

# An overview of English Resources for Chinese Legal Research

**Abstract:** This article, written by John Bahrij and Lily Ko, focuses on resources in print and electronic form that are available in English for Chinese legal research in the Greater China region. The article covers resources for the People's Republic of China (PRC), Hong Kong Special Administrative Region (HKSAR), Macau Special Administrative Region (MSAR) and Taiwan. An overview of each jurisdiction's legal system is also provided so that the resources can be discussed in the context of the prevailing system of law.

**Keywords:** legal sources; legal research; People's Republic of China

## INTRODUCTION

The Greater China region consists of the People's Republic of China (PRC) (also known as Mainland China), the Hong Kong Special Administrative Region (HKSAR), the Macau Special Administrative Region (MSAR) and the Republic of China (also known as Taiwan). They all have different legal systems and sources of law. This article focuses on resources in print and electronic form that are available in English. For Hong Kong most legal activity is still conducted in English so there are many resources available. For Mainland China the official resources are in Chinese obviously and the resources in English are translations done by various government sources, publishers and vendors. Often those who work with Chinese materials translated into English will turn to a number of sources to find, compare and contrast the translations.

## PEOPLE'S REPUBLIC OF CHINA (PRC)

The discussion of the various legal resources in the PRC needs to be set in the context of the legal system which is outlined here. The contemporary legal system of the PRC has been developing since 1949. The PRC target is to develop a socialist legal system.<sup>1</sup> In practice, the PRC law follows civil law traditions which mainly rely on statutes and written documents (interpretations of laws and treaties).

Compared with common law countries, the court system in the PRC is not totally independent from other



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state organs. The hierarchy of the state structure of the PRC is as follows:

The National People's Congress (NPC) is the highest organ of state power. Its Standing Committee (NPCSC) is the permanent organ. It is the supreme legislative organ in the PRC<sup>2</sup> and the following institutions are subordinate to it.<sup>3</sup>

The President of the PRC is the Head of State and it directly receives instructions from the NPC.

The State Council is the highest executive organ which exercises the power of administrative legislation.<sup>4</sup>

The Central Military Commission is the highest state military organ. It has the power to enact military legislation.

The Supreme People's Court (SPC) is the highest trial organ which reports its work to the NPC and NPCSC. The NPC has the right to appoint or remove the president, vice-presidents and trial committee members of the SPC.<sup>5</sup>

The Supreme People's Procuratorate (SPP) is the highest legal supervision organ. It also reports its work to the NPC and NPCSC.<sup>6</sup>

As the highest level of court in the PRC, the SPC serves as a court of first instance and as an appeal court from the lower courts as well as hearing protests against procedure in the lower courts.

The next court level is the Higher People's Courts at provincial level. They are followed by the Intermediate People's Courts at city or prefecture level. The lowest level is the Basic People's Courts. Specialised People's Courts for maritime, transport (water and railroad) and

forestry also exist. The procuratorate system has a similar structure as the court system.

## SOURCES OF LAW OF THE PRC

The sources of law are primarily statutes and written documents (interpretations of laws and treaties). Cases or judicial precedents do not have the same binding force as they do in the common law tradition. Officially judicial precedents are not primary sources of law.

In simple terms, the statutory law can be classified into three categories:

1. Statutes (also translated as Laws) enacted by the NPC and NPCSC are national laws which cover constitutional law, civil codes and criminal codes etc.
2. Administrative regulations are enacted by the State Council, including its subordinate departments and institutions. These regulations are national laws and they must not be in conflict with the NPC laws.
3. Local laws and regulations are enacted by provincial legislatures. These local laws and regulations must not contravene the national laws and regulations.

Another important primary source of law of the PRC law is interpretations of laws. The interpretations of laws are generated by various institutions when they interpret points of laws arising from the application of law. Legislative interpretations are produced by the NPCSC when it interprets or further clarifies or supplements the legal provisions. Judicial interpretations are produced by the SPC or by the SPP. Administrative or executive interpretations are produced by the State Council and its relevant departments. Local level interpretations are produced by the standing committee of a local people's congress or a local people's government. In practice, judicial interpretations form the largest amount of interpretation of laws material.<sup>7</sup>

Treaties are also primary sources of law of the PRC. The State Council has power to enter into treaties with foreign countries<sup>8</sup> and the NPCSC is empowered to ratify the treaties.<sup>9</sup>

Stated cases or judicial precedents, officially, are not primary sources of law. In practice though, judicial precedents of the SPC are binding on lower courts.<sup>10</sup> The SPC has developed a system of cases for guidance (also translated as guiding cases) so that lower courts will treat these cases as guidance for handling similar cases.<sup>11</sup> 12 cases for guidance have been issued as at October 2012. These cases for guidance are from different courts, such as the Higher People's Court of Shandong Province and on various subjects such as sales contract dispute, intentional homicide, etc.

## RESOURCES ON OFFICIAL ENGLISH TRANSLATIONS OF PRIMARY SOURCES OF LAW

The legal activities in the PRC are conducted and published in Chinese.<sup>12</sup> The English translations of laws

produced by the Legislative Affairs Commission of the NPCSC (NPCLAC) and the English translations of administrative regulations produced by the Legislative Affairs Office of the State Council (SCLAO) are generally regarded as the "official" English translations. However, the official English translations are not authentic and the official Chinese language version prevails if there is any discrepancy between the official English translation and the Chinese version.

The compilations of laws of the official English translations mainly focus on national laws and regulations, including laws, decisions and some interpretations of law enacted by the NPC or NPCSC, and the administrative regulations enacted by the State Council and its subordinate organizations. These English translations are selected laws and regulations from the official Chinese language version. They classify laws and regulations under the following subjects: constitutional law, civil and commercial law, administrative law, economic law, social law, criminal law and procedural law.

The NPCLAC has compiled the *Laws of the People's Republic of China*<sup>13</sup> since 1987. This is an annual publication of the English translations of the selected laws and decisions to amend the laws which were enacted or adopted by the NPC or NPCSC in that year. The coverage starts from 1979 onwards and the laws and decisions to amend the laws are arranged by year. The SCLAO has also created several compilations of laws and regulations on general subjects and on specific areas. The latest compilation of laws is *Laws and Regulations of the People's Republic of China*<sup>14</sup> which includes current, in-force laws and regulations on general subjects. The shorter version is *Laws and Regulations of the People's Republic of China in Common Use*<sup>15</sup> in two volumes. There is a specialised compilation of laws and regulations on foreign-related matters called *Laws and Regulations of the People's Republic of China Governing Foreign-Related Matters*.<sup>16</sup>

Apart from the printed sources, the official English translations of some laws and regulations are freely available on the PRC government websites, especially the ministries websites, which contain the English translations of selected laws and regulations related to the ministry. The portal website for access to Chinese Government information in English is at <http://english.gov.cn/>. Under the Laws and Regulations heading, it provides links to the Constitution of the PRC and its four amendments<sup>17</sup>, the link to *NPC.gov.cn Database*, the link to *Chinalaw.gov.cn Database* and the link to White Papers. The *NPC.gov.cn Database* is the *Database of Laws and Regulations on the NPC* website ([http://www.npc.gov.cn/englishnpc/Law/Integrated\\_index.html](http://www.npc.gov.cn/englishnpc/Law/Integrated_index.html)). This database provides English translations of selected laws enacted by the NPC or NPCSC and administrative regulations enacted by the State Council arranged by subjects.<sup>18</sup> The Constitution of the PRC is also available in this database. This database provides simple search by Title, Keyword and Year and the year coverage of laws and regulations is 1993 to 2007. The *Chinalaw.gov.cn Database* (<http://www.chinalaw>.

[gov.cn/article/english/#](http://gov.cn/article/english/#)) is the Law Database on the SCLAO website. It provides the summaries of English translations of selected laws and regulations, summaries of departmental rules and summaries of judicial interpretations up to 2007. Finally, the *White Papers* link ([http://english.gov.cn/official/2005-08/17/content\\_24165.htm/](http://english.gov.cn/official/2005-08/17/content_24165.htm/)) contains the English translations of the white papers issued by the State Council.

The Ministry of Commerce of the PRC (MOFCOM) (<http://english.mofcom.gov.cn/>) maintains the following 3 websites which provide English translations of laws and regulations on foreign direct investment (FDI) and commercial law and taxation. The *Invest in China* website ([http://www.fdi.gov.cn/pub/FDI\\_EN/default.htm](http://www.fdi.gov.cn/pub/FDI_EN/default.htm)) consists of information about foreign investment in China. Under the category Laws, there are English translations of laws and administrative regulations related to commerce and foreign investment from 1980 to present. There is another category called Cases on Investment which are the arbitration cases from the China International Economic and Trade Arbitration Commission (CIETAC) or CIETAC Shenzhen from 1998 to 2002. The *Global Law* website (<http://policy.mofcom.gov.cn/indexEN.jsp>) provides the English translations of selected laws, administrative regulations and judicial interpretations related to civil and commercial law up to 2008. It also contains a category called Chinese Cases which is the same set of cases as on the *Invest in China* website. The final website is *Tax Law of the People's Republic of China and International Tax Guide* (<http://tax.mofcom.gov.cn/tax/taxfront/en/index.jsp>). It mainly contains the English translations of notices or announcements issued by the Ministry of Finance, State Administration of Taxation or other ministries on various taxes in 2012. It also contains the English translations of PRC laws related to taxation and other countries laws on taxation.

The individual ministries, departments or institutions also have the English translations of laws and regulations related to their specialties. For example, the English version of the China Securities Regulatory Commission (CSRC) website ([http://www.csrc.gov.cn/pub/csrc\\_en/](http://www.csrc.gov.cn/pub/csrc_en/)) provides the English translation of laws and regulations, department rules related to securities and investment in the Chinese market. It also contains the selected English translation of CSRC notices and enforcement policies. The English version of the People's Bank of China website (<http://www.pbc.gov.cn/publish/english/963/index.html>) contains the selected regulations, rules and notices issued by the People's Bank of China from 1995 to present. The English version of the State Intellectual Property Office of the PRC (SIPO) website (<http://english.sipo.gov.cn/>) contains the English translation of patent laws and regulations, SIPO's regulations, related laws and regulations and white papers on China's intellectual property rights protection.

Other than laws and regulations, the English translation of selected treaties can be found in the English version of the Ministry of Foreign Affairs website ([\[www.fmprc.gov.cn/eng/\]\(http://www.fmprc.gov.cn/eng/\)\) under the heading, Countries and Regions. This is the main source for the most authoritative English translation of treaties because there is no official English translation of treaties available in the market.<sup>19</sup>](http://</a></p></div><div data-bbox=)

## ENGLISH TRANSLATIONS ON COMMERCIAL DATABASES<sup>20</sup>

The official English translations mainly focus on national laws and regulations in printed or online resources. When searching for the English translations of local laws and regulations, judicial interpretations and treaties, commercial databases such as *LawInfoChina.com*, *Lexis China* and *Westlaw China*, discussed below, provide more comprehensive and up-to-date information on primary sources of law although the English translations are produced by their own editorial teams. The coverage, in terms of the number of pieces and the categories of English translations of primary sources of law in the commercial databases is more comprehensive than the official sources. The search functions of these databases are more sophisticated than the official online sources and these databases also provide value-added services such as providing links to relevant materials from a piece of legislation which is a good starting point for Chinese legal research.

It should be noted that compared with the Chinese language content of primary sources of law, the English versions in these databases is approximately 50% of the overall Chinese language coverage. Furthermore none of these databases cover all available primary sources of law in Chinese either.

*LawInfoChina* ([www.lawinfochina.com](http://www.lawinfochina.com)) is the English version of the well-known Chinese law database *ChinaLawInfo* which has been developed by Peking University. The English translations in *LawInfoChina* are prepared by the Legal Information Center of Peking University. Both the Chinese and English versions of the database have a long history<sup>21</sup> compared with other databases. It is a well-established database on PRC law.

The selected English translations of primary sources of law include laws, administrative regulations and departmental rules, local laws and regulations, judicial interpretations and tax treaties mainly from the 1980s to present. The unique content of this database compared with other commercial databases, is that it contains the English title index of the four official gazettes from 1999 to 2010 as well as the White papers in full text from 1991 to present. The English translations of laws and regulations content is updated every two weeks. This English version provides a search function in English or Chinese characters. Links to relevant laws and regulations summary information, i.e. title, promulgation date, status, etc. are provided with each English translation of legislation.

LexisNexis has developed a PRC law database called *Lexis China* in both Chinese and English versions. It

focuses on commercial and business law and is developing its content to provide more practitioner related information such as practice modules on corporate, employment, intellectual property, etc. with English translations of primary and secondary sources of law. The English version also provides translations of laws, administrative regulations, departmental regulations, local laws and regulations, judicial interpretations and treaties which are arranged in more than 30 subjects, with strengths in subject areas such as company law, securities law, tax law, trade law, finance and accounting law, etc. It covers from the 1980s to present. It also provides basic search and advanced search options.

The database provides links to English translations of the relevant information from a piece of legislation in a colourful and diagrammatic format and the information includes relevant legislation and relevant practicing information such as articles written by legal practitioners, its practice materials, newsletters, etc. These relevant materials are also linked to the individual articles (provisions) of the piece of legislation. Lexis updates the English content of translations of laws and regulations weekly.

*Westlaw China* is a fairly new separate database from *Westlaw International* which has been developed by Thomas Reuters to compete with *LawInfoChina* and *Lexis China*. In February 2012, *Westlaw China* merged with another Chinese law database, *iSinoLaw* and now provides more content on commercial areas of law. *Westlaw China* contains the greatest number of English translations of laws, administrative regulations, ministerial regulations, local laws and regulations, judicial interpretations and treaties.

*Westlaw China* provides the enactment history of legislation and hyperlinks to relevant information. These materials are arranged by different categories including laws and regulations, legal topics, case headnotes, model contracts, articles, journals & books and current awareness. These materials are also linked to individual provisions. *Westlaw China* also uses a similar referencing system as KeyCite available in other databases from *Westlaw*. The revised legislation is indicated by a yellow flag, and the repealed legislation is indicated by a red flag. *Westlaw China* updates the English translations of laws and regulations weekly.

A common feature of *LawInfoChina*, *Lexis China* and *Westlaw China* is that they are databases that include both primary and secondary sources of law, national and local laws and regulations, judicial interpretations, treaties, cases as well as journal articles and commentaries etc. Another source, *IntelliConnect* (<http://www.cch.com.hk/hk/Intellconnect/default.aspx>) is a specialised bilingual laws and regulations database developed by CCH Asia. It contains CCH publications related to PRC laws and regulations such as *China Law Reference Service*<sup>22</sup>, *China Laws for Foreign Business – Special Zones and Cities*<sup>23</sup>, *China Laws for Foreign Business – Business Regulation*<sup>24</sup>, etc. These publications are also available in print loose-leaf format. CCH provides good quality English translations of laws and regulations arranged by subject mainly on business and

commercial law subjects. This database provides simple search and browse functions. The contents are updated every one or two weeks. Wolters Kluwer China has launched its PRC law database called *China Law & its Reference* (<http://law.wkinfo.com.cn/>). This database provides the English translations of PRC laws and regulations, and treaties from its Chinese content.

Another bilingual database *LegalStudio* (<http://www.legalstudio.com/>) provides practical resources, articles, model contracts, drafting notes to legal practitioners on PRC corporate law, environmental law, financial law, IP & IT law and tax law. It contains PRC laws and regulations in full-text, case summaries and IP & IT case judgments in full-text.

## A COMMON PROBLEM WHEN USING MULTIPLE DATABASES

The main difficulty when searching these commercial databases is that their English translations are not standardised. Different databases may use different English terms in their translations, subject to their editorial boards' preference. An obvious example is the English translation of the term Property Law of the PRC. *LawInfoChina* and *Westlaw China* follow the official English translation, i.e. the Property Law of the People's Republic of China while *Lexis China* uses the term Real Rights Law of the People's Republic of China while *IntelliConnect* uses the term Property Rights Law of the People's Republic of China. In addition, the choice of which legislation is provided in a translated version is different from database to database.<sup>25</sup> Since the English translations content is continually expanding in all these databases, the English translation of a particular piece of legislation may be available in various databases after a period of time; so frequent rechecking may be necessary as legal research is being undertaken. It should be noted that since all the databases have differing content it takes time to undertake Chinese legal research in translation because many sources need to be consulted.

These commercial databases provide information to subscribers only, whilst some Internet sources provide free English translations of selected PRC laws and regulations. However, these free sources are generally not up-to-date.<sup>26</sup>

## CASELAW

There is no official compilation of PRC cases in English available in the market.<sup>27</sup> The printed sources of the English translations of PRC cases are not up-to-date.<sup>28</sup> It follows that in undertaking Chinese legal research for cases, reliance is made on the commercial databases *LawInfoChina*, *Lexis China* and *Westlaw China* to find the English translations of current PRC cases.

*LawInfoChina* contains the greatest number of English translations of PRC cases in full text compared to *Lexis China* and *Westlaw China*. There are around 1,000 English



translations of PRC cases, including the 12 Guiding Cases released by the Supreme People’s Court, 865 cases from the Supreme People’s Court Gazette from 1984 to present and a small set of selected foreign-related commercial and maritime court cases. A new category called selected case summaries has been added to this database.

*Lexis China* contains around 1,000 English translations of PRC cases under the heading ‘written judgments’ and they are arranged by subjects such as contractual disputes, administrative disputes, criminal disputes, etc. Some of these English translations are in full text and some of them only provide the English case name with a link to its Chinese version in full text. *Lexis China* also has a category called ‘case summary’ which has four English translations available at present.

*Westlaw China* only contains 4,645 English language case headnotes which are case summaries with a link to the Chinese version in full text. There are no full text case translations available in *Westlaw China* at present. These case headnotes are arranged by subjects mainly related to trademarks, copyright, anti-unfair competition and civil procedure.

The full text of the English translations of the Guiding Cases which were released by the Supreme People’s Court are also available at the *Stanford Law School’s China Guiding Cases Project* website (<http://cgc.law.stanford.edu/>)

As none of the above databases contain English translations of all laws, regulations and cases in their Chinese version, the legal research process required is to turn to a number of sources to find, compare and contrast the

translations. A simple comparison of the content of the bilingual databases is listed below (Fig. 1).

## SECONDARY SOURCES OF LAW

Up-to-date secondary sources of law, such as dictionaries, legal encyclopedias, and journals on PRC law written in English are limited.

Chinese publishers such as China Law Press, China Legal Publishing House, and other publishers such as LexisNexis, Sweets & Maxwell, CCH, Cambridge University Press, Oxford University Press, and Springer have published textbooks on PRC law in English. Cambridge University Press has press offices in Beijing and two other cities in China.<sup>29</sup> Wolters Kluwer has established a publishing house in China.<sup>30</sup> It’s affiliate, Kluwer Law International, has published a number of Chinese law titles.<sup>31</sup> Other China law series available from publishers include Hein which has published the ‘Chinese Law Series’ consisting of 14 volumes from 1997 to 2012. Hart Publishing has the ‘China and International Economic Law Series’.<sup>32</sup> Brill has a section called ‘Brill in China’ and provides the ‘Chinese and Comparative Law Series’ and ‘Chinese law and Legal Theories Series’.<sup>33</sup>

*The Oxford International Encyclopedia of Legal History*<sup>34</sup> has a section on Chinese law. Commercial publications such as *China Hand* published by the Economic Intelligence Unit<sup>35</sup> and the *Doing Business in China* series also provide an introduction to the PRC legal system and

Bilingual Databases Content	LawInfo China	Lexis China	Westlaw China	Intelli-Connect	Legal-Studio	China Law & Reference
Laws & Regulations, including interpretations of law and treaties	All subjects	All subjects	All subjects	Business law	Business law	All subjects
Cases	Full text & case summaries	Full text & case summaries	case summaries	–	Full text & case summaries related to business law	–
Secondary sources of materials	-Legal news -Journals -Gazettes (Title Index) & White Papers	-Legal news -Articles -Contract precedents -practice materials	-Legal news -Legal topics -Journals -Articles -Contract precedents - e-books -Legal Glossary	Editorial notes on laws & regulations	-Legal News -Articles -Contract precedents	-Legal News -Articles -Commentary

Figure 1: Comparison of the content of the bilingual databases.

related laws and regulations as well as the foreign investment environment.

A yearbook written in English is the *Law Yearbook of China*.<sup>36</sup> It is available in print and electronic version and is available in *LawInfoChina* from 2002 to 2008. Since 2008, Brill in association with China's Social Science Academic Press has published the *China Legal Development Yearbook*<sup>37</sup> which focuses on China's application of the rule of law.

Most of the law journals published in the PRC are written in Chinese.<sup>38</sup> The well-known practitioner journal on PRC law written in English and available in print and electronic version is *China Law and Practice*.<sup>39</sup> Its main focus is business and commercial law. Content information is also available at its website (<http://www.chinalawandpractice.com/>). Another practitioner journal published in print since 2009 is *China Business Law Journal*.<sup>40</sup>

The journals on general topics include *China Law*.<sup>41</sup> This is a bilingual English-Chinese journal on general legal topics of the PRC and Hong Kong. It is available in print and electronic version and can be found in *LawInfoChina* in full text from 1994 to 2009 and in *Westlaw China* from 2004 to 2011. *Chinese Law and Government*<sup>42</sup> covers multiple disciplines such as Chinese politics, social science and law. It also includes the English translations of selected PRC laws and regulations. An online journal *China Law Digest*<sup>43</sup> (<http://www.chinalawdigest.com/>) has been published since 2005. This bilingual monthly online journal, which aims to provide updates on the development of the PRC legal system, consists of legal news, case reports, legislation updates, legal commentaries etc. Free content information of each volume is available on its website; full content is available to subscribers. *Chinalaw Profiles*<sup>44</sup> is a bilingual English and Chinese annual directory of laws firms in the PRC, Hong Kong and Taiwan. *China Law Reporter* (1980–1999) was published by the American Bar Association and the electronic version is available on *HeinOnline*.

The following academic law journals are also available. *Frontiers of Law in China: Selected Publications from Chinese Universities*<sup>45</sup> is available in print and electronic version and is available in various databases such as *Westlaw China*. The *Peking University Journal of Legal Studies*<sup>46</sup> is the English law journal published by Peking University Law School. There is only one Volume One (2008) available so far. The electronic version is available in *HeinOnline* and *LawInfoChina*. *Tsinghua China Law Review (TCLR)*<sup>47</sup> is published by Tsinghua Law School and is available in both print and electronic version available in *HeinOnline*.

The academic journal *Hong Kong Law Journal*<sup>48</sup> produced by Hong Kong University are available in *Westlaw International*, *HeinOnline* and in print also has a regular section called 'China Law' which provides articles on various Chinese law subjects. The practitioner journal of the Hong Kong Law Society called the *Hong Kong Lawyer*<sup>49</sup> will also often have articles on Chinese law matters relevant to lawyers in Hong Kong.

The commercial databases also provide secondary sources of law. *LawInfoChina* provides the English title

index to more than 30 PRC law journals which are written in Chinese up to 2010. *Lexis China*, *Westlaw China* and Wolters Kluwer China's *China Law & Reference* provide secondary sources of law in various practice areas. *Lexis China* has an 'Expert Analysis' section which provides practitioners' points of view on various topics. It provides sample contracts under the 'Practical Materials' section. In addition, it has developed several practice modules in IP, Corporate, Employment, Energy, Investment and Tax. These practice modules also provide a Q& A service to subscribers to answer questions related to the module's subjects. *Westlaw China* has a category called 'Legal Topics' which discusses legal issues in various practice areas. It also contains a model contracts, articles written by legal practitioners and legal glossary sections. The journals available in *Westlaw China* are *China Law*, *China Oceans Law Review* and *Frontiers of Law in China*. The e-books in *Westlaw China* include *China Arbitration Handbook*, *Competition Law in China and Hong Kong*, *Employment Law & Practice in China*, *State Secrets and Trade Secrets in China*, *the Law of the WTO: China and the Future of Free Trade* and *Trademark Law in China: Pirates in the Middle Kingdom*.

*Westlaw International*, under the Individual Country Materials – China, subsection, includes information on Chinese Patents and several e-books *Energy Policy and Regulation in The Peoples Republic of China*, *Intellectual Property Law in China*, *Mergers and Acquisitions in China*, *Series on Contemporary Chinese Law* and *Shareholder Agreements and Joint Ventures in China*.

To stay current with the latest developments in PRC law, the official source for legal news is *Xinhua News* ([www.xinhuanet.com/english/world.htm](http://www.xinhuanet.com/english/world.htm)). The commercial databases also provide good current awareness services. *LawInfoChina*, *Lexis China* and *Westlaw China* update their legal news daily. CCH's *China Law Express Online* (<http://www.chinalawexpress.com/>) also provides daily bilingual news on legal and business subjects. The website of Asian Legal Business also provides PRC and Greater China focused news information (<http://asia.legalbusinessonline.com>). The blogs *Chinese Law Prof Blog* edited by Donald C. Clarke ([http://lawprofessors.typepad.com/china\\_law\\_prof\\_blog/](http://lawprofessors.typepad.com/china_law_prof_blog/)), *China Law Blog: China Law for Business* (<http://www.chinalawblog.com/>), and *China Law and Policy* (<http://chinalawandpolicy.com/>) are other useful sources. Other websites such as the *Dui Hua Foundation* website (<http://duihua.org/wp/>) and *ChinaToday.com's China Law and Justice* (<http://www.china-today.com/law/a.htm>) can also be used to find current Chinese legal news.

## SUGGESTED LEGAL RESEARCH PROCESS WITH PRC LAW

PRC legal research is really statute-oriented so it would be easier to find the piece of law or regulation first and then make use of the established links or references

to other relevant materials. When searching online resources, laws, administrative regulations, interpretation of laws and other written documents, are usually grouped together under the Laws and Regulations category. Cases are under a separate category. The main problem when searching for cases is that only a small number of cases are translated to English in full text or case summary form in bilingual commercial databases, as discussed above. It is suggested that blogs or websites, news sources or journal articles will need to be consulted for extra information on major cases.

As there is no legal encyclopedia for PRC law written in English, the starting point for secondary PRC legal research is to consult books, loose-leaf publications or journal articles on the topic if the English translation of the source is not identified. The multi-jurisdiction loose-leaf publications and the international law databases mentioned in this article are also good sources for background information and commentary as well as references to the English translations of primary sources of law. A diagrammatic flow chart is outlined below (Fig. 2).

## CITING PRC LEGAL MATERIALS

There is no official method for citing Chinese legal materials although Beijing University Press has published a guidebook called *Proposed Legal Citation System*.<sup>50</sup> Some universities also have a section on how to cite PRC legal materials in their legal citation guides. Both Melbourne University Law Review Association's *Australian Guide to Legal Citation* (3<sup>rd</sup> ed.)<sup>51</sup> and the New York University's School of Law's *Guide to Foreign and International Legal Citations* (2<sup>nd</sup> ed.)<sup>52</sup> have a section on citing PRC legal materials.

## HONG KONG SPECIAL ADMINISTRATIVE REGION (HKSAR)

Hong Kong is a bilingual legal system. Both English and Chinese are the official languages<sup>53</sup> so the English sources of primary and secondary sources of law are extensive and varied.

Hong Kong was a British colony and still follows the common law tradition developed under its colonial period. After the handover to the PRC government on 1st July 1997, under the principle of "One country, two systems", Hong Kong has retained its common law legal system and all existing and new legislation and case law remains in effect, on condition that it does not conflict with the Basic Law of the HKSAR.

The court system of the HKSAR consists of the Court of Final Appeal which is the highest appellate court in Hong Kong, the High Court which consists of the Court of Appeal and the Court of First Instance, the District Court, the Family Court, seven Magistrates' Courts, and various tribunals.<sup>54</sup> The right of appeal to the UK Privy Council was abolished with the handover in 1997.

## SOURCES OF LAW

The primary sources of law of the HKSAR include legislation, case law, Chinese customary law and treaties made within the context of Hong Kong as a Special Administrative Region of China. The Basic Law of the HKSAR is the most important piece of legislation in Hong Kong after the handover in 1997. It is the constitutional document of the HKSAR. Apart from the Basic Law of the HKSAR, the main legislation is called ordinances as opposed to the term 'Acts' which is common

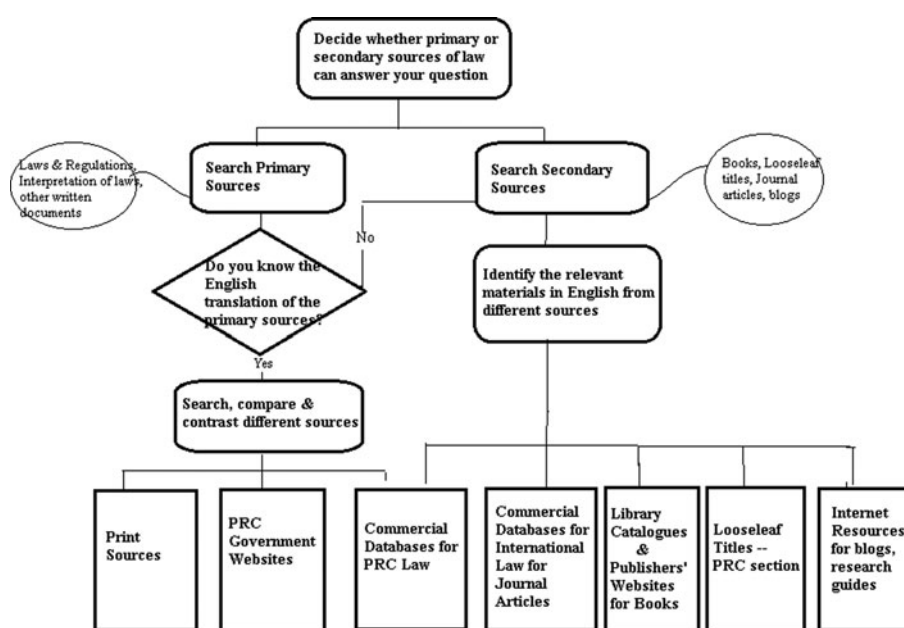


Figure 2: Suggested PRC Legal Research Process

in other common law jurisdictions, subsidiary or delegated legislation includes regulations, rules, notices, etc.

## SOURCES IN ENGLISH OR IN ENGLISH – CHINESE

### Legislation

All legislation is published in English and Chinese. The Basic Law of the HKSAR is available in print and its electronic version is available at the official website (<http://www.basic-law.gov.hk/en/index/>). The historical drafting materials of the Basic Law can be found at the *Basic Law Drafting History Online* (<http://sunzi.lib.hku.hk/bldho/home.action>).<sup>55</sup>

The *Laws of Hong Kong* is the authorised print version of Hong Kong legislation. It includes all legislation in an updated form incorporating the original text and amending provisions. The unofficial electronic version is available in the *Bilingual Laws Information System (BLIS) database* (<http://www.legislation.gov.hk/eng/home.htm>). This database incorporates the old and current versions of the law. In case of any discrepancies between the print and online version, the print version prevails. New legislation, initially published in the HKSAR *Government Gazette*, is generally incorporated into BLIS within two to three weeks so in practical terms it is generally more up to date than the print *Laws of Hong Kong service*. Recent legislation has been passed which will eventually see the creation of an authorised version of the *Laws of Hong Kong* available online.<sup>56</sup>

Hong Kong legislation sourced from the Department of Justice is also available at *Hong Kong Legal Information Institute (HKLI)* (<http://www.hklii.hk/eng/>). This, like its counterparts in other jurisdictions, is a free website. There is also a historical laws database which consists of the six previous editions of the *Laws of Hong Kong*.<sup>57</sup> This data comes from the *University of Hong Kong Libraries Historical Laws of Hong Kong Online database* <http://oelawhk.lib.hku.hk/exhibits/show/oelawhk/home>.

The Westlaw commercial database locally called *Westlaw HK* provides the *Laws of Hong Kong* since 1997 in English and Chinese versions. It also contains an historical legislation file (HK-LEG-HIST) which includes all amendments and the repealed, amended or replaced legislation since 1997. These materials are also available in *Westlaw International*.

The Lexis commercial database locally called *LexisHK* also provides the *Laws of Hong Kong* in English version only since 1999. It also provides access to the *Annotated Ordinances of Hong Kong* series which provides annotated versions of around 120 major Hong Kong Ordinances which are also available in print. The generic *Lexis.com* also provides access to the *Laws of Hong Kong* series.

### Caselaw

Although legal proceedings can be conducted and written up either in English or Chinese, it is still generally the

case that judgments are written in English particularly in the superior courts.

In Hong Kong, as is similar in some other common law jurisdictions, all judgments delivered by the courts are termed unreported judgments initially which do not have editorial additions or deletions to the judgment. Unreported judgments are available at the *Judiciary* website detailed below, *HKLI* website and also available in the commercial databases, *LexisHK* and *Westlaw HK*. The significant cases containing editorial notes which are termed reported judgments, are published in various series of law reports. These series are also available online in the commercial databases depending on who the publisher of the series is.

The *Legal Reference System of the Judiciary of the HKSAR* database ([http://www.judiciary.gov.hk/en/legal\\_ref/judgments.htm](http://www.judiciary.gov.hk/en/legal_ref/judgments.htm)) is the official database of court judgments and practice directions delivered by the Judiciary of the HKSAR. The Judiciary of the HKSAR is in charge of the administration of justice in Hong Kong. It is an open access database maintained by the Judiciary and contains judgments handed down in English, Chinese and the English translation of some selected Chinese judgments. In the *Legal Reference System* database all court decisions bear a unique reference number called the case number which comprises the abbreviation of the court level and case type and case number and year. The list of abbreviations of court levels and case types can be found at the Judiciary website.<sup>58</sup> The *HKLI* (<http://www.hklii.hk/eng/>) website has the same set of HK judgments from the Judiciary website and uses a different medium neutral citation format.

The major general law reports series in Hong Kong include *The Authorised Hong Kong Law Reports & Digest (HKLRD)*<sup>59</sup> and *Hong Kong Cases (HKC)*.<sup>60</sup> *The Authorised Hong Kong Law Reports & Digest* is the authorised law report series in Hong Kong. 'Authorised' in this context means the court or judge has verified the content before being published. The electronic version of this law report series is available in *Westlaw HK/Westlaw International*. The electronic version of the *Hong Kong Cases* is available in *LexisHK/Lexis.com*. There is also a new series by Sweet & Maxwell called *Hong Kong Chinese Law Reports & Translations*. This series takes major Chinese judgments and provides English translations.<sup>61</sup>

There are other specialised law report series in Hong Kong such as *The Authorised Hong Kong Court of Final Appeal Reports (HKCFAR)*<sup>62</sup> which only contains judgments from the Court of Final Appeal and is available in *Westlaw HK/Westlaw International*. The series *Hong Kong Public Law Reports (HKPLR)* (1991 –) and *Hong Kong Family Law Reports (HKFLR)* (2005 –) are published by Lexis and available in *LexisHK/Lexis.com*.<sup>63</sup>

## SECONDARY SOURCES OF LAW

LexisNexis and Sweet & Maxwell Asia are the two major local legal publishers who publish text books, loose-leaf



services and various encyclopedias. Other publishers such as CCH and the University of Hong Kong Press also publish Hong Kong legal books.

The *Hong Kong Legal Dictionary*<sup>64</sup> and *The Concise Hong Kong English-Chinese Legal Dictionary*<sup>65</sup> are the local legal dictionaries. The Department of Justice has also published the *English-Chinese Glossary of Legal Terms*. The latest publication is the *English-Chinese Glossary of Civil and Commercial Law Terms*.<sup>66</sup>

Hong Kong has its own legal encyclopedia *Halsbury's Laws of Hong Kong*.<sup>67</sup> Also published are *Atkin's Court Forms Hong Kong*<sup>68</sup>, *Hong Kong Encyclopaedia of Forms and Precedents*<sup>69</sup>, *Hong Kong Civil Procedure (White Book)*<sup>70</sup> and *Archbold Hong Kong*.<sup>71</sup>

Two case finding aids are the *Consolidated Index to All Reported Hong Kong Decisions*<sup>72</sup> which contains case summaries arranged by subject and the *Hong Kong Case Citor*<sup>73</sup> which contains information on the judicial activity of Hong Kong cases, foreign cases cited in Hong Kong judgments and case cross references to the *Halsbury's Laws of Hong Kong* and *Hong Kong Lawyer*. Similar online finding aids are available in *WestlawHK* (called Case Analysis) and *LexisHK* (called Casebase Hong Kong).

Apart from the *Hong Kong Lawyer* and the *Hong Kong Law Journal*, other local law journals include *Asia Pacific Law Review*<sup>74</sup>, *City University of Hong Kong Law Review*<sup>75</sup>, *Hong Kong Journal of Legal Studies*<sup>76</sup> and the *Journal of Chinese and Comparative Law*.<sup>77</sup>

The two major commercial databases *Lexis HK* and *Westlaw HK*, along with their primary source materials and finding aids, also have increased their content of electronic versions of local books, journals and loose-leaf services.

## MACAU SPECIAL ADMINISTRATIVE REGION (MSAR)

Macau is a Special Administrative Region of the PRC and has a civil law system. Macau was a colony of Portugal and used the Portuguese legal system until the handover on 20<sup>th</sup> December 1999. After the handover as with Hong Kong, under the principle of "One country, two systems", Macau maintains its existing legal system with all existing and new laws and regulations remaining effective on condition that they do not in conflict with the Basic Law of the MSAR. The MSAR legal system is bilingual with Chinese and Portuguese being the official languages. English translations of legal materials are not available for most primary sources of law.

### Court structure

The court system of the MSAR is a three-tier system which consists of the Court of First Instance, the Court of Second Instance and the Court of Final Appeal. The Court of First Instance includes the Lower Court and the separate Administrative Court, which has jurisdiction over administrative and tax cases.

## Primary sources of law

The major primary sources of law of Macau are statutory law. The statutory law of Macau includes the Basic Law of MSAR, laws, decree-laws (enacted before the handover) and administrative regulations. The Basic Law of the MSAR is the constitutional document of Macau and all other laws and regulations must not be in conflict with the Basic Law. The five pieces of law, Civil Code, Criminal Code, Commercial Code, Civil Procedure Code and Criminal Procedure Code (which are known as the 'Five Codes') form the framework of the Macau legal system. International treaties are another primary source of law in Macau.

Being a civil law system Macau does not follow the doctrine of precedent principle in a general sense. However, the unified judicial opinions from the Collegiate Bench of the Court of Final Appeal are binding on all courts<sup>78</sup> and are published in the *Official Gazette of MSAR*.

## Sources in English or English-Chinese

Only a few of Macau laws and regulations are available in English, such as the Basic Law of the MSAR, the Commercial Code, some international treaties, etc. Cases are available in Chinese and Portuguese only.

The *Macau SAR Government Portal* (<http://portal.gov.mo/web/guest/welcomepage>) which is available in Chinese, Portuguese and English versions provides link to the website of the *Laws of Macau* (<http://en.io.gov.mo/Default.aspx>) which is maintained by the Government Printing Bureau. The English translations of a number of Macau laws and regulations mentioned above are available in this website. The *Official Gazette of MSAR* is also available in this website in the two official languages, Chinese and Portuguese.<sup>79</sup>

## Secondary sources

Publishers such as LexisNexis, Springer and Wolters Kluwer publish books on the Macau legal system in English.<sup>80</sup> The Macau based law journals, the *Macau Law Journal* and the *Macau Law Review*, have English titles but their content is in Chinese or Portuguese.

## REPUBLIC OF CHINA (ROC) (ALSO KNOWN AS TAIWAN)

Taiwan is also a civil law system, based mainly on German and Japanese models. Taiwan's laws are called the Collection of the Six Laws (Liufa Quanshu) which were established by the Nationalist Party (also known as the Kuomintang) in the 1920s.<sup>81</sup> The basic codes of the Six Laws consists of the constitutional law code, civil law code, criminal law code, administrative law code, civil procedure code and criminal procedure code. The related subsidiary legislation is derived from these six basic codes.

## Court structure

In Taiwan, there is the Legislative Yuan, the Executive Yuan and the Judicial Yuan which is the supreme judicial body incorporating the courts. The Judicial Yuan is responsible for judicial administration but the courts exercise power of adjudication.<sup>82</sup> The court system consists of the three-tier system of the Supreme Court, the High Court and the District Court, and a separate court, the Administrative Court, which is directly under the supervision of the Judicial Yuan. In addition, the Council of Grand Justices has the power to interpret the Constitution.<sup>83</sup>

## Primary sources of law

The main primary sources of law are statutory law. They can be classified into the Constitution, Codes, Acts or Laws, Regulations, and Directions or Rules.<sup>84</sup>

As a civil law system, Taiwan does not follow the doctrine of precedent in general. However, cases decided by the Supreme Court and selected and approved by the Supreme Court are the Precedents which have binding force. These case precedents are the primary sources of law. The cases not selected are called Judgments which do not have any binding force.<sup>85</sup>

The official language of the Taiwan legal system is Chinese. The English translations of primary sources of law are not authenticated. If there is any discrepancy between the English version and the Chinese version, the Chinese version will prevail.

## SOURCES IN ENGLISH OR CHINESE-ENGLISH

### Statutory law:

Most of the compilations or collections of laws are published in Chinese.<sup>86</sup> The English translations of comprehensive compilations of laws in print format are not up-to-date.<sup>87</sup> The Ministry of Justice has developed a database called *Laws & Regulations Database of the Republic of China* (<http://law.moj.gov.tw/eng/>). This is the official freely accessible database of ROC laws. It contains up-to-date and comprehensive coverage of English translations of laws and regulations of the ROC. It does not include the local laws and regulations which are available in Chinese only.<sup>88</sup>

Similar to the PRC government ministries' and departments' websites, the English translations of relevant laws and regulations related to their subject areas are available on the ROC ministries and department websites. For example, the Taxation Agency of the Ministry of Finance ([www.dot.gov.tw/en/index.jsp](http://www.dot.gov.tw/en/index.jsp)) has developed the *Tax Related Laws and Regulations Database*. The Banking Bureau of the Financial Supervisory Commission has developed the *Laws and Regulations Retrieving System of the Banking Bureau* at <http://law.banking.gov.tw/Eng/Default.asp>. The Environmental Protection Administration has a website of the *R.O.C. (Taiwan) Environmental Law Library* which contains laws and regulations related to

Environmental protection at (<http://law.epa.gov.tw/en/>). The Council of Labor Affairs has a *Law Source Retrieving System of Labor Laws and Regulations* on its website (<http://laws.cla.gov.tw/Eng/default.asp>)

The *LawBank* ([www.lawbank.com.tw/](http://www.lawbank.com.tw/)) is a commercial website which provides free access to the English translations of ROC laws and regulations, and the interpretations of the Council of Grand Justices.

## Interpretations of the Council of Grand Justices

*The Republic of China Constitutional Court (Grand Justices Council) Reporter : Interpretations* (Second Edition 2007)<sup>89</sup> is published by the Judicial Yuan in five volumes and covers the interpretations of the Council of Grand Justices from 1949 to 2006 in parallel text in English and Chinese.<sup>90</sup> The *Judicial Yuan website* ([www.judicial.gov.tw/en/](http://www.judicial.gov.tw/en/)) contains the English translations of the interpretations of the Council of Grand Justices from J.Y. Interpretation No. 1 (in 1949) to the latest interpretation.

## Secondary sources

Local publishers, such as the National Taiwan University Press, and overseas publishers, such as Routledge, Cambridge University Press, Stanford University Press and Wolters Kluwer, have published textbooks on ROC law.

*The Chinese (Taiwan) Yearbook of International Law and Affairs*<sup>91</sup> is the major publication of ROC law written in English. The electronic version is available in *Westlaw International* from 1981 onwards. Two more journals *Asian Journal of WTO & International Health Law & Policy*, and *National Taiwan University Law Review*<sup>92</sup> are also available in *Westlaw International*.<sup>93</sup> *HeinOnline* also has the *National Taiwan University Law Review* and another bilingual English-Chinese law journal published in Taiwan called the *East Asian Law Journal*.<sup>94</sup>

## MULTI-JURISDICTIONAL RESOURCES

Except for Hong Kong, books, journals and commentaries written in English and published in the Greater China Region are limited. Various multi-jurisdictional loose-leaf publications and international law materials therefore are also good sources for finding legal information on this region.

A number of publishers have published series of books which cover the Greater China Region or Asia. The major publishers include Routledge which has published the 'Routledge Law in Asia series'<sup>95</sup> and its *Asian Yearbook of International Law*. Ashgate has published the 'Asian Law series'<sup>96</sup> and Edward Elgar Publishing also has an 'Asian Law series' which in 2013 will include the journal the *Renmin Chinese Law Review*.<sup>97</sup>

The *International Encyclopaedia of Law s* (IEL),<sup>98</sup> which covers 25 subject areas has 18 subject areas which

contain national monographs on the PRC. Some subject areas also contain national monographs on Hong Kong, Macau or Taiwan. Oceana Publications<sup>99</sup> has published several multi-jurisdictional loose-leaf titles covering legal

materials in the Greater China Region. Other international law publishers also have relevant loose-leaf titles. Some major multi-jurisdictional loose-leaf titles and their relevant content are listed below.

Loose-leaf Titles	Regions			
	China (PRC)	Hong Kong (HKSAR)	Macau (MSAR)	Taiwan (ROC)
Border Control of Intellectual Property Rights	√	√		
Comparative Environmental Law and Regulation	√ (v.1 c.15)			√ (v.1 c.16)
Digest of Commercial Laws of the World	√ (c.10)	√ (c.22)	√ (c.32)	√ (c.52)
Enforcement of Foreign Judgments		√ (v.1)		√ (v.1)
IEL Civil Procedure	√			
IEL Commercial and Economic Law	√		√	
IEL Competition Law	√			
IEL Constitutional Law	√	√		
IEL Contracts	√	√	√	
IEL Corporations and Partnerships	√	√	√	
IEL Criminal Law	√	√		
IEL Cyber Law	√	√		
IEL Energy Law				√
IEL Environmental Law	√	√		
IEL Intellectual Property	√			
IEL Labour Law	√	√		
IEL Medical Law	√			
IEL Migration Law	√			
IEL Social Security Law	√			
IEL Sports Law	√			
IEL Tort Law	√			
IEL Transport Law	√	√		
International Banking Law and Regulation	√			√
International Copyright Law and Practice	√ (v.1)	√ (v.2)		
International Execution Against Judgment Debtors	√ (v.1)	√ (v.2)		
International Handbook on Commercial Arbitration	√ (v.1)	√ (v.2)		
International Regulation of Finance and Investment	√ (v.22)	√ (v.23)		√ (v.24)
International Securities Regulation	√ (v.2)	√ (v.3)		√ (v.7)

International Securities Regulation : Stock Exchanges of the World		√ (v.2)		√ (v.4)
Investment Laws of the World	√ (Binder I)			√ (Binder IX)
Transnational Contracts	√ (v.1)	√ (v.2)		
World Intellectual Property Rights and Remedies	√ (v.1)	√ (v.2)		√ (v.3)
World Online Business Law	√ ( v.1)	√ ( v.2)		

Databases such as *Worldtradelaw.net* (<http://www.worldtradelaw.net/dsc/main.htm>), *TradeLawGuide* (<http://www.tradelawguide.com/index.asp?toc=content&id=88>), *The Oxford Reports on International Law* series and the *International Law Reports* online and in print ([http://www.icil.cam.ac.uk/publications/international\\_law\\_reports.php](http://www.icil.cam.ac.uk/publications/international_law_reports.php)) have relevant content on Greater China jurisdictions as does the *Hague Academy's Collected Courses* in print and online (<http://www.nijhoffonline.nl/subject?id=recueil>).<sup>100</sup>

Other Oxford International Law products, such as *Oceana Online* has the databases *Constitutions of the Countries of the World* and *Treaties and International Agreements* which contain relevant information of the Greater China Region as well.

To find journal articles published in various general and international academic and practitioner related law journals on the PRC, Hong Kong, Macau or Taiwan various commercial databases such as *Westlaw International*, *Lexis.com*, *HeinOnline*, *Index to Foreign Legal Periodicals*, *Index to Legal Periodicals*, *LegalTrac* and *AGIS Plus Text* can be used. Some specifically Asian-focused journals are also available in various databases. For example, *HeinOnline* and *Lexis.com* has the *East Asia Law Review*, *Westlaw International* and *Lexis.com* have the *Columbia Journal of Asian Law*, *Pacific Rim Law & Policy Journal*, etc.<sup>101</sup> *AGIS Plus Text* has the *Australian Journal of Asian Law* and *Lawasia Journal*. *Lexis.com* also has an international law category which includes Asian materials such as the *Martindale-Hubbell Law Digest – Asian Law Digests* (covering PRC, Hong Kong, Macau and Taiwan). *Lexis.com* also has individual country section categories. Under China & Hong Kong, there are the law journals *Asia-Pacific Law Review*, *China Law & Practice*, *Inside US-China Trade* and *Journal of East Asia & International Law*.

The databases mentioned above also overlap with publisher database content although the actual specific yearly coverage may be different between sources. For information *Cambridge Journal Online* has the *Asian Journal of International Law* and *China Quarterly*. *KluwerLawOnline* has the *Asian International Arbitration Journal*. *Oxford Journals*

*Online* has the *Chinese Journal of Comparative Law* (new for 2013) and the *Chinese Journal of International Law*. Berkeley Electronic Press has the *Asian Journal of Comparative Law*.

The website Asian Legal Information Institute (AsianLII) (<http://www.asianlii.org/>) is a free access website for legal information from all 27 countries and territories in Asia, including PRC, Hong Kong (content from HKLII), Macau and Taiwan. It contains selected PRC laws from 1949–2007 and selected local laws and regulations in English. It also provides some PRC cases in Chinese. For Taiwan, it covers the laws and regulations of Taiwan from 1947 to 2010. The content comes from the Global Legal Information Network (GLIN) website which itself is currently inaccessible. The English translations for a number of laws and regulations of Macau are also available in AsianLII. Other sources include various Asian Law Centres which have publications and information online. For example, Melbourne Law School's Asia Law Centre (<http://www.law.unimelb.edu.au/alc>) which has a collection of bibliographic references to English language materials and The Asian Law Institute (<http://law.nus.edu.sg/asli/index.aspx>) which contains working papers and conference proceedings on its website. One from the US is the Asian Law Center at the University of Washington School Of Law which publishes monographs. The *Asian Legal Blog* (<http://asialegalblog.com/>) is a blog mainly for recruitment including PRC, Hong Kong and Taiwan legal news.

In summary, this article has covered a number of sources as well as providing information on the basic legal systems of the countries that comprise the Greater China Region. From our experience whilst finding Hong Kong related legal materials is not too difficult, finding primary legal materials written in English on the PRC, Macau and Taiwan takes time to consult and compare different sources in print and online especially when the local finding aids, commentaries and journals have not been well developed in terms of available English translations. Luckily, there is a growing interest in China and many articles and books are being written in English language journals and published by different western publishers.

## Footnotes

<sup>1</sup> The Constitution of the People's Republic of China (1982, as amended in 2004), Art 5

<sup>2</sup> *Ibid*, Art 58, 62



- <sup>3</sup> The official publication of NPC is the *Gazette of the Standing Committee of the National People's Congress of the People's Republic of China*. This includes laws and regulations, and other enactments of the NPC. Contents are in Chinese.
- <sup>4</sup> The official publication of the State Council is *Gazette of the State Council of the People's Republic of China*. This gazette contains laws and resolutions enacted by the NPC and NPCSC, administrative regulations enacted by the State Council and international treaties entered by the PRC government. Contents are in Chinese.
- <sup>5</sup> The official publication of the SPC is *Gazette of the Supreme People's Court of the People's Republic of China*. This covers cases, judicial interpretations and judicial news. Contents are in Chinese.
- <sup>6</sup> The official publication of the SPP is the *Gazette of the Supreme People's Procuratorate of the People's Republic of China*. It has judicial interpretations, case summaries and information of the SPP. Contents are in Chinese.
- <sup>7</sup> Chen, Albert Hung-ye. (2011) *An Introduction to the Legal System of the People's Republic of China*. Hong Kong, LexisNexis. 161
- <sup>8</sup> Above 1, Art 89(9)
- <sup>9</sup> Above 1, Art 67(14)
- <sup>10</sup> Above 7, 167
- <sup>11</sup> Above 7, 167
- <sup>12</sup> The major official Chinese sources include *Laws and Regulations of the People's Republic of China* (loose-leaf) compiled by the NPCLAC, *Collection of the Laws of the People's Republic of China* compiled by the NPCSC, *Collection of New Laws & Regulations of the PRC* compiled by the State Council
- <sup>13</sup> published by the Foreign Language Press or law Press, 1987–
- <sup>14</sup> published by the China Legal Publishing House, 2012, 8 volumes. (in Chinese & English). It classifies laws and regulations in the following subjects : Constitutional Law, Civil and Commercial Law, Administrative Law (2 volumes), Economic Law (2 volumes), Social Law, Criminal Law and Procedure Law.
- <sup>15</sup> published by the China Legal Publishing House, 2011 (in Chinese & English). Laws and regulations which are currently in force are also arranged into different areas of law such as Constitutional law, Civil and Commercial law etc.
- <sup>16</sup> published by China Legal Publishing House, 1991– (in Chinese & English). It includes laws, administrative regulations and other regulatory documents which were enacted by the NPC and the State Council on foreign-related matters from 1949 to 1990, with an annual update every year afterwards.
- <sup>17</sup> The English version of the Constitution of the PRC and its four amendments are available at: [http://www.npc.gov.cn/englishnpc/Constitution/node\\_2824.htm](http://www.npc.gov.cn/englishnpc/Constitution/node_2824.htm)
- <sup>18</sup> It classifies laws and regulations into Constitutional and the Related Laws, Civil and Commercial Laws, Social Law, Administrative Law, Economic Law, Criminal Law, Procedural and Nonprocedural Laws, Administrative Regulations.
- <sup>19</sup> The official Chinese compilation of treaties is *International Treaties of the People's Republic of China*, compiled by the Ministry of Foreign Affairs
- <sup>20</sup> The comprehensive legal databases in Chinese include ChinaLawInfo, Lawee.net, China Infobank, etc.
- <sup>21</sup> The Chinese version, ChinaLawInfo, has developed since the 1980s.
- <sup>22</sup> It contains national and local laws and regulations in the following subjects: Government, Administrative and the Legal System, Economic Law, Tax and Finance, Real Property, Infrastructure and Transport, and Trade, Commerce and Industry (in Chinese & English)
- <sup>23</sup> It contains laws and regulations issued by China's special economic zones and major cities and provinces (in Chinese & English)
- <sup>24</sup> It consists of PRC business laws and regulations (in Chinese & English)
- <sup>25</sup> For example, Lexis has translated the Announcement of the China Regulatory Commission 2012 No. 36 (Title is Circular on Issues Concerning the Implementation of the Individual Income Tax Policies Pertaining to Dividend Differentiation of the Listed Company) which was issued on 16 November 2012 while Westlaw China has translated the Announcement of the China Regulatory Commission 2012 No. 35 (Title is Decision on Revising the Regulations on Calculation Standards for Risk Capital Reserves of Securities Companies) which was issued on the same day 16 November 2012. Another example is the English translation of the Mental Health Law of the People's Republic of China which was issued on 10 October 2012 and is available in LawInfoChina and Westlaw China but not in Lexis at the moment.
- <sup>26</sup> AsianLII (<http://www.asianlii.org/>) has the English translations of selected PRC laws and regulations from 1949 to 2007. Novexc.com (<http://www.novexc.com/>) has the English translations of selected PRC laws and regulations arranged by subject and was last updated in 2004. Lexadin Legislation China (<http://www.lexadin.nl/wlg/legis/nofr/oeur/lxwechi.htm>) has the English translations of selected PRC laws and regulations arranged by subject and was last updated in 2009.
- <sup>27</sup> Major compilation of PRC Cases in Chinese: Renminfayuan anlixuan; Zhongguo shen pan an li yao lan; Pan jie yan jiu
- <sup>28</sup> *Selected Edition of China Law Reports, 1991–2004* (in English): edited and compiled by the National Judge College of Supreme People's Court [and] China Renmin University Law School. Cases are arranged in three broad subjects: Criminal Law, Civil and Economic Law, and Administrative Law. It provides catchwords, headnote, editor's notes of each case as well as the English translation of the cases. *China Law Reports (1991–1994)* (in English): published by Butterworths Asia in three volumes: v. 1 on Criminal Law, v. 2 on Civil Law and v. 3 on Administrative Law and Economic Law.
- <sup>29</sup> Cambridge University Press – China <http://www.cambridge.org/contacts/china/>

- <sup>30</sup> Wolters Kluwer China <http://www.wolterskluwerchina.com.cn/>
- <sup>31</sup> Kluwer Law International Chinese law titles: [http://www.kluwerlaw.com/Catalogue/search.htm?wbc\\_purpose=Basic&WBCMODE=Presentation%60Unpublished%22?Mode=quicksearch&Phrase=china](http://www.kluwerlaw.com/Catalogue/search.htm?wbc_purpose=Basic&WBCMODE=Presentation%60Unpublished%22?Mode=quicksearch&Phrase=china)
- <sup>32</sup> Hart Publishing, China and International Economic Law Series <http://www.hartpub.co.uk/books/series.asp?sc=China+and+International+Economic+Law+Series&st=China+and+International+Economic+Law+Series>
- <sup>33</sup> Brill in China <http://www.brill.com/about/brill-china/brill-china-english-version;>
- <sup>34</sup> Katz, Stanley N. (ed.) (2009) *The Oxford International Encyclopedia of Legal History*. Oxford, Oxford University Press. The electronic version is available in the Oxford Reference Online
- <sup>35</sup> *China Hand*, London, Economic Intelligence Unit, 1996-[http://www.eiu.com/index.asp?layout=displayIssue&publication\\_type\\_id=1950000195&publication\\_id=870003687](http://www.eiu.com/index.asp?layout=displayIssue&publication_type_id=1950000195&publication_id=870003687)
- <sup>36</sup> Beijing, Press of Law Yearbook of China, 2002–
- <sup>37</sup> Leiden, Brill, 2008–
- <sup>38</sup> The major database of law journals written in Chinese is *China Journal Net*
- <sup>39</sup> Hong Kong, China Law and Practice Ltd., 1987–
- <sup>40</sup> Hong Kong, Vantage Asia (China) Limited, 2009 – In English and Chinese.
- <sup>41</sup> Hong Kong, Zhongguo fa lu za zhi she you xian gong si, 1994–
- <sup>42</sup> White Plains, N.E. Sharpe, 1968–
- <sup>43</sup> Madison, China law digest, 2005–
- <sup>44</sup> Hong Kong, Asia Law & Practice, c2005- The latest volume is in 2010.
- <sup>45</sup> Amsterdam, Higher Education Press, in association with Springer, 2006–
- <sup>46</sup> Beijing, Peking University Press; Peking University Law School, 2008–
- <sup>47</sup> Beijing, Tsinghua Law School, Tsinghua University, 2009- ([Lincoln, Neb.], Joe Christensen, Inc., 2009–
- <sup>48</sup> Hong Kong, Hong Kong Law Journal Ltd., 1971–
- <sup>49</sup> Hong Kong Lawyer <http://www.hk-lawyer.org/en/index.asp>
- <sup>50</sup> Luo, Wei. (2007) *Proposed Legal Citation System*, Beijing, Beijing University Press (in Chinese and English)
- <sup>51</sup> available at: <http://mulr.law.unimelb.edu.au/go/AGLC3>
- <sup>52</sup> Austin, Wolters Kluwer Law & Business, 2009
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## Biographies

John Bahrij has been the Law Librarian of the Lee Quo Wei Law Library Chinese University of Hong Kong (CUHK) located in the New Territories for the last 7 years and came from Australia to establish the Law Library and Legal Resources Centre, located in the Graduate Law Centre (GLC) on Hong Kong Island, for the new Faculty of Law at CUHK. Prior to this he was Law Librarian at various Australian Universities and the University of the South Pacific in Fiji.

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# Managing and Using Elements of Legal Information in Legal Practice

**Abstract:** Legal information management is crucial for Chinese Lawyers who practice law in non-litigation and litigation legal areas. Li Zheng, Attorney at Law from PRC, provides a brief overview of the legal procedure, at a practical level, from the point of view of a Chinese lawyer.

**Keywords:** legal systems; People's Republic of China

## INTRODUCTION

As is well known, China is still a country of statute law in which most of the laws and regulations are enacted and promulgated by the authority of legislature though the judicial interpretations by the Supreme Court and Supreme Procuratorate Office. Generally speaking, judgments in China are not regarded as precedents for the other courts but the references of judges and lawyers. However, those that are promulgated by the Supreme Courts are exceptions. Therefore, Chinese lawyers pay close attention to the legal information usage and management in their legal practices to help them with their work.

The legal practices of Chinese lawyers can be divided into two main areas which are non-litigation practice and litigation (arbitration) practice. This article, written from a Chinese Lawyer's perspective, aims to explain how legal information is managed at a practical level throughout both practices.

## NON-LITIGATION PRACTICE

### i. Case registration

When clients retain lawyers to handle a non-litigation case, lawyers firstly register the case in the database of



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the law firm in order to check if there is any conflict of interests. If not, the appropriate case registration shall be made. The management system of the law firm is the first place to conserve the relevant case information. Generally, the administrative director of the law firm is in-charge of legal information management and research.

### ii. Business conditions

From the angle of non-litigation practice, lawyers make clear the business arrangement of the parties of the transaction. For example, in the event of a merger and acquisition case, the lawyers should know and understand the business conditions of both parties such as the basic information of the target company, the target share or assets intended to be transferred, the consideration of the share or assets, the transaction method and the conditions of closing. The business conditions are the foundation of the legal information collected.

In order to make clear the background of the target company, due diligence is essential to every investor and for each transaction. The lawyers investigate and survey the legality of the establishment of the company and check the share structure of company and the assets acquired. The due diligence report that is made by the lawyers is then provided to the retainer for evaluation of the transaction risk. Lawyers call the retainer's attention