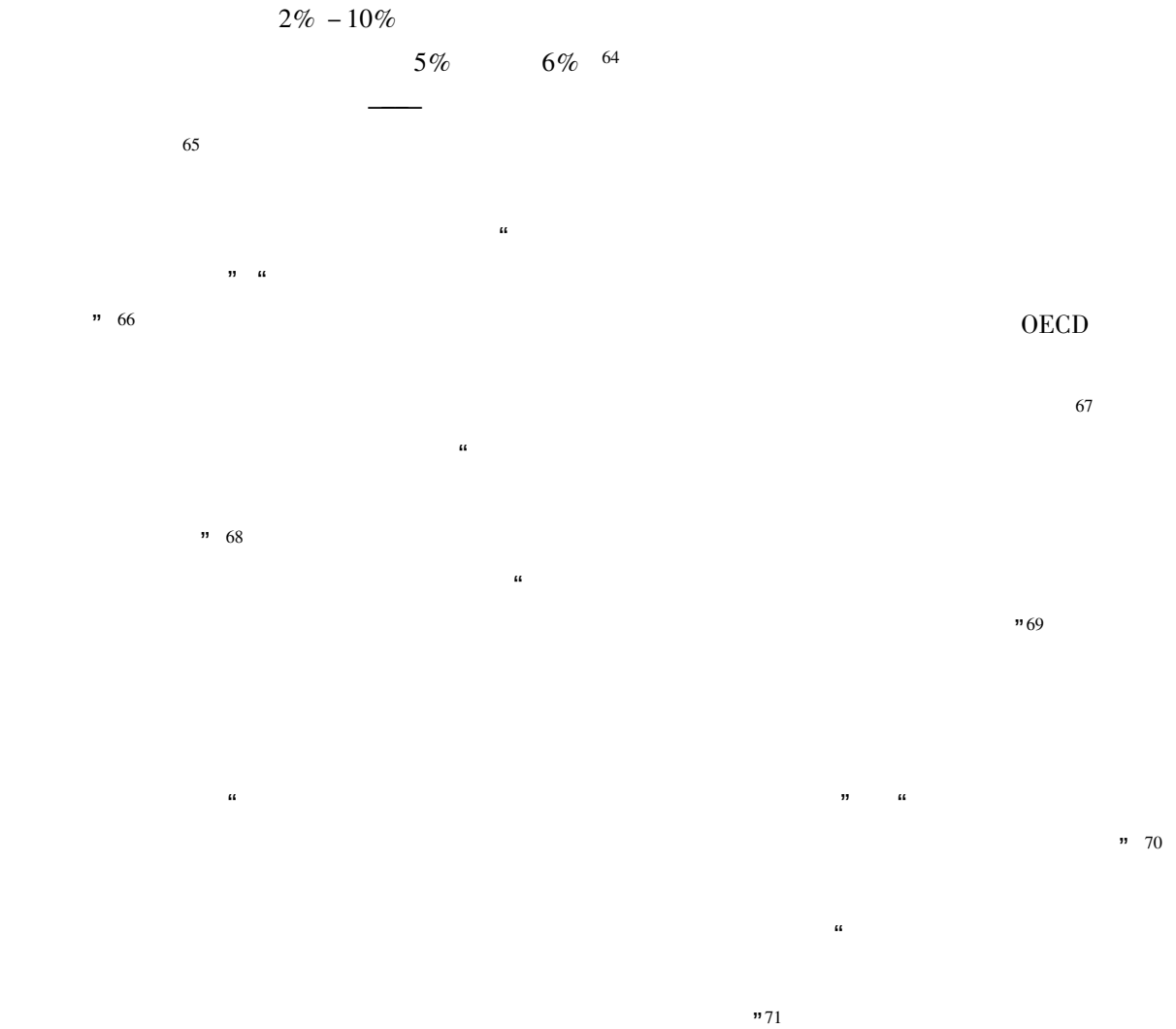
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Why Is It Possible That Tax Competition Regulated by Law Based on Quadruple Legal Roles of Provincial Budget Units in China

Ye Shan

Abstract Among budget systems in every country the highest level of local budget units such as provinces are essential budget level between the Central and local governments and have played an important role in guiding promoting and safeguarding national economy and social development. Whereas tax competition beyond reasonable limitation will damage resource allocation efficiency and affect benefit distribution fairness. Necessity of legal regulation of tax competition is without redundancy while possibility of legal regulation is a difficult problem throughout the world that deserves to deepen theoretical research. Provincial budget units in our country play four kinds of distinct legal roles makers of tax division rules under province policy executors of basic funding for county-level governments interprovincial or ministry-province-county tax competition participants and judicators to judge whether tax competition is fair inside the province. Possibility of tax competition regulated by law achieves through compound paths of creating norms and limiting or prohibiting behaviors mainly in order to regulate tax competition inside the province interprovincial or ministry-province-county tax competition whose generation mechanism is widely different. Improving tax division rules may avoid excessive tax competition while limiting or prohibiting harmful tax competition can maintain tax competition order.

Keywords tax competition provincial budget units legal regulation legal roles creating norms limiting or prohibiting behaviors

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The Dynamic Equilibrium Effect on Constitutional Review of Technology-Enhanced Surveillance

Tian Fang

Abstract Technology is a double-edged sword. It can help the police get more evidences and detect criminals quickly. On the other hand it can also help the criminals commit crimes more easily and secretly. American cases laws have developed dynamic equilibrium effect of rights protection rationale. The rationale embraces the principle of technology neutrality which insists detection technology development should not change the balance of relations between citizen right of privacy and public security. Criminal procedure law of China embraces one special section about technology-enhanced surveillance. This section provides the situations under which the technology-enhanced surveillance can be applied but does not define the concept of technology-enhanced surveillance. We have two ways to define the concept one way is how to guarantee the citizen's right to privacy the other is how to guard the public security.

Keywords technology-enhanced surveillance reasonable expectation of privacy dynamic equilibrium effect

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**On the Chinese Meaning and Paradigm of Comparative Law
A Research from Trans-civilization View**

Liu Yi

Abstract The comparative law originally was a western discipline whose main task was the comparison of the Civil Law and Anglo-American Legal System and then offered references to the legislations of the western countries. The comparative law was introduced into China at the end of Qing Dynasty. But the mission of Chinese comparative law is different from the western one. We should do our best to construct the comparative law with Chinese meaning and Chinese paradigm in order to provide the guides of the modernization of Chinese law.

Keywords comparative law Chinese meaning Chinese paradigm

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On the Changes of American Exclusionary Rule From the Perspective of Cases before and after *Hudson v. Michigan*

Wang Jinglong

Abstract The U. S. Supreme Court 's attitude to exclusionary rule has undergone a fundamental change after the case of *Hudson v. Michigan* in 2006 and in the majority 's opinion the Court rendered its famous remarks “ the rule has always been our last resort not our first impulse. ” It asserted that other alternative remedies can completely substitute the rule which suggests strongly that the exclusionary rule is obsolete useless. The subsequent leading cases such as *Herring v. United States* 2009 *Kentucky v. King* 2011 and *Davis v. United States* 2011 etc continued the trend which have substantially limited the scope of the exclusionary rule and led to its radical changes of these kinds finally. China always troubled by the police 's torture and other abuses began to establish exclusionary rule of illegal evidence. To get out of the trouble China 's attitude to exclusionary rule has changed. The direction of changes is different from U. S. but the destination is the same.

Keywords deterrence of violation doctrine cost-benefit balance analysis redress of illegal evidence

责任编辑:

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Untermaßverbot

Willkürverbot

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objektiv–rechtlicher Gehalt

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Fundamental Rights and Private Law

Claus-Wilhelm Canaris

Abstract The discussing about the relationship between fundamental rights and private law issues was long entangled with the doctrine of directly and indirectly “the third party effect”. Both directly and indirectly effect doctrines reflect some problems. After the reconsidering how it affects the private law it comes to a conclusion that one part of the fundamental human rights can only be the state. On the one hand the effect of fundamental rights is directly in the relationship between fundamental rights and private legislators. On the other hand fundamental rights are also directly effective among private law relations subjects. Therefore Private law itself already provides a means of diverse mechanisms for the protection of fundamental rights.

Keywords fundamental rights private law the third party effect protection

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