

**The Report on the Development of the Rule of Law in China**  
**(Blue Book on the Rule of Law)**

**No.8 (2010)**

**Abstract**

The year 2009 was the sixtieth anniversary of the establishment of the People's Republic of China and an important year in the construction of socialism with Chinese characteristics. Annual report on China's rule of law No.8 (2010) is a summarization and analysis of the development of the rule of law in China in 2009 in the fields of legislation, judicial reform, human rights, military legal system, international economic legal practice, administrative law, criminal law, civil law, intellectual property rights law, labour law and social law. The Annual report pays special attention to a series hot issues in 2009, including the development of the rule of law in Macao in the decade since its return to China, international law issues relating to the retrieval of Chinese royal cultural relics lost overseas, food safety supervision, crime situation and criminal policies in China, legislation on tort liability, and the current situation and existing problems in the system of legal settlement of colony incidents.

The annual report features a series of exclusive field studies on the situation of rule of law in China, including an evaluation and analysis of

the situation of disclosure of government information at the local level, a discussion on the legal issues relating to the circulation of land in rural areas, an investigation on the public awareness of and institutional building relating to corporate social responsibility, and an examination of the current situation and future trend of development of “new rural cooperative medical care system” that has draw widespread public attention.

In the part on local practice of rule of law, the annual report introduces the creative practice, developed by Sichuan Provincial Government in the aftermath of a major earthquake, of developing grassroots-level democracy and encouraging public participation in post-disaster reconstruction and in the reform of governance mode, examines crimes committed by Mafia-like gangs in Chongqing Municipality and special actions taken by Chongqing Municipal Government in response to such crimes, summarises the achievement made by Beijing Municipal Government in establishing the Labour Disputes Medication Centre and in resolving labour disputes, and analyzes the self-regulatory mechanism invented by the software industry in Dalian City and the implementation in the City of the first personal information protection system in China.

**The Rule of Law in China in 2009: Promoting Development,  
Safeguarding People's Livelihood, and Maintaining Stability**

*Research Team, Law Institute, CASS*

**Abstract:** This article introduces the progress made by China in the development of the rule of law in 2009 in the fields of legislation, judicial reform, administrative law, criminal law, anti-corruption law, civil, commercial and economic laws, media law, environmental protection law, social law, and the laws of Hong Kong, Macao and Taiwan, summarises the main characteristics of and existing problems in this process—which is aimed at safeguarding people's livelihood and maintaining stability—and forecasts the development of the rule of law in China in the year of 2010.

**Key words:** people's livelihood; stability and the rule of law

B2

**Development of Chinese Legislation in 2009**

*Chen Guogang*

The year 2009 is a crucial year in the realisation of the goal of constructing a socialist legal system with Chinese characteristics by 2010.

Both the Standing Committee of the National People's Congress and the

State Council have speeded up legislative work and adopted a series of important laws and administrative regulations. This article reviews the main progresses made in 2009 and forecasts the trend of developments in 2010 in the field of legislation in China.

**Key words:** legislation; revision of law

B3

### **Judicial Reform in China in 2009**

*Xiong Qiuhong*

**Abstract:** In 2009, China has carried out judicial reform and made remarkable processes in optimising the distribution of judicial power, implementing the policy of tempering justice with mercy, strengthening the ranks of judicial personnel, reforming the fund safeguarding system, and improving the working mechanism of ‘administration of justice for the people’, thereby contributing to the establishment of a fair, efficient and authoritative judicial system, and upholding social fairness and justice.

**Key words:** judicial system; reform of the procuratorial system; reform of the court system

B4

# **National Human Rights Action Plan of China: A Landmark**

## **Document of Human Rights Protection in China**

*Liu Huawen*

**Abstract:** The adoption of the first National Human Rights Action Plan in China was a historical breakthrough in the country. While human rights white papers are mainly of summarising and declarative nature, the action plan focuses on concrete actions. It was a new step in the development of human rights cause in China; the drafting process of the this document was characterised by participation by various government departments as well as by the society as a whole; the action plan attaches great importance to the fulfilment of international human rights obligations undertaken by the Chinese Government, upholds various principles and standards of human rights, and stresses implementation and supervision. It has enabled China to gain useful experience and laid a foundation for the making of national human rights action plans in the future.

**Key words:** National Human Rights Action Plan of China; human rights standards; implementation and supervision

B5

**International Law Issues Relating to the Recovery of Chinese Royal**

**Cultural Relics Lost Overseas**

*Xie Xinsheng*

**Abstract:** The recent efforts by China to recover cultural relics looted from the Old Summer Palace (Yuanmingyuan) by western forces have drawn widespread public attention. From the perspective of international law, only the Chinese government has the right to institute legal proceedings for the recovery of Chinese royal cultural relics from overseas. However, the best way to recover Chinese royal cultural relics lost overseas is not to institute civil proceedings at foreign courts, but to adopt a combination of diplomatic and legal approaches in light of the concrete situation of specific cases.

**Key words:** recovery of lost cultural relics; litigation; nationalisation; state immunity; diplomatic channel

B6

### **Construction of the Military Legal System in China in 2009**

*Chen Chuangdong*

**Abstract:** This article summarises the process of, and major events in the construction of military legal system in China in 2009 in the fields of legislation, law enforcement, administration of justice and legal services, and makes some forecasts on the major steps that might be taken by The Chinese People's Liberation Army in the further construction of

military legal system in 2010.

**Key words:** military legal system; administering the armed forces in accordance with the law

B7

### **The Rule of Law in Macao in the Decade after Its Return to China**

*Wang Tao*

During the decade after its return to China, Macao has, through the implementation of ‘One Country, Two Systems’ and the Basic Law of Macao Special Administrative Region, truly realised the high degree autonomy of ‘Macao People administer Macao’, and while achieving rapid economic and social development, has also made praise-worthy progresses in the fields of legislation, administration of justice, legal supervision and the reform of the administrative system. Meanwhile, it has also encountered some new problems and challenges.

**Key words:** One country; two systems; Macao; the rule of law

B8

### **International Economic Law Practice in 2009: Challenges and Opportunities**

*Liu Jingdong*

**Abstract:** The reform of international economic law has been faced with both challenges and opportunities in 2009. After the outbreak of the global financial crisis, international economic law practice has showed some new features and trends of development. This article analyzes the challenges posed by trade protectionism to the formation of the WTO legal system, the reform of international financial system, the enhancement of the decision-making power of developing countries, and the major issues relating to sustainable development in international economic law, and explains the situation faced by and the tasks imposed on China against the background of these new developments in international economic law.

**Key words:** international economic law; challenges and opportunities

B9

### **Chinese Administrative Legal System in 2009**

*Li Xia*

**Abstract:** This article mainly focuses on the achievements made and



challenges faced by China in the fields of administrative legislation and administrative law enforcement in 2009. The achievements include: laws and regulations adopted by both the central and local governments that are well-targeted and highly creative; a new round of institutional reform initiated by local governments; and the progress in the construction of ‘accountable government’ and ‘service-oriented government’ pushed forward by both internal and external forces. Meanwhile, the article points out some problems in the construction of the administrative legal system, including those in administrative examination and approval, disclosure of government information, and the overall level of rule of administrative of law.

**Key words:** administrative rule of law ; institutional reform ; accountable government

B10

**Development of the System of Administrative Regulations with  
Chinese Characteristics**

*Jiang Ling, Liu Ping, Wang Song Lin, Shi Lili, Han Bing*

**Abstract:** In the 30 years since ‘Reform and Opening up’, the construction

of the administrative regulation system has been playing an important role in promoting the socialist modernisation and establishing and improving the socialist market economic system. This article gives a historical review of the formation of basic idea of the system of socialist administrative regulations with Chinese characteristics and the process of the construction of such system, conducts an empirical analysis of the basic rules of this system, its main problems, as well as solutions thereof, and tries to forecast the future development of the system.

**Key words:** Administrative regulations; institutional construction; retrospect and prospect

B11

## **New Developments in the Legal System of Food Safety Supervision in 2009**

*Song Hualing*

**Abstract:** In 2009, the legal system of food safety supervision has been further strengthened. The Food Safety Law, and a series of related rules and regulations establishes a Food Safety Committee and provides for the division of work among different government departments, the responsibility of local government and the system of expert committees.

Currently the government is trying to realise the goals of food safety supervision through the implementation of Food Safety Risk Surveillance and Assessment system, food safety standards, food safety licensing and reporting system, system of disclosure of food safety information, food recall system, food safety credit system, and the system of off-limit industry.

**Key words:** food safety; Food Safety Law; supervision, administrative law

B12

### **Legal Settlement of Colony Incidents in China in 2009**

*Mo Jihong*

**Abstract:** A review of emergency measures for dealing with colony incidents taken by local governments in 2009 and in previous years shows that the lack of ability to handle complicated situations and serious bureaucracy on the part of some local governments have led to escalation of conflicts, resulting in some vicious public security incidents or public crises. This article analyzes the main reasons for the failure of local governments to handle colony incidents and the possible solutions to this

problem.

**Key words:** colony incidents; emergency measure; ruling ability; the Law on Emergency Responses

B13

### **Chinese Criminal Law in 2009**

*Liu Renwen, Zhou Zhenjie*

**Abstract:** This article is a general review of the public security situation in China and a brief introduction to the Seventh Amendment to the Criminal Law as well as the relevant judicial interpretations issued by judicial organs in 2009. Taking the “Special Law Enforcement Action 2009” that targeted crimes relating to faked currency, the article reviews the measures taken by China in 2009 for the control of multiple crimes, and through the discussion of cases with major social impact, explores the relationship between the public opinion and administration of justice. The article also provides information about the ongoing reform of sentencing procedure and forecasts the trend of development of the criminal law system in the year 2010.

**Key words:** criminal law system; special law enforcement action; reform of the sentencing procedure

B14

### **Chinese Procuratorial System: Characteristics and Prospect**

*Sun Qian*

**Abstract:** This article analyzes the basic connotation of the Chinese procuratorial system with Chinese characteristics and the underlying causes of the formation of the procuratorial system, and explores the ways of improving this system, including upholding the guiding position of the theoretical system of socialism with Chinese characteristics, making an effort in developing a socialist procuratorial theory with Chinese characteristics, standardising and checking the exercise of procuratorial power, developing codes of conduct for the procuratorial profession, and raising the ethic standard of prosecutors.

**Key words:** procuratorial system; and connotation

B15

### **The Seventh Amendment to the Chinese Criminal Law: Main Content and Background of Its Adoption**

*Huang Taiyun*

**Abstract:** This article analyzes the main content and background of the Seventh Amendment to the Criminal Law, adopted at the Seventh Session of the Standing Committee of the Eleventh National People's Congress, discusses revision of the provisions in the Criminal Law on the crimes of embezzlement, bribery, disruption of socialist economic order, violation of citizens' rights, disrupting the order of social administration, jeopardising interest of national defence, and explores the legislative purpose and the concrete application of a series of newly established crimes.

**Key words:** Seventh Amendment of the Criminal Law; crime; revision

B16

## Crime Situation and Criminal Policies in China in 2009

Jin Gaofeng

**Abstract:** The year 2009 saw a drastic increase in the number of crimes, including major crimes such as violent crimes, crimes against property, crimes of disrupting socialist market economic order and crimes of disrupting the order of social administration. In response to this situation, Chinese Government has made a series of adjustments and changes to its

criminal policies. In the year 2010 China Government will continue to be faced with dire crime situation and increasing press to maintain stability and therefore will make further adjustments to its criminal policies.

Key words: crime situation; criminal policy; analysis; prediction

B17

## **Chinese Civil Law System in 2009**

*Liu Chengwei*

**Abstract:** In 2009, new progresses have been made in the development of Chinese civil law system. The year 2009 is the tenth anniversary of the promulgation and coming into force of the unified Contract Law. During the past ten years China has made steady progress in the development of both theory and practice of contract law. In 2009, China has begun the implementation of the Real Rights Law and made remarkable achievements in theory, practice and judicial interpretation of the Law, and the year 2009 is also a crucial year in the formulation and adoption of the Tort Law and Chinese Civil Code.

**Key words:** the second interpretation of the Contract Law ; the implementation of the Real Right Law; the Draft Tort Law

B18

## **Chinese Intellectual Property Right Law in 2009**

*Li Shunde*

**Abstract:** In 2009, the national intellectual property strategy has become an important step taken by China in response to the global financial crisis. Active measures have been adopted by governments at various levels throughout the country to implement the strategy. The progress made by China in the protection of intellectual property right has attracted worldwide attention. The third amendment to the Patent Law has once again raised the level of protection of patents in China; Currently China is also pressing forward with the reform of the judicial and administrative procedures within the framework of intellectual property right law system.

**Key words:** the Intellectual Property Right; strategy; implementation

B19

## **The Tort Law Legislation in China: Review and Prospect**

*Ye Mingyi*

**Abstract:** In 2009, China has promulgated the Tort Liability Law, which



includes major revisions on such issues as different compensation standards for the death of rural and urban citizens, the presumption of causality in cases of medical malpractice, compensation for injuries or death occurred in the employment relationship between individual persons, and the determination of discharge of pollutants that meets the relevant standards in cases of environmental tort. In 2009, China has also promulgated amendments to the Food Safety Law, the Patent Law and other laws, and established a series of new systems and rules relating to the recall of defective food products, celebrities' liability for false advertisement, and punitive damages. China has made huge achievements in the development of the tort law system in 2009. Meanwhile, some parts of the system still need to be improved.

**Key words:** the Tort liability Law; legislation

B20

## **The Financial Law System and the Reform of Financial Supervision System in China in 2009**

*Xi Yuemin*

**Abstract:** This article gives a comprehensive review of the historical process of development of Chinese financial industry in 2009, covering such fields as legal practice as financial policy, banking, securities, insurance, straightening out of financial rules and regulations and

financial supervision, and summarises the new problems faced and new achievements made by China in the modernisation of financial law system against the background global financial crisis.

**Key words:** financial law system; financial control and regulation; financial supervision

B21

## **Financial Law Regulation of Consumption Coupons Issued by Local Government**

*Xu Mengzhou ZhouYuzhi Yanghui*

**Abstract:** As a response to the global financial crisis, since the end of 2008, local governments of many cities in China have begun to experiment with the issuance of consumption coupons. Therefore it is necessary to carry out legal research on this phenomenon so as to regulate and safeguard the issuance of consumption coupons by local governments and promote the development of financial law system. This article analyzes from the perspective of financial law regulation the background, the legal relationship, and the issuance, retrieval, and use of consumption coupons, and puts forward proposals on strengthening and improving this system.

**Key words:** consumption coupon; financial law; regulation

B22

## **Implementation of Labour Law: Current Situation, Problems and Countermeasures**

*Xie Zengyi*

**Abstract:** Since its coming into force in 2007, the Labour Contract Law has been well implemented with good results. On the other hand, however, many problems still exist in the implementation of the labour contract law: violations of the lawful rights and interests of employees occur frequently; many employees are still not covered by social insurance schemes, the revenue and expenditure structure of social insurance fund needs to be improved, administrative law enforcement by labour supervision departments and the roles of trade unions in the protection of labour rights need to be strengthened, labour dispute resolution bodies and procedures are faced with serious challenge of rapid increase in caseload, and the labour placement practice needs to be further regulated. All these problems should be solved through legislation and better enforcement of laws.

**Key words:** the Labour Contract Law; labour law enforcement; social insurance; trade union

B23

**“Agreed Joint Action”: A Labour Relations Coordination Mechanism  
Established against the Background of Global Financial Crisis**

*Zhang Mingqi*

**Abstract:** Taking the impact of global financial crisis on labour relations in China as the starting point, this article introduces the motive, reasonableness, feasibility, main activities and methods of implementation of the “Agreed Joint Action” launched by All-China Federation of Trade Unions in December 2008, and analyzes the role played by trade unions in the implementation of this Action.

**Key words:** Agreed Joint Action,; labour relations; trade unions; collective consultation

B24

**The Construction and Development of Chinese Educational Law System**

Wang Xuemei, Wang Guozhu

**Abstract:** Currently, China has developed a framework of education law

system. However, some difficult issues remain to be resolved in the development of educational law system, including the relationship between the government and colleges or schools, the legal status of colleges, schools, teachers and students, the college or school administration system, the protection of the rights of students, equality of education, standardisation of professional education or training, and sustainable development of compulsory education and rural education. Efforts should be made in the future not only to further improve the educational law system, but also to strengthen the implementation of educational law in China.

**Key words:** education; educational reform

B25

## **Democratic Participation in Post-disaster Reconstruction in Sichuan Province**

*Research Team, Law Institute, CASS*

**Abstract:** In the post disaster relief and reconstruction in the aftermath of the major earthquake in Wenchuan County of Sichuan Province, Sichuan Provincial Government created a democratic participation mechanism to encourage the broad masses of people in disaster areas to participate in

the post-disaster relief and reconstruction work, thereby ensuring the carrying out of the relief and reconstruction work in an orderly manner, upholding the lawful rights and interests of people in the disaster areas, and realising the positive interaction between the administration by the government and self-administration by the people. This article analyzes the practice of democratic participation at the grassroots in post-disaster relief in Sichuan Province and puts forward some suggestions on future developing the system of grassroots-level democratic participation in public affairs in China.

**Key words:** post-earthquake relief ; reconstruction ; grassroots-level democratic participation

B26

**A Research Report on Mafia-style Criminal Gangs and "Targeted  
Actions against Dark and Evil Forces" in Chongqing City**

Research Group on “Anti-organised Crime Legal System and  
Investigation Mode”

**Abstract:** Through the analysis of 25 typical cases involving mafia-style criminal gangs in Chongqing City, this report examines the types and features of mafia-style gangs in Chongqing City, summarises the

experience of Chongqing Municipal Government in fighting such criminal organisations, and puts forward suggestions on developing a long-term mechanism for fighting against mafia-style criminal gangs in China.

Key words: Chongqing City; mafia-type organisation; Targeted Actions against Criminal Forces

B27

## **The Current Situation of Operation of Beijing Labour Disputes**

### **Mediation Centre**

*Li Fan , Ge Lei*

**Abstract:** In order to resolve labour disputes at their source or at the grassroots level and give full play to labour dispute mediation mechanism, the Federation of Trade Unions, the Human Resource and Social Security Bureau and the Judicial Bureau of Beijing Municipality have pooled their resources to jointly establish an interactive labour dispute mediation mechanism. This article introduces the background, the organisational structure, and the operation of the Beijing Labour Dispute Mediation Centre, analyzes the commonalities and differences between this Centre and other labour disputes mediation centres, and looks into the trend of future development of the Centre from the perspective of building

harmonious labour relations.

**Key words:** Beijing; labour disputes; mediation

B28

**The Personal Information Protection Assessment System in Dalian  
City**

*Lang Qingbin, Sun Peng*

**Abstract:** With the integration of the world economy, the safety of personal information has become an important balancing factor in international exchanges. This article introduces the background and basic working mechanism of the Personal Information Protection Assessment System, the relationship between the system and the administration mechanism, and on-going and future research projects in this field, and puts forward some proposals on the improvement of this system.

**Key words:** protection of personal information; personal information protection assessment; certification scheme

B29

**Annual Report on Transparency of Local Governments in China  
(2009): From the Perspective of Disclosure of Information through**



## **Government Websites**

*Research Team, Law Institute, CASS*

**Abstract:** In order to understand the actual situation of the transparency of government administration, promote the implementation of the system of disclosure of government information, and enhance the consciousness and nurture the culture of openness among government officials as well as among the general public, the Law institute Research Team has carried out investigation, evaluation and analysis, from the perspective of disclosure of information through government websites, of the current situation of transparency of government at local levels, including the basic situation of the operation of government websites, catalogue of government information to be disclosed, guideline on the disclosure of government information, disclosure of information upon application, annual report on disclosure of government information, and disclosure of information relating to demolition of houses and relocation of their occupants.

**Key words:** disclosure of government information ; transparency assessment

## **Legal Issues Relating to the Circulation of Land in Rural Areas**

*Yuan Zhen and Ran Hao*

**Abstract:** This article gives an overall description of the current situation of the circulation of the right to land contractual management in rural areas in 2009, explores some relevant legal issues that urgently need to be resolved, including shareholding in the management of contracted land, mortgaging of the right to land contractual management, and transaction security in the circulation of the right, and puts forward proposals on resolving these issues.

**Key words:** the right to land contractual management; circulation; shareholding; mortgage; transaction security

B31

## **Investigation Report on Corporate Social Responsibility**

*Research Team, Law Institute, CASS*

**Abstract:** In order to understand the public awareness of corporate social responsibility in China and the current situation of implementation of corporate social responsibilities by Chinese enterprises, the research team has launched an investigation on “Corporate Social Responsibilities and Law Abidingness”. This article, based on the results from these investigations, conducts a primary and brief analysis of the basic situation of implementation of corporate social responsibilities by Chinese

enterprises, makes comments on Chinese legal system of corporate social responsibility, and puts forward some proposals on the improvement of this system.

**Key words:** corporate social responsibility ; law-abidingness ; supervision

B32

## **Research Report on the Development of “New Rural Cooperative Medical Care System”**

*Yu Shaoxiang*

**Abstract:** The author of this article believes that the basic solution to the problem of “inadequate and overly expensive medical services” faced by farmers is to remove the barrier created by the household register system and establish an integrated medical insurance system with no distinction between urban and rural citizens. Meanwhile, the government should increase investment in medical service system, so as to prevent it from developing towards marketisation and restore its proper nature as a public welfare undertaking.

**Key words:** cooperative medical care; medical insurance

