

## Foreword: the *Tsinghua China Law Review*

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I am proud to recommend to you this very special law journal – the *Tsinghua China Law Review*. This is the first academic journal on Chinese law that is edited in China, published and distributed in the U.S., and based on the journal editing and publishing model employed at law schools in North America.

Tsinghua University Law School was founded in 1929, merged into other universities in 1952, and restored in 1995. It is now once again one of the best law schools in China. Tsinghua Law School was the first to offer, beginning in 2005, an LL.M. in Chinese Law for foreign law students and lawyers, taught exclusively in English. Last winter, the 2009 class envisioned an English language academic journal that is focused on Chinese law and modeled after law journals at North American law schools. Now this energetic group of foreign and Chinese law students has initiated, edited and published such a unique law journal. I believe this is a very significant event. It will undoubtedly play a positive role in helping the world gain a comprehensive and objective understanding of the rule of law in China, and it will assist in the development of the rule of law and the prosperity of legal studies in China.

Currently, in the English-speaking world, academic articles on Chinese law are generally authored by Western scholars studying Chinese law. Their scholarship plays a key role in helping the international community understand Chinese law. Equally important are the views of legal scholars in China on the laws of their own country. The authors of this journal are mostly Chinese legal scholars and practitioners, and I believe their articles are very important to a com-

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plete understanding of Chinese law. This journal provides, for Chinese jurists capable of writing in English, a platform to present their scholarship to the world. Of course, the team of editors also welcomes insights into Chinese law from jurists and practitioners from all over the world; such articles can already be found in the first issue of the journal. This journal affords an opportunity for authors throughout the world to publish research related to Chinese law. Only from a comparative law perspective can we see the complete and true picture of Chinese law.

In the history of human civilization, Chinese law was once considered as one of the four prominent families of laws in the world. In the modern era, the “Chinese legal family” declined over time because of its own weaknesses, and was gradually replaced during the legal reform at the beginning of the twentieth century, when China finally introduced Roman law from the European continent to create the “Complete Collection of Six Major Laws.” After the founding of the People’s Republic in 1949, the “Complete Collection of Six Major Laws” was repealed, and China began introducing the Soviet legal system. However, even the Soviet-style laws were later demolished. China endured 10 years of lawlessness during the Great Cultural Revolution (1966-1976), resulting in painful losses to the Chinese people and country. It was not until the reform and opening that began in 1978 that China’s development of rule of law was on the right path. While various problems still exist and it is not surprising to see manifestations of “rule of man” in today’s China, we cannot help but recognize the enormous progress China has made in establishing rule of law over the past thirty years. China will never again become a lawless country, and China’s pursuit of rule of law will never again be suspended. China’s Constitution was amended in 1999 to provide for “governing the country according to law and building a socialist country under the rule of law,” thus giving “rule of law” the highest legal authority and demonstrating in the clearest and most steadfast fashion the resolution of this country to move toward rule of law. We are inspired by and proud of this country’s accomplishments thus far in its quest for rule of law, and let us join together to further the development of rule of law in China.

The legal system of today’s China is not the same as the historical “Chinese legal family,” not a Soviet-style socialist legal system, nor is it a Western legal system. Rather, it is a legal system congruent

with “Chinese-style socialism.” There are two fundamental characteristics of such a legal system. First, its sources are diverse. All fruits of human civilization with respect to rule of law, ancient or modern, Chinese or foreign, deserve our consideration. We no longer attempt to associate a specific legal institution with a particular label and, on such a basis, wholly accept or completely reject it without analysis. We will make our decision whether to adopt or reject only after careful, scientific study.

Second, starting from China's particular circumstances without blindly adopting the legal institutions of any country, we aim to create a new set of legal institutions and theoretical framework that are “Made in China.” Speaking of rule of law, Western capitalist countries have been the forerunners, and their enormous success has made contributions to human civilization in promoting the rule of law. However, we must also be mindful of the deficiencies, including some fundamental deficiencies, of Western legal systems. China's rule of law, in the course of its development, must seek to avoid the problems associated with legal systems of other countries, as opposed to introducing the problems into China. As a great and responsible country, China must also contribute its wisdom to explore, for all of society, a more scientific, rational, and environment-friendly path to rule of law, and create a unique and new model for rule of law — the Chinese-style socialist legal system. This journal will be an excellent platform for academic exchange among scholars and lawyers from all over the world on the subject of the Chinese legal system's development.

Under the active leadership of Carlton J. Willey, this publication is the result of efforts by students from many countries. Such collaborative efforts that transcend national borders and racial differences are precisely what our modern society needs as we confront the various problems facing human kind. From their solidarity and hard work, I see hope for the human future. I am proud of them. I thank all of the student editors for their great efforts. I believe every reader will find these articles enlightening and will feel the universal aspiration for the rule of law and unrelenting pursuit of truth emanating from these student editors from around the world.