Index

administrative self-restraint 106, 111–12, 119, 124–5, 131
discretion standard as form of 125, 128–31
Ancient Greece
city-states of 1–5
Aquinas, Thomas 17–18, 20
costitutional theories of 18
On the Kingdom 19
Summa Theologica 18
Aristotle 8, 18–19, 25–6
Constitution of Countries, The 6
Corinthian Constitution 3, 6
Politics 7–8, 17
Asian Financial Crisis (1997–9) 230
Athens 2–4, 8
political structures of 4–7
attestation
concept of 165
limitations of 166
Bacon, Francis 10
bank and securities supervision
organizational coordination 227
systematic coordination 227
Bank Code Sharing System
opening of 234
Bartolus
Tractatus de regimine civitatis 19
Basel Accord 223, 229
provisions of 220
Basel Committee 229
New Basel Capital Accord Revised Framework 232
Belarus 64
Bentham, Jeremy
definition of utilitarianism 134
Braudel, Fernand
analysis of three levels of economic life 219–20
capitalism 53
Carthage
constitution of 5, 9
Cassiodorus, Flavius Magnus Aurelius 9
Cato the Old 9
Origin 9
Beijing 160, 234
Central Military Committee 96–7
China Investment Corporation 64
Chongqing 169
Civil Procedure Law 264–5, 268–72, 281, 284–5, 300, 302–8
Company Law, the 248–9
Constitution of 33–5, 84–7, 90, 93–5, 97–9, 101–2
Constitutional Revision Committee 96
criminal law theory of 133–5, 140–48, 151–4
domestic legislation introduced when conforming to international legislation 74–6, 79–82, 87–9
Dong Yang Zhejiang Province 204
Election Law 103
Guangdong Province 243
Guangxi Province 245
Hangzhou 160, 163
Hebei 234
Heilongjiang Province 169
Hunan Province 110
International Covenant on Civil and Political Rights (1998) 157
Jiangsu Province 292
Land Management Law, the (1998) 34
Law on Chinese-Foreign Equity Joint Ventures, the (LCEJV) 76, 82, 88, 99
Law on the Procedure of the Conclusion of Treaties, the (LPCT) (1990) 85–6
legal system of 74–80, 84, 88–93
Legislation Law, the 76, 112
Liaoning Province 168
Ministry of Commerce (MOFCOM) 75, 83–4
Ministry of Foreign Affairs 85
Ministry of Public Security 163, 180
National People’s Congress (NPC) 74, 79, 84–6, 88, 90, 94–6, 98–101, 103, 162–3, 180, 250–51
National People’s Congress Standing Committee (NPCSC) 90–95, 97–105, 181
Ordinance on Expropriation and Compensation of Building on Regulations on Customs Protection of Intellectual Property Rights 74–5
Penal Code (1979) 133, 136
People’s Bank of China 194, 201, 204, 229, 234, 237
People’s Representative Law, the (PRL) 93
Real Right Law, the (2007) 34
Security Law, the 204–5, 210
Shandong Province 234, 248
Shanghai 248
Sichuan Province 167
state-owned land 34, 50–51
Supreme People’s Procuratorate 180
Village Community Board Law 101
Zhejiang Province 109
China Banking Regulatory Commission (CBRC) 234
adoption of Administration of Trust Companies’ Trust Plans of Assembled Funds (Measures) 206–7
Regulations of Commercial Bank Information Disclosure (2007) (‘Regulations’) 236
Regulatory Guidelines of Commercial Banks Assets Securitization Exposure (2009) 236
China Construction Bank use of pilot exercise of securitization of credit asset 233
China Securities Regulatory Commission (CSRC) 242–3
Cicero, Marcus Tullius 5–6, 12, 14–17, 21
De Divinatione 8–10
De Inventione 12–13
Digest of Justinian 23
On the Commonwealth 10–11
civil litigation 265, 267, 271, 276, 278, 280, 282–3, 286–7, 290
evidence collection in 272, 296
purpose of 277, 298
witness practices of 292
civitas
meaning of 12, 20
collateralized mortgage obligations (CMOs) 218
collective life 29–30
advantages of 28
Colonna, Egidio Romano De regimine principis 19
Commercial Bank of China use of pilot exercise of securitization of credit asset 233
Commodity Futures Trading Commission (CFTC) 231
Communist Party of China Central Committee 101
Politics and Law Committee 169–72
Confucianism 158
political influence of 69–70
constitutio (constitution) 1, 12–13, 16, 23, 25
alternative expressions of 25–6
Index

definitions of 5–6, 8–10, 16, 19–20  
early examples of 2–7  
construction  
functionalist mode of 130–32  
Corporate/Corporation Shares 241–2,  
248–51, 253–63  
disputes regarding 244–5  
emergence of 241, 256  
pricing of 243  
credit asset securitization 220, 226,  
229–30, 233  
concept of 218  
examples of 233  
importance of information supervision in 224–5, 228  
credit default swaps (CDS) 220  
criminal trial defunctionalization  
administrative decision 176–7  
files-centered judgement 173  
investigation-centered production line 173  
discretion standard 108–9, 111–14,  
118–24, 126, 129  
as form of administrative self-restraint 125, 128–31  
examples of 109–10, 127, 129  
limitations of 120–23  
openness of 126–8  
regularized view of 107  
‘rule of rule’ 108, 110–11, 114  
specific view of 108, 111  
use as administrative rule 115,  
118–19  
Donelli, Hugonis  
definition of constitutio 16  
Dual-track Pattern of Institution System 257–8, 262  
concept of 257  
economized state 52, 54–5, 65, 68,  
70–71  
government-leading economy 66–9  
origins of 61–2  
Eleventh National People’s Congress Fourth Session of (2011) 252  
Embedding Theory 59–60  
concept of 58–9  
European Union (EU) 68, 79  
Everbright Bank 234  
evidence 268, 270–71  
collection of 266–7, 275, 280  
investigation of 280, 282–4,  
286–7  
querying 163–4  
quoting of 161–3, 166  
Feuillant, Etienne  
Des Lois Fundamentales consedres dans leurs rapports politiques  
21  
Finland 64  
Foreign Capital Shares 241  
France 21  
Civil Procedure Law of 289  
Penal Code of 143  
Friedman, Milton 53  
fundamental law 22, 24  
origins of 21  
Gellius, Aulus  
Attic Nights, The 15  
General Administration of Quality Supervision Inspection, The (AQSIQ) 234  
General Agreement on Trade and Tariff (GATT) Article 20 81  
General Agreement on Trade in Services (GATS) 81  
Germany 136, 140, 156–7  
civil litigation practice in 283, 289, 296  
criminal law legislation and theory in 136, 139, 144, 147–54, 178  
Third Reich (1933–45) 156  
Global Financial Crisis (2007–9) 69, 72, 225–6, 230  
US sub-prime mortgage crisis 219, 221–2  
globalization 61, 70  
Goldman Sachs  
prosecuted by SEC (2010) 232  
Greece  
Crete 2  
Thessaly 2  
Guancheng, Xu 199–200  
illegal financing 186–7, 195–6, 198–9, 203–4, 216
criminality of 187–9, 191
difficulty in prosecution of 189–90, 192–4, 199–200
‘publicity’ of 193
Individual Shares 241, 256–8
Industrial Bank of China
use of pilot exercise of securitization of credit asset 233
information science
information epistemology 219
information ontology 219
Industrial and Commercial Bank 234
Information Assurance Awareness (IAA) 236
Innocence Network Conference (2011) 159
International Organization of Securities Commissions (IOSCO) 229
International Settlement Bank personnel of 236
‘seduction of interest’ factor in 202
use of concept of ‘absorbing funds/capital’ 193, 196, 202–3, 214
Italy
Florence 20
Japan 69–70, 140, 156–7
Administrative Procedure Act 127
Civil Procedure Law 289–90
criminal law legislation and theory 136, 139, 144, 147–54
Penal Code of 136
Jellinek, George 21
Jinbo, Zhang
trial and imprisonment of 169
Jinhua Public Security Bureau 109–10, 121
‘Discretion Standard’ 115–17, 122
‘Opinions for Practicing the System of Administrative Penalty Discretion Standard’ (2004) 109, 123
Jinping, Xi
Chinese Vice President 64
judicial activism 280–81
jurisdictional error 300–302, 306
absolute 305
as cause of retrial 301
court level 306
designation 308
potential solutions for 302–4
territorial 306–7
transfer 307–8
jurisprudence
relationship of legal relationship and legal interest 145–6
Kant, Immanuel 153
Keynes, John Maynard 53
Kleisthenes
democratic constitution established by 4
Lamy, Pascal
Director-General of WTO 72
Limin, Tong
trial of (1994) 169–70
de Lucca, Tolomeo
De regimini principis 19
Lycurgus 3
Machiavelli, Niccolò 20
Malians
Hopilites 2
market economy 69, 261–2
Marxism
  economic theories of 57
measurement of legal interests
  concept of 149
Mexico
  criminal justice system of 159
mixed economy 53
Montesquieu
  *Spirit of the Laws, The* 22
Moody’s 237
  credit rating system of 68
National Development Bank
  use of pilot exercise of securitization
    of credit asset 233
need spill theory 31, 37, 44
  concept of 27–8, 38–9
  view of public interest in 39–40
  view of value comparison in
    41–2
*Net of China Court* 160–61
  *Trial Now* 160–62, 165
Northern Paradox 61
Norway 24
Obama, Barack 230
oligarchy
  concept of 2
Paris Convention for the Protection of
  Industrial Property (1883)
  Article 6 89
Peace of Westphalia (1648)
  signing of 21
Pedrus de Alvernia 17
Personal Share
  pricing of 243
Plato 10
  *Laws* 6
  *Republic* 5–6
  *Statesman* 6
pluralism
  concept of 13
Plutarchus 8
political law 24
  origins of 22–3
Polybius 3, 25
Pomponius 15–16
procedural justice 300
public administration 31–2
  origins of 29–30
  preconditions for 30–31
public interest 32, 34, 36–8, 49–51
  conceptual function of 33, 35
  conflicts of interest in 40–41, 47–8
  criterion of value comparison 41,
    44–5
  essence of 37–40
  identification criteria 42–7, 49
punishable illegality 150
  examples of 151
Purina, Ralston 205
Quintilianus, Marcus Fabius
  *L’Institutione Oratoria* 12
Reagan, Ronald
  privatization policies of 53
relative retribution punishment 153–4
Renmin University of China Law
  School viii
  *Empirical Study on Criminal Trial*
    project 160
res publica 18–19
  meaning of 11, 14
Roman Republic 13
Rousseau, Jean-Jacques 22
  concept of ‘public will’ 37
  *Social contract theory* 22
Russian Federation 64
  criminal law theory of 140
Schmitt, Carl 24
Securities and Exchange Commission
  (SEC) 221, 231
  adoption of Rule 144 212
  Nationally Recognized Statistical
    Rating Organization (NRSRO) 221
  prosecution of Goldman Sachs
    (2010) 232
Securities and Futures Commission
  (SFC)
  Regulations for Disclosure
    Management of Listed
    Companies (‘Management
    Regulations’) 236
Senofonte 8
  *Constitution of Sparta* 5
Shanghai Pudong Development Bank use of pilot exercise of securitization of credit asset 233
Singapore 68
Smith, Adam 53
social harm 157–8
nature of 135–9, 144–5, 148, 151, 154
role of nature of in criminal legislation 135–6, 138
solitary life 28
Solon constitutional reform of 4
Soviet Union (USSR) viii, 54, 133
collapse of (1991) 156
criminal law theory of 154
Sparta 1–3
political structures of 3–6, 8
special purpose vehicle (SPV) 224–5
Standard and Poor’s (S&P) credit rating system of 68
downgrading of ‘gold’ mortgages and loans (2009) 222
State-owned Shares 241, 256–7
state theory 55
classical 53
economic function 55–62
public-private integration 62–4
socialist 54
status 13, 20
concept of 12
Strabo
Geography, The 2
Sweden 24, 64
Taiwan 155
appeal court system of 179
Civil Procedure Law of 286
Penal Code of 136
Thatcher, Margaret privatization policies of 53
trial practices 280, 288, 293, 297
rules of evidence in 284
witness procedures of 294–5
Ulpian 15–17
uniform supervision concept of 227–8
United Housing Foundation (UHF) 197–8
organization of Riverbay Corporation 197
United States of America (US) 53, 68, 79, 143, 212–13, 230, 238
Anti-Predatory Lending Law Amendment (2008) 235
Civil War (1861–5) 33
Congress 175, 221, 231
Department of Justice 232
Dodd-Frank Wall Street Reform and Consumer Protection Act (2010) 230
federal court system of 35
Federal Register 127
Federal Reserve System 230–31
Federal Rule of Evidence 174–5
Federal Supervision System 230
Financial Stability Oversight Council (FSOC) 231
Georgia Fair Loan Act (2002) 225–6
government of 69
Investment Company Act 206
New York 197
Office of the Comptroller of the Currency (OCC) 225–6
Securities Exchange Act 206, 212
Supreme Court 91, 175, 197, 200, 205
utilitarianism definitions of 134–5
Value-at-Risk (VaR) model 222, 232
de Vattel, Emeric 25
Law of Nations or the Natural Law Principle, The 23
Verfassung concept of 24
Vienna Convention on Consular Relation (1979)
Chinese ratification of 79
Vienna Convention on Diplomatic Relations (1975)
Chinese ratification of 79
Index

Chinese ratification of 85
da Viterbo, Giovanni
  *De regimine civitatis* 19
Voltaire
  *Philosophical Dictionary, The*
  21–2
Wiener, Norbert 219, 234
World Trade Organization (WTO) ix, 80–81, 88
  Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement) 74–6, 81–3
  Agreement on Trade-Related Investment Measures (TRIMS) 82
Dispute Settlement Body (DSB) 78–9, 81
  members of 79, 83
  personnel of 72
  policy reviews conducted by 77–8
  WTO Agreement 73–4, 80
Yiguo, Zhang
  murder of (1998) 168
Ying, Wu 204
Yongcai, Li
  sentencing of (1998) 168
Zhen, Peng 103
  Speaker of NPCSC 101–2
Zhenshang, Zhao
  focus in trial of Zhao Zuohai 70
Zhong Chengxin International Company 237
Zuohai, Zhao
  trial of 170