

Contracts in The People's Republic of China

by Professor Emeritus Jacques Herbots

Foreward by Professor CHEN Min
General Representative of the EU Office of the
Chinese Chamber of International Commerce,
Deputy Secretary General of China International Economic
and Trade Arbitration Commission,
Secretary General of China Maritime Arbitration Commission

In the past four decades, China has undergone fundamental upheavals in all aspects of life. These radical changes in turn require new legislation to shape and monitor the conduct of citizens, enterprises and governments, contract law being a case in point. Professor Herbots' new book provides insight to the evolution of, and the footprints engraved on, China's contract law.

Jacques Herbots, Katholieke Universiteit of Leuven, is a Mandarin speaker who initiated his first contact with the prestigious Renmin University of China Law School in 1974, four years before China began opening up to the outside world. Ever since he has been a keen observer of developments in China and has lectured for 25 years on China's contract law. This book is the outcome of his insights and deliberations.

In the year 2016 alone, of the 4.226 million commercial legal cases, 8,445 were international ones lodged with Chinese Courts or submitted for arbitration. In addition, more than 16,000 maritime disputes, most of them involving foreign elements, were brought for resolution. This book seeks to explain the substantives rules applied in the litigation process, its great strength being that it makes the subject-matter intelligible to the European way of thinking, particularly with respect to contract law.

As this reviewer can attest from personal experience of 11,000 cases of 24 years' law practice in China, a major difficulty in dealing with cases involving legal professionals from as many as 47 countries is the lac of common ground on which to build a consensus. This book will definitely help in that important regard. Although it does not cover each specific article of China's contract law, it does sift out all the unique and critical points – such as the Anglo-American contract formation, the subrogation claim and the special agency transfer of Articles 402/403 – to showcase the legislative intent. It does not explain everything, but it serves as a magic key to unlocking an understanding of the whole system.



HERBOTS