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**On the Regulation of Business Behavior by the Civil Code Civil Law  
Examination of the Legal Concept Legal Technique and  
the Particularity of Business Behavior**

Jiang Daxing

**Abstract** The contemporary civil law shall maintain the legal notion of the “ totality of the social evolutionism” and echo the needs to regulate the society that is highly commercialized securitized information-based globalized and ethical/integrity fading. Thus on the one hand the codification of the Civil Code should be oriented to help us restore the “ good society” on the other hand it should also enable the law to “ response elastically” to the society. From legal technicality the best mode of “ codification of commercial law” is to codify the Commercial Code that is co-existed with the Civil Code. The “ second best mode” is to promulgate the General Principles of the Commercial Law. The commercial behavior is different from civil behavior in terms of type validity agency etc. If the civil law is treated to be “ exclusive” and the commercial law is treated to be part of the “ civil law” instead of the special law of the “ private law” we will be unable to effectively regulate the commercial relationship and spread the concept of independent commercial law/commercial adjudication through the whole spectrum of the society and maintain a good commercial law order and conserve legal resources—if the codification of the Civil Code neglects the “ special needs of commerce” it will turn out to be a conceited and unsuccessful campaign.

**Keywords** civil law commercial law Civil Code code commercial behavior

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14 Susan Emmenegger/Axel Tschentscher Fn. 5 S. 147.

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17 Susan Emmenegger/Axel Tschentscher Fn. 5 S. 147.

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23 *Susan Emmenegger/Axel Tschentscher* Fn. 5 S. 154.

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25 *Susan Emmenegger/Axel Tschentscher* Fn. 5 S. 161.

26 *Id.*

27 *Heinz Hausheer/Manuel Jaun* Die Einleitungsartikel des ZGB 2003 S. 270 ff *Susan Emmenegger/Axel Tschentscher* Fn. 5 S. 161 ff.

28 *Eugen Huber* Erläuterungen zum Vorentwurf des Eidgenössischen Justiz – und Polizeidepartements 1901 S. 2 ff.

29 *Erich Prütisch* Die Rezeption des Schweizerischen Zivilrechts in der Türkei SJZ 23 1926 – 1927 S. 273 275 *Susan Emmenegger/Axel Tschentscher* Fn. 5 S. 161 ff.

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31 *Caroni Pio* Einleitungstitel des Zivilgesetzbuches 1996 S. 62 ff.

32 *Susan Emmenegger/Axel Tschentscher* Fn. 5 S. 198 – 199.

33 BGE 87 I 15 BGE 90 I 214.

34 *Caroni Pio* Fn. 31 S. 85.

35 BGE 121 III 225.

36 BGE 116 II 415.

37 *Caroni Pio* Fn. 31 S. 87.

38 BGE 110 Ib 8.

39 BGE 83 I 173.

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41 BGE 100 II 293.

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66 Susan Emmenegger/Axel Tschentscher Fn. 5 S. 383 –384 BGE 110 II 99.

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68 BGE 125 V 11.

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70 Peter Tuor Das Schweizerische Zivilgesetzbuch 13. Auf. 2009 S. 44 ff.

71 Eugen Huber Fn. 28 S. 39.

72 2012 205

73 Berner Kommentar zum ZBG Bd. 1 1966 Art. 1 Rn. S. 501.

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74 BGE 89 II 214.

75 Arthur Meier – Hayoz Berner Kommentar 1962 S. 317 BGE 126 III 138.

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76 *Id.*  
77 BGE 126 III 138 BGE 126 III 129.  
78 *Peter Tuor* Das Schweizerische Zivilgesetzbuch 13. Aufl. 2009 S. 44 –45 ff.  
79 *Caroni Pio* Fn. 31 S. 161.  
80 *Caroni Pio* Fn. 31 S. 171.  
81 *Caroni Pio* Fn. 31 S. 162.  
82 *Caroni Pio* Fn. 31 S. 157.  
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86 *Susan Emmenegger/Axel Tschentscher* Fn. 5 S. 403 –404.

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88 *Susan Emmenegger/Axel Tschentscher* Fn. 5 S. 404.

89 *Caroni Pio* Fn. 31 S. 167.

90 *Susan Emmenegger/Axel Tschentscher* Fn. 5 S. 405.

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92 *Susan Emmenegger/Axel Tschentscher* Fn. 5 S. 406 – 407.

93 BGE 126 III 139.

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97 *Caroni Pio* Fn. 31 S. 167

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107 Susan Emmenegger/Axel Tschentscher Fn. 5 S. 232.

108 Arthur Meier – Hayoz Fn. 75 S. 345 BGE 126 III 138.

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110 Susan Emmenegger/Axel Tschentscher Fn. 5 S. 401.

111 BGE 54 II 90.

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116 Susan Emmenegger/Axel Tschentscher Fn. 5 S. 188 – 189.  
 117 Susan Emmenegger/Axel Tschentscher Fn. 5 S. 182 – 183.  
 118 Susan Emmenegger/Axel Tschentscher Fn. 5 S. 190 – 191.  
 119 24 3 – 4 2012 268 " "  
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 120 Susan Emmenegger/Axel Tschentscher Fn. 5 S. 186 – 187.  
 121 2 265 – 266  
 122 Caroni Pio Fn. 31 S. 46.  
 123 Honsell Heinrich Nedim Peter/Geiser Thomas Basler Kommentar 3. Aufl. 2006 S. 9 ff.  
 124 2 256  
 125 9 476  
 126 Hein Kötz Foreword in Liang Huixing *The Draft Civil Code of the People' s Republic of China* Martinus Nijhoff Publishers 2010 .

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## **The Famous Art. 1 of Swiss Civil Code Legal Thoughts Methodology and Judicial Practice**

Li Min

**Abstract** The scope of sources of civil law and sequence of application of the sources are basic questions of application of civil law. The article 1 of Swiss Civil Code initiatively provides that the sources of civil law include statute law customary law and rules made by judges which exerts a far-reaching influence on the history of civil law. The article 1 of Swiss Civil Code accords with the immanent requirement of legal science and reflects social and historical background and transformation of legal thoughts. The sources and its application methods have developed with the judicial practice in the past one hundred years and established a model for civil legislation and judicial practice of other countries which may provide much enlightenment for the legislation of Chinese Civil Code.

**Keywords** Swiss Civil Code source of Law customary law rules made by judges doctrine

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5 See World Intellectual Property Organization *Guide to the Copyright and Related Rights Treaties Administered by WIPO And Glossary of Copyright and Related Rights and Terms* para. BC – 11bis. 22 79 WIPO Publication No. 891 E .

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See Silke von Lewinski *International Copyright Law and Policy* para 5.01 99 Oxford University Press

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12 See Lewinski *supra* note 9 at 110.

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*See* Ricketson & Ginsburg

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37 See Mihaly Ficsor *Collective Management of Copyright and Related Rights* 49 WIPO Publication No. 855 E Geneva 2002 .

38 These conditions shall apply only in the countries where they have been prescribed " countries"

39 These conditions shall apply only to works whose countries of origin are in the countries where they have been prescribed " works"



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40 See Lewinski *supra* note 9 at 153.

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See Article 32 of Singapore Copyright Act.

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44 See Lewinski *supra* note 9 at 165 – 166.

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## **The Application of Limitations of Copyright in the Copyright Law to Foreign Works Also on the Revision of the Statutory License to Broadcast Works**

Wang Qian

**Abstract** Berne Convention and other international copyright treaties require member countries to grant protection to works that originate from other member countries but international copyright treaties have nothing to do with how a member country protects a work that originates from this member country. When Berne Convention permits member countries to impose conditions on the broadcasting right it requires that " these conditions shall apply only in the countries where they have been prescribed" . It does not mean that the restrictions can only apply to works that originate from the countries where the restrictions have been prescribed. On the contrary it means that when a member country broadcasts a work that originates from another member country in accordance with the restriction ee

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3ème éd. 2011 JurisClasseur Québec vol. Droit international privé Lexis Nexis 2012.

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14 Art. 3111 Code civil du Québec.

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30 Voir J. A. TALPIS et J. - G. CASTEL « Le Code civil du Québec Interprétation des règles du droit international privé » dans *La réforme du Code civil* t. 3 Presses de l' université Laval 1993 pp. 837 - 839.

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32 Art. 3086 Code civil du Québec.

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43 Jianing Zheng et Gerald Goldstein « Analyse comparative de la loi chinoise de 2011 portant sur les conflits de lois à la lueur du droit international privé québécois » *Rev J. Thémis* 2014 48 p. 356.

44 Voir G. Goldstein Commentaires sur le Code civil du Québec Le droit international privé art. 3176 à 3133 C. c. Q. Y. Blais 2011 par. 3088 550 et s.

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46 Loi sur le divorce L. R. C. 1985 c. 3 2ème suppl. .

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Jan. 2015.

53 See Zhengxin HUO « Highlights of China' s New Private International Law Act From the Perspective of Comparative Law » *Rev J. Thémis* 2011 45 pp. 637 –666.

54 Voir G. Goldstein et É. Groffier *Traité de droit civil Droit international privé* tome I Y. Blais 1998 n° 90 à 92.

55 Voir H. P. Glenn « Droit international privé » dans *La réforme du Code civil* t. 3 Presses de l' université Laval 1993 n° 27.

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See Art. 3098 Code civil du Québec.

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62 Convention de La Haye du 20 octobre 1988 sur la loi applicable aux successions à cause de mort Recueil des conventions 1951 - 2003 Bureau permanent de la Conférence La Haye M. Kluwer doc. N° 32 p. 338 1988 77 Rev. Crit. d. i. p. 807.

63 «Successions internationales» dans *Jurisqueuseur de droit québécois* volume Droit international privé par P. - C. Lafond et G. Goldstein éd. 2012.

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67 Art. 3109 Code civil du Québec.

68 Convention de La Haye du 1er juillet 1985 relative à la loi applicable au trust et à sa reconnaissance Recueil des conventions 1951 – 2003 Bureau permanent de la Conférence La Haye M. Kluwer doc. N° 30 p. 312 1986 75 Rv. Crit. d. i. p. 770.

69 Art. 3107 Code civil du Québec.

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9 Article III U. S. Constitution provides the judicial power shall extend to all cases in law and equity arising under this Constitution the laws of the United States and treaties made or which shall be made under their authority to all cases affecting ambassadors other public ministers and consuls to all cases of admiralty and maritime jurisdiction to controversies to which the United States shall be a party to controversies between two or more states between a state and citizens of another state between citizens of different states between citizens of the same state claiming lands under grants of different states and between a state or the citizens thereof and foreign states citizens or subjects.

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17 *Id.*  
 18 *Native Village of Kivalina v. ExxonMobil* no. 09-17490 D. C. opinion 6-7 2012 .  
 19 *Native Village of Kivalina v. ExxonMobil* no. 09-17490 D. C. opinion 9 2012 .  
 20 *Id.*  
 21 *Id.* at 12.  
 22 *Id.* at 14.  
 23 *Id.* at 30.  
 24 *Lujan v. Defenders of Wildlife* 504 U. S. 555 561 1992 .  
 25 *Id.* at 34.  
 26 *Gladstone Realtors v. Village of Bellwood* 441 U. S. 91 99 S. Ct. 1001 60 L. Ed. 2d 66 1979 .  
 27 *Id.*  
 28 CRS Annotated Constitution [http //www. law. cornell. edu/anncon/html/art3frag18\\_user. html](http://www.law.cornell.edu/anncon/html/art3frag18_user.html).

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29 [http //en. wikipedia. org/wiki/Standing\\_ law](http://en.wikipedia.org/wiki/Standing_law) .  
30 [http //en. wikipedia. org/wiki/Standing\\_ law](http://en.wikipedia.org/wiki/Standing_law) .  
31 *Id.*  
32 *Federal Election Commission v. Akins* 524 U. S. 11 1998 .  
33 *Allen v. Wright* 468 U. S. 737 1984 .  
34 *Hunt v. Washington State Apple* 432 U. S. 333 97 S. Ct. 2434 1977 .

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43 *Id.*

44 *Id.* at 2.

45 *Moreno v. City of Sacramento* 534 F.3d 1106 1111 9th Cir. 2008 .

46 *Id.*

47 *Id.*

48 *Id.*

49 *Id.* at 1114.

50 *Hensley v. Eckerhart* 103 S. Ct. 1933 1935 1983 .

51 *Friends of the Earth Inc. v. Laidlaw Environmental Services* 528 U. S. 167 120 S. Ct. 693 2000 .

52 Clean Water Act 33 U. S. C. section 1365 a provides in relevant part Except as provided in subsection b of this section and section 1319 g 6 of this title any citizen may commence a civil action on his own behalf—

1 against any person including i the United States and ii any other governmental instrumentality or agency to the extent permitted by the eleventh amendment to the Constitution who is alleged to be in violation of A an effluent standard or limitation under this chapter or B an order issued by the Administrator or a State with respect to such a standard or limitation or

2 against the Administrator where there is alleged a failure of the Administrator to perform any act or duty under this chapter which is not discretionary with the Administrator.

53 *Friends of the Earth Inc. v. Laidlaw Environmental Services* 528 U. S. 167 120 S. Ct. 693 702 2000 .

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Bitterroot River

Protective Association et al. v. Bitterroot Conservation District et al. 58

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54 *Id.* at 708.

55 *Id.* at 699.

56 *Id.* at 701.

57 *Id.* at 712.

58 *Bitterroot River v. Bitterroot Cons. Dist.* 251 P.3d 131 Mont. 2011 .

59 *Id.* at 132.

60 *Id.* at 134.

61 *Id.* at 139.

62 *Id.* at 139 – 140.

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## Environment Public Interest Litigation From the Perspective of Comparative Law

Cao Mingde

**Abstract** Environmental public interest litigation has been invented in the United States as citizen' s enforcement which was purported to motivate citizens and social organizations supervising the compliance and enforcement of environmental law in order to fill the gap created by government failure and market failure in environmental arena. The Environment Protection Law of PRC and Civil Procedure Law of PRC have been amended in recent years they explicitly allow some social organizations to sue polluters on behalf of public interest that' s a legislative breakthrough in China. Compared with American environmental public interest litigation there are only some NGOs qualified to file suit into court individual citizens are not permitted to sue the violators on public behalf but they are in the U. S. Plaintiffs of environmental public interest litigation fall into three categories in the United States Article III standing or jurisdictional standing statutory standing or non-jurisdictional standing and prudential standing. There is both individual standing and organizational standing but the criteria of the two sorts are different. With regard to the transfer of litigation costs the Congress held that lawyers must eat therefore plaintiff who prevailingly wins the lawsuit will be awarded lawyer' s fees the costs of suit will be assumed by defendant while in China there is no statutory provisions relating to this issue. In judicial practice some environmental tribunals in China have awarded lawyer' s fees to plaitiff' s lawyer when he or she won the case but the issue should be solved through institutional arrangement.

**Keywords** environmental public interest litigation lawyer' s fees litigation cost citizen enforcement standing private attorney general

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# **The Debt Theoretical Analyses on the Relationship of Effective Judgment and Settlement Agreement Concurrently Explicating the Rules of "Wu Mei" Case**

Zheng Jinyu

**Abstract** From the angle of private law the relationship between rights and obligations in prestation-judgment is a judgment-debt which is the substantive basis of the enforcement power of the effective judgment. When the judgment-debt and the right of cl

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4 Paul Roberts & Adrian Zuckerman *Criminal Evidence* 362 Oxford University Press 2004 .  
 5 Mireille Delmas – Marty & J. R. Spencer *European Criminal Procedures* 602 Cambridge University Press 2002 .  
 6 2004 149



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## Is “Beyond a Reasonable Doubt” Identical to Inner Conviction

Li Changsheng

**Abstract** With regard to the comparative study on standards of proof in Common Law System and Continental Law System many commentators are inclined to compare them from the perspective of the final psychological states and then have concluded that both standards are identical. However this kind of “static and parochial comparison methodology” in the absence of paying enough attention to environments of system-operating and processes of fact-finding jumps to its conclusion which is far from accuracy. In fact in light of the scopes of applicable procedure and elements to be proved as well as the risk distributions of “residual doubt” considerable differences exist in standards of proof between two legal systems with the United States and Germany as typical cases which compel standards of proof in spite of being literally identical to generate widely divergent normative effects. The differences of two legal systems stem directly from the diversity among procedural structures procedural functions basic ele l e s c —

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南非	7.79
赞比亚	6.26
纳米比亚	6.24
塞内加尔	6.09
莱索托	6.66
马拉维	6.08
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4 Polity IV Individual Country Regime Trends 1946 – 2013 [http //www. systemicpeace. org/polity/polity4. htm](http://www.systemicpeace.org/polity/polity4.htm) accessed Aug. 1 2014 .

5 50 2012 *The Economist Intelligence Unit' s Index of Democracy 2012.*

6 Michael Bratton & Nicholas van de Walle *Democratic Experiments in Africa Regime Transtions in Comparative Perspective Regime Transitions in Comparative Perspective* 157 Cambridge University Press 1997 .

7 Jerome Lafargue *General Elections in Kenya* 2007 12 – 13 MkukinaNyota 2009 .

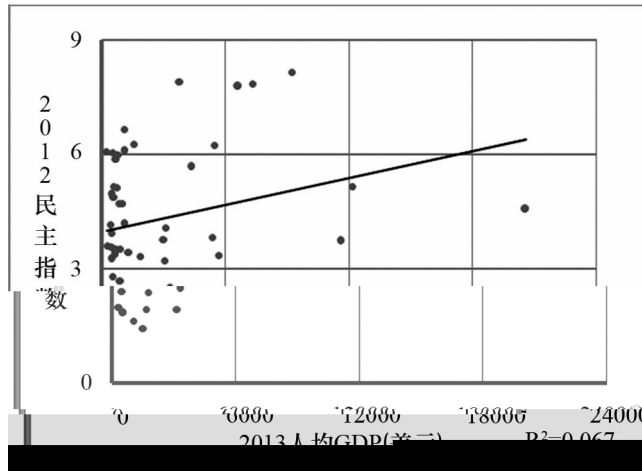
8 *African Charter on Human and Peoples' Rights* [http //www. achpr. org/instruments/ achpr/](http://www.achpr.org/instruments/achpr/) accessed Aug. 2 2014 .

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9 2014 " " 43 33 Table 1 Human Development Index and Its Components <http://hdr.undp.org/en/content/table-1-human-development-index-and-its-components> accessed Aug. 2 2014 .

10 GDP 2013 GDP per capita current US \$ <http://data.worldbank.org/indicator/NY.GDP.PCAP.CD> accessed Aug. 20 2014 .

11 Mauritius <http://en.wikipedia.org/wiki/Mauritius> accessed Aug. 2 2014 .

12 Cape Verde [http://en.wikipedia.org/wiki/Cape\\_verde](http://en.wikipedia.org/wiki/Cape_verde) accessed Aug. 2 2014 .

13 The Economist Intelligence Unit's Index of Democracy 2012.



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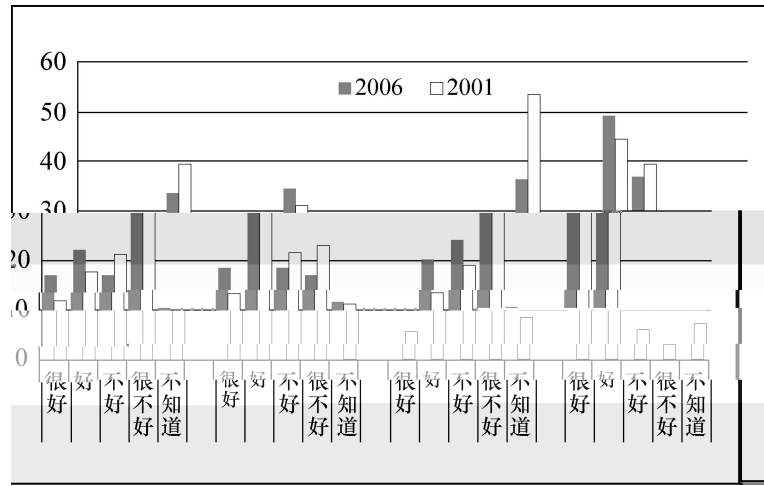
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14 HIV & AIDS in Botswana [http //www.avert.org/hiv - aids - botswana. htm](http://www.avert.org/hiv-aids-botswana.htm) accessed Aug. 2 2014 .

15 The World Factbook Botswana <https //www. cia. gov/library/publications/the - world - factbook/geos/bc. html> accessed Aug. 2 2014 .

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De Vijve *The Democratic Governance and Rights Unit* UCT Study *The Judicial Institution in Southern Africa A Comparative Study of  
Common Law Jurisdictions* Cape town Siber Ink 2006 pp. 160 – 186.
- 22 *United Democratic Movement v. President of the RSA* 2002 11 BCLR 1179 CC *IDASA v. African National  
Congress* 2005 BCLR 995 C
- 23 Linda Van De Vijve  
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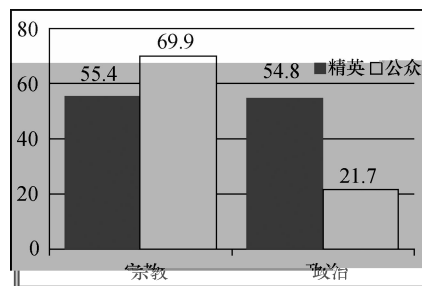
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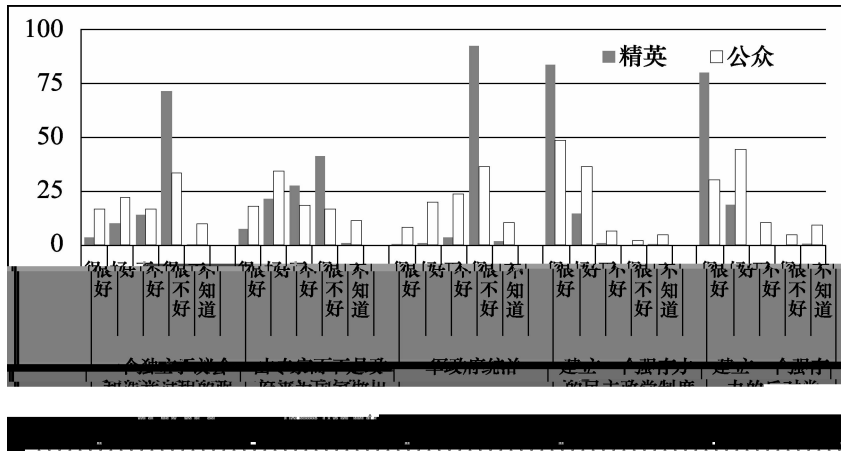
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47 Siri Gloppen *South Africa The Battle over the Constitution* 67 266 Ashgate 1997 . Thomas  
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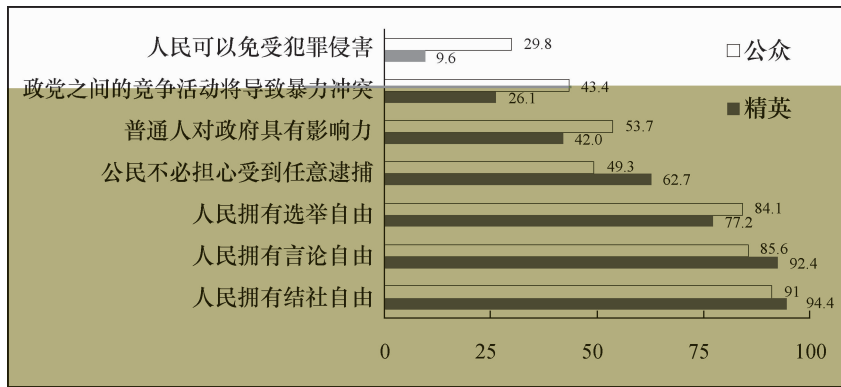


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51 *Id.* at 67.  
52 *Id.* at 82.  
53 *Id.* at 105.

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表 2 精英与公众的排名



机构	精英排名 (2007 年)	公众排名 (2006 年)
宪法法院	1	5
慈善机构	2	10
总统	3	2
环保组织	4	14
妇女组织	5	9
教会	6	1
非政府组织	7	4
议会	8	7
普通法院	9	6
大公司	10	8
电视台	17	3

6 2006年公众与2007年精英的排名 (百分比)

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54 Hamdy Abdel Rahman Hassan *Political Leadership in Egypt: The Case of Halt Democracy in African Political Elites* 21 – 48 Francis Nwonwu & Dirk Kotze eds. Africa Institute of South Africa 2008 .

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- 55 B. O. Nwabueze *A Constitutional History of Nigeria* 256 – 265 C. Hurst Co. 1982 .
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- 61 *Id.* at 259.





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68 Eyamba G. Bokamba *Arguments for Multilingual Policies in the Public Domain of Africa* in Lioba Moshi & Abdulahi A. Osmann *Democracy and Culture An African Perspective* 65 – 69 Adonis & Abbey 2008 .

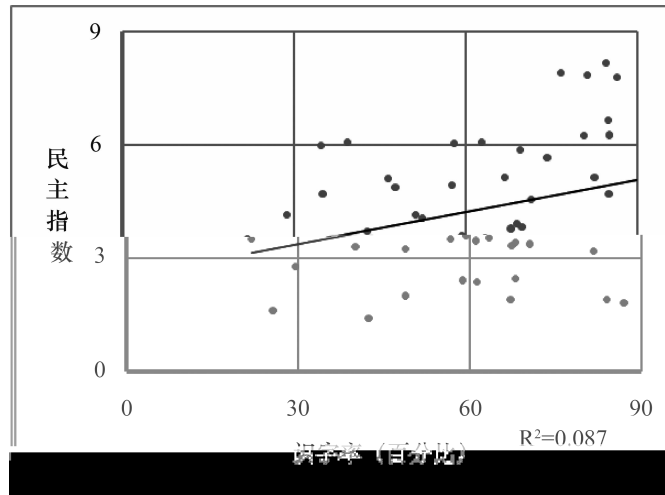
69 *Id.* at 71 – 73.

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79 *Id.* at 310.

80 Charles M. Fombad *Challenges to Constitutionalism and Constitutional Rights in Africa and the Enabling Role of Political Parties Lessons and Perspectives from Southern Africa* 55 1 *The American Journal of Comparative Law* 1 24 – 31 2007 .

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## **The Realities of the Constitutionalist Transformation in the African Countries and Analysis on Its Causes**

Cheng Mai

**Abstract** the current development of constitutionalism in African countries appears to degrade into superficiality while the average African people tend to show indifference to the constitutionalist democracy. The independence constitutions of the African countries were more an imitation of their suzerain without paying substantial attention to their local needs which failed to be implemented successfully while the anti – constitutionalist instrumentalism upon the constitution prevailed shortly after the independence. After 1990s facing the increasing international pressure a new wave of constitutional reform was initiated while the elites are still monopolizing the state power. The paradigm of independent and able citizen is of little applicability under the African context. In contrast to the western development route the constitutionalist transformation in Africa started with legal system then certain economic and social foundation were established lacking cultural support. Considering their vested interests the African political elites are reluctant to foster a constitutionalist culture. The democratic political party system is the key to further the constitutionalist transformation in African countries and constitutions of most African countries also recognize the importance of the democratic political party system while in reality the rise of dominant party system brings negative impact on the future of the constitutionalist transformation in the African countries.

**Keywords** constitutionalist transformation African countries elite rule citizen model of the constitutionalism democratic political party

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7 *Reynolds v. United States* 98 U. S. 145 1878 .  
8 *Employment Division v. Smith* 494 U. S. 872 879 1990 .  
9 *Id.* at 885.  
10 *Id.* at 885.



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11 *Id.* at 872.

12 *Id.* at 901.

13 *Id.* at 898.

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Antonin Scalia *The Rule of Law as a Law of Rules* 56 U. Chi. L. Rev. 1175 1989 .

15 *Supra* note 3.

16 *Supra* note 5.

17 *Supra* note 4.

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24 *Id.* at 703.

25 *Id.* at 706.

26 *EEOC v. Hosanna – Tabor Evangelical Lutheran Church and School* 597 F.3d 769 779 – 81 2010 .

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27 *Hosanna – Tabor* 132 S. Ct. at 707.

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*Id.* at 706.

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*See Roberts v. United States Jaycees* 468 U.S. 609 1984 .

30 *Hosanna – Tabor* 132 S. Ct. at 713 – 15.

31 *Id.* at 710 – 11.

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33 *Hosanna – Tabor* 132 S. Ct. at 707.

34 *Watson v. Jones* 13 Wall. 679 20 L. Ed. 666 1872 *Kedroff v. St. Nicolas Cathedral of Russian Orthodox Church in North America* 344 U.S. 94 1952 *Serbian Eastern Orthodox Diocese for United States and Canada v. Milivojevich* 426 U.S. 696 1976 .

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46 · Quentin Skinner *The Foundations of Modern Political Thought* Vol. 2 *The Age of Reformation* 3 – 19  
Cambridge University Press 1978 .

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58 *Supra* note 3.

59 Press 1998 .



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**Rule of Law or Autonomy The Transformation of the Freedom of Religion  
in the United States through the Lens of Two Cases**

Zhang Zheng

**Abstract** The most important Supreme Court cases regarding free exercise of religion for the latest thirty years of the United States—namely *Employment Division v. Smith* and *Hosanna Tabor Evangelical Lutheran Church v. EEOC*—signifies the paradigm shift of the free exercise jurisprudence of the Supreme Court. Historically, the free exercise jurisprudence in connection with the ideal of the rule of law that it presumes has four basic paradigms—the rule of positive law, the rule of neutral law, the rule of common law and the rule of social law. These four paradigms are represented by four groups of the Supreme Court cases. *Smith* and *Hosanna Tabor* embody the rule of neutral law and the rule of social law respectively. The former three paradigms manifest the various understandings of the concept of the rule of law at the state law level, while the fourth one points toward a new trend of the free exercise jurisprudence from state governance to social autonomy. The underlying motivating force of this trend lies in the transition of the discourse of political philosophy from liberalism to pluralism and the development of the pluralist social forces of the United States.

**Keywords** religious freedom, the rule of law, religious autonomy, liberalism, pluralism

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32 See Evelyne Terryn *The Right of Withdrawal* In *Common Frame of Reference and Existing EC Contract Law* 164 Reiner Schuize ed. Sellier 2008 .

33 See Directive 2011/83/EU Article 13 2 Article 14.

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## French Legislation about Consumer' s Right of Withdrawal of Contract and Its Inspiration

Ling Xuedong

**Abstract** French consumer' s right of withdrawal means that consumer has right to withdraw his acceptance within certain period and its legislation applies early to off-premises contract then to consumer credit distance sales timeshare holiday life insurance and other fields. Implanting relevant provisions of EU directives the French Consumption Code has made unification regarding consumer' s right of withdrawal. Different types of transactions provided different withdrawal periods. Where the required information has not been duly provided to the consumer the withdrawal period shall be extended. In principle the exercising of right of withdrawal will result in making restitution. Except for freight and credit principal' s interest the bona fide consumer does not assume any liability of indemnity. Chinese legislation about consumer' s right of withdrawal is scattered so statutory construction should be rearranged and dealing with the relationship with civil law. It' s suggested to balance our economic development and consumer protection level expand the scope of application unify withdrawal period specify withdrawal method and provide legal effect and cost sharing of consumer' s right of withdrawal.

**Keywords** France EU consumer right of withdrawal

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20%      20%    36%      36%

## **Comparison and Reference Regulation for Private Lending Interest Rate**

Wang Linqing

**Abstract** The history of the regulation on interest rate of private lending from a perspective of standard of scrutiny shall be considered as a history showing the transformation from strictly supervised interest