

The Supreme People's Court of China in the Process of Judicial Reform

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[Abstract] In the judicial reform process in China, the Supreme People's Court of China (SPC) has been going through two major transitions: transition from traditional role of a dispute solver into the reformer of Chinese judicial system, and transition from a passive implementer of laws and policies into an active maker of public policies. The judicial philosophies of SPC are also constantly being updated. Firstly, notion of human rights protection has continuously gained popularity in China, which strengthened legal rights protection of the suspects and the accused. Secondly, influenced by the adversary system, SPC weakened judge's control over the trial and increased competition between the parties in courtroom. SPC also made progress in developing an evidence rule system, promoting judicial transparency, standardizing sentencing process and establishing a case guidance system. For the coming new round of judicial reform, SPC is expected to lead the Chinese judicial system to a direction of advancing de-administrativization of court system and guaranteeing professionalization of judges and, moreover, being more concentrated on supervising and guiding lower-level courts' judicial practice.

China's 20-year judicial reform witnessed tremendous changes in the role of the Supreme People's Court of China (SPC) which experienced two major transitions. It has evolved into a designer of the judicial system from the traditional role of a dispute solver. In the mean time, it also shifted into an active public policy maker from a passive implementer of laws and policies.

1. Historical Functions of SPC

As the *Constitution of the People's Republic of China* defines, "SPC is the highest judicial organ. SPC supervises the administration of justice by the people's courts at various local levels and by the special people's courts. The people's courts at higher levels supervise the administration of justice by those

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at lower levels.”¹

In its early stage, SPC functioned as an adjudicator of major criminal cases and civil cases involving economic or marital disputes, almost the same role as local courts played. The “political” side of SPC by then reminded people that it was still the “supreme” court of the nation. It led some so-called “hard strike” nationwide operations in which major economic crimes and violence crimes that severely threatened personal safety were tried against. In the meanwhile, SPC issued certain judiciary related public policies.

2. Transitions of SPC’s Role in the Judicial Reform

Process

Since the late 1980s, China started exploration in trial mode reform by focusing on strengthening the function of courtroom trial and constructing a system of advocacy and professionalization of judges.² The first *Guideline of 5-Year Reform of People’s Court* issued by SPC in 1999 set trial mode revolution as a major goal. Under the *Guideline*, eleven items in a list of thirty-nine reform items were about trial mode revolution. This signaled a trend that Chinese trial mode was transformed from an inquisitorial mode into the modern adversarial mode.

Constitutional scholar Paul Freund once stated: “the Court should never be influenced by the weather of the day but inevitably they will be influenced by the climate of the era”³. In the process of judicial reform in China, the role of SPC has kept changing, now considered as “pusher” of social justice and protector and balancer of social values, rather than a simple tool for handling lawsuits; its judicial philosophies have also changed, from instrumental rationality into substantive rationality. This transition process experienced two phases. In first phase, the main function of SPC changed from “state apparatus for fighting against crimes”⁴ in the 1980s to “protector of economic growth” in the 1990s⁵; in the second phase, SPC gradually replaced its central value from pursuing “justness and efficiency”⁶ in the early 2000s to seeking “judicial justice” in the Year of 2014⁷. After two decades of judicial reform, China finally set pursuing judicial independence and judicial justice as its central missions, and the operational structure of power within SPC has experienced a series of transformation. This movement, primarily a passive

¹ *Constitution of the People’s Republic of China*, §127(2004).

² *Judicial Reform of China*, the State Council Information Office of the People’s Republic of China, Oct, 2012.

³ John Hockenberry (Sep.16th, 2013), Interview with Supreme Court Justice Ruth Bader Ginsburg, see <http://www.thetakeaway.org/story/transcript-interview-justice-ruth-bader-ginsburg/>, last visited on May 19th, 2014.

⁴ Working Report of Supreme People’s Court 1984, People’s Daily Page2 June.7th, 1984

⁵ Working Report of Supreme People’s Court 1993, People’s Daily Page2 Apr.6th, 1993

⁶ Working Report of Supreme People’s Court 2005, see http://www.court.gov.cn/qwfb/gzbg/201003/t20100310_2631.htm, last visited on May 19th, 2014.

⁷ Working Report of Supreme People’s Court 2014, see http://www.china.com.cn/news/2014lianghui/2014-03/17/content_31811880.htm, last visited on May 19th, 2014.

response to political and judicial system reformation, also encompasses active self-adjustments and innovations initiated by SPC itself.

2.1 From Traditional Dispute Solver to Developer and Reformer of the Judicial System

Adjudicating cases accounted for a large part of SPC's daily job when it initially established in the 1950s and 1960s. The judicial interpretations (a kind of legal documents created by SPC or Supreme People's Procuratorate to explain how law should be comprehended and applied, usually being considered as law by itself in China) SPC issued were mainly replies to specific questions about application of laws in individual cases lower-level courts handled. This was the traditional and inherent trial function of court; it was also a prompt answer to the urgent call of rebuilding social orders in the founding period of People's Republic of China. After a complete and hierarchical court system had been set up and lower-level courts are capable of handling most cases, the necessity and reasonability for SPC performing daily adjudication work just like an ordinary local court indeed needs to be reconsidered.

To change local weather depends on adjusting regional climate in a broader sense. Similarly, a well-established judicial system is prerequisite for effective dispute resolutions. In the latest stage of China's judicial reform, new attributes have been added into SPC's authority: "[SPC shall] perform constitutional and legal duties loyally, exercise adjudicative powers independently and impartially in accordance with the laws... deepen judicial system reform, strengthen know-how trainings for judges, promote the public trust of the judicature and endorse social equity and justice".⁸ Such changes include following aspects:

2.1.1 Updates in SPC's Judicial Philosophies

2.1.1.1 Enhancement of Human Rights Protection

To realize a "China ruled by law", human rights shall be well protected by the judicial system. However, SPC used to consider human rights protection merely as being tough on criminals and leaning on victim protections. Thus, as a consequence, legal rights protection of the accused was neglected for a long period of time. Now such imbalance is getting corrected. For example, in the Year of 2003, SPC initiated an action on clearing up nationwide illegally extended detentions and implemented ten "minor solutions" to prevent extended detention from occurring again, which contributed in defending the suspects and defendants' rights of being set free without delay and being duly sentenced.

As the *Amendment to the Constitution in 2004* explicitly stipulates, "the State respects and preserves human rights". Correspondingly, former Chief Justice of China Xiao Yang addressed: "we should implement the principle of respecting and protecting human rights in all aspects of social life throughout judicial activities" and "enhance capability of human rights protection in judicial fields, and the concept of human rights protection shall be firmly established in the whole society".⁹ Human rights clause was also embedded in the 2012

⁸ *Resolution at the Second Session of the Twelfth National People's Congress 2014.*

⁹ Xue Yongxiu: Conference of Deans of Higher People's Courts Was Convened in Beijing, Dec.16th, 2004, see

Criminal Procedure Law. SPC then issued *Opinion on the Establishment of Sound Mechanism of Preventing Miscarriage of Justice in Criminal Cases* in 2013, making it clear that “it is equally important to protect human rights as it is to fight against crimes”¹⁰.

Death penalty deprives a person’s right of living – the center component of human rights. In the Year of 2007, SPC retrieved the power of reviewing death penalty cases from provincial-level high courts, once again becoming the exclusive authority that has the authority to approve death penalties. In addition, SPC confirmed the principle of reviewing death penalty cases, that is, all criminals under death penalty shall be sentenced with a two-year suspension of execution, unless immediate execution is necessary.¹¹ This regulation shows respect to life and precautions on death sentencing.

2.1.1.2 Introduction of Adversary System and Integration of Two Major Litigation Philosophies

Litigation pattern in China shares inquisitorial characters of the civil law system. Judges actively dominate court trials, while the litigants are quite quiet. This feature is particularly apparent in criminal proceedings: the defendant usually is unable to match up with the power and resources of the procuratorate side. In recent years, however, influenced by fusions of the two legal systems, SPC altered its trial mode by introducing into basics from the adversarial system.

In the aspect of civil procedures, driven by the market-oriented economy, conceptions of private rights and autonomy of private law have been deeply rooted in China. *Interpretation of the Supreme People’s Court of Several Issues concerning the Application of the Civil Procedure Law* issued in the Year of 1992 and *Several provisions on the reform about trial mode of civil economic cases* issued in the Year of 1998 by SPC detailed ruled on determination of claims, evidence production, evidence examination and evidence review in civil procedures, with a focus on putting the litigants in dominant position at trial and weakening judge’s trial control power, which in return would boost the adversarial level in civil litigations between parties.

China’s *Criminal Procedure Law* revised in 1996 adopted the concept of “equality in confrontation” from adversary system. Accordingly, center of criminal proceeding has been shifted from investigation phase to the trial phase, with an emphasis on protection of defendant’s rights and due process.¹² With the *Criminal Procedure Law* being revised again in 2012, SPC moved to intensify trial mode reform¹³ by “vigorously absorbing beneficial factors from adversary system and the ‘accuse-defense’ trial mode”¹⁴. Within

<http://www.chinacourt.org/article/detail/2013/06/id/144099.shtml>, last visited on May 19th, 2014.

¹⁰ *Opinion on the Establishment of Sound Mechanism of Preventing Miscarriage of Justice in Criminal Cases*.

¹¹ Working Report of Supreme People’s Court 2010, see

http://www.court.gov.cn/qwfb/gzbg/201007/t20100716_7756.htm, last visited on May 19th, 2014.

¹² Zeng Dejun, Yang Wei: Direction of Choice on the Mode of Criminal Procedure of China, *Legal System and Society*, 2007 (12) .

¹³ Qi Shujie, Zhong Shengron: Influence of Civil Trial Mode Reform on the Evidence System of China, *Law Review*, 1998(4).

¹⁴ *Report on the Evidence and the Rule of Law in China, 1978-2008*, Chief Editors, Baosheng Zhang and Lin

the same year, *Notice on Legal Aid in Criminal Cases* was issued by SPC to ensure protection of defendant's right of defense, with a focus on the right to a fair trial of the accused in second instance trial and in retrial procedures.¹⁵

2.1.2 SPC Concentrating on Establishing Evidence Rule System

In the process of judicial reform, SPC gradually realized that accurate determination on evidence was the guarantee of trial work quality as well as the foundation of judicial justice.¹⁶ In the Year of 2007, Chief Justice by then of SPC addressed: "Evidence is the basis on which we realize judicial justice".¹⁷ Since evidence rules closely link with fundamental work of fact-finding and distribution of rights and duties, its construction no doubt is the primary task in pursuit of judicial justice¹⁸. Under the influence of human rights protection and adversary system, focusing on the evidence rule system is substantially equally to focusing on adversarial position and competency of the parties in litigation. In this sense, establishing an evidence rule system itself is the turnout of China's effort in embracing the civil law and common law systems together. SPC has been working tirelessly and constantly on this aspect.

2.1.2.1 SPC's Strategic Plan on Establishing Evidence Rule System

Establishment on evidence rule system took a big role in *Guideline of 5-Year Reform of People's Court 1999~2003*, focusing on "innovating evidence system, refining evidence rules and initiating evidential legislative proposal". Six in a total of eleven items regarding trial mode reform related to evidence rules: ①Refine the process of evidence examination and evidence review. Analysis of evidence evaluation at issue shall be fully explained in written judgments. ②Urge witnesses showing up in courtroom to testify and study on related issues such as duties to testify in courtroom, witness safekeeping, financial support for witnesses on stand-by. ③With respect to evidence in criminal procedures, attention shall be paid to burden of proof in cases of private prosecution, and issue guidance on evidence presentation between parties as well as on judge's power of investigation. ④With respect to evidence in civil procedures, rules on burden of proof, time limit for evidence presentation, pre-trial discovery and evidence collection by court need to be refined. ⑤With respect to evidence in administrative procedures, rules on evidence presentation, evidence examination and evidence evaluation need to be refined and an evidence rule system suitable for administrative procedures

Chang, China University and Political Science and Law Press, (2010).

¹⁵ *Guideline of 5-Year Reform of People's Court 1999-2003*.

¹⁶ *Notice on the Pilot Project of Implementation of the Uniform Provisions of Evidence of People's Court (Proposal for Judicial Interpretation)*, Apr.11th, 2008.

¹⁷ *Report on the Evidence and the Rule of Law in China, 1978-2008*. Chief Editors, Baosheng Zhang and Lin Chang, China University and Political Science and Law Press,(2010).

¹⁸ Zhang Baosheng: *Construction of Evidence System is the Principal Task of Realizing Judicial Justice*, Evidence Science, 2010(5).

shall be established.¹⁹

2.1.2.2 SPC's Two Provisions on Civil and Administrative Evidence

Provisions of the Supreme People's Court on Evidence in Civil Procedures and *Provisions of the Supreme People's Court on Evidence in Administrative Litigations* both issued by SPC in 2002 are deemed as its landmark achievement in evidence rule system construction. As some scholars remarked, "in the history of China's evidence legislation, *Provisions on Evidence of Civil Procedure* is the first statute that contains a series of specific evidence rules organized in a systematic way, which showed lawmakers' understanding on systematization of evidence rules."²⁰ These two *Provisions* improved the rules on burden of proof, set up a system of self-admission and pre-trial evidence disclosure, brought in the concept of expert assistant (similar to role of expert witness) and added best evidence rule and rules on judicial notice.

2.1.2.3 SPC's Exploration on Unified Rules of Evidence

Vice Chief Justice of SPC Shen Deyong believed there are two mode options for evidence legislation. One option is modifying evidence rules in three procedure laws respectively. The other option is enacting an independent uniform evidence code by the state legislature.²¹ In the Year of 2006, SPC entrusted the Institute of Evidence Law and Forensic Science, China University of Political Science and Law to draft *Uniform Provisions of Evidence of the People's Court (Proposal for Judicial Interpretation)*. This Uniform Provisions of Evidence Proposal (hereinafter "*Uniform Provisions*") includes one hundred of seventy-four articles in total, applicable to civil, criminal and administrative procedures. On value basis of accuracy, justice, harmony and efficiency, the *Uniform Provisions* took relevancy as its logic mainline and structured a comprehensive set of evidence rules focusing on evidence presentation, evidence examination and evidence review. Moreover, it set rules for privilege, hearsay, illegally obtained evidence, character and propensity evidence, as well as evidence inadmissible to prove liability.

2.1.2.4 SPC's Response to Wrongful Convictions through Improving Criminal Evidence Rules

From She Xianglin case in 1994 to Du Peiwu case in 1998 to Zhao Zuohai case in 2010, a series of wrongful convictions led criticisms pointing to unsoundness of evidence system, including extorting confessions by torture, chaos in management of forensic examinations and lack regulations on evidence examination and evidence review. Based on this understanding, SPC issued *Provisions on Several Issues concerning the Examination and Judgment of Evidence in Death Penalty Cases* and *Provisions on Several*

¹⁹ *Guideline of 5-Year Reform of People's Court 1999-2003*.

²⁰ Tang Weijian: *The Creativity and Defect of Some Provisions of the Supreme People's Court on Evidence in Civil Procedures*, *Studies in Law and Business*, 2005(3).

²¹ Chief Justice Xiao Yang: *China Continues intensifying the Reform of Evidence System*, see http://big5.gov.cn/gate/big5/www.gov.cn/jrzg/2006-05/30/content_295901.htm, last visited on May 19th, 2014.

Issues concerning the Exclusion of Illegal Evidence in Criminal Cases jointly with other state organs in the Year of 2010. The two judicial interpretations set up the principle of “evidentiary adjudication”, established “beyond reasonable doubt” as standard of proof in death penalty cases, and systematically specified detailed requirements in reviewing documentary evidence, physical evidence, witness testimony and forensic appraisal opinion. Furthermore, exclusionary rule on illegally obtained evidence has been established for the first time in China’s criminal proceedings.

2.1.3 SPC’s Promotion on Judicial Transparency

As an English old saying, justice should not only be done, but should manifestly and undoubtedly be seen being done.²² SPC now promotes judicial transparency, expecting to realize “justice under sunshine”. Specifically, SPC’s *Several Provisions on Recording and Videoing Trial Activities* in 2010 was intended to make justice “repeatable and freezable”; a website called “China Judgments and Decisions”²³ was launched by SPC in 2013, which is designed to disclose written judgments; SPC also promulgated *Opinions on Promoting the Construction of Three Platforms for Judicial Transparency* this year, which increased the transparency of trial process, judgments and enforcement information. This effort facilitated public supervisions. SPC also launched its microblog (“Sina Weibo”, similar to twitter) in 2014, followed by more than six hundred and sixty lower-level courts. Courts from about twenty provinces now simultaneously show to the public their case trial process through “live blog”.²⁴ All these efforts are “We-media” style disclosures from SPC to deliver latest cases and judicial philosophies to the general public.

2.1.4 SPC’s Promotion on Standardization of Sentencing Reform

Each year, an average of 850,000 criminal defendants are being sentenced in China.²⁵ “Regulating judicial discretion and embedding sentencing into the court trial proceeding” is a key part in SPC’s *Guideline of 5-Year Reform of People’s Court 2009*.²⁶ In the Year of 2010, SPC participated in promulgation of the *Opinions on Several Issues of Sentencing Procedure Standardization (trial)* and the *People’s Court Sentencing Guidelines (trial)*, which triggered reform on quantification of sentencing methods and relative independence of sentencing procedure.²⁷ These two statutes provide legal grounds for regulating judge’s discretion on sentencing and are great movement in pursuing judicial justice.

2.1.5 Establishing A Case Guidance System

“Establishing and improving a case guidance system and highlighting its influence in unifying standards of law application, guiding trial work of

²² *Law and Religion*, Harold.J.Berman, translated by Liang Zhiping, China University of Political Science And Law Press, August 2003.

²³ Address: <http://www.court.gov.cn/zgcpwsw/>

²⁴ Fu Dalin: Live Court Trial Makes “Justice under Sunshine”, *People’s Daily*, Apr.14th, 2014.

²⁵ Li Yuping: on the Proof of Sentencing Fact, *Evidence Science*, 2009(1).

²⁶ *Guideline of 5-Year Reform of People’s Court 2009-2013*.

²⁷ Chen Ruihua: Evidence Rules in the Sentencing Procedure, *Jilin University Journal Social Sciences Edition*, 2011(1).

lower-level courts, as well as enriching and developing juristic theories” is a task raised up in SPC’s *Guideline of 5-Year Reform of People’s Court 2004-2008*. In the Year of 2010, SPC issued *Provisions on Case Guidance*. China’s case guidance system, under a legal system based mainly on statutes, is a system using typical cases as model guidance on accurate comprehension and application of law and regulations.²⁸ To some extent, it is coincident with Anglo-American’s case law system, although these two systems are apparently different from each other. In recent years, under the principle of “letting cases explain the law”, SPC selected and released in batches of typical cases to provide reference for lower-level judges’ decision on similar cases. Such system promotes judges’ discretion being exercised in a reasonable way and reinforces implementation of principle “Equal Justice Under Law”. This is virtually a “tactical” acceptance to the case law system, following the trend of fusion of the two major legal systems.

2.2 From Passive Implementer of Laws and Policies to Active Maker of Public Policies

As the nation’s highest-level judicial organ, one of SPC’s main functions is to implement laws and policies. However, “a judge’s decision has to take social stability and economic development into consideration and should not trade off other values for legal value only”.²⁹ SPC’s effort in litigation system development is mostly about legitimacy of procedures in power operation and rights running, with its focus at procedural justice. By comparison, SPC’s creation of public policies roots in an emphasis on the judicial realization of substantive justice.³⁰

In general, the purpose for SPC, the judicial authority, to make public policies is to influence “check and balance” between interests of the state, society and citizens through norms (laws), to adjust judicial distribution of interests and, taking one step further, to clearly define or marginally adjust the extent of interests of all parties in criminal, civil and administrative procedures, which reflects or responds to current mainstream policies or proposed social values. SPC plays such role through principal forms of judicial interpretations on substantive law applications, standardized documents and typical cases. For example, SPC issued pertinent judicial interpretations on cases including but not limited to agricultural land, compensation for demolition, corruption, drug abuse, abducting and trafficking women and children, cyber crime and food safety.

Besides, in the sense of demonstration effect, the guiding case system mentioned above possesses similar function on forming public policies. The guiding cases cover a wide range of social life, including but not limited to

²⁸ *Judicial Reform of China*, the State Council Information Office of the People’s Republic of China, October 2012.

²⁹ Xiao Yang: *China’s Judicature: Challenge and Reform*, People’s Judicature, 2005(1).

³⁰ Zhang Youlian: *Research on the Function of Creating Public Policy of Supreme People’s Court*, Ph.D. dissertation of Jilin University, 2009.

intellectual property, medical disputes, domestic violence, sexual assault and so on.

3. Direction of SPC in the Coming New Round of Reform

A new round of judicial reform will be launched this year in China, focusing on the problems of localization of judicial power and judicial administrativization. The plan is to promote unified provincial-level management of judicial working force and property to eliminate local protectionism in judicature, and to implement a responsibility system of presiding judge and collegiate bench handling cases.³¹ SPC will soon issue its fourth *Guideline of 5-Year Reform of People's Court*, in which we could expect following changes in SPC's roles in the future:

3.1 De-administrativization of the Court and Professionalization of Judges

Some scholar criticized that during the implementation of *Guideline of 5-Year Reform of People's Court 2009*, SPC seemed to "continue its transition from system construction to policy guidance. Revolution on trial mode and evidence system construction is no longer the key point in the reform, while political slogans such as 'active judiciary' 'judiciary for the people' 'mediation first' and even 'social stability first' became the keywords. This showed a more and more noticeable trend of judicial administrativization".³² However, "if the judicial activities absorb excessive administrative management disciplines, the fundamental nature of judiciary, that is to say, justice, will no longer exist. In other words, judiciary will no longer be the modern judiciary. Then it will lose its value of independent existence and be no different from the general state functions." ³³

The long-standing administrative mode of management within the Chinese court system is shown in following two aspects:

One is the administrativization of judge management. On one hand, high-level judges have the authority to decide salaries and promotion or demotion of lower-level judges and have more power in the decision making process of cases. On the other hand, current existing misjudgment accountability system with no flexibilities and judge's performance appraisal system based on reversal rate and remand rate only make things worse.

The other manifestation is administrativization in judicial power operations. The hierarchical control and the "submit-approval" mode in the decision making process of a case violate principle of direct and verbal trial and go against the rationality and autonomy required in judgment. The separation of hearing and decision-making is an obstacle for independent and fair judgment.

³¹ The Third Stage of Judicial Reform is Beginning, *The Economic Observer*, Apr.4th, 2014.

³² *Report on the Evidence and the Rule of Law in China, 2010*, Chief Editors, Baosheng Zhang and Lin Chang, China University and Political Science and Law Press, (2012).

³³ Jiang Huiling: Analysis on the Drawbacks of Administrativization of Trial, *People's Judicature*, 1995(9).

A strict and unified administrative management and a requirement that the subordinate must obey the superior prevent judges from thinking independently and executing discretions freely in specific cases, which further hinders judicial justice.

In the reform process of de-administrativization in courts, SPC is expected to be an active frontline promoter, in addition as a protector for the professionalization of judges. On one hand, SPC should explore to establish a new trial organizing mode, which could effectively limit the scope and procedures for cases submitted to the court administrative leaders at all levels for instructions and fully respect to decisions made independently by trial judges and the collegiate bench, to truly realize “cases decided by the adjudicators”. On the other hand, SPC shall campaign for improving welfare and wage treatment of judges through legislations, strengthening judges’ identity protection while reducing judges’ occupational risks. Only by this will judges be encouraged to rely on evidence and follow laws, and, most importantly, to make independent and just judgment using his or her own wisdom and experience.

3.2 SPC Should Be More Concentrated on Judicial Practice Supervision and Guidance

Currently, SPC spends too much time in trialing cases. The annual *Working Report of SPC* revealed that SPC tries 11,000 to 13,000 cases per year, with 7,000 to 9,000 cases concluded. By contrast, the Supreme Court of the United States chose to hear only 77 cases out of 7,509 lawsuits brought to the Court in the Year of 2013.³⁴ Even taking population factor into consideration, SPC still consumes significant greater resources in hearing cases.

“The higher level of court it goes, the weaker function of accurate scrutiny it is, and institutional administrative function increases.”³⁵. Trial process undoubtedly sits in the center of judicial activities. Nonetheless, as supreme judicial organ of the nation, SPC shall focus on guiding the development of law, ensuring the consistency of law applications, and striving for the legal stability from an overall perspective. SPC is the authority to supervise all level courts in China and has control over their working information and trial status. Thus, SPC is capable of and responsible for guiding judicial practice with judicial interpretations and releasing typical cases, not merely solving single disputes by itself. To say the least, even the goal of SPC to hear cases is not just for realizing justice in single cases but for setting a standardized model with nationwide demonstration effect in comprehensive balancing between various interests and promoting social civilization for lower-level courts. In this sense, it is essential that SPC shall rethink of its jurisdictional system as well as its mode for selecting and accepting cases for

³⁴ John Roberts: 2013 year-end report on the federal judiciary, translated by Huang bin and Zhao Xin, see http://www.guancha.cn/John-Roberts/2014_02_25_207916_2.shtml, last visited on May 19th, 2014.

³⁵ Song Bing: Reader: the Judicial Systems and Procedures of the US and Germany, China University of Political Science and Law Press, 1998.

adjudicating purpose.