

Bibliographic Essay

Recent and Noteworthy Legal Works Published in China

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1985 and 1986 were banner years in Chinese legal publishing. More than ever, Chinese legal scholars and commentators were freed from producing numbingly repetitive law textbooks and guides for citizens on such topics as family law and criminal law and began to write books and articles, some imbued with an unprecedented innovative spirit, on subjects as varied as administrative law, inheritance law, bankruptcy, intellectual property and the relationship between law and democracy. Works examining the traditional subjects of the Chinese legal scholar and commentator, economic law, criminal law and procedure, civil law, family law and legal history, are now more lively and imaginative and often employ specific case examples. Books of civil and criminal cases, a new genre in Chinese legal publishing, have burst upon the stage. Academic and popular law journals have emerged relatively free of restraint, while such established journals as the scholarly *Faxue Yanjiu* (Studies in Law)¹ and the popular *Minzhu yu Fazhi* (Democracy and the Legal System)² have improved consid-

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1. FAXUE YANJIU (Studies in Law), China's most prominent scholarly legal journal, is edited and published by the Institute of Law of the Chinese Academy of Social Sciences. FAXUE YANJIU is available by subscription through the China International Book Trading Corporation, P.O. Box 2820, Chegongzhuang, Beijing, China.

2. MINZHU YU FAZHI (Democracy and the Legal System) is a popular magazine devoted to law and related topics with a circulation throughout China numbering in the millions. MINZHU YU FAZHI is jointly edited and published by the East China Institute of Politics and Law and the Institute of Law of the Shanghai Academy of Social Sciences and is available by subscription through the China International Book Trading Corporation, *supra* note 1.

erably. China's national law newspaper, *Zhongguo Fazhibao* (Chinese Legal Gazette)³ published six times weekly, now claims a circulation of over 1.9 million copies and many times that number of actual readers. The Chinese Legal Gazette is complemented by over two dozen local *fazhibao* (legal gazettes or newspapers) published from Tibet to Beijing and from Xinjiang to Guiyang and Harbin. Numerous other legal periodicals are discussed below.

This essay describes recent and, in the opinion of this author, specifically noteworthy works on Chinese law by Chinese legal scholars and practitioners. The time is gone when Western observers of Chinese law could plausibly claim that much of what is published in China on Chinese law is of little use in understanding that legal system. Valuable work can be done in Chinese law using Western sources, including such important Western translation services as the British Broadcasting Corporation Summary of World Broadcasts (Far East),⁴ the Foreign Broadcast Information Service (Daily Report: China),⁵ and the primary English-language translation and reporting source from China, the New China News Agency (*Xinhuashe*) General Overseas New Service.⁶ But today sophisticated work in Chinese law generally requires the use of Chinese sources. As the quality of Chinese legal books and periodicals has improved considerably, selecting the most useful Chinese sources has become a more difficult and more subjective process. Consequently, any effort such as this one to evaluate the available materials must be a highly individual one. With that caveat, the following materials symbolize the growing innovation and sophistication of Chinese works in law and are worthy of special note outside China.

Changes in the structure of Chinese legal publishing have played an important role in the growing breadth and depth of Chinese legal works. As late as three years ago, two publishing houses, the *Fali*

3. The ZHONGGUO FAZHIBAO (Chinese Legal Gazette) is published under the direction of the Chinese Ministry of Justice and is available by subscription through the China International Book Trading Corporation, *supra* note 1.

4. The British Broadcasting Corporation Summary of World Broadcasts (Far East) is published daily and available on LEXIS, NEXIS Library, BBCSWB File, and in many university and East Asian divisional libraries.

5. The Foreign Broadcast Information Service is published in eight Daily Reports (China, Eastern Europe, Soviet Union, Asia and Pacific, Middle East and Africa, Latin America, Western Europe and South Asia) and is available by subscription through the National Technical Information Service, U.S. Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161.

6. The New China News Agency General Overseas News Service reports news and developments within China for overseas use. The Service is most readily accessible on LEXIS, NEXIS Library, XINHUA File.

Chubanshe (Law Publishing House)⁷ and the *Qunzhong Chubanshe* (Masses Publishing House),⁸ dominated Chinese legal publishing. A few university presses, principally Beijing and China People's, played a subordinate role.⁹ These publishers went unchallenged in the then fairly rigid world of legal publishing. But the *Falü* and the *Qunzhong* no longer dominate the field. Numerous specialized and university presses have risen to challenge the monopoly of the two Beijing-based houses, and Chinese legal publishing is much the better for such competition. It is instructive to note that relatively few of the volumes discussed below come from either the Law or Masses Publishing House.

Chinese legal publishing has become strikingly commercial. In the short term, the commercialization of the Chinese legal publishing industry is as beneficial to those who would practice or study Chinese law as it is to the business managers of Chinese publishing houses. Law books and periodicals, both non-fiction and fiction, are selling well as Chinese publishers have begun to look at their profit and loss statements for the first time since the founding of the People's Republic of China in 1949. Quite apart from the growth in novels, novellas, short stories and dramatic works with legal themes, which is not considered here, the commercialization of Chinese legal publishing has set off an explosion in the publishing of collections and statutory com-

7. The *Falü Chubanshe* (Law Publishing House) began publishing books and periodicals relating to law in the early 1950s as an arm of the Ministry of Justice. After a twelve year hiatus during the Cultural Revolution, the *Falü Chubanshe* resumed publishing in 1980 under the direction of the Ministry of Justice. Books published by the *Falü Chubanshe* are available at the publishing house's Readers Service Center at 1 Baiguang Road, Beijing, at the Wangfujing or Xijiekou branches of the Xinhua Shudian (New China Bookstore) in Beijing, at other branches of the Xinhua Shudian in Beijing and other cities, or through the China International Book Trading Corporation, *supra* note 1.

8. The *Qunzhong Chubanshe* (Masses Publishing House) was established in 1956 as the publishing arm of the Chinese Ministry of Public Security to publish books, journals and other materials relating to law, public security, criminal investigations, labor reform and related subjects. Books and journals published by the *Qunzhong Chubanshe* are available at the publishing house's Readers Service Center at 64 West Chang'anjie, Beijing, at the Wangfujing or Xijiekou branches of the Xinhua Shudian (New China Bookstore) in Beijing, at other branches of the Xinhua Shudian in Beijing and other cities, or through the China International Book Trading Corporation, *supra* note 1. The *Qunzhong Chubanshe* is located within the Ministry of Public Security at 14 East Chang'anjie, Beijing.

9. Beijing University Press is the direct publishing arm of Beijing University and has published scholarly works and textbooks on Chinese and Western law since the early 1980s. China People's University Press is the publishing arm of China People's University in Beijing and also publishes scholarly works and textbooks on Chinese and Western law. In Beijing, books published by Beijing University Press and China People's University Press are available at the external China People's University bookstore located at China People's University, Baishiqiao, Beijing, at the Wangfujing or Xijiekou branches of the Xinhua Shudian in Beijing, at other branches of the Xinhua Shudian in Beijing and other cities, or through the China International Book Trading Corporation, *supra* note 1.

pendia at both the national and local levels. Collections of cases on criminal law and procedure, inheritance law, family law, civil law, tax, intellectual property and other subjects have proliferated. New statutory compendia are available for laws and regulations promulgated at the national level, as well as for Beijing, Shanghai, Guangdong and other areas. The commercialization of Chinese legal publishing is thus proving a boon to the practitioner and student of Chinese law.

The comments below focus first on several categories of Chinese legal works, including statutory compendia, reference materials and casebooks. Secondly, sources are cited for several particular subject areas, including intellectual property and standardization. These subject areas are mentioned either because outstanding volumes were published during 1985 and 1986 in those fields, or because the fields themselves have become increasingly important over the recent past. Finally, this survey will touch on significant legal periodicals, including journals, gazettes and newspapers which augment resources on recent developments of law in China.

I. GENERAL COLLECTIONS OF LAWS AND CASES

A. *Statutory Compendia*

1985 and 1986 saw an upsurge in the publication of statutory compendia in China. Statutory compendia have become such a fundamental part of Chinese legal publishing that it would be a daunting task to detail all of the volumes now being published. The compendia cited here are those which are especially important or useful to the practitioner or student of Chinese law.

The Legislative Affairs Commission of the Standing Committee of the National People's Congress has recently taken a major step in editing several volumes of English translations of Chinese laws and regulations published by the Foreign Languages Press in Beijing. These are among the first quasi-official English translations of Chinese laws and regulations yet published in China.¹⁰ Important not only for their utility, these volumes have symbolic significance both for the recognition they grant to the attention paid to Chinese law from abroad, and for their indication of the new importance of the National People's Congress in the Chinese institutional power structure.

After a hiatus of more than two decades, the People's Publishing House has resumed publication of the *Zhonghua Renmin Gongheguo*

10. THE LAWS OF THE PEOPLE'S REPUBLIC OF CHINA 1979-1982 (Legislative Affairs Commission of the Standing Committee of the National People's Congress ed. 1987) (Foreign Languages Press).

Fagui Huibian (Collected Laws and Regulations of the People's Republic of China),¹¹ the official Chinese statutory compendium. The publication of the Collected Laws and Regulations is a welcome event. Volumes of the Collected Laws and Regulations covering 1979,¹² 1980,¹³ 1981,¹⁴ 1982,¹⁵ 1983,¹⁶ 1984¹⁷ and 1985¹⁸ were published in mid-1986 and early 1987, and later volumes are reported to be forthcoming. Given the rapid pace of codification in China in the early 1980s, it is impossible for the Collected Laws and Regulations to be comprehensive, but the renewed effort to publish an official compendium of the more important national laws and regulations adopted in the early 1980s is encouraging and will apparently continue on an annual basis.

Another recent statutory compendium is the two volume *Zhongguo Shewai Jingji Fagui Huibian* (Collected Chinese Foreign Economic Laws and Regulations),¹⁹ which includes laws and regulations relating to customs, foreign trade, transportation, taxation, finance, insurance, environmental protection, equity and cooperative joint ventures, foreign representative offices, special economic zones, economic and technological development zones, industrial and intellec-

11. Four volumes of an earlier compendium, the ZHONGYANG RENMIN ZHENGFU FALING HUIBIAN (Collected Laws and Decrees of the Central People's Government) were republished for the years 1949 to 1953 by the Law Publishing House in 1982. Thirteen volumes of the ZHONGHUA RENMIN GONGHEGUO FAGUI HUIBIAN (Collected Laws and Regulations of the People's Republic of China) were published for the years 1954 to 1963 by the Law Publishing House. Other editions and reprints of these volumes have also been published. No volumes, however, have been openly published for the years 1964 to 1978.

12. ZHONGHUA RENMIN GONGHEGUO FAGUI HUIBIAN (1-12/1979) (Collected Laws and Regulations of the People's Republic of China, Jan. - Dec. 1979) (1986) (Law Publishing House).

13. ZHONGHUA RENMIN GONGHEGUO FAGUI HUIBIAN (1-12/1980) (Collected Laws and Regulations of the People's Republic of China, Jan.- Dec. 1980) (1986) (Law Publishing House).

14. ZHONGHUA RENMIN GONGHEGUO FAGUI HUIBIAN (1-12/1981) (Collected Laws and Regulations of the People's Republic of China, Jan. - Dec. 1981) (1986) (Law Publishing House).

15. ZHONGHUA RENMIN GONGHEGUO FAGUI HUIBIAN (1-12/1982) (Collected Laws and Regulations of the People's Republic of China, Jan. - Dec. 1982) (1986) (Law Publishing House).

16. ZHONGHUA RENMIN GONGHEGUO FAGUI HUIBIAN (1-12/1983) (Collected Laws and Regulations of the People's Republic of China, Jan.- Dec. 1983) (1986) (Law Publishing House).

17. ZHONGHUA RENMIN GONGHEGUO FAGUI HUIBIAN (1-12/1984) (Collected Laws and Regulations of the People's Republic of China, Jan. - Dec. 1984) (1986) (Law Publishing House).

18. ZHONGHUA RENMIN GONGHEGUO FAGUI HUIBIAN (1-12/1985) (Collected Laws and Regulations of the People's Republic of China, Jan. - Dec. 1985) (1987) (Law Publishing House).

19. ZHONGGUO SHEWAI JINGJI FAGUI HUIBIAN (Collected Chinese Foreign Economic Laws and Regulations) (2 vols.) (1986) (People's Publishing House).

tual property, notarization, arbitration and other areas. Another useful compendium is the two-volume *Jingji Ziliao Xuanbian* (Selected Materials in Economic Law).²⁰ *Fagui Xuanbian (Xuyi)* (Selected Laws and Regulations),²¹ a collection of laws and regulations, updates the single volume *Fagui Xuanbian* (Selected Laws and Regulations),²² a standard compendium used by Chinese legal professionals which was originally published in 1983 and has since been reprinted on several occasions to meet a strong and continuing demand.

A more recent compendium published in serial form is the *Zuixin Jingji Fagui* (Latest Economic Legislation). Several volumes of *Zuixin Jingji Fagui* covering the year 1985 and early 1986 were published by mid-1986,²³ edited by the Economic Legislation Research Center of the Chinese State Council. The three volumes published to date are fairly detailed in their coverage of national and local legislation, and the continuing nature of the series particularly recommends it to foreign attorneys working in Chinese law and to academic specialists in the field.

Regional statutory compendia are appearing with greater frequency and constitute some of the more useful compendia now available. While these regional works are quite brief, they do begin to shed light on previously unknown local developments. Two important regional compendia are *Beijing Shi Difangxing Fagui Huibian 1980-1985* (Collected Local Laws and Regulations of Beijing Municipality 1980-1985),²⁴ and *Shanghai Shi Liyong Waizi Gongzuo Shouce* (Shanghai Overseas Investment Utilization Manual),²⁵ a somewhat dated volume which nonetheless collects certain relevant Shanghai legislation.

20. JINGJIFA ZILIAO XUANBIAN (Selected Materials in Economic Law) (Legal Textbooks Editorial Board ed. 1986) (2 vols.) (Masses Publishing House).

21. FAGUI XUANBIAN (XUYI) (Selected Laws and Regulations) (Legal Textbooks Editorial Board ed. 1986) (Law Publishing House).

22. FAGUI XUANBIAN (Selected Laws and Regulations) (Legal Textbooks Editorial Board ed. 1983) (Law Publishing House).

23. ZUIXIN JINGJI FAGUI (Latest Economic Legislation) (State Council Economic Legislation Research Center and Chinese Economic Law Research Society eds. 1985, 1986) (Vol. 1: Jan.-June 1985; Vol. 2: July-Sept. 1985; Vol. 3: Sept.-Dec. 1985) (Machinery Industry Publishing House).

24. BEIJING SHI DIFANGXING FAGUI HUIBIAN 1980-1985 (Collected Local Laws and Regulations of Beijing Municipality 1980-1985) (Legal Work Office of the Standing Committee of the People's Congress of Beijing Municipality ed. 1986) (China University of Politics and Law Press).

25. SHANGHAI SHI LIYONG WAIZI GONGZUO SHOUCHE (Shanghai Overseas Investment Manual) (Shanghai Foreign Economic and Trade Commission ed. 1985) (Shanghai Translation Publishing Company).

Specialized statutory compendia are also appearing more frequently. In addition to the economic law and foreign economic law collections described above, examples of useful specialized statutory compendia include *Xingzhengfa Ziliao Xuanbian* (Selected Materials on Administrative Law),²⁶ an extraordinarily detailed index to Chinese administrative legislation published as a supplementary volume to the standard administrative law text for Chinese law students. In an entirely different field, the publication of *Yiyuan Changyong Weisheng FAGUI Shouce* (Hospital Manual of Health Laws and Regulations in Common Use)²⁷ and *Zhonghua Renmin Gongheguo Weisheng FAGUI Huibian 1981-1983* (Collected Health Laws and Regulations of the People's Republic of China 1981-1983),²⁸ a supplement to an earlier volume covering the years 1978 to 1980,²⁹ has made possible a detailed examination of the legal regulation of Chinese health and medical affairs, until now an unpublicized area of law in China. A comprehensive compendium of tax laws and regulations is *Shuishou Shiyong Shouce* (Practical Guide to Taxation), which covers numerous specialized areas of Chinese tax law.³⁰

B. Reference Books

The most valuable work in law published in China during the last two years is arguably the *Faxue Lunwen Muluji* (Index to Articles in Law),³¹ a comprehensive index to legal essays and articles published in China from 1949 to 1984. Editors Zhong Yaohong and Lü Xuemei have catalogued articles and essays on law by subject from more than four hundred specialized, scholarly and popular law journals and legal newspapers. The editors have performed an immense service to both Chinese and foreign students of Chinese law. The *Faxue Lunwen Muluji* has its limitations: local legal gazettes (*fazhibao*) such as those of Shanghai and Beijing are not included, and

26. XINGZHENGFA ZILIAO XUANBIAN (Selected Materials on Administrative Law) (Legal Textbooks Editorial Board ed. 1984) (Law Publishing House).

27. YIYUAN CHANGYONG WEISHENG FAGUI SHOUCHE (Hospital Manual of Health Laws and Regulations in Common Use) (General Office of the Ministry of Health ed. 1986) (Law Publishing House).

28. ZHONGHUA RENMIN GONGHEGUO WEISHENG FAGUI HUIBIAN 1981-1983 (Collected Health Laws and Regulations of the People's Republic of China 1981-1983) (General Office of the Ministry of Health ed. 1985) (Law Publishing House).

29. ZHONGHUA RENMIN GONGHEGUO WEISHENG FAGUI HUIBIAN 1978-1980 (Collected Health Laws and Regulations of the People's Republic of China 1978-1980) (General Office of the Ministry of Health ed. 1982) (Law Publishing House).

30. SHUISSHOU SHIYONG SHOUCHE (Practical Guide to Taxation) (1985) (Workers Publishing House).

31. FAXUE LUNWEN MULUJI (Index to Articles in Law) (Zhong Yaohong & Lü Xuemei eds. 1986) (Zhejiang People's Publishing House).

the authors have not catalogued *neibu* (internally classified)³² periodicals because most readers (and perhaps the authors themselves) do not have access to them. Nonetheless, this volume is a major addition to the reference literature available on law in China.

After years of preparation, the volume on law of the *Zhongguo Dabaike Quanshu: Falü* (Encyclopedia of China)³³ was published in 1985. Broad in scope and professionally produced, this volume is a worthwhile reference work for any Western practitioner or student of Chinese law. The volume includes biographical sketches of Chinese jurists through history. The encyclopedic nature of the work and its short entries, however, also serves to limit its utility. A third important reference work in law recently published in China is the long-expected *Yinghan Falü Zidian* (English-Chinese Law Dictionary),³⁴ published by the Law Publishing House in late 1985. This work is the first English-Chinese or Chinese-English law dictionary published in the People's Republic which can even conceivably claim to be comprehensive³⁵ and is a valuable addition to the field.

C. Casebooks

The number of published collections of Chinese legal cases exploded in 1985 and in 1986. One reason for that upsurge, as noted above, is the growing commercialization of Chinese legal publishing. Collections of cases sell very well in today's Chinese book market. These collections serve to bring law to life far more effectively than do staid commentaries on the law. For the foreign student of Chinese law, collections of cases and case reports in Chinese legal periodicals

32. '*Neibu*' or 'for internal use only' publications may be so classified for one of several reasons. The first reason is analogous to the use of classified status for documents in the U.S. government: sensitivity regarding security issues. Another reason for conferral of *neibu* status on documents in China concerns the tentative nature of the materials. In this latter situation the authors or publishers seem to seek to limit circulation of ideas and analyses they feel they have not yet perfected. A third reason for the use of the *neibu* classification is to ensure that limited edition publications reach the specialist readers for whom they are intended before these works are bought up by the general public.

33. ZHONGGUO DABAIKE QUANSHU: FALÜ (Encyclopedia of China: Law) (Zhang Youyu ed. 1985) (China Encyclopedia Press).

34. YINGHAN FALÜ ZIDIAN (English-Chinese Law Dictionary) (English-Chinese Law Dictionary Editorial Committee ed. 1985) (Law Publishing House).

35. Other law dictionaries published in China include YINGHAN FALÜ CIHUI (English-Chinese Glossary of Law) (He Shiyong, Luo Haocai & Shen Sibao eds. 1982) (Beijing University Press) and YINGFAHAN GUOJIFA CIHUI (English-French-Chinese Glossary of International Law) (Wang Tieya ed. 1983) (China Foreign Translation Publishing Company). Law dictionaries published in Hong Kong include A CONCISE DICTIONARY OF ENGLISH LAW IN CHINESE TRANSLATION (Yu Man-king ed. 1973) (Great Earth Book Company, Hong Kong) and GLOSSARY OF APPLIED LEGAL TERMS (ENGLISH-CHINESE) (Hong Kong Government ed. 1975).

such as the *Zhongguo Fazhibao* (Chinese Legal Gazette) and *Minzhu yu Fazhi* (Democracy and the Legal System) have become increasingly important sources.

Yet there are limits to both the significance and the extent of this expansion of commercial publication of legal materials. While more cases are published in China today, in the tradition of the civil law, Chinese jurists use them only as examples of legal reasoning and not as cited precedent. Furthermore, it should be noted that volumes of Chinese legal cases have been published for several years in two categories: unrestricted, and *neibu*³⁶ editions. Works released in the latter category generally escape the attention of both foreign observers and the general Chinese public.

Among the best volumes of collected cases are *Anli Xuanbian* (Selected Cases),³⁷ a series of cases in criminal law, marriage and family law, inheritance and tort law edited by the Beijing Municipal Bureau of Justice and published in 1986. The value of this volume lies in its clear presentation of cases covering many different offenses. *Anli Xuanbian* includes offenses not often covered in other collections, for example, cases involving tax evasion and improper changing of the *hukou* (residence permit).

Jinan Jingji Fanzui Anlix (Analysis of Complex Economic Crime Cases),³⁸ published in late 1986, is one of the best of a new style of specialized casebooks. This volume covers economic law cases in far more detail than the *Anli Xuanbian* and provides concise and logical explanations for the treatment of each case, carefully distinguishing each offense from other closely related ones. *Changshi Anli Zibai*

36. Casebooks available for unrestricted distribution (*gongkai faxing*) include, in addition to those discussed in the text, XINGSHI SUSONG ANLI (Cases in Criminal Procedure) (Tao Mao, Wu Yanping, Fan Chongyi, Zhang Jiachun & Li Baoyue eds. 1985) (Masses Publishing House); FAWANG NANTAO: ANLI TONGXUNXUAN (It is Difficult to Escape the Net of Law: Selected Case Dispatches) (Zhou Manzhong ed. 1985) (Fujian People's Publishing House); JINGZHONG (Alarm) (Xinhua News Agency Domestic Department Political Group ed. 1985) (Shanxi People's Publishing House); and XING'AN LUOJI JIEXI (Explanation and Analysis of Logic in Criminal Cases) (Zhu Wu ed. 1985) (Nankai University Press). The many casebooks published for internal or restricted distribution (*neibu faxing*) include XINGSHI ANLI (Cases in Criminal Procedure) (Beijing University Faculty of Law Materials Office ed. 1981) (Beijing University Faculty of Law Materials Office) and XINGSHI ANLI FENXI (Analysis of Cases in Criminal Procedure) (Cui Qingsen, Chen Baoshu, Lei Ying & Feng Rui eds. 1983) (Law Publishing House).

37. ANLI XUANBIAN (Selected Cases) (Beijing Municipality Bureau of Justice ed. 1986) (Beijing Publishing House). The commercial appeal of casebooks in the Chinese book market is reflected in the first printing of this volume, which numbered 98,000.

38. JINAN JINGJI FANZUI ANLIXI (Analysis of Complex Economic Crime Cases) (Xiao Xianfu, Ouyang Tao & Cheng Jian eds. 1986) (Guangxi People's Publishing House).

(Common Knowledge, Cases and Confessions)³⁹ is unusual for the fact that it was edited by the little-known Air Force Military Court⁴⁰ and contains materials from military cases and courts. The volume consists of short essays on law headed "Common Knowledge," narrative reports of cases in the section headed "Cases," and an extraordinary series of confessions and court statements delivered to the court before sentencing by convicted criminals, most of them soldiers. Confessions and court statements remain an underused source of information on Chinese criminal matters; these can constitute among the most revealing glimpses of the Chinese criminal justice system at work. Confessions detail a case as it is built by the prosecuting authorities. The suspect and his story are put through an intensive analysis which clearly specifies legal prohibitions and the acts which have transgressed them. As a work that presents a series of such statements, *Changshi Anli Zibai* is a particularly illustrative legal resource.

Jichengfa Anli Jiexi (Explanation and Analysis of Inheritance Cases)⁴¹ is the best of the casebooks on inheritance matters and is a rich source of information and analysis on this still under-emphasized area in Western studies of Chinese law. This last volume represents another genre of helpful works which analyzes relevant cases alongside with the provisions, article by article, for certain laws. Given the absence of the authoritative interpretations issued by other civil law countries, these books serve an irreplaceable function.

39. CHANGSHI ANLI ZIBAI (Common Knowledge, Cases and Confessions) (Air Force Military Court ed. 1986) (Liberation Army Publishing House).

40. The Air Force Military Court is one of the several "specialized courts" of the People's Republic of China authorized by Article 2 of the Law on the Organization of the People's Courts of the People's Republic of China. Article 2 stipulates that "the trial power of the People's Republic of China is exercised by the following people's courts: (1) local people's courts at various levels; (2) specialized people's courts; [and] (3) the Supreme People's Court.... Specialized people's courts include: military courts, railway transport courts, maritime transport courts, forestry courts and other specialized courts." See ZHONGHUA RENMIN GONGHEGUO ZUZHI FAGUI XUANBIAN (Selected Organizational Laws and Regulations of the People's Republic of China) 96 (Ministry of Labor and Personnel ed. 1985).

Under the authorization granted by that Article, military courts such as the Air Force Military Court have been established or expanded, and maritime courts and railway and transport courts have been established. Specialized courts such as the Air Force Military Court are generally trial-level courts. Appeals from the Air Force Military Court are heard by the Higher Military Court, which is directly subordinate to the Supreme People's Court of the People's Republic of China. Appeals from other specialized courts are heard by general appellate courts or, in appeals from trial-level railway and transport courts, by the Higher Railway and Transport Court, which is also subordinate to the Supreme People's Courts. See Pew, Jarvis & Sidel, *Maritime Courts in the Middle Kingdom: China's Great Leap Seaward*, 11 MAR. LAW. — (1987), on China's specialized maritime courts.

41. JICHENGFA ANLI JIEXI (Explanation and Analysis of Inheritance Cases) (Xie Anshan, Yan Li & Ding Lechao eds. 1986) (Jilin People's Publishing House).

Other worthwhile casebooks include two volumes of *Shuo Anli Xue Falü* (Case Discussions in Legal Study) on marriage law⁴² and inheritance law,⁴³ which contain case narratives and expositions of law prepared by the Supreme People's Court. *Yi'an Bianxi* (Debate and Analysis of Disputed Cases)⁴⁴ presents competing views on the appropriate resolution of a series of criminal cases and is an excellent research tool. A series of criminal, civil, family, inheritance and economic law contract cases originating in the courts of the Guangxi Zhuangzu Autonomous Region of southern China is discussed in cogent and expert detail in *Falü Changshi Anli Xuanbian* (Selected Cases for Common Legal Knowledge).⁴⁵ This volume is probably the finest collection of cases from a specific Chinese region yet available outside China.

II. SPECIALIZED COLLECTIONS AND TREATISES

Numerous works are now published in China on topics earlier considered too specialized or too controversial to merit entire volumes. A few particularly noteworthy works are cited here.

A. Standardization

The Chinese use of standards (*biaozhun*) remains a relatively unexamined field⁴⁶, but Chinese technical standards deserve serious attention from Western observers of Chinese law. The Administrative Regulations on Standardization of the People's Republic of China⁴⁷ promulgated by the Chinese State Council in 1979, give legal force to

42. SHUO ANLI XUE FALÜ: ZHONGHUA RENMIN GONGHEGUO HUNYINFA BUFEN (Case Discussions in Legal Studies: Section on Marriage of the Law of the People's Republic of China) (Zhu Fu, Supreme People's Court, ed. 1986) (China Broadcasting and Television Publishing House).

43. SHUO ANLI XUE FALÜ: ZHONGHUA RENMIN GONGHEGUO JICHENGFA BUFEN (Case Discussions in Legal Studies: Section on Inheritance of the Law of the People's Republic of China) (Zhu Fu, Supreme People's Court, ed. 1985) (China Broadcasting and Television Publishing House).

44. YI'AN BIANXI (Debate and Analysis of Disputed Cases) (Yu Wei ed. 1985) (Wuhan University Press).

45. FALÜ CHANGSHI ANLI XUANBIAN (Selected Cases for Common Legal Knowledge) (Guangxi Zhuangzu Autonomous Region, Office of the Leading Small Group for Popularization of Common Legal Knowledge ed. 1986) (Guangxi People's Publishing House).

46. One important exception is the note in this volume by Frederick R. Burke, *The Administrative Law of Standardization in the PRC*, 1 J. CHINESE L. 271 (1987).

47. An English text of the Administrative Regulations on Standardization of the People's Republic of China can be found at British Broadcasting Corporation Summary of World Broadcasts, Sept. 5, 1979, at FE/W1047/A3. The Chinese text can be found in GUOYING GONGYE QIYE FAQI XUANBIAN (Selected Laws and Regulations on State-owned Industrial Enterprises) 72 (General Office of the State Council Economic Legislation Research Center ed. 1982) (Workers Publishing House).

technical standards for goods, materials, processes and technology promulgated by the State Bureau of Standards or other national-level bodies as national standards (*guojia biao zhun*), by various ministries as ministerial standards (*bu biao zhun*) and by local enterprises as enterprise standards (*qiye biao zhun*). National standards, in particular, have become increasingly important in technology import and joint venture transactions as Chinese government agencies and enterprises attempt to ensure that national or international standard levels are attained.⁴⁸

Chinese standards remain a largely hidden form of Chinese law, but the Western practitioner or student should begin with the *Zhongguo Biaozhun Nianjian 1986* (Chinese Yearbook of Standards 1986) and *Dangdai Zhongguo de Biaozhunhua* (Modern China's Standardization),⁴⁹ which provide detailed descriptions of the Chinese standardization system, statistics covering standards published between 1949 and 1985, and lists of all national standards promulgated from mid-1984 to the end of 1985. More specialized works include *Biaozhunhua Zhongyao Wenjian Huibian Xubian* (Collected and Digested Major Documents on Standardization (Vol. 1)),⁵⁰ an extraordinary collection of documents which charts the development of standardization as a discipline and a branch of law within China. This collection includes documents from the State Council, the State Bureau of Standards and local governments and, notably, is unclassified and therefore available for unrestricted purchase in Beijing.⁵¹ Another useful work on standardization is *Gaohao Qiye Biaozhunhua Tigao Jingji Xiaoyi* (Carry Out Enterprise Standardization Well, Raise Economic Efficiency),⁵² a collection of essays on the use of technical

48. Article 24 of the Administrative Regulations on Standardization stipulates that "In importing equipment and technology, full consideration must be given to standardization requirements, and prior examination for standardization should be performed by the relevant departments of the State Council or by provincial, municipal or autonomous region administrative organs for standardization; those [imports] which have a relatively great impact on China should be examined for standardization by relevant departments convened by the State Bureau of Standards." *Id.* See also Burke, *supra* note 46.

49. *ZHONGGUO BIAOZHUN NIANJIAN 1986* (Chinese Yearbook of Standards 1986) (State Bureau of Standards ed. 1986) (China Standards Publishing House); *DANGDAI ZHONGGUODE BIAOZHUNHUA* (Modern China's Standardization) (Xun Haofeng ed. 1986) (China Social Sciences Publishing House).

50. (1) *BIAOZHUNHUA ZHONGYAO WENJIAN HUIBIAN XUBIAN* (1 Collected and Digested Major Documents on Standardization) (State Bureau of Standards Investigation and Research Office ed. 1986) (China Standards Publishing House).

51. The Chinese Yearbook of Standards and other works on standardization, as well as national and ministerial technical standards, may be obtained at the China Standards Publishing House, North Sanlihe Road, Xuanwumen, Beijing.

52. *GAOHAO QIYE BIAOZHUNHUA TIGAO JINGJI XIAOYI* (Carry Out Enterprise Stand-

standards by enterprises, including the use of standards in technology import transactions.

B. Intellectual Property

As late as three years ago, discussion of patent, trademark and copyright matters were brief chapters buried in Chinese works on economic law. In 1985 and 1986 intellectual and industrial property broke into the forefront of Chinese law with the promulgation of the Chinese patent law,⁵³ as well as increases in trademark infringement cases and in measures designed to arrest that activity. Concurrently, the government established the National Copyright Administration of China (*Guojia Banquanju*) to coordinate China's burgeoning activity in international and domestic copyright matters.

Enormous advances have been made in Chinese writings on intellectual and industrial property. Zheng Chengsi's *Xinxi, Xinlei Jishu yu Zhishi Chanquan* (Information, New Technologies and Intellectual Property)⁵⁴ presents the innovative views of one of China's younger and more distinguished scholars of intellectual property on such topics as industrial property protection for the products of biological and microbiological experimentation, protection of computer hardware and software, and protection for other new technologies. No serious student of intellectual and industrial property in China can ignore this and other important works of Zheng Chengsi.⁵⁵ Other treatments of intellectual and industrial property which are of value to foreign researchers in Chinese intellectual property law include *Gongye Chanquan Qianlun* (An Introduction to Industrial Property),⁵⁶ which provides the most detailed exposition of unfair competition law yet published in China as well as a useful discussion of trademark and patent law, and *Zhishi Chanquan Falü Zhishi* (Knowledge of Intellectual Property Law),⁵⁷ which presents information on copyright, trademark, invention and patent law and technology transfer in question and answer form. *Keji Lifa: Xinde Kaituo Lingyu* (Legislation on Sci-

ardization Well, Raise Economic Efficiency) (State Bureau of Standards Investigation and Research Office ed. 1983) (China Standards Publishing House).

53. For an analysis of the patent law, see Pinard & Lian, *Patent Protection Under Chinese Law*, 1 J. CHINESE L. 69 (1987).

54. ZHENG CHENGSI, *XINXI, XINLEI JISHU YU ZHISHI CHANQUAN* (Information, New Technologies and Intellectual Property) (1986) (China People's University Press).

55. Another prominent work by Professor Zheng is *ZHISHI CHANQUANFA TONGLUN* (A Discussion of Intellectual Property Law) (1985) (Law Publishing House).

56. *GONGYE CHANQUAN QIANLUN* (An Introduction to Industrial Property) (Shen Qiaozeng & Wang Jing'an eds. 1986) (Patent Documentation Publishing House).

57. *ZHISHI CHANQUAN FALÜ ZHISHI* (Knowledge of Intellectual Property Law) (Zhang Ruolong ed. 1986) (Hunan People's Publishing House).

ence and Technology: A Newly Developing Field)⁵⁸ is a collection of essays and speeches on legal protection of scientific and technical processes and products edited by the State Scientific and Technological Commission in Beijing. As this Commission has taken the lead in pressing for the adoption of legislation to promote scientific and technological creativity, this is a collection of central importance.

The most thorough recent work to focus on copyright is *Banquan Gongzuo Wenjian Xuanbian* (Selected Documents on Copyright Work),⁵⁹ a collection of the recent domestic Chinese copyright legislation. Useful works on trademark law and related subjects include *Shangbiao FAGUI Ziliao Xuanbian* (Selected Materials on Trademark Law and Regulation),⁶⁰ a comprehensive collection of Chinese trademark legislation from the Qing Dynasty and the Northern Warlord period, the pre-1949 enactments of both the Nationalist government and the Chinese Communist Party in the liberated areas under its control, as well as legislation, both superseded and in force, promulgated in China since 1949. Little has been published in China on advertising law and advertising policy, and thus *Shangye Guanggao Jianlun* (An Introduction to Commercial Advertising),⁶¹ though brief, is a welcome addition to the field. Most noteworthy writing on Chinese patent law is published in *Zhongguo Zhuanli* (Chinese Patent Review)⁶² or in the various law journals, but recent useful volumes on patent law include *Zhuanli Gongzuo Wenxuan (2)* (Selected Essays on Patent Work (Vol. 2)),⁶³ *Zhuanlifa Jianlun* (An Introduction to Patent Law),⁶⁴ *Zhongguo Zhuanlifa Jiqi Shishi* (The Chinese Patent Law and Its Implementation),⁶⁵ and, on trademark law, *Zhuanlifa*

58. KEJI LIFA: XINDE KAITUO LINGYU (Legislation on Science and Technology: A Newly Developing Field) (State Science and Technology Commission, Bureau of Science and Technology Policy ed. 1986) (Guangming Daily Press).

59. BANQUAN GONGZUO WENJIAN XUANBIAN (Selected Documents on Copyright Work) appears to have been published by the National Copyright Administration in Beijing in 1985.

60. SHANGBIAO FAGUI ZILIAO XUANBIAN (Selected Materials on Trademark Law and Regulation) (State Administration for Industry and Commerce, Trademark Bureau ed. 1985) (Law Publishing House).

61. SHANGYE GUANGGAO JIANLUN (An Introduction to Commercial Advertising) (Zhang Jian ed. 1985) (China Commerce Publishing House).

62. ZHONGGUO ZHUANLI (China Patent Review) is the journal of the Chinese Patent Office and is published monthly at the Patent Document Publishing House in Beijing. The China Patent Review was established in 1984 as the successor publication to FAMING YU ZHUANLI (Invention and Patent), the journal of the Chinese Patent Office before the promulgation of the Patent Law of the People's Republic of China in 1984.

63. (2) ZHUANLI GONGZUO WENXUAN (2 Selected Essays on Patent Work) (Patent Document Publishing Office ed. 1985) (Patent Document Publishing House).

64. WANG JIAFU & XIA SHUHUA, ZHUANLIFA JIANLUN (An Introduction to Patent Law) (1984) (Law Publishing House).

65. ZHONGGUO ZHUANLIFA JIQI SHISHI (The Chinese Patent Law and Its Implementa-

Shangbiaofa Gailun (An Outline of Patent Law and Trademark Law).⁶⁶

C. Other Topics of Current Interest

In labor law, an area in which Chinese economic and legal reform is moving at an accelerated pace, *Laodongfa Lunwen Ji* (Collected Essays on Labor Law)⁶⁷ is a significant collection.⁶⁸ *Tantan Qiye Pochanfa* (A Discussion of Enterprise Bankruptcy Law)⁶⁹ is an innovative introduction to one of the most controversial areas of recent Chinese legislation by Cao Siyuan, the director of the Bankruptcy Law Drafting Group under the Chinese State Council. *Jichengfa de Lilun yu Shijian* (The Theory and Practice of Inheritance Law)⁷⁰ is one of the best of a recent spate of books on an area of law which is of great concern to many Chinese citizens.

Other specialized works published in the past few years include *Difang Zhengquan Yanjiu* (Research on Local Political Power),⁷¹ a collection of essays on local legislation, local political structure and the political and legislative role of local people's congresses.⁷² *Zem-yang Chuli Fangwu Zhujidi Jiufen* (How to Handle Disputes Over Housing and Residential Land)⁷³ is one of the first works to concentrate on Chinese housing law and regulation, the subject of frequent disputes in the Chinese legal system. *Hangkongfa Zhishi* (Knowledge of Aviation Law)⁷⁴ is among the first Chinese works on this crucial area. While brief, the volume provides a competent introduction to

tion) (Newspaper of Science and Technology Consulting ed. 1985) (Anhui Science and Technology Press).

66. DUAN RUILIN, *ZHUANLIFA SHANGBIAOFA GAILUN* (An Outline of Patent Law and Trademark Law) (1984) (Jilin People's Publishing House).

67. LAODONGFA LUNWENJI (Collected Essays on Labor Law) (Chinese Labor Law Research Society ed. 1986) (Law Publishing House).

68. For analysis of some of the recent developments in Chinese labor law, see Lewis & Flesher, *China Charts a New Course for Labor*, E. ASIAN EXEC. REP., Mar. 1987, at 9; Chang, *Breaking the Iron Rice Bowl: The New Labor Regulations*, E. ASIAN EXEC. REP., Dec. 1986, at 9.

69. CAO SIYUAN, *TANTAN QIYE POCHANFA* (A Discussion of Enterprise Bankruptcy Law) (1986) (China Economics Publishing House).

70. LI JINGTANG & LI CHENGWEN, *JICHENGFA DE LILUN YU SHIJIAN* (The Theory and Practice of Inheritance Law) (1985) (Wuhan University Press).

71. DIFANG ZHENGQUAN YANJIU (Research on Local Political Power) (Research on Local Political Power Editorial Group ed. 1986) (Masses Publishing House).

72. This volume assumes greater interest in light of recent demonstrations by Chinese students in cities throughout China, in which calls for political reform at the local level have figured prominently.

73. WANG HONGCAI, *ZEMYANG CHULI FANGWU ZHUJIDI JIUFEN* (How to Handle Disputes over Housing and Residential Land) (1986) (China Prospects Publishing House).

74. HANGKONGFA ZHISHI (Knowledge of Aviation Law) (Xu Zhenxu ed. 1985) (Law Publishing House).

the field. Finally, *Fudan Faxue (1)* (Law at Fudan (Vol. 1)),⁷⁵ a volume edited by the Faculty of Law at Fudan University in Shanghai containing essays by Fudan law faculty members, includes useful and interesting essays on such topics as the property rights of state enterprises, civil law, protection of witnesses, and library regulation in China.

III. LEGAL PERIODICALS

A variety of legal periodicals from China are of special use in research on Chinese law. Some of the periodicals described below have been introduced within the last several years; others have already been published for several years.⁷⁶

A. Scholarly Journals

The number of scholarly research journals in Chinese law has now grown considerably and the quality of such journals has visibly improved. Particularly useful research journals founded or resumed from 1978 to the mid-1980s include *Faxue Yanjiu* (Studies in Law), a bimonthly journal edited and published by the Institute of Law of the Chinese Academy of Social Sciences,⁷⁷ *Faxue* (Jurisprudence), a monthly journal edited and published by the Institute of Law of the Shanghai Academy of Social Sciences and the East China Institute of Politics and Law, *Zhongguo Faxue* (Law in China), a quarterly journal published by the Chinese Law Society, and *Faxue Pinglun* (Law Review), the monthly scholarly journal edited and published by the Wuhan University School of Law.

Several newer scholarly journals which are now available for use in research on Chinese law include *Zhengfa Luntan* (Politics and Law Forum), the quarterly academic journal of China University of Politics and Law, which is the successor to *Zhongguo Zhengfa Daxue Xuebao* (Journal of China University of Politics and Law) and *Xinan Zhengfa Xueyuan Xuebao* (Journal of the Southwest Institute of Politics and Law), a quarterly academic journal published by the Southwest Institute in Chongqing. Each Chinese institute of politics and law and several university law schools now publish journals, totalling some fifty law journals nationwide.

75. FUDAN FAXUE (1) (Law at Fudan (Vol. 1)) (Fudan University Faculty of Law ed. 1986) (Fudan University Press).

76. Except for those periodicals described as for internal circulation only (*neibu*), the periodicals below are generally available for subscription through the China International Book Trading Corporation, P.O. Box 2820, Chegongzhuang, Beijing, China.

77. See *supra* note 1 and accompanying text.

B. *Official Gazettes*

Several official gazettes published by the Chinese government are also of use, not only to researchers in Chinese law but also to practitioners in the field. Two of the gazettes have been published since the late 1970s (and earlier, in internal editions). These are the *Zhonghua Renmin Gongheguo Guowuyuan Gongbao* (State Council Gazette of the People's Republic of China), which is published on an irregular basis by the Legal Affairs Bureau of the State Council, and the *Zhonghua Renmin Gongheguo Quanguo Renmin Daibiao Dahui Changwu Weiyuanhui Gongbao* (Gazette of the Standing Committee of the National People's Congress of the People's Republic of China), published on an irregular basis by the Standing Committee of the National People's Congress. In 1985 the Chinese Supreme People's Court began publication of the *Zhonghua Renmin Gongheguo Zuigao Renmin Fayuan Gongbao* (Gazette of the Supreme People's Court of the People's Republic of China) on a quarterly basis. Publishing court documents, court-issued regulations and procedures, advisory opinions and descriptions of cases, the Supreme People's Court Gazette is one of the most useful newer sources of Chinese law available from China.

A monthly *neibu* publication of the Supreme People's Court is *Renmin Sifa* (People's Judiciary), which provides documents, legal interpretations and judgments issued by the Supreme People's Court, as well as practical articles for judges, prosecutors and attorneys.

Local authorities in China publish their own local versions of gazettes like those of the State Council, the Standing Committee of the National People's Congress, and the Supreme People's Court. Few of the local gazettes are available on a regular basis outside China, although some may be found on open shelves at Chinese law libraries.

C. *General Monthly Periodicals*

Certain periodicals published specifically for practicing lawyers in China are also useful for researchers and practitioners of Chinese law abroad. A leading example of these publications is *Faxue Zazhi* (Law Journal), an excellent journal published by the Beijing Law Society. Other journals for lawyers are published in Beijing, Tianjin and other major cities and by the law societies of virtually every province and autonomous region. Bar associations in several major cities and provinces publish very useful monthly journals, entitled *Lüshi* (Lawyers).

A number of popular law journals which are edited and pub-

lished for a mass audience have been introduced since 1979. These journals are unlikely to be of more than a very general use to practitioners in the field. The first and still the best of the popular law journals is *Minzhu yu Fazhi* (Democracy and the Legal System), a monthly magazine published in Shanghai with a circulation of well over two million.⁷⁸ Democracy and the Legal System contains descriptions of cases and other materials on developments in Chinese domestic issues. Other popular law journals include *Fazhi Jianshe* (Legal Construction) and *Falü yu Shenghuo* (Law and Life), both published by the Law Publishing House under the Ministry of Justice, and *Falü Zixun* (Law Advisor), a popular journal published by the Masses Publishing House under the Ministry of Public Security.

D. Specialized Periodicals

Journals and periodicals dedicated to a single area of law are another type of resource now available. The publication of Chinese legal periodicals has increased to the point where it is almost impossible to compile a complete list of specialized legal publications from China, but a selective list includes *Zhongguo Zhuanli* (Patent Review of China), the monthly journal of the Chinese Patent Office, *Huanjingfa* (Environmental Law), published by the Environmental Law Institute of the Wuhan University School of Law, *Banquan Cankao Ziliao* (Copyright Reference Materials), the monthly *neibu* publication of the National Copyright Administration of China, *Fayixue Zazhi* (Journal of Forensic Medicine), published by the Ministry of Justice in Beijing, *Qingshaonian Fanzui Yanjiu* (Research on Juvenile Crime), published by the Chinese Academy of Social Sciences, *Caizheng* (Finance), a monthly journal published by the Ministry of Finance, and *Zhongguo Shuiwu* (Chinese Taxation), a monthly journal on taxation published by the Chinese Ministry of Finance. This last title is certainly not least, for it includes official interpretations on tax law, such as *pifu* (official responses) issued by the Ministry of Finance. These official responses are similar to U.S. Government letter rulings and carry binding force. Of the journals mentioned above, all are published in Beijing, with the exception of *Huanjingfa*, which is published in Wuhan. While not specifically a periodical, the *Zhongguo Guojifa Niankan* (Chinese Yearbook of International Law) is a particularly useful specialized publication reflecting Chinese views on public and private international law issues.

78. See *supra* note 2 and accompanying text.

E. Legal Newspapers

Chinese legal newspapers are another major category of legal publications useful to the Western researcher and practitioner. A national law newspaper, the *Zhongguo Fazhibao* (Chinese Legal Gazette), began publication in 1981 and is now published six times each week in Beijing, with printing and distribution centers in Shanghai, Xi'an, Shenyang and other major Chinese cities.⁷⁹ The continuous nature of its coverage makes the Chinese Legal Gazette a rich source in Chinese law. Local legal newspapers are published throughout China. *Fazhibao* are now published in approximately 30 Chinese provincial level areas and in a number of major cities as well, including Beijing, Shanghai, Tianjin, Chongqing, Changchun, Harbin, and Xi'an.⁸⁰

CONCLUSION

As this discussion attempts to show, Chinese legal publishing has advanced quickly since the late 1970s and early 1980s. Works in law published in China are now an immensely valuable tool for understanding and researching Chinese law. This commentary has indicated some of those works which symbolize the vitality and diversity of Chinese legal publishing today. The Western student and practitioner of Chinese law can only hope that in the years ahead the scope of Chinese legal publishing continues to deepen and diversify along the path charted so admirably in 1985 and 1986.

79. See *supra* note 3 and accompanying text.

80. Local *fazhibao* are published in the following localities, among numerous others: Anhui, Guangdong, Guangxi, Hubei, Jiangsu, Jilin, Liaoning, Inner Mongolia, Ningxia, Qinghai, Shandong, Shanxi, Sichuan, Xinjiang, Yunnan, Zhejiang, Beijing, Shanghai, Tianjin, Chongqing, Changchun, Harbin and Xi'an.

