

# Contracts in The People's Republic of China

by Professor Emeritus Jacques Herbots

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## Foreword Belgian Minister of Justice, Koen Geens

You should most definitely read this book because it is written by an erudite man who has always considered the comparison of our laws to those of non-European legal systems to be of paramount importance. Studying Chinese law in the native legal language demands an enormous amount of willpower, legal expertise, and linguistic skill. Professor Jacques Herbots possesses superior amount of educational theory, willpower, comparative law expertise and linguistic skills.

Professor Herbots justifiably notes in this book that, "Western lawyers involved in international relations cannot remain ignorant of the Chinese legal system any longer". In these modern times of globalisation and digitisation of our daily lives, a superpower like China plays an incredibly important role as both a consumer and a supplier. Everybody has probably concluded some kind of 'contract' with a third party in China, be it physically or digitally.

The tendency to make deals daily with international parties and, as a rule, to give these forms within a contract will only grow stronger in the future. Hence the importance of, on the one hand, knowledge of the law, and on the other, access to legislation that is clear, transparent, and user-friendly.

The National People's Congress in China has, in light of the abovementioned evolutions, adopted "The first general part of the Chinese Civil Code" in 2017. A broader revision of the civil law is expected to take place in China in 2020.

Hard work is also being done in Belgium at the moment on recodifying the basic laws. In addition to the Penal Code and the Code of Criminal Procedures, the Civil Codes and the Commercial Codes are also undergoing thorough revisions. Every one of these legislative branches is fundamentally important to our social fabric. This book abundantly demonstrates this by explaining, in addition to the thorough analysis of Chinese contractual law, the history and social fabric that was created by this. For instance, this book includes an overview of Chinese history the Chinese constitution, the People's Court, the language and the Communist Party.

As far as Belgian contractual law is concerned, major parts of the civil law and corporate law are currently being revised. Large parts of the voluminous Civil Code no longer comply with the law as this is currently being applied in practice. Antiquated provisions have led to the creation of a corpus of jurisprudence. Today, following the letter of the law no longer guarantees that it will be applied as such by the courts and tribunals. The Civil Code is antiquated and must therefore be amended in the spirit of a (more) modern society. The same applies to the Commercial Code. The Commercial Code was plundered at the end of the 20th century by special legislation, such as the insolvency and insurance laws, or by recodification of more restrictive domains, such as economic law or company law. Together with the implementation of new business concepts, the Commercial Code was further dismantled and clarity on just exactly what an enterprise is was created. Lastly, the Companies Code is also undergoing a thorough revision and being updated.

From the above, you can determine that the (re)codification of legislation, both in the East and in the West, is aimed at the same objective - e.i. finding fair solutions for human problems and transcribing these into simple, understandable, and accessible legislation. As the Minister of Justice, I want to continue to build upon this idea.

I recommend this book to anyone who likes to look for ahead and make comparisons, as well as anyone who has any legal or commercial contact with the Chinese culture. I wish the author, who is my former professor and a very learned man, Jacques Herbots, the very best. All the success he experiences upon the publication of this book is well deserved.



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