

第七、八届全国法律英语大赛

THE SEVENTH&EIGHTH NATIONAL LAW ENGLISH COMPETITION

# EXPRESS

YOUR LEGAL VIEW  
IN ENGLISH

## 用英语表达 你的法律观点

全国法律英语大赛组委会◎主编



中国政法大学出版社

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## — 本书简介 —

本书为第七届和第八届全国法律英语大赛优秀论文集。全国法律英语大赛旨在促进中外法治文化交流与融通，激发法律人和准法律人学习法律英语的兴趣，锻炼法律英语爱好者用英语表达法律思想的能力，从而加强我国涉外法治人才队伍建设。该赛事由中国政法大学外国语学院、中华全国律师协会外事委员会、原北京第二外国语学院国际法学院、中国行为法学会法律翻译中心和法律英语证书（LEC）全国统一考试委员会联合举办，每年举办一次。

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## 思想之美，因文而彰

在全面推进依法治国、建设中国特色社会主义法制体系、建设社会主义法治国家的大背景下，第七届、第八届全国法律英语大赛分别于2016年12月和2017年11月在中国政法大学昌平校区成功举行，这是一个挑战自我、展示自我的平台，也是一个实现价值、砥砺前行的机会。

两届大赛均以“用英语表达你的法律观点”为主题，分为“法律英语论文大赛”和“法律英语演讲大赛”。参赛选手来自数十所高校及单位，论文大赛所提交的作品均为英文撰写的论文或案例分析报告。来自高等院校、科研单位及实务部门的专家评委经过严格的层层评选、谨慎认真的评议，共评选出35篇优秀论文（报告），全部收录于此论文集中。

大赛论文呈现如下特点：第一，论文选题广泛，涉及法理学、宪法学、刑法学、知识产权法学、民商法学、国际法学等领域；第二，材料运用大胆、新颖，同时也乐于关注社会现实和热点问题，体现出参赛选手对诸多社会现实问题的独到见解；第三，论文整体水平高，逻辑结构合理，规范性强，论证比较充分。

莎士比亚曾说：“充实的思想不在于言语的富丽，它引以自傲的是内容，不是虚饰。”参赛选手在论文中显露出来的清晰的法律思维、良好的法律素养和地道的英语表达，给评委会留下了深刻的印象。基于对话题的深入理解，选手们旁征博引，运用扎实的专业知识和高水平的语言组织能力进行明晰的论证，使文章更富感染力。

此外，论文内容与现实热点联系密切，充分展现了本论文集与时事对接、与时代紧密融合的特点。各篇文章虽风格迥异，字里行间却都富含着社会责任和人文情怀，展现出参赛者积极探索、奋进、创新的风采。

作为法律英语业界的招牌赛事，全国法律英语大赛一直是法律英语学习者提高和展示个人能力的平台，突出法学教育的实践性及语言教育的工具性特征，充分展现了参赛者对法律知识的熟练掌握与灵活运用和英文表达能力。大赛将更好地促进我国法律英语教育的改革和发展，为社会培养更多优秀的国际化法律人才；同时，大赛也有利于直观地检验我国法律英语教学水平，提升高校学生学习法律英语的热情，从而促进中外法律文化更大程度上的交流与融通。

乘英语之羽翼，向法律之天空。英语与法学的有机结合，既传播法律文化、营造法律英语学习氛围，又让参赛者用更加多元化的思维思考法律问题，让中外法律在相互借鉴中得以发展和完善。语言是思想的外衣，我们希望更多热衷于法律英语的人继续发挥法律专业的优势，让睿智充盈，使思想强大，在法律英语的研习之路上砥砺前行。

最后，要特别鸣谢大赛各主办方及协办方，感谢各阶段赛事评委，以及对参赛者论文写作进行悉心指导的老师！本书编印过程中，得到了各参与方的积极配合，感谢他们的真诚付出；感谢黄姗女士前期编辑整理和校对。由于时间仓促，凡此不妥不当之处，敬请批评指正。

全国法律英语大赛组委会

2019年3月

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# Urbanization and The Construction of Law in China

Zhang Zeyu \*

## I. Introduction

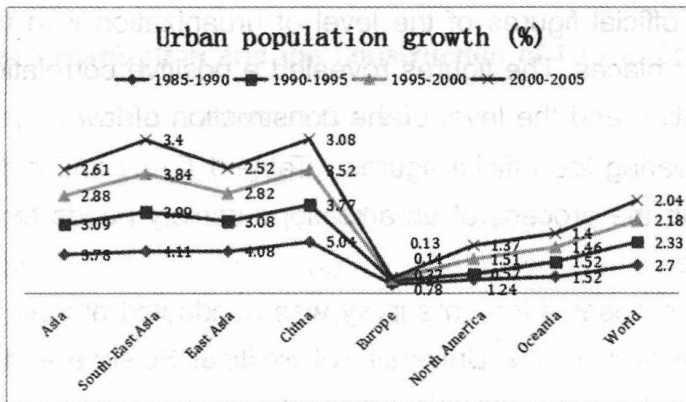
### 1. 1 Research Background

Urbanization in the People’s Republic of China has accelerated following the initiation of the reform and opening policy. By the end of 2015, 56% of the total population lived in urban areas, a dramatic increase from 26% in 1990.

According to Professor Lu Dadao, president of the Geographical Society of China ( GSC ), China’s urbanization took 22 years to increase from 17.9% to 39.1%. It took Britain 120 years, the U. S. 80 years, and Japan more than 30 years to accomplish this.

As is shown in the table ( below ), the growth rate of China’s urban population is higher than that of Asia as well as the world.

TABLE 1 Urban population growth



\* 张泽宇，中国政法大学。

Even though China's urbanization rate in 2005 was higher than that of Asia and roughly on par with the levels in East and South-East Asia, the country still has a long way to go in catching up with the western developed countries.

However, according to the data from national planning authorities, we can see that the gap of urbanization rate and resident population urbanization rate is bigger and bigger. The household register population urbanization rate reflects that quite a proportion of agricultural population transfer is not integrated into the urban society; people who come from rural areas cannot enjoy the treatment of citizens. In the past, the process of urbanization actually paid more attention to its economic and political effects, focused on the land, building, labor and other resources to concentrate in cities, yet relatively neglected the human factor. And without a doubt, construction of law plays a significant role in the progress of urbanization.

This paper is going to study the history of urbanization and the construction of law in China, then demonstrate the impact of urbanization on the construction of law. China's construction of law process has obtained a lot of achievements, but there are also many problems, particularly in the "superficial" phenomenon of the construction of law. A fundamental factor is that the construction law in China is a government-led top-down implementation, lacking the local social foundation, that is, Chinese civil society.

## **1. 2 Materials and Methods**

In order to explore the factors responsible for such negligence, this paper compares some official figures of the level of urbanization with the construction of law in different places. The figures revealed a positive correlation between the level of urbanization and the level of the construction of law.

1. 2. 1 Comparing the official figures ( Table 1-5 ), I find out that there are some problems in the process of urbanization, society needs to improve by the construction of law.

For a specific observation, a survey was conducted among 476 citizens including the students in China University of Political Science and Law ( CUPL ) with the purpose of finding possible prospects of the construction of law in our country. It suggests that the present society formed by traditional relations should be transformed to a legal one during the coming urbanization process. At the same time, public legal awareness and basic legal education must be strength-

ened. Farmers' legal problems should be paid more attention, and judicial reform ought to be pushed forward in depth.

1.2.2 A study sample comprised 476 randomly selected CUPL students and ordinary citizens. An interview was conducted online, using a standard questionnaire<sup>[1]</sup> (Table 6-8) to obtain information as the following:

- Age.
- Level of education.
- Consciousness of the construction of law.
- Is there an influence on urbanization construction of rule of law?
- Is today's Chinese construction of rule of law necessary in the process of urbanization development?
- Can urbanization development and the construction of law promote each other?
- Advice on the construction of law-based society.

52% of those who answered the questionnaire are university students (18-26 years old), and 30% of them majored in law. 15% are legal workers (28-50 years old), 10% are white-collar workers (30-48 years old), 8% are social workers (30-60 years old), 6% are retirees (65-74 years old), and 5% are factory workers (25-46 years old), 4% are middle school students (12-18 years old).

1.2.3 Proportions of different legal cases from the prospective lawyers association of the Legal Aid Center of China University of Politic Science and Law in 2015.

## **II History of Urbanization and the Construction of Law in China**

### **2.1 History of Urbanization in China**

China's urbanization process can be divided into two stages, namely, from the end of the Opium War in 1840 to 1949, the first phase of the founding of the People's Republic of China, and the second phase of the founding of the People's Republic of China. The emergence of the city is an important symbol of the beginning of modern Chinese history.<sup>[2]</sup> In the 1840s, after the beginning

[1] Chang Jiwen, "On Legal Relations between Animal Welfare and Animal Right", *Journal of Kunming University of Science and Technology*, Vol. 2007, No. 7.

[2] 公丕祥: "二十世纪中国的三次法律革命", 载《中外法学》1999年第3期。

of the process of modern Chinese history, there have been a number of cities. The self-sufficient natural economy as the economic foundation of the feudal dynasty, in Western capitalism under the gunboat forced open. This became the beginning of China's urban modernization. During this period, China's urbanization process is very difficult and slow, and has a serious dependence on the colonial powers. Of course, since this process of urbanization is not the product of *China's own economic development, but because of the invasion of Western powers* under the influence of external forces to start, so it only shows the increase in the number of cities, the expansion of city size, and with a clear colonial color. This nearly a century of urbanization in China's modern history has led to an increase of the binary opposition and division of old China's urban and rural areas, hindering the city's sound development.

In the second stage of the development of urbanization, with the accelerated process of industrialization, urbanization also achieved great development, but there are also some problems. After the founding of the People's Republic of China (PRC), for the early realization of the Four Modernizations, that should give priority to the development of heavy industry, industrialization. However, the "Great Leap Forward" and the "Cultural Revolution" not only seriously hindered the industrialization process, but also slowed down the pace of urbanization, affecting China's modernization. At the same time, the urban-rural dual structure of social division led to the vast rural areas in the process of industrialization, the degree of urbanization can be imagined. Since the reform and opening up, the socialist market economy with Chinese characteristics has developed steadily and healthily. Correspondingly, urbanization has entered a new era of vigorous development. The number of cities is rising, the urban structure tends to be reasonable, and the urban population is increasing. The elements of economic growth in the city are very active; people's inter-regional cross-sectoral flows are becoming more frequent. However, due to lack of synchronization with industrialization, the level of urbanization in china is still not high, whether the city's quality, function, or the number of urban population, employment structure, is still at a low level of development, with the obvious characteristics of the primary stage of socialism.

## **2.2 History of the Construction of Law in China**

After the reform and opening up in 1978, the contemporary Chinese legal

system has entered a new period of restoration, reconstruction and development. This is the third legal revolution in the process of modernization of Chinese legal system. It established the modern legal order, and abolished the legal system of the combination of traditional Chinese legal system, administration and judicial system, and established the legal system of the state. And constructs a legal structure system which is divided by constitutional law, public law and private law, substantive law and procedural law. Individual autonomy is exerted to a higher degree, which speeds up people's transition to modern legal concepts. [1] The third legal revolution is committed to the realization of the traditional planned economy from the rule of human society under the modern market economy system under the rule of law - based society, the historical leap forward and transformation. Comrade Deng Xiaoping pointed out that we should reform the relationship between the rule of man and the rule of law and realize the historic transformation from the rule of man to the rule of law. The 15th National Congress of the Communist Party of China put forward clearly that it is necessary to uphold and implement the rule of law in accordance with the law and building a socialist country ruled by law. The 17th CPC National Congress further defined the importance of governing the country according to law.

### **III. The Impact of Urbanization On the Construction of Law**

Modernization of the legal system and urbanization are all subsystems of the modern system. They are all important components of modernization. And Modernization of legal system has great influence on the construction of law. The modernization of the legal system is the process of transformation from the traditional mode to the modern mode, and from the law of the agricultural society to the law of the modern urban society. The reason why urbanization is an important part of modernization is that modern cities have created a new way of life different from traditional rural areas, early cities and medieval cities. The characteristics of concentration, mobility, specialization and heterogeneity of this new urban way of existence have had an important impact on the modernization of legal system, and effectively promoted the process of the construction of law.

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[ 1 ] Ten Focus Report, "The State of The Chinese Urbanization", *Beijing Youth Daily*. 2 September 2002, pp. 1-2.

### 3. 1 Concentration of Urbanization

Concentration of urbanization does impact on the construction of law. Concentration is the basic characteristics of urban life while urban life is an important reason for the formation. Concentration of urban lifestyles mainly concentrated in the population, economic activities, and cultural activities. Cities with high population density tend to become economic, political, cultural, transportation and information centers, conducive to large-scale production and produce economies of scale, but also conducive to people's democratic election activities, which are necessary for modern rule of law society. In addition, the concentration of the city will not only produce quantitative changes, but also bring about qualitative changes. On the one hand, after going to the city, the rural population's ideas, intellectual, etc., will change greatly in the new environment. On the other hand, concentrated cities tend to be unstable and relatively unorganized collective behavior; the main body of this behavior is often a temporary accumulation of loose social groups. As the behavior is often derived from some kind of external stimuli, the lack of comprehensive, in-depth thinking, so its impact is mixed, there are good and bad. For example, legal activities such as demonstrations and marches are the means by which people express their will in the rule of law, so that people's emotions can be vented. It is a stable and orderly "safety valve" for the society and helps avoid unrest. The unrest and other collective behavior often lead to social unrest and conflict, which is the rule of law society should strongly avoid.<sup>[1]</sup>

### 3. 2 Liquidity of Urbanization

Modern cities are mostly industrial-based. Machine-based production, which not only provides more jobs, but also makes living spaces connecting with each other. This attracts farmers from rural to urban areas, allowing people to move and move in different spaces. At the same time, the fierce market competition determines the bankruptcy and opening of the enterprise, and diversified value orientation brings the diversification of people's career choices, which will also cause people's frequent flow and social progress. Population movement has expanded the scope of interpersonal communication. In the local society, due to geographical, blood and other factors, people's limited space, awareness of

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[1] 潘丽华：“城市化与法制现代化”，载《法律科学（西北政法学院学报）》2004年第6期。

people and things are limited. In the city, people break the blood, geographical constraints; the communication surface has been a great extension of the diversification of ways of communication, communication objects greatly increased. The expansion of the scope of communication broadens people's horizons, so that people's values become diversified, tending to be more inclusive of different views and voices. Therefore, the mobility characteristics of the city produced a demand for democracy, without democracy, the legal system modernization will be difficult.

### 3.3 Specialization of Urbanization

In the traditional agricultural society, the division of labor is underdeveloped, people rely on the basic similarities and general character: people's life is similar to the semblable clothing, similar shelter, and they face similar problems. Modern city is composed of a series of interrelated individuals, each person has its own personality, characteristics, social solidarity is no longer the basis of similarity between individuals, but between them. With the diversity and specialization of social division of labor, the growing gap between people, which led to more people to consider their own development, rather than society. Which led to the inherent norms and values gradually lose the old majesty, the community has been anomie. Therefore, with the gradual advancement of the modernization process, the law and its concept will change, the process of this change is the process of legal modernization, that is, the traditional law and its concepts to modern law and its concept of evolution.

### 3.4 Heterogeneity of Urbanization

The heterogeneity of cities refers to the differences between people, such as occupational differences, income differences and cultural differences, due to the mobility of the population and the different occupations. These differences distinguish people from each other, resulting in psychological distance, strangeness, lack of communication and indifference, but enhance the freedom (or independence) of city people. While the individual freedom or independence is the legal system of modernization should be the meaning of the title. The heterogeneity of the urban lifestyle determines that people are in a secondary, not primary, social relationship. In this kind of secondary social relations, it is more conducive to the realization of equality and justice, and equality and justice is one of the elements of legal modernization. The heterogeneity of the city helps to sepa-