

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

**No.9 (2011)**

2010 is a very important year for China, in which the eleventh “Five-Year Plan” has been completed and a socialist legal system with Chinese characteristics basically established. Annual Report on China’s Rule of Law: No.9 (2011) analyzes the hot and important issues in the development of the rule of law in China in such fields as legislation, human rights, military law, administrative law, criminal law, and social law in the year 2010. These issues include the current situation of safeguarding economic, social and cultural rights, development of micro-blogs run by public security organs, limits and institutional construction of Internet real-name system, crime situation in 2010 and forecast for the year 2011, the new rural old-age pension system, and so on.

The blue book includes several reports on national conditions of the rule of law, which investigate and evaluate the disclosure of government information via websites by the municipal governments of 43 major cities and by 59 departments under the State Council; analyze the opinions of civil servants and the general public on the property supervision system and put forward recommendations on the construction of the system; analyze the issues relating to current situation of criminal defense in China in 2010; analyze the current situation, existing problems and propose some approaches to further improve the TV advertisement supervision and regulation system; explore legal issues relating to China’s academic evaluation; analyze farmers’ land rights in today’s China.

In the part on local practice of rule of law, the blue book discusses the organized crimes and the fight against such crimes in Jilin Province, expounds several issues urgently need to be solved in the development of electric power legal system in Sichuan Province, summarizes the progresses made in establishing a multiparty mediation mechanism in Qingzhou City, Shandong Province, and analyzes the development of the Rule of Law Index in Yuhang District of Hangzhou.

**B. 1 The Rule of Law in China in 2010: Analysis and Forecast**

*Research Team, Law Institute, CASS*

**Abstract:** This article summarizes the progress made by China in the development of the rule of law in 2010, especially in the fields of legislation, government administration and judicial activities, analyzes the existing problems and their causes in legislative quality, ideas and methods of government administration, the current administrative system, government accountability, and justice for the People, and looks ahead to the development of the rule of law in China in 2011.

Key words: the rule of law; legislation; law enforcement; administration of justice

## **B. 2 Establishment and Improvement of the Socialist Legal System with Chinese Characteristics**

*Li Lin*

**Abstract:**This article summarizes the historical process in which the socialist legal system with Chinese characteristics was proposed and established, analyzes the great significance of establishing the system to the development of the rule of law in China, sums up the legislative experience accumulated in this process, and puts forward recommendations on the further improvement of this system. The article points out that the establishment of the socialist legal system with Chinese characteristics has only basically changed the situation in which there is no law to go by. Further efforts must be made in the future in order to build China into a socialist state under the rule of law.

Key words: socialist legal system; the rule of law; formation

## **B. 3 Legislative Developments in China in 2010**

*Zhai Guoqiang, Kong Hao*

**Abstract:**In 2010, the National People's Congress and its Standing Committee have adopted six, and amended eight, laws. The State Council has adopted and amended nineteen, administration regulations. Meanwhile, legislative organs at various levels continue to review the existing laws and regulations with a view to improving the system of laws and regulations and ultimately establishing a socialist legal system with Chinese characteristics. Against this background, China should strengthen the enforcement of law while at the same time establish an optimization mechanism so as to further improve the socialist legal system.

Key words: legislation; legal system; optimization mechanism

## **B. 4 Protection of Economic, Social and Cultural Rights in China in 2010: Current Situation and Forecast**

*Zhao Jianwen*

**Abstract:**The development of the legal system for the protection of economic, social and cultural rights in China in 2010 shows that China has made rapid progress in human rights protection in the past 30 years since the Reform and Opening up. China promotes the equal enjoyment of economic, social and cultural rights, prohibits discrimination, and gives special protection to disadvantaged groups. The protection of the right to work, the right to adequate living standard, and the right to education in China has already met or basically met the requirements set out in the International Covenant on Economic, Social and Cultural Rights. Nevertheless, China is still faced

with serious challenges and need to intensify its efforts in safeguarding human rights.

Key words: human rights; National Human Rights Action Plan; economic; social and cultural rights

## **B. 5 Fighting against Human Trafficking: Progresses and Challenges**

*Liu Huawen*

Abstract: Human trafficking is on the rise at both the national and the international levels. China has adopted comprehensive measures against such crime. Chinese Ministry of Public Security is carrying out a special campaign against human trafficking with new successes. However, faced with many new situations, such as the lowering of age and pluralization of victims of the crime, the professionalization and grouping of criminal organizations, the diversification of the means of crime with increased use of violence, the complication and internationalization of the whereabouts of victims, and the seriousness of the social harms caused by such crimes, China is still faced with enormous challenges in achieving the objectives of suppressing the crime by adopting high-pressure tactics, taking strict precautions, addressing both symptoms and root causes, and dealing with the problem in a comprehensive way. The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime, which came into force in respect to China on March 10, 2010, and the ongoing process of revising the Chinese Criminal Law have laid a legal foundation for the fight against the crime of human trafficking in China.

Key words: human trafficking; Amendment to Chinese Criminal Law; UN Palermo Trafficking Protocol; woman's rights; rights of the child

## **B. 6 China's Military Legislation in 2010**

*Chen Chuangdong*

Abstract: This report summarizes the development of China's military legislation in 2010, introduces the main contents of the newly-enacted military laws and regulations, and explores the trend of development of military legislation in the year of 2011.

Key words: military legislation; introduction; prospect

## **B. 7 Political Reform in Hong Kong in 2010**

*Chen Xinxin*

Abstract: After repeated negotiation and discussion, the measures for the election of the Chief Executive and the Legislative Council in Hong Kong in 2012 has finally been passed and entered into the local legislative procedure, which is no doubt of great significance to the active and prudent advancement of political reform in Hong

Kong. It is expected that, in the local legislative procedure, heated debate will occur over the concrete methods of election, of which the election of new seats in district councils and the methods for determining constituency will be the key links. Such methods should be in compliance with the spirit and the concrete provisions of the Basic Law and conducive to the improvement, rather than abolition in disguise form, of the functional body election system and to the gradual advancement of political reform in Hong Kong.

Key words: Hong Kong; political reform; election

## **B. 8 Foreign Anti-Dumping Actions and Responses by Chinese Enterprises**

*Huang Jin*

Abstract: As the largest victims of antidumping actions, China's exporting enterprises are still faced with pressure from trade protection in post-crisis era. Foreign antidumping measures have many adverse impacts on the development of exporting enterprises as well as on the employment situation in exporting industries in China, and it is very difficult for China's enterprises to defend themselves in antidumping lawsuits. This article explains the causes of frequent antidumping actions faced by Chinese enterprises, clarifies the characteristics of antidumping actions enforced by foreign countries at the present time, analyses the dilemma faced by Chinese exporting enterprises in foreign antidumping actions, and proposes some strategies for Chinese exporting enterprises to deal with foreign antidumping lawsuits.

Key words: foreign antidumping measures; response of Chinese enterprises to foreign antidumping lawsuits

## **B. 9 Micro-blogging by Public Security Organs: Retrospect and Prospect**

*Zhang Qian*

Abstract: This article analyzes the phenomenon of opening and operating micro-blogs by public security organs, introduces the benefits and the social reactions brought about by such micro-blogging, summarizes its operational pattern and existing problems, looks into its future development, and puts forward some suggestions on its further development.

Key words: public security organs; micro-blog; political participation through the Internet; image of the government

## **B. 10 Internet Real Name System: Limits and Institutional Construction**

*Wu Jun*

Abstract: Internet real name system provides a legal approach to solving the problems arising from Internet activities. The development of Internet industries requires respect for individual rights as well as a secure and trustworthy legal environment. Therefore, the scope of application of the Internet real name system should be clearly defined in light of disparate layers of Internet activities and the feasibility of real

name verification. While implementing the Internet real name system in certain areas of Internet application, a comprehensive data protection system should be established to ensure that no individual right is infringed up by such system.

Key words: internet real name system; real name verification; data protection

## **B. 11 The Predicament of Smoke-Free Law Making and Its Enforcement in China**

*Huang Jinrong, Yang Liu*

Abstract: The making of smoke-free laws has been a worldwide trend since the WHO Framework Convention on Tobacco Control was passed in 2003. China began to enact smoke-free law in 1990s. Most major cities in China have their smoke-free regulations so far, but most of them fall short of the standards of the Convention, and their enforcement is very poor too. Under such circumstances that China ratified the Convention in 2005, it has become a pressing task of Chinese government to fully implement the Convention through domestic legislation with a view to protecting the public from second hand tobacco smoke.

Key words: Framework Convention on Tobacco Control; smoke-free law; second-hand tobacco smoke; law enforcement

## **B. 12 Crimes in China: An Analysis of the Situations in 2010 and a Forecast of the Trend of Development in 2011**

*Jin Gaofeng*

Abstract: In 2010, the number of criminal cases remains at high level, but there is a marked decrease in the number of serious violence crimes, the public sense of security has increased, and the public security situation in the whole country is generally stable. In 2011, the crime rate in China will remain high, but it may cease raising, even began to decline. However, the public security situation will remain tense.

Key words: crime situation in China; features of crime; forecast for the year 2011

## **B. 13 The Crime of Malfeasance in China: Legislation and Judicial Practice**

*Yang Shuwen*

Abstract: Taking the cases of malfeasance directly investigated by procuratorates as its subject of study, this article analyzes the development of legislation on the crime of malfeasance between 1979 and 2010, summarizes the judicial practice relating to the punishment and prevention of the crime in recent years, explores the characteristics and trend of development of the crime at the present time, and puts forward recommendations on improving the relevant legislation and judicial practice in the future.

Key words: the crime of malfeasance; legislation; judicial practice

#### **B.14 Social Insurance Law: Major Institutional Innovations and Recommendations on Implementation**

*Xie Zengyi*

**Abstract:**The adoption of Social Insurance Law is of great significance to reducing the income gap, enhancing social justice and fairness, and promoting the sustainable development of the economy and the society. This article summarizes these institutional innovations, analyzes the shortcomings of the Law, and puts forward the following recommendations on guaranteeing the smooth implementation of the Law: to increase the coverage of social insurance, to unify the fee collecting agencies to raise the efficiency of the work of collecting the social insurance fees, to establish a concrete mechanism for the transfer of social insurance fund and a information system, and to improve the operation and supervision of social insurance fund.

**Key words:** social insurance; Social Insurance Law; innovation; implementation

#### **B. 15 “New Rural Old-Age Insurance”: Reform and Development**

*Yu Shaoxiang*

**Abstract:**“New Rural Insurance” is another major preferential agriculture policy adopted by Chinese government after the abolition of agricultural tax, introduction of direct agricultural subsidy, and establishment of new rural cooperative medical service system. The basic principles of this policy include guaranteeing the basic living standard, ensuring broad coverage, and being flexible and sustainable. The main method of implementation is the combination of contribution by the individuals, allowance from the collective and subsidies by the state. The old-age pension of farmers includes accumulation in the individual account and the financial subsidies from governments at various levels. Since this policy is still at the trial stage, many problems remain to be solved, such as lack of a unified system, low coverage, low level of insurance, lack of reciprocity and fairness, and mismanagement. Therefore, the government should strengthen the relevant legislation, increase financial input so as to gradually separate the old-age care in rural areas from the family and the land, and ultimately establish a unified old-age insurance system in the country.

**Key words:** new rural old age pension; reform; legislation

#### **B. 16 Development of Rule of Law in the Field of Medical Disputes Settlement in China in 2010**

*Dong Wenyong*

**Abstract:**Medical dispute is one of prominent issues in the field of public health. The reappearance of the phenomenon of police officers holding the post of vice chairmanship in hospitals reflects the ineffectiveness of the legal mechanism for the resolution of medical disputes. In order to overcome the lack of legal basis and incoherencies and conflicts of procedures in medical disputes settlement, the Tort Law of the People’s Republic of China enacted this year includes a special chapter on

medical liability. Meanwhile, the Chinese government has also adopted the Opinions on Strengthening the Work of People's Mediation relating to Medical Disputes, which are playing a positive role in legitimizing non-governmental medical dispute resolution organizations and guaranteeing the development of specialized medical dispute resolution system.

Key words: medical malpractice; medical dispute; rule of law; development

#### **B. 17 Annual Report on Transparency of Government in China (2010): From the Perspective of Disclosure of Information through Government Websites**

*Research Team on Rule of Law Studies in China, Law Institute, CASS*

Abstract: This report reviews the implementation of the Regulations on the Disclosure of Government Information by 43 local governments and 59 departments under the State Council in 2010, analyzes the progresses and existing problems in the implementation of the systems relating to 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, disclosure of information relating to the budget of various departments under the State Council, demolition of houses and relocation of their occupants, and food safety supervision, and puts forward recommendations on further improving the system in the future.

Key words: disclosure of government information; transparency; government websites

#### **B. 18 Report on the Civil Servants Property Supervision System**

*Research Team on Rule of Law Studies in China, Law Institute, CASS*

Abstract: Supervision over the property of civil servants is an important system for the prevention and punishment of corruption. It is also an issue of great public concern. This report, on the basis of investigations carried out by Research Group on National Condition of Rule of Law, Institute of Law, Chinese Academy of Social Sciences in 2010, analyzes the objects of application, the scope of property subject to supervision, the methods of supervision, supporting measures, and enforcement of the system, and puts forward proposals on the establishment and improvement of civil servant property supervision mechanism in China.

Key words: civil servants; property supervision; supporting measures

#### **B. 19 Report on the Situation of Criminal Defense in China**

*Research Team on Rule of Law Studies in China, Law Institute, CASS*

Abstract: Since the revision of the Criminal Procedure Law in 1996, criminal defense has always been a hot topic among the law circle in China. People have different accounts and opinions of the situation of criminal defense during this period of time, such as "impasse", "dilemma", "retrogress", and "progress amidst twists and turns".

Based on the empirical research, this report comes to the conclusion that the criminal defense in China has neither undergone serious retrogression, nor met the standard set by countries under the rule of law.

Key words: defense lawyer; rate of criminal defense; quality of criminal defense

#### **B. 20 Report on the Supervision and Regulation of Television Advertisements in China**

*Research Team on Rule of Law Studies in China, Law Institute, CASS*

Abstract: This report examines the mechanism for the supervision and regulation of TV advertisements in China, discusses the problems in the broadcasting and the contents of TV advertisements, analyzes the loopholes and insufficiencies in the mechanism for the supervision and regulation of TV advertisements, and puts forward recommendation on the revision of the Advertisement Law and the strengthening of supervision and regulation of TV advertisements.

Key words: TV advertisements; public interests advertisements; advertisements targeting children; supervision and regulation

#### **B. 21 Report on Academic Evaluation Mechanism in China: From the Perspective of Evaluation of Academic Papers**

*Research Team on Rule of Law Studies in China, Law Institute, CASS*

Abstract: Academic evaluation is a kind of evaluation conducted by academic communities on the research carried out by individual researchers. Currently most academic communities in China have adopted the quantitative evaluation mechanism. This report is the result of an investigation on academic evaluation mechanism covering the scholars and students in 32 universities and research institutions. It shows that, because of the lack of the relevant legal provisions, quantitative academic evaluation mechanism is actually doing more harm than good and has become one of the main causes of academic misconduct and corruption. The report suggests that the current academic evaluation mechanism, which is overly dependent on quantitative standards, and the related academic journal grading system should be reformed so as to allow academic research to maintain its academic nature.

Key words: academic evaluation; core journal; quantification

#### **B. 22 Farmers' Land Rights in Today's China: From a Seventeen-Province Survey**

*Roy Prosterman, Zhu Keliang, Ye Jianping, Jeffrey Riedinger*

Abstract: Land is the most important asset for China's 800 million rural citizens. A rural land tenure system that offers both secure property rights and broad-based land access is a precondition for achieving long-term prosperity and stability. Landesa



(formerly known as Rural Development Institute, or RDI), in cooperation with Renmin University and Michigan State University, conducted in mid-2010 the fifth in a series of large-scale sample surveys. Survey results indicate that China has made great strides in securing farmers' land rights; however, significant challenges remain in areas such as documentation, expropriations and land transfers. This requires urgent legal and policy reforms, and their concrete implementation on the ground.

Key words: Land rights; farmers; documentation; land expropriation; land transfers; investment

#### **B. 23 The Fight against Organized Crimes in Jilin Province**

##### ***Research Team on 'Targeted Action against Evil Forces' in Jilin Province***

Abstract: Organized crime and the Targeted Action against Criminal Force in Jilin Province are representative of such crimes and the targeted actions in the country. This article conducts a thorough research on targeted actions through literature review, questionnaire investigation, informal discussion and interview, analyzes the current situation, characteristics and trend of development of organized crime in Jilin Province, and summarizes the successful experiences accumulated during Targeted Actions with a view to providing guidance to the future campaigns against organized crimes in the country.

Key words: Jilin Province; organized crimes; Targeted Actions against Criminal Force

#### **B. 24 Several Urgent Issues relating to the Construction of Electric Power Legal System in Sichuan Province**

***Wang Xilong, Pan Yi***

Abstract: In order to realize the sustainable development of the electric power undertaking in Sichuan Province and meet the need for electric power in the post-disaster reconstruction and economic development, this article, on the basis of on-site investigation and research of the existing legal documents, analyzes the problems and difficulties encountered in the establishment of legal safeguard for the development of electric power undertaking in Sichuan Province, explains the necessity and importance of adopting local regulations on electric power by the Province, and puts forward recommendations on improving the legal environment for the development of local electric power undertaking.

Key words: Sichuan Province; electric power; legal system

#### **B.25 Multiparty Mediation Mechanism in the Court of Qingzhou City, Shandong Province**

***Li Jinpeng***

Abstract: Mediation is one of the fine judicial traditions in China. In 2007, the Court of Qingzhou City began to establish a "multiparty mediation mechanism". By linking litigation with mediation, this mechanism has created a plural-subject dispute

resolution structure. With respect to administrative disputes, a joint-meeting mechanism has been established to prevent disputes and resolve disputes to the satisfaction of both parties; with respect to civil lawsuit incidental to criminal proceedings, target-oriented mediation measures have been adopted to correctly implement the policy of tempering justice with mercy, with remarkable results.

Key words: Qingzhou City; mediation; coordination; linking litigation with mediation

## **B. 26 Report on the Rule of Law Index in Yuhang District, Hangzhou City**

*Research Team on Rule of Law in Yuhang*

Abstract: In 2010, the Rule of Law Assessment Group in Yuhang District prepared and published Rule of Law Index (RLI) of Yuhang District (2009). Based on the comparative analysis of the changes in the level of rule of law in the years 2007, 2008 and 2009 and the study of the various concrete indexes and their changes, the Assessment Group explores the trend and pattern of development of the level of rule of law in Yuhang District with a view to providing a guidance to the regional development of the rule of law in China.

Key words: assessment of rule of law; rule of law index; rule of law in Yuhang District