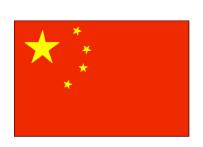
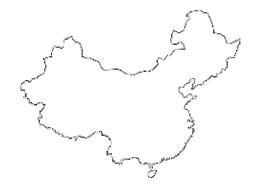
## THE PEOPLE'S REPUBLIC OF CHINA

(ZHONGHUA RENMIN GONGHEGUO)





#### **BACKGROUND AND LEGAL SYSTEM**

LEGAL SYSTEM Socialist / Civil law system.

POLITICAL SYSTEM Reformed Soviet Style Republic.

HEAD OF STATE Chairman.

HEAD OF

**GOVERNMENT** 

Premier.

23 Provinces (sheng), 5 Semi Autonomous Regions (zizhiqu),

SUBNATIONAL Special Administrative Regions (*tebie xingzheng qu*), 4 ENTITIES Directly-Administered Municipalities (*zhixia shi*), Special

Economic Zones (tebie jingji qu).

SUBLOCAL Prefecture (zhou), county (xian), town (zheng), village (cun),

ENTITIES municipal district (qu).

**TRANSLITERATION** 

**SYSTEM** 

Pinyin.

Official Language: Mandarin Chinese.

LANGUAGES Other Languages: Cantonese, Shanghaiese, Fuzhou, Hokkien-

Taiwanese, Xiang, Gan, Hakka dialects.

NOTE ON CHINESE LEGAL PUBLICATIONS Transliterated Chinese words should not be capitalized apart from the first letter of the first word of a statute or case name. Chinese words should be separated according to their English equivalents. Thus:

Zhonghua [China] renmin [People's] gongheguo [Republic].

#### **CONSTITUTION**

OFFICIAL NAME Zhonghua renmin gongheguo xianfa.

ENACTMENT Most recent promulgation 4 December 1982.

CITATION FORMAT Zhonghua renmin gongheguo xianfa [Constitution] art. X (Year).

Example Zhonghua renmin gongheguo xianfa [Constitution] art. 79 (2004).

## **STATUTES**

GOVERNMENT STRUCTURE The Legislature, the National People's Congress or *Quanguo Renmin Daibiao Dahui*, is unicameral. It consists of 2,985 seats. Members are elected by municipal, regional, and provincial people's congresses to serve five-year terms.

In the Executive Branch, the President and vice president are elected by the National People's Congress for a five-year term (both are eligible for a second term). The Premier is nominated by the president, confirmed by the National People's Congress.

The legal system is based on civil law system derived from Soviet and continental civil code legal principles. The Legislature retains power to interpret statutes. However, the Constitution is ambiguous on judicial review of legislation.

# LEGISLATIVE PROCESS

Only the National People's Congress (NPC) and its Standing Committee (NPCSC) can enact law in the PRC. When citing a state note whether it is the "NPC" or the "NPSC" which enacted the law, its name translated to include the word "law," the Chinese title transliterated into pinyin, and the date of enactment. Where citing to an old version of a law statute include only the date of enactment and the last date of amendment (if any) of the version used.

The two legal systems of the Hong Kong Special Administrative Region (HKSAR) and the Macao Special Administrative Region (Macao SAR) are exceptions to the legal framework of the PRC. The two are responsible for adding many unconventional and unprecedented traits to the Chinese socialist system.

REPORTER

Standing Committee Gazette (Official), Xinbian Zhonghua Renmin Gongheguo Changyong Falu Fagui Quanshu (Alternative).

**CITATION FORMAT** 

Chinese Title [English Title], Enacting Organ, Date of Enactment or Last Amendment, *in* Quanguo renmin daibiao dahui changwu weiyuanhui [Standing Committee Gazette] No. <reporter number>, p. page number>, (Year).

Example

Zhonghua renmin gongheguo fanbuzhengdang fa [PRC Law on Unfair Competition], NPCSC, Sept. 2, 1993, *in* Quanguo renmin daibiao dahui changwu weiyuanhui gongbao [Standing Committee Gazette], No. 5, 35 (1993).

#### ADMINISTRATIVE REGULATIONS

Only the State Council (SC) can enact administrative

**ADMINISTRATIVE** regulations. Follow the same format as above, except that the **SOURCES** 

Standing Committee Gazette should be replaced by the State

Council Gazette.

State Council Gazette (Official), Lawbook.com.cn REPORTER

(Alternative).

Chinese Title [English Title], State Council, Date of

CITATION FORMAT Enactment, in Guowuyuan Gongbao [State Council Gazette],

No. <reporter number>, page <page number>(Year).

GuoJia JingJi DiaoCha ZhangCheng [Regulations on National

Economic Census], State Council, September 5, 2004, in

Guowuyuan Gongbao [State Council Gazette], No. 415, 14

(2004).

#### MINISTERIAL ADMINISTRATIVE RULES

Example

Ministerial Administrative Rules can be enacted by Ministries **ADMINISTRATIVE** 

and Commissions supervised by the State Council **SOURCES** 

State Council Gazette (Official), Ministry and Commission REPORTER

Websites, Lawbook.com.cn

Chinese Title [English Title], Enacting Organ, Date of

CITATION FORMAT Enactment, in Guowuyuan Gongbao [State Council Gazette],

No. <reporter number>, page <page number> (Year).

MaoShouRu GouCheng ZhangCheng [Regulations on the Example Composition of Gross Wages], National Bureau of Statistics,

January 1, 1990, in Guowuyuan Gongbao [State Council

Gazette], No. 1, 1 (1990).

#### LOCAL REGULATIONS

**ADMINISTRATIVE** 

SOURCES

Local regulations are enacted by provincial-level governments.

Local People's Congress Gazette (Official), Provincial REPORTER

Websites (Alternative) Lawbook.com.cn (Alternative).

Chinese Title [English Title], Enacting Organ, Date of CITATION FORMAT

Enactment, in X-Province Gazette (Year).

Given the inconsistency of publications of local regulations, it Note

is often necessary to replace the "Province Gazette" with a

citation to an electronic source.

ShangShi GongSi De JianDu He GuanLi [Supervision and

Example Control of Listed Companies], April 4, 1992

<a href="http://www.lawinfochina.com">http://www.lawinfochina.com</a> (1992).

#### **CODES**

Zhonghua renmin gongheguo xing fa

(CRIMINAL CODE)

Adopted at the Second Session of the Fifth National People's Congress on July 1, 1979, Revised at the Fifth Session of the Eighth National People's Congress on March 14, 1997.

Zhonghua renmin gongheguo xingshi

susong fa

(CODE OF CRIMINAL PROCEDURE)

Adopted at the Second Session of the Fifth National People's Congress on July 1, 1979, Revised at the Fifth Session of the Eighth National People's Congress on March 14, 1997.

Zhonghua renmin gongheguo minfa tongze

(GENERAL PRINCIPLES OF CIVIL LAW)

Adopted at the Fourth Session of the Sixth National People's Congress, and promulgated by Order No. 37 of the president of the People's Republic of China on April 12, 1986, and effective

as of January 1, 1987.

Zhonghua renmin gongheguo minshi susong fa (CIVIL PROCEDURE CODE) Adopted at the 22nd Meeting of the Standing Committee of the Fifth National People's Congress and promulgated by Order No.8 of the Standing Committee of the National People's Congress on March 8, 1982, and implemented on a trial basis as of October 1, 1982

Zhonghua renmin gongheguo hetong fa (CONTRACT LAW)

Adopted at the Second Session of the Ninth National People's Congress on March 15, 1999.

NOTE ON CHINESE CITATION FORMAT

When citing a state note whether it is the "NPC" or the "NPSC" which enacted the law, its name translated to include the word "law," the Chinese title transliterated into pinyin, and the date of enactment. Where citing to an old version of a law statute include only the date of enactment and the last date of amendment (if any) of the version used.

CITATION FORMAT

Chinese Title [English Title], Enacting Organ, Date of Enactment, in Zhonghua Renmin Gongheguo Fagui Haibian [Official Decree of the PRC], No. X, page (Year).

Examples

Zhonghua renmin gongheguo xingshi susong fa [General Principles of Civil Law], Sixth National People's Congress, January 1, 1987, in Zhonghua Renmin Gongheguo Fagui Haibian [Official Decree of the PRC], No. 37, 1 (1987)

#### **CASE LAW**

JUDICIAL

OVERVIEW

Supreme People's Court (Zuigao renmin fayuan)

High Courts (Gaoji fayuan)

Intermediate Level Courts (Zhongji fayuan)

Basic Level Courts (jiceng fayuan).

REPORTER Zuigao renmin fayuan gongbao [Gazette of the Supreme People's Court]

Citation Format: (In re X-Law/Regulation or PRC v. X or X v.

CITATION FORMAT Y), Zuigao renmin fayuan gongbao [Gazette of the Supreme Constitutional Court], No. <reporter number>, page page number>

(Year).

Zhang Zhiqiang v. Sining Electronic Materials Company,

Zuigao renmin fayuan gongbao [Gazette of the Supreme

People's Court], No. 10, 32 (2006).

#### **SOURCES**

Example

The CIA Factbook:

https://www.cia.gov/cia/publications/factbook/geos/ch.html

Congressional Executive Commission on China http://www.cecc.gov/

New York University Global Law http://www.nyulawglobal.org/globalex/China.htm

### SPECIAL THANKS

Jon Venick – Staff Member. Oct. 2006. Selena Nelson – ICM Committee Member. Oct. 2006. Matthew T. Nagel – ICM Coordinator. February 2007.