

Book Reviews

EDITORS NOTE

Recognizing the growth in the number of scholarly works related to law in China, the editors of the *Journal of Chinese Law* are introducing, with this issue, a new section containing brief reviews of books that we feel may be of interest to our readers.

This section will provide a synopsis and evaluation of recently published books related to Chinese law in an effort to keep our readers better informed of new scholarship in the field. The reviews are written by members of the *Journal* and to the extent that they contain critical evaluations of the books, the opinions represent that of an individual *Journal* member and not that of the *Journal* as a whole.

The books chosen for review either have recently been received by the *Journal* or have come to the attention of individual *Journal* members. This section is not meant to present an exhaustive list of new publications, and with future issues we anticipate that it will become more comprehensive. Readers interested in submitting a review of a relevant publication are encouraged to do so.

CHINA'S INVESTMENT LAWS: NEW DIRECTIONS. *By* Guiguo Wang.
Butterworths, 1988 (272 pp.).

Wang summarizes the experiences and lessons of the Chinese government, Chinese enterprises, and foreign investors with respect to investment since China opened its door in 1978. Several brief yet detailed case studies are included which deal with various issues such as strategic approaches, labor-management relations, administrative interferences, and foreign exchange balancing. Simple data and numerous quotations from people in a range of positions are provided.

Having conducted a series of studies on the foreign investment environment in China, the Chinese government concluded that improvement had to be made in order to attract overseas funds and advanced technology. A set of relevant regulations, promulgated by the State Council and various ministries in 1986 and 1987, is included

in the appendix. Several provincial and city governments, including the Special Economic Zones (SEZs) and the open coastal cities, adopted their own measures to enforce the national statutes. Included in the book is a lengthy list of these provincial measures, which deal with tax incentives, land use fees, and the balancing of foreign exchange. Wang compares how old investment laws and the new regulations differ with respect to such areas as national and provincial incentives. He also considers the practical significance of the new regulations and of possible alternative policies.

The SEZs are treated as "forerunners" in the implementation of China's open policy and domestic reforms. The book briefly surveys the SEZs' economic development, the basic legal framework for foreign investment in the SEZs, and the newly-adopted measures for implementing the provisions of the State Council. Corporate law and foreign banking regulations of SEZs are also discussed.

Although it is not an in-depth theoretical analysis of the legal issues in China's investment laws, the book provides an excellent tool for a quick grasp of practical matters related to China's investment reality.

CHINA TAX GUIDE. By Michael J. Moser & Winston K. Zee. *Oxford University Press*, 1987 (197 pp.).

Chinese law expert and Hong Kong practitioner Michael Moser has teamed up with his colleague Winston Zee to compose a concise review of the tax regime applicable to foreign entities doing trade with or business in China. As the Chinese foreign economic legal system has matured, tax considerations have gradually moved toward the forefront of strategic planning. For this reason, *China Tax Guide* should not be far from the fingertips of any foreign business person contemplating starting or expanding business in the China market.

China Tax Guide consists of eleven short chapters of text, beginning with an introduction and a brief summary of the various forms of doing business in China. The body of the book then proceeds with an orderly discussion of various aspects and applications of each of the major tax regimes: the individual income tax, the consolidated industrial and commercial tax, the real estate tax, the vehicle and vessel license tax, and customs duties and related taxes. The volume concludes with a chapter each on taxation in China's special economic zones, tax treaties, and a final chapter discussing transactional applications of the tax rules. In addition, helpful tables and explanatory

examples accompany the text, as well as a tax form appendix and an appendix of selected tax legislation in English translation.

The main strength of *China Tax Guide*, its terseness and manageable length, is also, at times, a weakness. For instance, the authors touch on the various measures designed to encourage foreign investment (starting with the so-called "22 Articles") but fail to discuss the measures issued by the Ministry of Finance in January 1987 in this regard. In addition, readers will no doubt eagerly await a second updated edition, as new laws, regulations, and evolving administrative practice further flesh out the Chinese tax system.

DEMOCRACY SHELVED: GREAT BRITAIN, CHINA, AND ATTEMPTS AT CONSTITUTIONAL REFORM IN HONG KONG, 1945-1952. *By* Steve Yui-Sang Tsang. *Oxford University Press*, 1988 (254 pp.).

Democracy Shelved is a chronological account of political and constitutional reform in Hong Kong from 1945-1952. While the author does not concentrate on a comparison of that period to the events in Hong Kong today, his discussion points to many similarities between the issues then and those of today.

The book proceeds in chronological order and provides a rich account of the events occurring within this seven-year period. In the seventh chapter, Tsang provides a synthesis of his earlier material and provides a comparison of differing models of reform proposed during the period. In the Introduction, Tsang draws explicit parallels between the events of 1945-52 and today, but warns the reader not to place too much emphasis on the comparisons since many factors have changed in the meantime.

HUMAN RIGHTS IN THE PEOPLE'S REPUBLIC OF CHINA. *By* Yuan-li Wu, Franz Michael, John F. Copper, Ta-ling Lee, Maria Hsia Chang, A. James Gregor. *Westview Press*, 1988 (294 pp.).

The essays in this book survey human rights treatment in the People's Republic of China since 1949. In its analysis of the not-so-promising status of human rights in China, the book provides an excellent political and theoretical overview of the way in which the government of the PRC operates and maintains its ultimate authority. The perspective is noticeably critical. Readers sympathetic to Chinese policies are likely to reassess, to some extent, their convictions.

The book is divided into three sections of essays. The first two sections define the concept of human rights in China and analyze a political system that emphasizes collective as opposed to individual rights. The third section gives individual treatment to various "target groups" such as women and religious and racial minorities. The essay dealing with human rights aberrations towards women is particularly thought-provoking and disturbing. While the authors agree that the human rights situation has improved since the nadir of the Cultural Revolution, the consensus remains that China's current human rights record is discouraging. Finally, the authors appear unconvinced that the government of China will be able to reconcile the basic tenets of Marxism-Leninism with the goal of overall betterment of the human condition.

TAXATION OF FOREIGN INVESTMENT IN THE PEOPLE'S REPUBLIC OF CHINA. By A.J. Easson and Li Jinyan. *Kluwer Law and Taxation Publishers*, 1988 (242 pp.).

This book presents a broad perspective on the current structure of taxation of foreign investment in the People's Republic of China, and will be of service to any business person contemplating investment there.

The book is structured along two lines. One is historical and serves as a useful overview of China's tax policy, especially for the years following the death of Mao. It attempts to explain the Chinese experience with taxation systems, giving particular emphasis to the period from 1950 to 1979. It concentrates on changes in the tax laws that resulted from the adoption of the "Four Modernizations" policy. The authors are unsuccessful in their bid to point out how the present tax structure fits into the policy aims of the current political leadership. By failing to enumerate the specific policy aims of the leadership, the authors neglect to help the potential investor know how to take these policies into consideration.

The second part of the book outlines the legal framework of taxation for foreigners doing business in China. There is a detailed discussion of each of the main tax laws that affect foreign investment in the People's Republic: 1) The Individual Income Tax (*geren suode shui*); 2) The Income Tax Law Concerning Joint Ventures (*nezi jingying qiye*); and 3) The Foreign Enterprise Income Tax Law (*waishang duzi qiye*). Other tax laws that may indirectly affect foreign investors are

also analyzed, including laws about local taxes, land use fees, and the consolidated industrial and commercial tax.

There is a discussion of the administrative structure for each tax law, including the role of the judiciary. It serves as a reminder that the current taxation system in China is relatively new and that there are still a number of problems that must be worked out. The authors point out that the system currently operates as much by informal and flexible guidelines as it does by strict enforcement of rules and regulations.

Other chapters of the book discuss special economic incentives and tax treaties designed to spur foreign investment in China. The chapter on special economic incentives focuses on the Special Economic Zones and the Economic and Technological Zones. The chapter on tax treaties indicates how treaties modify domestic tax rules as they apply to foreigners.

Taxation of Foreign Investment in the People's Republic of China is a useful volume for potential investors in China. It is recommended as an initial resource for those interested in investment there. For the investor needing greater detail, the authors also provide ample references to the appropriate Chinese and English language source materials. The book is well organized and very readable.

THE POLICE, PUBLIC ORDER AND THE STATE. By John D. Brewer, Adrian Guelke, Ian Hume, Edward Moxon-Browne, & Rick Wilford. *St. Martin's Press*, 1988 (245 pp.).

By examining the maintenance of internal order in seven different countries, including the PRC, the authors' major premise is that the rapid social, economic, political, and technological changes currently underway in the PRC have been the major factor in determining the relationship between the police, the state, and society. To reach this conclusion, the authors examine such topics as public order situations, police-military relations, and public perceptions of the police.

A major factor examined by the authors is the recent emphasis of the PRC upon legal procedures and the increased standardization of police work that has followed. One consequence has been a reinforcement of the image of relative autonomy held by the police in China.

For those interested in the topic, this book provides a good lesson on the status and relationship of the police to the security of the PRC.

TRANSNATIONAL CORPORATIONS AND CHINA'S OPEN DOOR POLICY. *Edited by Weizao Teng & N.T. Wang. Lexington Books, 1988 (281 pp.).*

In an effort to define the role of regulations governing transnational corporations in China, the editors have published a number of individual presentations made on the subject at a conference held in Tianjin, China, in October 1986.

The book is divided into three parts, beginning with an overview of the theory of transnational corporations and their practice in a modern, increasingly interdependent world. One author suggests that all socialist developing countries need to recognize the potential developmental advances that flow from an open door policy toward transnationals. Even with the problems that attend transnational corporations, the longer the open door remains open, the greater the rate of development. Yet another author is not as optimistic about open doors. Feeling that Third World poverty is due somewhat to the presence of transnational corporations in developing countries, he stresses the need for strict control of such corporations at the local, national, and even the international level. Another author suggests that one way to control transnational corporations and to encourage rapid development at the same time is to adopt a flexible policy vis-à-vis transnationals.

Part II of the book examines the investment policies and practices related to transnational corporations in countries such as Thailand, India, and Hungary. Apparently, the editors' idea is that the lessons learned by other developing nations will contribute to a better policy toward transnational corporations in the People's Republic.

Of most interest to our readers will be the third part of the book dealing with China's own experience with transnational corporations. From a general look at China's economic environment to more specific criticisms of the problems associated with transnational corporations in China, the authors give the reader a chance to evaluate China's investment scene from a neutral standpoint. The traditional western view hails China's willingness to open her door to transnational investment, but at the same time attacks the Chinese government for inefficient and unfair policies and practices. The editors of this book recognize that there is a need to enlighten those interested in transnational investment as to the motives and reasons behind China's approach.

Giving due credit to the Chinese perspective, it is worth noting that the problems associated with the presence of transnational corpo-

rations do not necessarily arise solely as a result of Chinese bureaucratic practices, but also from the transnational corporations themselves. In that vein, it is just as bad to blindly open the investment door today as it was to keep it shut altogether years ago. There must be a balance and that begins by what the editors hope to achieve with the publication of this text: a mutual understanding between China and the transnational corporations that seek to locate there.