

Chinese Civil Law

Commentary

von

Prof. Dr. Yuanshi Bu, Prof. Dr. Cliff Manjiao Chi, Dr. Funing Huang, Dr. Changfeng Tu, Dr. Simon Werthwein, Tietie Zhang, Hui Zheng

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Preface and Acknowledgments

The idea of writing a book on Chinese civil law arose in the course of editing the sister book “Chinese Business Law” in the series of “Beck International”. The importance of civil law, which constitutes the foundation of Chinese private law, is obvious. Accordingly, civil law is the most developed field of private law in Chinese jurisdiction. Since the end of the 1990s, great efforts were undertaken in China to codify its entire civil law. With the fundamental major statutes governing contracts, property, torts and conflict of laws being promulgated in 1999, 2007, 2009 and 2010, respectively, the most crucial steps have been made toward the creation of a Chinese civil code. The legislator now faces the challenge of bringing these elements into a coherent system.

Worldwide, comparative civil law has gained in importance. This has been exemplified in the course of compiling a scholarly draft of the European Civil Code and the tendency to reinvigorate of private law in the United States. As the evolvement of Chinese civil law is essentially a process of integrating Chinese tradition and borrowed foreign legal concepts, the discussion of creating a Chinese Civil Code could further the study of civil law. At the same time, Chinese civil law is also crucial for business operation in China.

That being said, an updated, systematic and comprehensive description of Chinese civil law in the English language is scarce. Most fields of civil law still remain inaccessible to interested readers without sufficient proficiency in the Chinese language. Thus, this book seeks to shed light on both the theoretical and the practical aspects of Chinese civil law, in particular, by giving a large number of references to commentaries, treatises, and articles. With these the authors attempt to deliver an accurate and authentic account of discussions in China, rather than aspire to develop their own ideas, which would otherwise go far beyond the scope of this book. Although case law only plays a marginal role in Chinese law, this book intends to incorporate relevant cases, in particular, those adjudicated by the Supreme People’s Court, in order to illustrate the application of civil law statutes in judicial practice. A bibliography in front of each part and an index at the end of the book allow for further study of specific areas and facilitate systematic research. No English translations of statutes, judicial interpretations and cases cited in this book are provided because several commercial databases already offer such sources. Marriage and succession law are not addressed in a separate chapter, but rather in conjunction with the issues of private international law. All internet sources were last visited in March 2013.

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Freiburg i. Br., Germany

Yuanshi Bu

List of Authors

Prof. Dr. Yuanshi Bu, LL.M. (Harvard)
Chair for East Asia Business Law, University of Freiburg, Germany

Prof. Dr. Manjiao Chi
Associate Professor of Private International Law, Xiamen University School of Law,
China

Dr. Funing Huang
China Banking Regulatory Commission, Legal & Regulations Department, Beijing,
China

Dr. Simon Werthwein
German Attorney-at-Law (Rechtsanwalt) of Taylor Wessing, Frankfurt am Main,
Germany
Lecturer at Goethe University, Frankfurt am Main, Germany

Tietie Zhang, LL.M. (Cornell)
J.S.D. Candidate, Cornell Law School, USA

Hui Zheng, LL.M. (Oxford)
PhD Candidate, Durham Law School, UK, Solicitor of Allen & Overy LLP, London, UK

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