

Law and Economics with Chinese Characteristics

*Institutions for Promoting Development
in the Twenty-First Century*

Edited by
DAVID KENNEDY AND JOSEPH E. STIGLITZ

OXFORD
UNIVERSITY PRESS

Contents

<i>List of Figures</i>	vii
<i>List of Tables</i>	ix
<i>Notes on Contributors</i>	x

Introduction	1
<i>David Kennedy and Joseph E. Stiglitz</i>	

I. Conceptual Foundations

1. Law and Development Economics: Toward a New Alliance	19
<i>David Kennedy</i>	
2. Creating the Institutional Foundations for a Market Economy	71
<i>Joseph E. Stiglitz</i>	
3. Analyzing Legal Formality and Informality: Lessons from the Land Titling and Microfinance Programs	112
<i>Antara Haldar and Joseph E. Stiglitz</i>	

II. Toward Law and Development Policies with Chinese Characteristics

Section introduction	149
4. The Economics Behind Law in a Market Economy: Alternatives to the Neoliberal Orthodoxy	153
<i>Joseph E. Stiglitz</i>	
5. Some Caution about Property Rights as a Recipe for Economic Development	187
<i>David Kennedy</i>	
6. Rural Land Rights in China	214
<i>Roy Prosterman</i>	
7. The Role of Property Rights in Chinese Economic Transition	236
<i>Kenneth Ayotte and Patrick Bolton</i>	
8. Institutional Design for China's Innovation System: Implications for Intellectual Property Rights	247
<i>Joseph E. Stiglitz</i>	
9. The Evolution of China's IPR System and its Impact on the Innovative Performance of MNCs and Local Firms in China	278
<i>Zheng Liang and Lan Xue</i>	
10. Property and Intellectual Property Exchanges (PIPEs) in China since the 1990s: An Analysis of the Emergence and Regulatory Resolution of PIPEs and Their Comparative Advantage Over OTC Markets	315
<i>Heping Cao</i>	

11. The China Aviation Oil Episode: Law and Development in China and Singapore <i>Curtis J. Milhaupt and Katharina Pistor</i>	329
12. Legal Deterrence: The Foundation of Corporate Governance—Evidence from China <i>Zhong Zhang</i>	358
13. Generosity and Participation: Variations in Urban China's Minimum Livelihood Guarantee Policy <i>Qin Gao and Carl Riskin</i>	393
14. The Intergenerational Content of Social Spending: Health Care and Sustainable Growth in China <i>Jean-Paul Fitoussi and Francesco Saraceno</i>	423
15. The <i>Hukou</i> Reform and Unification of Rural–Urban Social Welfare <i>Cai Fang</i>	441

III. Institutional Foundations for the Chinese Market Economy: The State

Section introduction	455
16. Deregulation, Decentralization, and China's Growth in Transition <i>Justin Yifu Lin, Mingxing Liu, and Ran Tao</i>	467
17. From Industrialization to Urbanization: The Social Consequences of Changing Fiscal Incentives on Local Governments' Behavior <i>James Kai-sing Kung, Chenggang Xu, and Feizhou Zhou</i>	491
18. China's Network Justice <i>Benjamin L. Liebman and Tim Wu</i>	510
19. China's Courts: Restricted Reform <i>Benjamin L. Liebman</i>	568
<i>Index</i>	589

List of Figures

1.1. Theories, objectives, instruments, and law, 1950–70	24
1.2. Ideas and assumptions about law, 1950–80	41
1.3. Legal ideas and assumptions, 1980–2000	62
1.4. An alliance of heterogeneities	68
7.1. Optimal property rights: general principles	243
9.1. Timeline of major national and international IPR laws and regulations	281
9.2. The three stages of China's patent system development	282
9.3. Distributions of annual applications for three kinds of patents received by SIPO	285
9.4. Distributions of annual grants for three kinds of patents received by SIPO	285
9.5. Total applications for three kinds of patents received from home and abroad	286
9.6. Distribution of annual applications for inventions received from home and abroad, 1985–2007	287
9.7. Distribution of annual grants for inventions received from home and abroad, 1985–2007	288
9.8. Distributions of annual applications for three kinds of patents received from abroad	289
9.9. Distributions of annual applications for three kinds of patents received from home	289
9.10. Distributions of annual grants for three kinds of patents received from abroad	290
9.11. Comparisons of the ratios of domestic and foreign in-service patent applications	291
9.12. Domestic applications for inventions according to in-service and nonservice, 1987–2007	293
9.13. The situation of patent implementations of different kinds of firms	295
9.14. Domestic in-service applications for inventions according to character of applicants, 1987–2007	296
9.15. Domestic in-service grants for inventions according to character of patentees, 1987–2007	296
9.16. Invention applications of foreign firms, 1985–2004	298
9.17. Invention applications of domestic firms and foreign firms, 1985–2004	299
9.18. Annual invention applications of five countries, 1985–2004	299
10.1. PIPEs-related ministries and commissions	317
10.2. Transaction process in a typical property exchange	326
11.1. CAO's ties with China and Singapore	343

13.1. Total MLSA expenditures and number of recipients in urban China, 1996–2007	398
13.2. Nationwide city average assistance lines (monthly yuan)	399
13.3. Variation in city MLG assistance lines by region in CHIP 2002 sample	400
13.4. Variation in city MLG participation rate by region in CHIP 2002 sample	401
13.5. Correlation between city MLG assistance line and mean per capita income (annual amount in yuan) by region in CHIP 2002 sample	402
13.6. Correlation between city MLG participation rate and mean per capita income (annual amount in yuan) by region in CHIP 2002 sample	403
13.7. Variations in city MLG assistance line and participation rate by region in 35 large cities in 2005	413
13.8. Correlation between city per capita income and MLG assistance line in 35 large cities in 2002 and 2005	414
13.9. Correlation between log city per capita income and MLG participation rate in 35 large cities in 2002 and 2005	415
14.1. Macro aggregates as percentage of China's GDP	424
14.2. Household savings rates in China	425
14.3. Share of private spending and health indicators, 2009	435
15.1. Usual urban population vs nonagricultural <i>hukou</i> population	449
16.1. Central and local revenue, 1982–1992	476
16.2. Revenue as a share of GDP, 1982–1992	476
16.3. Central and local revenue, 1993–2005	483
16.4. Revenue as a share of GDP, 1993–2005	483
17.1. Central and local governments' budgetary revenues, 1978–2006	497
17.2. Share of construction and real-estate sectors in business tax, 2001–2004	500
17.3. Profits from land revenue in S County, Zhejiang Province, 2003 (million yuan)	501
17.4. Incidence and magnitude of land conversion, 1993–2005	502
17.5. Unauthorized land conversion: incidence and magnitude, 1993–2005	503
19.1. First-instance cases, mediation by People's Mediations Committees, and court letters and visits, 1994–2006	571
19.2. Second-instance cases (appeals), 1994–2006	572

List of Tables

8.1. Comparing alternative systems	259
9.1. The total applications for three kinds of patents received from home and abroad, May 1985–December 2010	292
9.2. Total applications/grants/in force for three kinds of patents received from home and abroad, April 1985–December 2007	294
9.3. Foreign firms with over 1,000 invention applications	300
9.4. Correlation coefficients between patenting and market data of eleven industries	301
9.5. Three kinds of patents owned by China's top ten automobile firms	303
9.6. Three kinds of patents owned by parent automobile companies in China	303
9.7. Patent fees domestic firms need to pay for each DVD	305
13.1. OLS regression results on city MLG (<i>dibao</i>) line using CHIP 2002 data	405
13.2. <i>Dibao</i> participation rates by income group, and distribution of <i>dibao</i> participants among income groups using CHIP 2002 data	407
13.3. Logistic regression results on family MLG participation status using CHIP 2002 data	409
13.4. OLS regression results on natural logarithm of city MLG line in 35 large cities in 2002 and 2005	416
13.5. OLS regression results on city MLSA participation rate in 35 large cities in 2002 and 2005	417
14.1. Selected health indicators, 2010	436
15.1. Annual growth rates of selected wages, 2003–8 (%)	446
15.2. Comparison of social insurance programs between migrant and local workers (2009, %)	449
19.1. Number of cases (first-instance and appeals) closed nationwide, 1994–2006	570