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Research on the Judicial Application Scope of the Assumption of Risk Rule: A Perspective of Risk Scope

Zhimei Nan

Institute of Civil and Commercial Economics, China University of Political Science and Law, Beijing, China

3460629440@qq.com

Abstract. The assumption of risk rule, as an important defense in tort liability, was first explicitly stipulated in Article 1176 of the Civil Code. However, this provision limits the application scope of the rule to "sports and cultural activities" and restricts the types of risks to the inherent objective risks of such activities, which is difficult to effectively meet the increasingly diverse demands of judicial practice. The assumption of risk rule is an independent exemption ground established based on specific legal policy considerations, aiming to promote the legitimate conduct of risk activities with social value, safeguard the freedom of individuals to participate in such activities, and on this basis, rationally allocate the risk of damage among the participants. Therefore, the application scope of the assumption of risk rule should not be mechanically confined to the literal meaning of "sports and cultural activities", but should be extended to other activity fields with inherent risk characteristics through methods such as purposeful interpretation and analogical application; at the same time, the types of risks covered by the rule should not be limited to objective risks. Under the premise of meeting the element of informed consent, subjective risks should also be included in the application scope to achieve the normative purpose of promoting behavioral freedom and rationally allocating the risk of damage compensation.

Keywords: Assumption of Risk, Scope of Application, Recreational Activities, Types of Risks

1. Introduction

The 100-kilometer cross-country race in the Yellow River Stone Forest mountain marathon in Baiyin, Gansu Province in May 2021 caused the death of 21 participants due to sudden extreme weather. The determination of the responsibility of the race organizers and whether the participants constituted assumption of risk became a focal point of extensive social discussion. Similar situations are common: being tackled by a teammate in a football match, colliding with others while skiing, etc. In response, Article 1176 of the *Civil Code* established the assumption of risk rule, filling the gap in previous legislation. This provision states: "A victim who voluntarily participates in sports or cultural activities with certain risks and is harmed by the actions of another participant shall not request the other participant to bear tort liability; however, this does not apply if the other participant has acted with intent or gross negligence regarding the occurrence of the harm."

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However, due to the ambiguity in the wording of this provision, there is considerable controversy in both theory and practice regarding its scope of application. Some scholars argue that the expression "sports and cultural activities" imposes overly narrow limitations on the scenarios where the assumption of risk rule applies, and that the conservative legislative choice may prevent the legislative purpose from being achieved [1]; other scholars argue that the assumption of risk rule should only apply to sports and cultural activities that have inherent risks, and that inherent risks need to be comprehensively weighed in specific cases by combining multiple factors [2]. From the perspective of existing judicial practice, due to the unclear scope of "sports and cultural activities" and inconsistent understandings of "certain risks," courts in different regions have shown inconsistent judgments in similar cases when applying the assumption of risk rule. Therefore, it is necessary to systematically analyze the assumption of risk rule and explore the reasonable boundaries and pathways for expanding its judicial application scope, in order to achieve a more refined and accurate application of this rule.

2. The legal basis and normative purpose of the assumption of risk rule

The establishment of tort liability presupposes that the actor violates the duty of care and causes harm to another person. However, if the victim has a subjective expectation of the occurrence of harm and voluntarily places themselves in a risky situation, imposing full compensation liability on the actor would inevitably contradict the basic principle of private autonomy. The assumption of risk arises precisely in this context as a ground for exempting the actor from liability—since the victim, having been aware of the existence of a certain risk or knowing that they would be exposed to a certain risk, nonetheless acts recklessly and causes harm to themselves, the resulting harm should to some extent be borne by the victim themselves. Clarifying the legal basis and normative purpose of the assumption of risk rule is a prerequisite for accurately understanding Article 1176 of the *Civil Code* and reasonably delineating its scope of application.

2.1. The legal basis of the assumption of risk rule

China's former *Tort Liability Law* did not specifically provide for the assumption of risk system, only stipulating in Article 76 that "if a person enters a high-risk activity area or an area where high-risk substances are stored without permission and suffers harm, and the manager has taken safety measures and fulfilled the warning obligation, liability may be reduced or exempted," which is considered to have established the assumption of risk rule in the field of high-risk liability. Although the Tort Liability Law did not expressly provide for it, courts in judicial practice sometimes directly used the term "assumption of risk" and gradually established the legal rule that injuries in sports are exempt from liability except in cases of intent or gross negligence [3]. As public participation in sports and cultural activities increased, the number of tort cases arising from such activities continued to rise. In order to adequately remedy the parties in individual cases, promote the development of risky sports and cultural activities, and improve public health, the assumption of risk rule was ultimately established in the *Civil Code*.

Academic circles have debated the legal basis of the assumption of risk rule. Early views tended toward the "victim consent" theory, arguing that the essence of assumption of risk is to respect the individual's voluntary waiver of legal protection of their legal interests, and that the victim's express or implied consent to another person's conduct causing harm to themselves could serve as a ground for wrongfulness negation [4]. Therefore, the victim's voluntary acceptance of a certain risk is equivalent to the voluntary acceptance of the possible harmful consequences of that risk. However,

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this theory overlooks the differences between victim consent and assumption of risk in terms of scope of application, the victim's cognition and attitude toward the harmful consequences, and the manner in which the victim disposes of their rights. The two should be strictly distinguished rather than treated as equivalent. Subsequently, the "victim consent" theory was gradually replaced by the "comparative negligence" theory, which argues that after comparing the degrees of fault between the injurer and the victim, liability should be fairly allocated. It is believed that this theory aligns with the nature of assumption of risk, benefits fair court adjudication, and conforms to comparative law trends [5]. However, this view also has defects: in the *Civil Code*, comparative negligence and the assumption of risk rule are respectively stipulated in different provisions, with notable differences in rule function, scope of application, the subjective aspect of the victim, and the subjective aspect of the actor, and they should not be conflated.

Thus, although the victim consent rule shares similarities with the assumption of risk rule, and the comparative negligence rule overlaps with the assumption of risk rule in terms of liability allocation, when determining assumption of risk, in addition to considering subjective factors such as whether the victim voluntarily participated in the sports or cultural activity, other objective considerations are also integrated. Victim consent cannot replace assumption of risk; moreover, the legal effect of assumption of risk is to negate the wrongfulness of the actor's harmful conduct, completely exempting rather than mitigating the actor's liability, and comparative negligence also cannot replace assumption of risk. Therefore, the assumption of risk should be regarded as an independent ground for exemption in the specific field of sports and cultural activities, and its legal basis should be understood as being based on specific legal policy considerations, where the actor's ordinary negligent conduct, although causing harm to the victim, does not constitute a tort and does not require the assumption of tort liability.

2.2. The normative purpose of the assumption of risk rule

The normative purpose of the assumption of risk rule lies not only in liability exemption in individual cases but also in the balance of overall social interests. Clarifying the normative purpose serves as a guide for interpreting Article 1176. From the perspective of private law theory, the normative purpose of the assumption of risk rule is rooted in the value balance between the prohibition of unjust enrichment and the principle of self-responsibility. The principle of self-responsibility requires compensating the victim for the harm suffered, while the prohibition of unjust enrichment requires the victim to bear the consequences of their own autonomous choices. These two cannot be simultaneously realized, and it is necessary to weigh them in light of the specific circumstances of the case to determine the proportion in which each principle is to be realized [6]. Only when the prohibition of unjust enrichment takes priority in the weighing process can the involved risk be attributed to the category of risks that the victim should bear themselves, and the assumption of risk rule be applied to exempt the injurer from liability.

On this basis, the normative purpose of the assumption of risk rule is concretely manifested in the following three aspects. First, the assumption of risk rule protects the individual's freedom of action in participating in risky activities and prevents excessive paternalism in law. The law should exercise necessary restraint in intervening in the personal lives of individuals and should not suppress or deprive individuals of their right to choose their own lifestyle in the name of protection. The assumption of risk rule, which requires informed consent as a necessary subjective element, indicates that when an independent individual autonomously chooses to participate in a risky activity with full knowledge, this choice itself is an expression of their exercise of freedom of action, and civil law respects such freedom of action. At the same time, sports and cultural activities

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themselves are inherently adversarial and dangerous, and participants have reason and necessity to anticipate or recognize the possibility of harm to themselves from such activities. Thus, bearing the risk themselves is fully reasonable.

Second, the assumption of risk rule has a distinct legal policy function, namely, promoting the legitimate conduct of socially valuable competitive sports and mass sports and cultural activities, which have irreplaceable positive value for enriching the public's spiritual life, enhancing public health, and promoting social interaction. Sports and cultural activities have inherent risks that are difficult to completely eliminate, and the realization of harm from these risks gives rise to issues of liability bearing and allocation. If the law were to strictly pursue liability for all harm occurring in sports and cultural activities, actors would be restrained and hesitant due to fear of legal liability, and the substantive spirit and healthy concept of sports and cultural activities would conflict with tort law. The assumption of risk rule, by providing a reasonable ground for exemption regarding the bearing of harm among participants in sports and cultural activities, alleviates the excessive concerns of actors, thereby providing institutional space for the sound development of risky activities and promoting the healthy concept of nationwide fitness [7].

Finally, the assumption of risk rule aims to achieve substantive fairness through the rational allocation of damages risk, attributing the harmful consequences in risky activities to the party best able to control the risk and who has also voluntarily accepted it. The basic purpose of tort law damages is to compensate for harm, but compensation for harm must be premised on the justification of imputation. For participants in sports and cultural activities, they obtain physical exercise, spiritual pleasure, or competitive honors through participation, and these benefits are matched with the inherent risks they bear. If, when the victim is informed of and voluntarily participates in the activity risks, liability for harm is directly attributed to other participants who also participated and contributed their efforts, it would clearly be unfair. The assumption of risk rule acknowledges the influence of the victim's will factor on liability allocation and sets the exception of "intent or gross negligence," which can draw a clear boundary of responsibility between the participants' autonomous acceptance of inherent risks and the actors' seriously improper conduct.

In summary, traditional tort law centers on individualistic corrective justice, with the primary goal of achieving complete relief when individual rights are infringed. However, the formation of a risk society has gradually transformed the characteristics of tort damages from individual to social, and the legitimacy basis of tort law must also take into account the institutional demands of social risk governance alongside individual rights relief [8]. Overall, the assumption of risk rule precisely reflects the legislator's choice to seek balance between these dual objectives: on the one hand, by clarifying the attribution of inherent risks, it reduces potential conflicts among participants in sports and cultural activities; on the other hand, it strengthens collective risk awareness and guides participants to form rational independent judgments and behavioral choices before entering risky activities.

3. Analysis of the limitations of the risk scope provisions in Article 1176 of the civil code

After clarifying the legal basis and normative purpose of the assumption of risk rule, it is necessary to return to the provision itself and examine the normative limitations of Article 1176 in terms of activity types and risk determination, as well as the resulting adjudicative difficulties.

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3.1. "Sports and cultural activities" restricting activity types

From the perspective of legislative evolution, the second deliberation draft of the Tort Liability Book of the *Civil Code* once expressed the scope of application of the assumption of risk as "dangerous activities," which was relatively broad. Due to concerns about the abuse of the rule, the third deliberation draft narrowed it down to "sports and cultural activities [9]." Sports and cultural activities are generally understood as a collective term for recreational activities and sports activities. The former includes activities primarily aimed at entertainment, appreciation, or artistic expression, while the latter encompasses competitive sports, fitness exercises, outdoor sports, and other activities primarily involving physical movement.

Although there are many types of sports and cultural activities with a broad extension, the boundaries of this concept are quite ambiguous. Contact sports such as football, basketball, or boxing undoubtedly fall under the typical types of sports and cultural activities, and there is no disagreement in applying the assumption of risk rule. However, leisure activities with certain dangers, such as rappelling, caving, and outdoor exploration, are essentially social processes in which participants jointly create and bear risks. Whether they fall within the category of sports and cultural activities under the assumption of risk rule is difficult to determine. If "sports and cultural activities" is interpreted mechanically and the above leisure activities are classified as general outings, it may impose excessively heavy duties of care on organizers or companions. Furthermore, with socioeconomic development, new types of activities are constantly emerging, and various activities integrating entertainment, social interaction, and experiential functions are proliferating. These activities were not yet common at the time of the *Civil Code*'s enactment and thus were not included in the normative perspective. For example, emerging social activities such as escape rooms and script killing, as well as entertainment activities like "wild dancing" and eating competitions, inherently carry considerable emotional volatility risks, environmental collision risks, and interactive collision risks, but are often excluded from the activity types covered by the assumption of risk rule because they are considered non-standard sports and cultural activities [10]. Article 1176's use of "sports and cultural activities" as the activity type limitation for the assumption of risk rule imposes a substantive normative constraint on the scope of application of the rule.

The semantic limitation of "sports and cultural activities" undoubtedly helps to delineate the application boundary of the rule at the normative level and prevents the unlimited expansion of assumption of risk. However, what fundamentally determines the applicability of the assumption of risk rule is not whether the activity is labeled "sports and cultural," but whether the victim voluntarily places themselves in a risky situation with full knowledge. When a victim, knowing that a certain activity is accompanied by inherent risks of harm, nonetheless autonomously chooses to participate, the legal significance of this choice does not differ in substance depending on whether the activity is competitive sports, outdoor exploration, or escape rooms. The legislative purpose of the assumption of risk rule is to encourage lawful social activities, safeguard individual freedom of action, and reasonably allocate damages risks. With the development of today's society, the forms of various sports and cultural activities will become increasingly diverse, and the types of tort disputes faced by courts will become increasingly complex. Adhering rigidly to the literal meaning of "sports and cultural activities" would cause Article 1176 of the *Civil Code* to become disconnected from practice. In the long run, this would not only undermine the predictability and uniformity of legal application but also result in the assumption of risk rule being absent in scenarios where it should play a role, thereby diminishing the institutional value of the rule. Therefore, it is necessary to reasonably expand the scope of application of the assumption of risk rule.

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3.2. "Certain risks" constraining risk types

In addition to the limitation of activity types, the element of "having certain risks" further narrows the risk scope of the assumption of risk rule. "Having certain risks" means that an activity has a considerable possibility of accidents such as personal injury, and also refers to a state in which the rights and interests of participants are at risk of infringement [11]. Activities with a high accident rate are recognized as high-risk, while those with a low or no accident rate are recognized as low-risk or zero-risk. With regard to the limitation of "certain risks," it is generally interpreted academically as the inherent risks of the activity, and inherentness is strictly defined, requiring that the risk must be concomitant with the activity and unavoidable, and that the imposition of the risk must be mutual and reciprocal, meaning that the injurer and the victim must impose similar risks of the same kind upon each other. At the same time, some scholars believe that such risks should exceed the general risks that people should bear. This interpretation excludes types of activities without risks within the scope of sports and cultural activities, such as chess competitions, and also tends to exclude activities with relatively low risk levels that do not possess inherentness in a strict sense, thereby compressing the actual coverage of the assumption of risk rule. At the same time, "certain risks" refers only to objective risks that are stably combined with specific activities and can be expected to be generally foreseen by the public, whereas subjective risks that are not stably combined with specific activities and require notification or warning to be fully recognized by the victim are placed outside the rule.

3.3. Specific manifestations of normative limitations in practice

Using "assumption of risk" as a keyword and civil causes of action as filter criteria, a search on the China Judgments Online website yielded 3,523 judgments from January 1, 2021, to the present. It can be seen that after the *Civil Code* established the assumption of risk rule, the number of cases in which courts applied the rule for adjudication increased significantly. By reviewing relevant cases, it can be found that the normative limitations discussed above at the theoretical level have already transformed into concrete adjudicative difficulties in judicial practice. The insufficient normative supply of the assumption of risk rule is constraining the quality and uniformity of judicial adjudication in multiple forms.

First, the unclear scope of "sports and cultural activities" leads to disagreements in determining activity types. Although in judicial cases the assumption of risk rule is mostly applied to sports with a large number of participants and high risks, such as basketball, football, skiing, and swimming, some cases involving wrist wrestling, trampolining, swinging, martial arts sparring, escape rooms, and team-building games have also applied the assumption of risk rule. In addition, cases involving voluntarily walking on highways, voluntarily entering dangerous areas, and jumping onto and walking on retaining walls and falling have also been characterized as assumption of risk. However, such activities obviously cannot be categorized as "sports and cultural activities" and cannot fall under Article 1176 of the *Civil Code* [12]. Taking escape rooms, an emerging entertainment activity, as an example, in the case of "Dai v. Zhang Qi, Chen, et al. (right to life dispute)," the judge held that the parties should have foreseen the stimulating and terrifying factors in the activity, and their voluntary choice to participate in such activity was equivalent to placing their personal safety at risk, thus the assumption of risk rule could apply. However, in the case of "Zhang Feng v. Qingshan Lake District XX Hall, Xiong, et al. (tort liability dispute)," the court held that escape rooms are commercial activities, and the operator bears a duty of safety protection, so the assumption of risk rule could not apply. The substantive reasoning path of the former essentially presumes the victim's

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participation as full knowledge of the risk, substituting objective conduct for the determination of subjective knowledge, reflecting a tendency to expansively apply the assumption of risk rule. The latter, by taking the commercial nature of the activity as a precondition for excluding the assumption of risk rule, does not further consider whether the victim actually had knowledge or voluntarily accepted the risk, reflecting a restrictive approach. Thus, because the scope of "sports and cultural activities" in the assumption of risk rule provision is relatively narrow, and diverse types of disputes have emerged in judicial practice, adjudicators' understanding of sports and cultural activities has deviated, with some including activities outside the assumption of risk rule into the scope of sports and cultural activities.

Second, "certain risks" lacks a unified determination standard in judicial practice. If generalized sports and cultural activities are classified according to the standard of physical contact, they can be divided into adversarial activities and non-adversarial activities. Typical adversarial activities are basketball and football, and typical non-adversarial activities are skiing, horse riding, and sailing. When adjudicating cases of harm caused by adversarial activities, courts usually first confirm the adversarial nature of the activity, then invoke "sportsmanship" and the participants' reasonable foreseeability of physical conflicts, and incorporate the physical contact behaviors in the activity as a whole into the category of inherent risks, thereby concluding that the victim has voluntarily assumed the related risks, and the application of the assumption of risk rule is almost unimpeded. However, when adjudicating cases of harm caused by non-adversarial activities, risk determination is more complex, and courts also need to assess the reasonableness of the liability allocation ratio among participants, weakening the determination of the victim's voluntary assumption of risk and strengthening the assessment of participants' fault. Since non-adversarial activities often do not involve physical contact, their inherent risks are more likely to be confined to the category of risks inherent to the activity itself. Then, when unanticipated physical contact occurs during such activities and causes harm to the participants themselves, the inherent risk category initially voluntarily accepted by the victim becomes difficult to define, and the establishment of assumption of risk becomes more difficult [13].

4. Pathways for expanding the risk scope of the assumption of risk rule from the perspective of interpretive theory

Under the premise of respecting the existing legislative text, the reasonable expansion of the scope of application of the assumption of risk rule can be achieved through legal interpretation methods. The following will explore the application pathways of literal interpretation, purposeful interpretation, and analogy in two aspects: the expansion of activity types and the extension of risk types.

4.1. Expansion of activity types

Within the possible scope of literal interpretation, the expression "sports and cultural activities" itself has some room for expansion. As noted earlier, sports and cultural activities are generally understood as a collective term for recreational activities and sports activities, and both concepts exhibit a broad extension. The official sports activities published by the General Administration of Sport of China number as many as seventy or eighty, including a large number of activity types that are not traditional competitive sports. Some scholars have also pointed out that the "sports" in "sports and cultural activities" can be understood as a "broad sports" concept, generally referring to various physical activities aimed at fitness, leisure, and entertainment. Accordingly, sports activities

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are not limited to competitive sports; all activities that take physical movement as the main form and have entertainment, fitness, or challenge functions can be encompassed within the reasonable extension of sports activities. Outdoor exploration, rappelling, caving, and wrist wrestling, as well as other physical activities with inherent risks, can be fully covered within the possible literal meaning of sports and cultural activities. Recreational activities within sports and cultural activities can also be expanded through broad interpretation to include folk cultural activities, festival performances, mass literary and artistic exhibitions, etc. Such broad interpretation does not exceed the possible scope of the literal meaning and has interpretive legitimacy. Entertainment activities such as trampolining and escape rooms can also be given a moderately lenient determination within the extension of sports and cultural activities, based on general social concepts and rules of everyday life experience, combined with the adversarial nature and risk characteristics of the activities, to meet the adjudicative needs of judicial practice.

At the same time, from the perspective of purposeful interpretation, since Article 1176 of the *Civil Code* is aimed at general life risks created by the victim for themselves, and the legislative purpose is to encourage the sound development of risk activities with intrinsic value, protect the freedom of action of actors in legitimate social activities, and enable victims, out of their own free will, to bear the accompanying risks of harm after creating independent sources of danger for themselves, this purpose itself does not have inherent limitations in terms of activity type. Any activity that has legitimate social value and where participants have a reasonable expectation of risk can be encompassed within the radiation scope of the normative purpose. Therefore, the expression "sports and cultural activities" should not be interpreted as an exhaustive list of types.

For activity types that are difficult to bring within the literal meaning of "sports and cultural activities" no matter how interpreted, analogy can provide a legitimate pathway to fill normative gaps. The prerequisite for analogy is that the activity type to which it is applied and the typical situations stipulated in Article 1176 of the *Civil Code* share the same normative reason, namely, that the victim voluntarily participates in an activity with inherent risks with full knowledge. Under the same structure, regardless of whether the activity is labeled sports and cultural, there is a legitimate basis for analogy. From this perspective, the *Draft of the Tort Liability Book of the Civil Code (Second Deliberation Draft)*, which expressed the scope of application of the assumption of risk as "dangerous activities" rather than "sports and cultural activities with certain risks," may be more consistent with the true nature of the assumption of risk rule [14]. It should be noted that when applying analogy, corresponding restrictive conditions must still be followed: the activity must be lawful and not contrary to public order and good customs; the activity itself must be risky; the victim must have a reasonable cognition of the risk, which can be presumed based on the public nature of the activity, but should not be abused when the victim clearly lacks the capacity for risk cognition; and the actor must not have acted with intent or gross negligence.

4.2. Extension of risk types

In addition to the expansion of activity types, the extension of risk types is also an important aspect of perfecting the interpretive theory of the assumption of risk rule. Risks can be divided into objective risks and subjective risks. Objective risks refer to risks inherent in specific activities in their normal state, intrinsically related to the nature of the activity. They are already stably combined with the specific activity and can be expected to be foreseen by the public when engaging in the relevant activity, without requiring the injurer to additionally perform a duty of notification or warning. Subjective risks refer to risks that are not inherent to the activity itself but are created or exacerbated by the specific conduct of particular participants. Since they are not generally perceived

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by the public, they require the injurer to fulfill a duty of notification or warning. The prevailing academic view holds that the risks referred to in Article 1176 of the *Civil Code* are only objective risks and do not include subjective risks, because the essence of the assumption of risk rule lies in the victim's acceptance of the inherent risks of the activity. The victim's cognition of subjective risks requires the assistance of an external notification mechanism and cannot be directly presumed from their conduct in participating in the activity.

However, this proposition is too absolute, and subjective risks can also fall under the assumption of risk rule. Taking Guiding Cases No. 140 and No. 141 of the Supreme People's Court as examples, both address subjective risks: Guiding Case No. 140 involves a victim who climbed a bayberry tree without permission from the scenic area and fell to death; Guiding Case No. 141 involves a victim who, knowing that the ice on the stilling basin posed a risk of drowning and that this risk was publicly known, privately entered the area to walk a dog and drowned. In both cases, the courts held that compensation could not be claimed. This shows that after subjective risks are transformed through sufficient warning into risks actually known to the victim, they are not essentially different from the objective risks inherent in the activity, and both can be subject to the assumption of risk rule. When the injurer has already legally fulfilled the duty of sufficient notification or warning, and the victim still voluntarily enters the risky scenario with full knowledge of the risk, the victim's conduct has substantially influenced the causal relationship between the injurious conduct and the harm. That is, the victim's clear cognition of the risk provides them with a realistic possibility of avoiding the harm at a very low cost. If they insist on placing themselves in the risk, the occurrence of the harm can be attributed to a considerable extent to their own choice, thus severing or weakening the causal link between the injurious conduct and the harmful result. Therefore, it is reasonable to include subjective risks, which the victim knowingly and voluntarily assumes after full notification, within the risk types of Article 1176 of the *Civil Code*. However, the inclusion of subjective risks must still satisfy certain cognitive requirements: the injurer's notification must be clear, explicit, and sufficient; and the victim's knowledge must be based on true and complete risk information, rather than a vague perception or general foreseeability of the risk. Only under these conditions can the victim's acceptance of subjective risks produce the same normative effect as their acceptance of objective risks.

5. Conclusion

Article 1176 of the *Civil Code* establishes the assumption of risk rule in explicit terms, providing a statutory basis for judicial practice and having significant institutional value. However, the legislative choice of this provision to limit activity types to "sports and cultural activities" and risk types to objective inherent risks creates a tension between the normative level and the normative purpose of the rule. On the practical level, it results in the realistic difficulties of inconsistent adjudicative standards and insufficient normative supply, which urgently need to be addressed through interpretive theory. Within the possible scope of literal interpretation, the extension of "sports and cultural activities" should be given a moderately lenient determination, encompassing physical activities and leisure activities with inherent risk characteristics. For activity types that cannot be covered by literal meaning, the normative direction of the rule can be clarified through purposeful interpretation, and legislative gaps can be filled through analogy. At the same time, the risk types covered by the assumption of risk rule should not be limited to objective risks; subjective risks, after being transformed through sufficient notification into risks actually known to the victim, can also be brought within the scope of Article 1176 through purposeful interpretation. The vitality of the assumption of risk rule ultimately depends on whether it can maintain an effective responsive

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relationship between the stability of the text and the variability of social needs. This depends on the continued collaboration between the legislative spirit and interpretive methods, and refined interpretive work remains the main pathway for advancing the maturation of the assumption of risk rule.

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