

China's Journey toward the Rule of Law: Legal Reform, 1978–2008. Edited by CAI DINGJIAN and WANG CHENGUANG. Leiden: Brill, 2010. xxiv, 560 pp. \$246.00 (cloth).

Making Law Work: Chinese Laws in Context. Edited by MATTIAS BURELL and MARINA SVENSSON. Ithaca, N.Y.: East Asia Program, Cornell University, 2011. viii, 415 pp. \$65.00 (cloth); \$49.00 (paper).

Chinese Justice: Civil Dispute Resolution in Contemporary China. Edited by MARGARET Y. K. WOO and MARY E. GALLAGHER. Cambridge: Cambridge University Press, 2011. xxiii, 407 pp. \$99.00 (cloth).
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When China first entered the reform era in the late 1970s it was a country lacking a modern legal system. The last three decades have seen rapid establishment of legal codes and development of legal institutions, accompanied by the increasing use of law by the government to govern the economy and society. These three edited volumes take stock of the changes that have happened in the Chinese legal system and provide interesting analyses of the process, problems, and prospects of legal reforms in China.

The volume edited by Cai Dingjian and Wang Chenguang is one of a series sponsored by the Ford Foundation to commemorate three decades of reforms in China and originally published in Chinese by the Social Sciences Academic Press in Beijing. The contributors are leading scholars of law at Chinese academic and research institutions, who also have practical experience working in the Chinese government and/or the legal system. The two editors provide an overview of China's legal development. Wang traces the history of China's transition from the rule of man to the rule of law. Cai examines the changing role of the Constitution in China. The chapters by other contributors focus on specific areas of law, including criminal justice, judicial reform, legal education and professionalization, rights protection, regulation of the market, foreign investment protection, intellectual property law, and environmental protection law. The authors typically begin by reviewing the evolution of law in the area, highlighting major policy or legislative milestones. They then discuss—often somewhat abstractly—the problems, and make recommendations for improvement in that area of the legal system. Together, these chapters offer a great deal of information about various dimensions of legal development in China. The overall impression one gets is that China comes out of a long tradition of rule of man, but has made significant progress toward the rule of law because of market-oriented economic reforms, demands by the citizens, and—to a lesser extent—the influence of globalization. Readers will find this book to be a valuable systematic account of the evolution of the contemporary legal system in China.

The volume edited by Burell and Svensson is a collection of studies done by mostly European scholars and funded by Scandinavian research organizations. Taking a multidisciplinary approach, these studies focus on law implementation in China. Despite the many laws that have been made in recent decades, law

implementation has been problematic in China. On the basis of in-depth fieldwork, the contributors to this book examine and explain how well laws are implemented in China. They discuss the criteria and methods for assessing law implementation, the institutions and actors involved, the relevance of social norms, and the importance of economic and political factors for law implementation. As the subtitle of the book suggests, these studies emphasize that the implementation of law takes place in a larger economic, political, and social context. Economic development, political interests, and power, as well as social norms, all shape how laws are implemented (or not). The empirical studies focus on social and economic areas, such as the fight against corruption, housing funds, cultural heritage, legal aid, Internet cafes, and environmental protection. As the authors' research demonstrates, the major obstacles for law implementation in these areas include ambiguity of the laws, fragmented authority in the Chinese political system (e.g., the power conflict among different levels of government, between the people's congress system and the court system), the weakness of some state agencies (e.g., the courts and the environmental protection bureaus), and the widespread corruption in government agencies and society. Two counterintuitive points made by this book are that compared with other countries law has not been as poorly implemented in China as one might think, and that full implementation of law may not be always possible or even desirable.

The volume edited by Woo and Gallagher results from a workshop consisting of mostly (but not exclusively) U.S.-based legal scholars and political scientists. Like the Burrell/Svensson volume, it takes an interdisciplinary approach to the study of law. Its focus is on civil dispute resolution through the use of law. The book has three themes. The first theme is the politics of legal institutions and actors. Assuming organizations and individuals working in the legal area are political beings, several contributors examine how political incentives and power dynamics have shaped their behaviors. The subjects of study range from the Supreme People's Court to county-level legal affairs offices and from lower court judges to various types of lawyers and legal-service workers. The second theme is the development of legal culture and legal consciousness in Chinese society. Authors studying public attitudes toward law and legal institutions find that history and personal experience both play an important role in determining how much people trust the legal system. The third theme is the use of law by ordinary people in everyday life to address their grievances, problems, and concerns. The authors find that the legal system provides citizens with a platform to frame issues, build identities, and expand their voices under an authoritarian political system.

While each of the books contributes to our understanding of the evolution of China's legal system over the last three decades, they differ in their perspectives, methods, and purposes. The volume edited by Cai and Wang adopts a largely top-down perspective on the study of legal development in China. Relying heavily on official sources of information, it paints a macro-picture of China's journey toward the rule of law. The chapters typically describe the evolution of "law on the books" with much less attention paid to "law in action." Although

some authors cite cases in their study, these cases often serve as illustrations rather than the basis of their conclusions. There is little systematic empirical research “on the ground” about either the making or the implementation of laws and policies. Their explanation of the underlying rationale of various aspects of legal development basically follows the official framework, noting in particular the important role of economic marketization and citizens’ needs. The analysis of problems in the Chinese legal system tends to be abstract and cursory. As a result, while this book offers rich and well-organized information on the formal structure of China’s legal system and its evolution, it is short on critical analysis of how the legal system actually functions and the economic, social, and political reasons behind it. Its policy recommendations state normative goals but offer few concrete suggestions as to how to achieve those goals.

In contrast, the other two books avoid the top-down perspective. The Woo/Gallagher volume adopts a bottom-up perspective on China’s legal system, exploring how ordinary people interact with the legal system over civil disputes. The Burell/Svensson volume adopts a mixed perspective, examining both state institutions and non-state actors in the implementation of law. Both go beyond the letter of the law and the formal structure of legal institutions to understand how the legal system actually works. In terms of methods, the studies in these two volumes are much more empirical than those in the Cai/Wang collection. The Burell/Svensson book relies mostly on qualitative data gathered from field research, while the Woo/Gallagher book contains massive amounts of data gathered from a variety of sources, ranging from historical analysis to surveys, and from case studies to content analysis. Compared to the Cai/Wang volume, these two books are more theory-driven. The authors are interested in finding out how things are in China’s legal system and understanding why they are the way they are rather than in how to improve the situation.

These three assessments of China’s legal development in the last three decades raise many interesting issues for future research. Three are especially noteworthy. The first is the issue of compatibility between law and norms. The enforcement of law requires a certain degree of internalization by the population (e.g., Hyden and Lagerkvist in Burell/Svensson). Laws that conflict with social norms are likely to be ignored or resisted. Hyden (in Burell/Svensson) notes that in this age of globalization many international conventions make their way to national legislation, but do not necessarily get implemented because they may not be compatible with local norms. This is an interesting argument that makes intuitive sense. However, norms are not static. With changing economic and social structures and growing interactions with the outside world, Chinese society has experienced significant normative change. The relationship between law and norms is often a two-way street. As Burell shows in the chapter on housing funds, it is possible for law to change existing norms (Burell in Burell/Svensson). Future research may fruitfully explore the coevolution of law and norms.

The second interesting issue raised by these books has to do with public attitude toward the legal system. For a legal system to be relevant and effective, it should enjoy a high level of trust by the people. If people do not trust the

legal institutions, they avoid engaging with law and/or reject its dispensation of justice. This theme runs through more than a few of the chapters. Svensson refers to Robert Putnam's work on trust and institutional efficacy in Italy and suggests that making law work in China may depend on the expansion of trust and social capital (Svensson in Burell/Svensson). What conditions are most important in shaping public attitude toward the legal system? Landry finds that a long history and high level of formality enhance the trust commanded by legal institutions (Landry in Woo/Gallagher). Michelson and Read find that actual experience with the legal system undermines people's trust in the system, forming a pattern of "uninformed enchantment" and "informed disenchantment" (Michelson and Read in Woo/Gallagher). Gallagher and Wang report that citizens react differently to their experience with the legal system. Older and urban disputants often feel disillusioned after their encounter with law over civil disputes, but their younger and rural counterparts tend to feel empowered (Gallagher and Wang in Woo/Gallagher). The seemingly incoherent findings on this topic challenge researchers to study further the sources of legitimacy of a legal system, which may well go beyond history and personal experience.

The third interesting issue raised by these studies is the role of legal development in political change. All three volumes allude to China's remarkable success in using its newly developed modern legal system to facilitate its economic growth, and each raises the question of whether legal development will help China's political reform. The Woo/Gallagher volume goes further than the other two in seeking answers to this question. The editors believe that the resolution of civil disputes represents a microcosm of governance. They attempt to understand whether the way citizens use law to construct their identities and frame and defend their rights is undermining the existing power structure and providing seeds for democratic governance. Liebman's study of courts' reaction to populist pressure shows that the courts are eager to assuage public grievances in order to maintain political stability, even though this undermines the "rule of law." In doing so, the legal system serves to preserve the regime. In contrast, Kellogg finds that groups and individuals are increasingly referring to constitutional principles as the basis of resolving disputes. This may in the long run empower the judiciary and the citizens seeking protection of their rights. This point is echoed in Cai's chapter on the evolution of China's constitution in the Cai/Wang volume. These studies demonstrate that the judicial system in China is gaining importance as an arena for political contestation. Further studies of China's evolving legal system from a political perspective promise to yield insights into such questions as the interaction between procedural and substantive justice, the trade-off between judicial independence and political accountability, and the relationship between the rule of law and democratization.

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