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Guide on Researching Chinese Mass Media Law

By Xiaomeng Zhang

[Xiaomeng Zhang](#) is a Reference Librarian at the University of Michigan Law Library. She received a B.A. in Philosophy and a Chinese Law Certificate from Nanjing University, China and a M.A. in Philosophy from Tulane University. She attended the University of Kansas Law School earning her J.D. with a certificate in International Trade and Finance Law in 2006. She also received a M.S.I from the University of Michigan, School of Information in 2009. As a reference librarian and supervisor of the reference desk, she provides reference, research and bibliographic instruction services in all areas of law and for all jurisdictions. She also participates in collection development and other activities including creating research guides, online tutorials and content for Library web page.

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I) Introduction

The purpose of this research guide is to introduce a general overview as well as key primary and secondary resources of the mass media law of the People's Republic of China to researchers interested in both current as well as historical development of Chinese mass media law.

Mass media is a broad concept and covers basically any communication that reaches a large audience, such as publications, newspapers and magazines, radio, TV, film, advertising, and the Internet and blog.^[1] Mass Media law usually refers to the laws and regulations that govern the communications through the channels discussed above.

As with any research in any area of law for any jurisdiction, understanding the basic background and features of a particular legal system is an imperative first step. Researchers with no background of Chinese law and legal history should keep in mind at least three features of Chinese law and legal system.

Continuity is one of the most prominent features of Chinese legal system development. Although Chinese society has been through different types of political and economic structures, many ideologies, principles and elements of legal culture survive and continue to impact the Chinese society today significantly. For example, the administration ("executive branch") has played a significantly important role in enacting and enforcing laws and regulations in China since the imperial era.^[2] There have been certain moral or social norms that govern the society in parallel with or on top of legal rules.^[3]

For discussion on the Chinese legal tradition and its impact on Chinese legal development, see

- Gustavus Ohlinger, *Some Leading Principles of Chinese Law*, 8 Mich. L. Rev. 199 (1910).
- Charles Sumner Lobingier, *A Bibliographical Introduction to the Study of Chinese Law* 15 J. of the S. of Comp. Legis. 116 (1915).
- John Wu, *Readings from Ancient Chinese Codes and Other Sources of Chinese Law and Legal Ideas*, 19 Mich. L. Rev. 502 (1921).
- John Wu, *Chinese Legal and Political Philosophy*, 9 Preliminary Report on the Third East-West Philosophers' Conference 77 (1959).
- Philip M. Chen, *Law and Justice: The Legal System in China, 2400 B.C. – 1960 A.D.* (New York, NY: Dunellen Publishing Co., 1974).
- Jerome Alan Cohen, R. Randle Edwards & Fu-Mei Chang Chen (eds.), *Essays on China's Legal Tradition* (Princeton, N.J.: Princeton University Press, 1980).
- Derk Bodde, *Basic Concepts of Chinese Law in Essays on Chinese Civilization* (Princeton, NJ: Princeton University Press, 1981).
- Derk Bodde & Clarence Morris, *Law in Imperial China* (Philadelphia, PA: University of Philadelphia Press, 1973).
- Geoffrey MacCormack, *The Spirit of Traditional Chinese Law* (Athens, GA: University of Georgia Press, 1996).
- Jianfu Chen, *Chinese Law: Towards an Understanding of Chinese Law, Its Nature and Development* (Boston, MA: Kluwer Law International, 1999).
- William Theodore De Bary, *Sources of Chinese Tradition* (Columbia University Press, 2000).
- Perry Keller, *Chinese Law and Legal Theory* (Dartmouth, N.H.: Ashgate, 2001).
- C. Stephen Hsu (ed.), *Understanding China's Legal System: Essays in Honor of Jerome A. Cohen* (New York, NY: New York University Press 2003).
- Helene Piouet, *La Chine Au Carrefour Des Traditions Juridiques* (Bruylant, S.A., 2005)
- Jianfu Chen, *Chinese Law: Context and Transformation* (Martinus Nijhoff Publishers, Boston 2008) (This book includes an excellent bibliography of works on Chinese legal system 703-731).
- Bin Liang, *The Changing Chinese Legal System, 1978- Present* (New York, NY: Routledge, 2008) (This book includes a great literature review on studies on Chinese legal system in the introduction 1-16.)
- John W. Head, *China's Legal Soul* (Durham, NC: Carolina Academic Press, 2009)

Foreign influence has played a significant role in Chinese modern legal system development since the end of the Qing Dynasty. The legal reform initiated by the Qing Dynasty largely adopted judicial thinking and substantive laws from Japan.^[4] The extraterritoriality in China originating from the first few unequal treaties between China and the West directly motivated the establishment of the modern legal system in the Republican China era.^[5] The Soviet legal system greatly impacted the establishment and development of the legal system of the Chinese Soviet Republic in the 1930s and the beginning decades of the People's Republic of China. China has launched the legal reconstruct since 1980s and has enacted many laws and regulations in compliance with its WTO member obligations since 2006. Foreign laws and legal doctrines have been playing a shaping role on Chinese legal system development. For more discussion on foreign law and legal transplant in Chinese legal system, see:

- George Williams Keeton, *The Development of Extraterritoriality in China* (New York, NY: H. Fertig, 1978).
- Percy R. Luney, Jr., *Traditions and Foreign Influences: Systems of Law in China and Japan*, 52 Law and Contem. Probs. 129-150 (1989).
- Pitman B. Potter (ed.), *Domestic Law Reforms in Post-Mao China* (Armonk, N.Y. : M.E. Sharpe , 1994).
- Stanley B. Lubman, *Bird in a Cage: Legal Reform in China after Mao* (Stanford, CA: Stanford University Press, 1999).
- Zongling Shen, *Legal Transplant and Comparative Law*, 51 Revue Internationale de Droit Compare 853 (1999).
- Qinhua He & Xiuqing Li, *外国法与中国法 : 20世纪中国移植外国法反思* (Beijing, China: University of Politics and Law, 2003).
- Qinhua He (ed.), *混合的法律文化* (Beijing, China: Law Press, 2008).
- Jorge Costa Oliveira & Paulo Cardinal, *One Country, Two Systems, Three Legal Orders* (Berlin, Germany: Springer, 2009).
- Jiangyu Wang, *China: Legal Reform in an Emerging Socialist Market Economy in Law and Legal Institutions of Asia: Traditions, Adaptions and Innovations* (E. Ann Black & Gary F. Bell eds., 2011).
- Zhaoxing Liu & Jinyuan Su, *Comparative Law in China: Over 30 years' Development and Paradigm Shift in Research*, 1 Chinese J. of Comp. L. 158-84 (2013).

Finally, political influence on Chinese legal development is extremely prominent and important. Both central and local political forces significantly impact China's legal reform. For more discussion on the political influence on Chinese legal development throughout history, see:

Murray S. Tanner, *The Politics of Lawmaking in Post-Mao China: Institutions, Processes, and Democratic Prospects* (Oxford, UK: Oxford University Press, 1999).

Karent Turner Gottschang, James Vincent Feinerman, & R. Kent Guy (eds.), *Limits of Rule of Law in China* (Seattle, WA: University of Washington Press, 2000).

Eduard B. Vermeer & Ingrid Hooghe (eds.), *China's Legal Reforms and Their Political Limits* (London, UK: IBT Global, 2002).

II. Historical development of Chinese Mass Media Law

Chinese media law is a newer area of law compared to other traditional areas of law such as Criminal Law.^[6] It is also an area of law that is still under development, due to the fast development and expansions of the communication channels in the modern society worldwide including China and the changing public conceptions of rights and obligations associated with mass media. Currently, three key issues in the mass media law area are: basic legal rights available to the general public, government regulation of the major media industries, and rights and obligations available to the media professionals under the current legal regime.

There had been no independent media industry nor media communication channels available to the general public in China until late imperial Qing era, though China's papermaking history can be traced to early Han dynasty and China invented printing in Song dynasty.^[7] The first official government gazette (邸报) appeared in Han dynasty when paper was invented, the circulation of which was limited to the government. It was not until the Song dynasty that private individuals started to print and publish news and articles despite the government's prohibitions.^[8] Scholars have traced this phenomenon to a few factors in the Song dynasty such as the development of the printing technique made it easier to make multiple copies of articles and news for mass distribution and the rise of commerce in Song dynasty that created markets for news and articles distribution as well.^[9] Meanwhile, the official government gazette (邸报) in the Song dynasty started to show certain characteristics of modern newspaper in terms of content, format and dissemination.^[10] Later in the Qing dynasty, the semi-governmental newspaper press started to disseminate news coming from official sources.^[11]

A majority view is that modern concepts of freedom of press and speech were not born in the Chinese soil.^[12] Instead, they were mostly imported from the Western world in the late 19th century and early 20th century. It is commonly understood that the idea of freedom of press was first brought up in China in a newspaper launched by Karl Friedrich August Gutzlaff in Guangzhou, China.^[13] Later, Liang Qichao, an important legal reformist in the late Qing era further advocated the idea of freedom of speech and freedom of press as two of the most fundamental freedoms to human beings.^[14] Later in the Republican era, scholars and human rights advocates such as Luo Longji and Hu Shi both wrote extensively on the importance of the right to free speech. Luo argued that the freedom of thought and expression must be absolute and it is not only important for the individuals but for the society as a whole.^[15] Hu Shi also advocated strongly for freedom of speech, writing and publication and claimed that those freedoms "shall not be restricted except in accordance with law."^[16]

Starting in 1906, the Qing government began to issue a few statutes governing specifically on press and newspaper including 《大清印刷物件专律》, 《报章应守规则》, 《报馆暂行条规》 and 《大清报律》.^[17] In 1912, the right to freedom of speech and press first appeared in the *Provisional Constitution of the Republic of China* and has remained as a fundamental right in all the subsequent Constitutions in China.^[18] However in practice, censorship and prohibition of real freedom of speech and press was rampant in the Beiyang Government era (1912-1928) and the Kuomintang Nanjing Government era (1928-1949) through tight regulations over news press, tough criminal police enforcement and restrictions of freedoms of journalists and other media professionals.^[19] For more discussions on Chinese modern media law and legislation development, see:

Lee-hsia Hsu Ting, *Government Control of the Press in Modern China: 1900-1949* (1974).

黄瑚, *中国近代新闻法制史论* (1999).

倪延年, *中国报刊法制发展史* (2006).

殷莉, *清末民初新闻出版立法研究* (2007).

徐中煜, *清末新闻出版案件研究 (1900-1911): 以“苏报案”为中心* (2010).

张莉, *南京国民政府新闻出版立法研究* ([华东政法大学 2011](#)) (Doctoral Dissertation with a great list of bibliography at the end).

III. Mass Media Law of the People's Republic of China

The fundamental right to freedom of speech and press has been recognized since the first Constitution of the People's Republic of China was enacted in 1954 and by all subsequent Constitutions.^[20] Rights related to mass media law such as the right to government information, right to privacy, right to defamation, have also been recognized and protected under a variety of laws and regulations. For example, the national government enacted the first national open government information act, the *Regulation of the People's Republic of China on Open Government Information* (“OGI Regulation”),^[21] which requires disclosure of certain categories of governmental information to “safeguard the legal access to government information”, to “improve transparency of government work” and to “promote the administration according to law.”^[22]

Meanwhile, the government started to rebuild its mass media industry after it was nearly destroyed by the Sino-Japanese War (1937-1945) and the Civil War (1945-1949) including traditional media outlets, printing, TV, radio, film and newly emerging outlets such as the Internet and the Mobile Network. The printing industry went through a transition from state-owned entities to private commercially-owned entities in the 1990s – 2000s. China's 12th five-year development plan introduced in 2011 aimed at a gross output value of RMB 1.1 trillion, thus becoming the second largest printing power in the world.^[23] TV and radio entities are still entirely state-owned with tight content censorship or self-censorship requirements, although there are some very powerful privately-owned TV drama production institutions emerging, such as Huayi Brothers.^[24] The Chinese film industry is also experiencing an exponential growth. With the Chinese government loosening restrictions on foreign films, international films start to catch up.^[25]

For more general discussions on the Chinese media industry, see:

Ying Zhu, *Chinese Cinema during the Era of Reform: the Ingenuity of the System* (2003).

Chin-Chuan Lee (ed.), *Chinese Media, Global Context* (2005).

Yuanzhi Zhou, *Capitalizing China's Media Industry: The Installation of Capitalist Production in the Chinese TV and Film Sectors* (University of Illinois at Urbana-Champaign 2007).

Seio Nakajima, *The Chinese Film Industry in the Reform Era: Its Genesis, Structure, and Transformation since 1978* (2007).

Ying Zhu, *Television in Post-Reform China* (2008).

Jonathan Hassid, *Controlling the Chinese Media: An Uncertain Business*, 48 *Asian Surv.* 414-30 (May 2008).

Yingjin Zhang (ed.), *A Companion to Chinese Cinema* (2012).

For discussion on Chinese media law, see:

Jesse T.H., Isabelle I.H. Wan & Philip Qu, *China's Media & Entertainment Law* (2003-).

Benjamin L. Liebman, *Watchdog or Demagogue? The Media in the Chinese Legal System*, 105 *Colum. L. Rev.* 1-157 (2005).

IV. Legal Research Strategies and Major Resources of China's Mass Media Law

1. Secondary Resources

Secondary Resources include research guides, monographs and treatises, journal and periodicals and newspapers and other current awareness tools such as blogs. Good secondary resources not only provide useful overview of the topic but also direct researchers to key primary sources. In other words, secondary

resources can be valuable and cost-effective research tools.

a. Research Guides:

There are a few excellent research guides on Chinese law and legal research that can help gain a better understanding of Chinese legal system and legal environment that Mass Media law is part of. For examples,

Chinese Law: A Bibliography of Selected English-Language Materials (1990).

Thomas H. Reynolds & Arturo A. Flores, China, Foreign Law Guide: Current Sources of Codes and Basic Legislation in Jurisdictions of the World (1985-).

Joan Liu & Wei Luo, Features- A Complete Research Guide to the Laws of the People's Republic of China (PRC), LLRX (Jan. 2003), *available [here](#)*.

Joan Liu, Finding Chinese Law on the Internet, Globalex (Feb. 2005), *available [here](#)*.

Wei Luo, Chinese Law and Legal Research (2005).

Kara Phillips, Selected Resources on Chinese Legal Research (Sept. 2006), *available [here](#)*.

William B. McCloy, Chinese Legal Research at the University of Washington (Dec. 2011), *available [here](#)*.

Jidong Yang, Chinese Studies, University of Michigan Library (Last Updated Mar. 2013), *available [here](#)*.

There are also great research guides covering Media Law focusing on the US or from a comparative perspective:

Georgetown Law Library, Comparative Media Law Research Guide (Last Revised on Jan. 2007), *available [here](#)*.

Debora Cheney, [Media Law and Regulation](#)

b. Monographs and Treatises

There are a few ways to locate treatises or monographs focusing on Chinese media law and development. First, a researcher may search by subject or keyword in a library catalog. Worldcat allows searching collections of thousands of libraries worldwide.^[26] Google Books allows users to search over 10,000 publishers' publications by keyword in more than 35 languages including English, Chinese (simplified and traditional). For books out of copyright, full text may be available.^[27] In addition, many nonprofit or government-sponsored book digitization and preservation projects allow researchers to search full text of books and monographs online, such as Hathitrust,^[28] Internet Archive,^[29] National Digital Library of China,^[30] and China-US Million Book Project.^[31]

Certain commercial databases also allow subscribers to browse or search e-books in full text online: Ebrary,^[32] Hein's Classics Library,^[33] LLMC Digital Law Library,^[34] Jstor,^[35] ChinaMaxx,^[36] and DuXiu Knowledge Search.^[37]

c. Periodicals

Many academic and practitioner-oriented journals publish articles on Chinese media law and development. Subscribers may search in a commercial database such as Jstor,^[38] Hein,^[39] Proquest,^[40] CNKI (China Knowledge Resources Integrate Database),^[41] ChinaLawInfo.,^[42] Westlaw China,^[43] LexisNexis China.^[44] The following journals and periodicals tend to have a strong focus either on Chinese law including media law and regulation or on media law in general:

China Law Review (1922-1940)

Yearbook of Copyright and Media Law (1995-2002)

American Journal of Comparative Law (1952-)

China Quarterly (1960-)

Modern China (1975-)

Columbia Journal of Asian Law (1987-)

Asia Pacific Law Review (1992-)

Asian Pacific American Law Journal (1993-)

Chinese Journal of International Law (2002-)

US-China Law Review (2004-)
 East Asia Law Review (2005-)
 Journal of International Media & Entertainment Law (2006-)
 Journal of East Asia and International Law (2008-)
 Journal of Media Law (2009-)
 Journal of Media Law & Ethics (2009-)

d. Thesis and Dissertations

Researchers in Chinese law including mass media law shall definitely take advantage of the facts that many Master's thesis and Doctoral dissertations are available in full text in commercial databases such as Proquest Dissertations and Thesis Database,[\[45\]](#) CNKI Dissertations and Theses Database,[\[46\]](#) National Digital Library of Theses and Dissertations in Taiwan,[\[47\]](#) and HKLIS Dissertations and Theses Collections.[\[48\]](#)

e. Current Awareness tools

In the digital era, savvy researchers should take advantage of the speedy delivery of information and issues through modern media outlets. News and current awareness tools through the web are essential for any legal research to keep updated and abreast of developments:

Pressdisplay (provides news worldwide in the last 60 days)[\[49\]](#)
 NewsBank: includes full text articles of over 600 newspapers in the US and worldwide
 Media Law Prof Blog[\[50\]](#)
 Chinese Law Prof Blog[\[51\]](#)
 China Law Blog: China Law for Business[\[52\]](#)
 Comparative Media Law and Policy[\[53\]](#)

2. Primary Resources

When it comes to Chinese primary legal sources, researchers shall keep in mind with two major issues. First, the lawmaking and rulemaking process of China are renowned for its complexity and inconsistency. [\[54\]](#) Therefore a better understanding of Chinese lawmaking process and the hierarchy of Chinese legal sources will behoove any researchers interested in Chinese law including Chinese media law:

Murray S. Tanner, *How a Bill Becomes a Law in China: Stages and Processes in Lawmaking*, 141 *China Q.* 39-64 (1995).
 Jan M. Otto etc. (ed.) *Law-Making in the People's Republic of China* (Cambridge, MA: Kluwer Law International, 2000) (With a full text of the Legislation Law of 2000 in English).

Note that both literatures were written before the *Law on Legislation of the People's Republic of China* ("Legislation Law of 2000") came into effect in September 2000.[\[55\]](#) For discussions on the *Legislation Law of 2000* or on Chinese's legislation and regulatory making, see:

Daniel C.K. Chow, *The Legal System of the People's Republic of China in a Nutshell* (2003).
 Zou Keyuan, *China's Legal Reform: Towards the Rule of Law* (2006).
 OECD, *Reviews of Regulatory Reform: China 2009* (2009).
 Jiangyu Wang, *China: Legal Reform in an Emerging Socialist Market Economy in Law and Legal Institutions of Asia: Traditions, Adaptations and Innovations* (E. Ann Black & Gary F. Bell eds., 2011)

Second, there is no such thing as a single mass media law in China. Primary sources governing the area of mass media include:

The Constitution is the most fundamental and supreme law in China.[\[56\]](#) Article 5 of the current Constitution[\[57\]](#) stipulates that "No laws or administrative or local rules and regulations may contravene the Constitution."[\[58\]](#) Article 35 protects citizens' right to freedom of speech, and press.[\[59\]](#) Article 38 protects citizens' personal dignity.[\[60\]](#) Article 40 protects citizens' "freedom and privacy of correspondence."[\[61\]](#)

Next down in the hierarchy, laws that are either adopted by the National People's Congress or the standing committee by the National People's Congress and promulgated by the order of the President and signed by the President of the People's Republic of China.^[62] For example, the *General Principles of the Civil Law of the People's Republic of China* protects citizens' right to reputation, right of personal name, and the right of portrait.^[63] The *Advertising Law of the People's Republic of China of 1994* regulates the advertising business nationally.^[64]

Administrative Regulations are issued by the State Council in accordance with the *Constitution* and laws.^[65] For example, The *OGI Regulation* enacted in 2004 mandates government disclosure of certain information.^[66] The *Regulations on the Administration of Movies of 2002* administers the movie industry in China.^[67] Article 62 of the *Legislation Law of 2000* states the text of administrative regulation that published in the State Council's Bulletin is the standard text.^[68]

In addition, it is important to note that the local and autonomous regions' People's Congress have the power to directly issue regulations governing their specific regions.^[69] For example, Shanghai municipality first issued the provisions on openness of the government information in 2004, three years before the national *OGI regulation* was enacted. The provisions were later abolished by the current *Provisions of Shanghai Municipality on the Disclosure of Government Information* in 2008, amended in 2010.^[70]

Furthermore, ministries and commissions of the State Council may issue rules (部门规章) in accordance with Constitution, laws, administrative regulations, decisions and orders of the State Council.^[71] It is extremely important not to ignore any rules issued by any such departments or ministries. For example, the *Regulations on the Administrative of Movies of 2002* stipulates that the administrative department for radio, movies and TV is in charge of the movie affairs nationwide and locally respectively.^[72] The National administrative department is the State Administration of Radio, Film and Movies.^[73] More specifically, they have the power to issue, revoke, or reject licenses for activities of production, import, exportation and projection of movies.^[74] They are also in charge of examining the content of films and TV shows.^[75] Therefore, it will be a disaster for any researcher on this area to miss the *Provisions on the Archival Filing of Film Scripts (abstracts) and the Administration of Films of 2006*.^[76] The *Legislation Law of 2000* stipulates that the standard text of rules is the text published in the State Council gazette or the department gazette and in the gazette of the local people's government for local rules.^[77]

China has a unique legal interpretation regime. The Standing Committee of the People's Congress of PRC has the ultimate power to interpret any laws and its legal interpretation has the same effect as the laws enacted by it.^[78] State Council has the power to interpret any administrative regulations.^[79] Both Supreme People's Court and Supreme People's Procuratorate have the power to interpret laws and decrees that are applied in their work.^[80] Judicial interpretations are issued on the Supreme People's Gazette and People's Court Daily.^[81] Judicial interpretations issued by the Supreme People's Court have full legal force^[82] and can be used as a ruling basis after the law.^[83] Similarly, judicial interpretations of the Supreme People's Procuratorate are issued the Gazette of the SPP and national public media.^[84]

It is unclear in terms of the status of international treaties in the Chinese domestic legal system, as Chinese Constitution does not address it.^[85] However, as China continues to actively participate in the international legal and political stage, international treaties, conventions and agreements that China adopts and signs are impacting Chinese domestic legal development.

Availability of Primary Sources:

Chinese primary legal resources including Constitution, laws and regulations, judicial decisions are also available in full text in Chinese and/or English online through governmental, nonprofit and commercial databases. It is important to note that English translation is not official.

National People's Congress of the People's Republic of China maintains a database of English translations of certain main laws and regulations in China.^[86] It also maintains a much more comprehensive database of laws and regulations of China in both national level and local level in Chinese.^[87] Supreme People's Court of the People's Republic of China provides access to selected decisions^[88] and judicial interpretations^[89] in full text online on its website in Chinese. Likewise, local governments and people's courts also provide access

to the laws and regulations and judicial decisions on their governmental websites.

China Legal Information Institute^[90] also provides access to Chinese laws and regulations and court decisions in full text for free. Hein's World Constitutions Illustrated Library provides access to full text of both historical and current Chinese Constitutions in full text in English with selected secondary commentaries.^[91] Commercial databases such as LawInfoChina^[92] and Westlaw China^[93] provide more add-on research features in addition to full text of laws, regulations and judicial decisions of both national level and local level in China.^[94]

International treaties, agreements and conventions that China is a party to are available in English and Chinese in both commercial and official databases, such as LawInfoChina, Westlaw China, UN Treaties Collection, WTO website.

^[1] For discussion on defining mass media, see University of Chicago, *Mass Media in Theories of Media* available [here](#) (last accessed Mar. 30, 2013).

^[2] There have been extensive discussions on this top from a wide variety of perspectives. For more general or overarching discussions, see John C.H. Wu, *The Struggle between government of laws and government of men in the history of China*, 5 *China L. Rev.* 53-71 (1932); Keith Ronald C., *China's Struggle for the Rule of Law* (1994); Neil J. Diamant, Stanley B. Lubman & Kevin J. O'Brien, *Engaging the Law in China: State, Society and Possibilities for Justice* (2005); 邱澎生, 陳熙遠, *明清法律運作中的權力與文化* (2009); 韩秀桃, *司法独立与近代中国* (2003). For discussions of the topics in specific legal fields, see Jeffrey M. Duncan, Michelle A. Sherwood & YuanLin Shen, *A Comparison between the Judicial and Administrative Routes to Enforce Intellectual Property Rights in China*, 7 *J. Marshall Rev. Intell. Prop. L.* 529 (2008); Nicholas C. Howson, *Enforcement without Foundation? – Insider Trading and China's Administrative Law Crisis*, 60 *Am. J. Comp. L.* 955 (2012); Peter Howard Corne, *Foreign Investment in China: the Administrative Legal System* (1997).

^[3] For more discussions on the topic, see Hayden Windrow, *A short history of law, norms, and social control in imperial China*, 7 *Asian-Pac. L. & Pol'y J.* 244 (2006); Charles Sumner Lobingier, *An Introduction to Chinese Law*, 4 *China L. Rev.* 121-132 (1929); Charles Sumner Lobingier, *The Corpus Juris of New China*, 19 *Tul. L. Rev.* 512-552 (1944); Karen Turner, *Rule of Law Ideals in Early China?* 6 *J. Chinese L.* 1-44 (1992). Randall Peerenboom, *Ruling the Country in Accordance with Law: Reflections on the Rule and Role of Law in Contemporary China* 11 *Cultural Dynamics* 315-51 (1999). In addition, I personally feel that reading Lon L. Fuller, *The morality of law* (1969) in conjunction with other works focusing on the influence of moral norms on Chinese legal system can be helpful.

^[4] For example, The Criminal Code of 1908 was drafted by a Japanese law professor, Okada Asataro, based on the new Japanese Penal Code. See Philip C. Huang, *Code, Custom, and Legal Practice in China: the Qing and the Republic Compared*, 16 (2001); Xiaobing Li & Qiang Fang (eds.), *Modern Chinese Legal Reform: New Perspectives* 4 (2013).

^[5] Par Kristoffer Cassel, *Grounds of Judgment: Extraterritoriality and Imperial Power in Nineteenth-Century China and Japan* (2012); John Wu, *The Problem of Extraterritoriality in China*, 24 *Proc. of the Am. Soc'y of Int'l Law*, 182-194 (1930).

^[6] Chinese criminal law in writing can be traced back to as far as the Western Zhou dynasty. See HERRLEE GLESSNER CREEL, *The Royal Government: Justice, in THE ORIGINS OF STATECRAFT IN CHINA, VOL. I: THE WESTERN CHOU EMPIRE CHICAGO*, 161-193 (1970). In contrast, although imperial Chinese governments have exercised media control through penal law provisions, the first written media law was not enacted until 1906 by the Qing government, 《大清印刷版专律》 (*The Special Statute of the Great Qing Dynasty Governing Publications*), enacted in July 1906, amended on Oct. 12, 1906, and repealed on Mar. 14, 1908. In 1908, the Qing government enacted 《大清报律》 (*The Press Law of the Great Qing Dynasty*), enacted on Mar. 14, 1908, amended on Jan. 29, 1911, and repealed on Mar. 4, 1912. See HSU TING LEE-HISA, *GOVERNMENT CONTROL OF THE PRESS IN MODERN CHINA, 1900-1949*, 7-26 (Harvard University Press, 1974); 黄瑚 (HUANG HU), *中国近代新闻法制史论 (ON CHINA'S MODERN HISTORY OF MEDIA LAW)*, 55-111 (Fudan University Press, 1999). See Xiaomeng Zhang & Yale Fu, *Chinese Media Law, China Guiding Cases Project, Stanford Law School* (Forthcoming, 2013), fn. 1.

^[7] See JOSEPH NEEDHAM, *SCIENCE AND CIVILIZATION IN CHINA VOL. 5*, 132-94 (1985); IRVING FANG, *A HISTORY OF MASS COMMUNICATIONS* 34-35 (1997).

^[8] See 黄瑚 (HUANG HU), *中国近代新闻法制史论* (1999).

^[9] See Li Qiu & Yu Niu, *邸报, 小报与宋代新闻传播的发展和繁荣*, 23 *J. of Yellow River Conservancy Technical Inst.* 91-94 (2011); Yoshinobu Shiba, *COMMERCE AND SOCIETY IN SUNG CHINA* (Ann Arbor, MI: University of Michigan, Center for Chinese Studies, 1970); JOSEPH NEEDHAM, *SCIENCE AND CIVILIZATION IN CHINA VOL. 5* (1985).

^[10] See Feng Xu & Yachun Yuan, *论宋代邸报的性质及编辑内容的嬗变*, 39 *J. Nw. Normal Univ.* 92- 96 (2012).

[11] See Huang *supra* note 8.

[12] See Pengcheng Lu, *Concept of Freedom of Speech, Press, and Information in Modern China*, 6 *China Media Rep. Overseas* 20-29 (2010), *available here*. On the other hand, there are scholars who argued that freedom of speech and press had always been part of Chinese culture. It is the institutional protection of those individual freedoms that was lack from the Chinese tradition and was imported from the West. See 胡秋原, *言论自由在中国历史上* (1958).

[13] The newspaper is <东西洋考每月统记传>. See Lu *supra* note 12.

[14] Yong Zhang Volz, *Transplanting Modernity: Cross-cultural Networks and the Rise of Modern Journalism in China, 1890s-1930s* (University of Minnesota, 2006).

[15] See Edmund S. K. Fung, *IN SEARCH OF CHINESE DEMOCRACY: CIVIL OPPOSITION IN NATIONALIST CHINA, 1929-1949*, 68-70 (2006).

[16] See William C. Kirby (ed.), *REALMS OF FREEDOM IN MODERN CHINA*, 116 (2004).

[17] See Huang *supra* note 8.

[18] 《中华民国临时宪法》(Provisional Constitution of the Republic of China), adopted on Mar. 8, 1912, promulgated on Mar. 11, 1912, repealed on May 1, 1914, reinstated on June 29, 1916, and repealed on Oct. 10, 1923, art. 6(4).

[19] See Xiu-lan Yao, *The Freedom of Speech and Press & the Changes of Legislation to Newspapers and Periodicals in Modern China*, 3 *Chinese Pub. Aff. Q.* 115-23 (2007).

[20] 《中华人民共和国宪法(1954)》(Constitution of the People's Republic of China (1954)), adopted on Sept. 20, 1954, repealed on Jan. 17, 1975, art. 87; 《中华人民共和国宪法(1975)》(Constitution of the People's Republic of China (1975)), promulgated on Jan. 17, 1975, repealed on Mar. 5, 1978, art. 28; 《中华人民共和国宪法(1978)》(Constitution of the People's Republic of China (1978)), adopted on Mar. 5, 1978, amended the first time on July 1, 1979, amended the second time on Sept. 10, 1980, repealed on Dec. 4, 1982, art. 45; 《中华人民共和国宪法》(Constitution of the People's Republic of China), adopted on Dec. 4, 1982, amended the first time on Apr. 12, 1988, amended the second time on Mar. 23, 1992, amended the third time on Mar. 15, 1999, and amended the fourth time on Mar. 14, 2004. The fourth amendment came into effect on March 14, 2004, art. 35.

[21] 中华人民共和国政府信息公开条例 (Regulation of the People's Republic of China on Open Government Information), adopted on Jan. 17, 2007, promulgated on Apr. 5, 2007, and effective on May 1st, 2008, *available here*.

[22] *Id.*, art. 1. The original Chinese text of the OGI Regulation states “为了保障公民、法人和其他组织依法获取政府信息，提高政府工作的透明度，促进依法行政，充分发挥政府信息对人民群众生产、生活和经济社会活动的服务作用，制定本条例。”

[23] Research in China, *CHINA'S PRINTING INDUSTRY REPORT, 2010-2012*, *available here*.

[24] Research in China, *CHINA'S PRINTING INDUSTRY REPORT, 2010-2012*, *available here*.

[25] Alexis Lai, *Blockbuster growth in China's film industry* (updated 11:46 PM, Feb. 19, 2013), *available here*. In the US-China Memorandum of Understanding, a settlement on a U.S.-brought dispute against China before the WTO Dispute Settlement Body in 2007, China confirmed that “any Chinese enterprise is eligible to apply for and be granted a license to distribute imported films and that nothing in Chinese laws, regulations or government rules prevents any eligible Chinese enterprise from applying for and receiving a license to distribute, and operating as a distributor of these films.” See CHINA – MEASURES AFFECTING TRADING RIGHTS AND DISTRIBUTION SERVICES FOR CERTAIN PUBLICATIONS AND AUDIOVISUAL ENTERTAINMENT PRODUCTS, Joint Communication from China and the United States, WT/DS363/1911 (2012), *available here*.

[26] <http://www.worldcat.org/>

[27] <http://books.google.com/intl/en/googlebooks/about/index.html>

[28] <http://www.hathitrust.org/>

[29] <http://archive.org/index.php>

[30] <http://www.nlc.gov.cn/newen/>

[31] <http://www.cadal.zju.edu.cn/Index.action>

[32] <http://www.ebrary.com/corp/>

[33] <http://home.heinonline.org/>

[34] <http://www.llmc-digital.org/>

[35] <http://books.jstor.org/>

[36] <http://www.chinamaxx.net/>

[37] <http://www.duxiu.com/>

[38] <http://www.jstor.org/>

[39] <http://home.heinonline.org/>

[40] <http://www.proquest.com/en-US/>

[41] <http://www.cnki.net/>

[42] <http://www.chinalawinfo.com/>

[43] http://westlawchina.com/index_en.html

[44] <http://www.lexisnexis.com.cn/english/>

[45] <http://www.proquest.com/en-US/products/dissertations/>

[46] <http://www.eastview.com/Files/EV%20CNKI%20CDMD.pdf>

[47] <http://ndltd.ncl.edu.tw/cgi-bin/gs32/gsweb.cgi/ccd=yiuLM0/webmge?mode=basic>

[48] <http://library.hkbu.edu.hk/electronic/libdbs/dol.html>

[49] <http://www.pressdisplay.com/pressdisplay/viewer.aspx>

[50] http://lawprofessors.typepad.com/media_law_prof_blog/

[51] http://lawprofessors.typepad.com/china_law_prof_blog/

[52] <http://www.chinalawblog.com/>

[53] <http://pcmlp.socleg.ox.ac.uk/welcome>

[54] For examples, see Dan Harris, China and Its Many Rules, ChinaLawBlog (Nov. 1st, 2009), available [here](#); Randall Peernboom, CHINA'S LONG MARCH TOWARD RULE OF LAW (2002); Peng He, Chinese Lawmaking: from Non-communicative to Communicative (University of Edinburgh, 2012).

[55] 《中华人民共和国立法法》(The Law on Legislation of the People's Republic of China), adopted on Mar. 15, 2000, promulgated on Mar. 15, 2000, and effective on July 1, 2000.

[56] *Id.* art. 78

[57] 《中华人民共和国宪法》(Constitution of the People's Republic of China), adopted on Dec. 4, 1982, amended the first time on Apr. 12, 1988, amended the second time on Mar. 23, 1992, amended the third time on Mar. 15, 1999, and amended the fourth time on Mar. 14, 2004. The fourth amendment came into effect on March 14, 2004.

[58] *Id.* art. 5

[59] *Id.* art. 35

[60] *Id.* art. 38

[61] *Id.* art. 40

[62] Legislation Law of 2000, *supra* note 55, arts. 23 & 41

[63] *Id.* arts. 99-101

[64] 《中华人民共和国广告法》(Advertising Law of the People's Republic of China), adopted on Oct. 27, 1994 and effective on Feb. 1, 1995, available [here](#).

[65] Legislation Law of 2000, *supra* note 55, art. 56

[66] OGI Regulation, *supra* note 20.

[67] 《电影管理条例（2001）》(Regulations on the Administration of Movies), adopted and promulgated on Dec. 25, 2001, and effective on Feb. 1, 2002, available [here](#).

[68] *Id.* art. 62

[69] *Id.* art. 63

[70] 《上海市政府信息公开规定》(Provisions of Shanghai Municipality on the Disclosure of Government Information), adopted and promulgated on April 28, 2008, and effective on May 1, 2008, available [here](#).

[71] Legislation Law of 2000, *supra* note 55, art. 71

[72] Regulations on the Administration of Movies, *supra* note 67, art. 4

[73] <http://www.chinasarft.gov.cn/>

[74] Regulations on the Administration of Movies, *supra* note 67, art. 5

[75] For example, Regulations on the Administration of Movies, *supra* note 67, ch. 3

[76] 《电影剧本(梗概)备案、电影片管理规定》(Provisions on the Archival Filing of Film Scripts (Abstracts) and the Administration of Films), adopted on April 3, 2006, promulgated on May 22, 2006 and effective immediately, available at <http://vip.chinalawinfo.com/newlaw2002/slc/SLC.asp?Db=chl&Gid=76912>

[77] Legislation Law of 2000, *supra* note 55, art. 77

[78] Legislation Law of 2000, *supra* note 55, arts. 42 & 47; Constitution, *supra* note 57, art. 67

[79] 《国务院办公厅关于行政法规解释权限和程序问题的通知》(Notice of the State Council on the scope and procedures of the interpretation of administrative regulations), promulgated and effective on May 10, 1999, available [here](#).

[80] 《全国人民代表大会常务委员会关于加强法律解释工作的决议》(Resolution of the Standing Committee of the National People's Congress Providing an Improved Interpretation of the Law), promulgated and effective on June 10, 1981, available [here](#).

[81] 《最高人民法院关于司法解释工作的规定》(Provisions of the Supreme People's Court on the Judicial Interpretation Work), adopted on Mar. 23, 2007 and effective on April 1, 2007, available [here](#).

[82] *Id.* art. 5

[83] *Id.* art. 27

[84] 《最高人民法院关于印发《最高人民法院司法解释工作规定》的通知》, promulgated on May 10, 2006, *available here*.

[85] See Keyuan Zou, *International Law in the Chinese Domestic Context*, 44 Valp. L. Rev. 938 (2010).

[86] http://www.npc.gov.cn/englishnpc/Law/Integrated_index.html

[87] <http://law.npc.gov.cn/home/begin1.cbs>

[88] <http://www.court.gov.cn/qwfb/cpws/>

[89] <http://www.court.gov.cn/qwfb/sfjs/>

[90] <http://www.worldlii.org/cn/>

[91] <http://heinonline.org/HeinDocs/WorldConstitutionsIllustrated.pdf>

[92] See *here*.

[93] See *here*.

[94] For more discussions on Chinese primary legal resources in paper and online, please see Jootaek Lee , Xiaomeng Zhang, Keiko Okuhara, & Evelyn Ma, *Issues and Trends of Collection Development of East Asian Law in the United States*, 105 Law Lib. J. (forthcoming 2013).