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Studia

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The Evolution of China's Codification of Private International Law and Its Latest Development: Comments on China's New PIL-Act[c)]

Abstract: Prior to the 20th century, the codification of private international law in China progressed in very slow pace, even though the earliest conflict rule already emerged in the Tang Code of 651. The promulgating of the Statute on the Application of Law on August 5, 1918 marked the birth of China's modern private international law. Since the reform and open-door policy was initiated in 1978, the codification of private international law in China has been entering into a stage of rapid and great improvement. A series of choice-of-law rules have been laid down in some domestic legislations, such as the General Principles of the Civil Law of 1986, the Maritime Act of 1992, the Civil Aviation Act of 1995, etc., and a lot of related judicial interpretations. However, the non-systematic, incomplete, lacking conformity and unscientific provisions in the existing legislations cannot meet the practical needs. With the unremitting efforts of Chinese legislature and scholars of private international law over 20 years, the Act of the PRC on the Application of Laws in Foreign-Related Civil Relations (PIL-Act) was adopted on October 28, 2010. This Act contains 8 chapters and 52 articles, and reflects, both in style and in specific rules, many outstanding features, e.g. the expansion of the scope of party autonomy, habitual residence used as main connecting point in determining *lex personalis*, increased flexibility in application of laws. Meanwhile, there are some shortcomings in the PIL-Act which should be improved through the judicial interpretations and subsequent legislative amendments in the future.

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The Act of the People's Republic of China on the Application of Law in Foreign-Related Civil Relations[1] [hereinafter referred to as PIL-Act] was adopted at the 17th session of the Standing Committee of the 11th National People's Congress (hereinafter abbreviated as NPC) of the People's Republic of China on October 28, 2010 and came into force on April 1, 2011. The promulgation of this Act is a historic event in Chinese legal history and also a qualitative leap in China's codification of private international law. However, prior to the PIL-Act enacted in 2010, the codification of private international law in China had gone through a long and tortuous process over one thousand years.

1. The History of China's Codification of Private International Law

Prior to the 20th century, the codification of private international law in China progressed in very slow pace. Due to the long-standing feudal government, the chance for the development of Chinese private international law was quite slim.

During the feudal period from Tang Dynasty to Tsing Dynasty

In the 6th and 7th centuries, the relationship between China and the world was so close that a large number of foreigners who lived in Chang'an (the capital of Chinese Empire at that time), Canton, Yangzhou, Quanzhou and many other places, engaged in the economic and trade ac-

[1] This Act was published in the *Bulletin of the Standing Committee of National People's Congress of the People's Republic of China*, no. 7, 2010, pp. 640—643; for its German and English translation, see Xue Tong and Zou Guoyong (trans.), "Gesetz der Volksrepublik China über die Rechtsanwendung auf Zivilbeziehungen mit Auslandsberührung," *IPRax* 2011, Heft 2, pp. 199—202; Long Weidi (trans.), "Act of the People's Republic of China on Application of Law in Civil Relations with Foreign Contacts," *IPRax* 2011, Heft 2, pp. 203—205.

tivities. To resolve conflicts generated from cross-cultural communication and association, the earliest conflict rule in the world history was contained in the Tang Code[2] (namely Yonghui Code) adopted in 651: "A case involving persons of infringement who are the subjects of the same foreign ethnic group shall be governed by the customary law of their own; if the parties of infringement belong to different ethnic groups, the law of the Tang Empire shall be applied."[3] According to the *Commentary to the Tang Code* (the *Tanglüshuyi*) which were noted and compiled by Zhangsun Wuji, the so-called foreign ethnic groups referred to the persons who subjected to Fan barbarian country where people held their own monarch and customs with different legal systems. The disputes of infringement occurring between the persons from the same foreign country should be governed by their own law and decided in accordance with their own customary law; all cases involving persons who belonged to different sovereignties, such as Korea and Baekje (an ancient small country on the Korean Peninsula), should be judged in accordance with the Tang Code.[4] It is worth mentioning that although the Tang Code was a penal code, it also included civil rules because the two were not strictly separated in China's feudal society, and the provision mentioned above applied therefore to the foreign-related civil relations. In terms of private international law, the first part of this provision embodied *lex patriae*, whereas the second part *lex loci actus*. It was such a great conduct at that time that a provision of the Tang Code combined *lex patriae* and *lex loci actus* deals with all the foreign affairs. Chinese scholars feel proud of this provision in the sense that it reflected a cosmopolitan approach to solving conflicts problems which was a manifestation of both confidence and strength of the Tang Dynasty (618—907) during the 7th century.[5]

The above provision of the Tang Code was accurately copied and inherited by the Song Code of the Song-Dynasty (960—1279). During the Yuan Dynasty (1271—1368), it was nearly impossible to unify the law because of various customs held by numerous ethnic groups, by then, those ethnic groups were bound in civil matters by their own laws and

[2] The Tang Code is considered the oldest legal code in the history of Chinese law of which a full copy has been found which purported to represent the greatest achievement of Chinese ancient law. It was composed of 12 sections that contained a total of more than 500 articles which became the basis for later dynastic codes not only in China but elsewhere in East Asia.

[3] See Zhang Jinfan (ed.), *Zhongguo Fazhishi* [*China Legal History*] (The Masses Press, 1982), p. 214.

[4] Zhangsun Wuji, *Tanglüshuyi* [*The Commentaries to the Tang Code*] (Tokyo: Corporation Donghai Bookstore, 1968), pp. 384—385.

[5] Huo Zhengxin, *Private International Law* (Beijing: University of International Business and Economics Press, 2011), p. 73.

customs. Such situation was changed during the rule of Ming Dynasty (1368—1644) and Tsing Dynasty (1644—1911). For most of the time, closed-door policy was adopted in China and the private maritime exchange with foreigners were almost at a standstill. Influenced by the legal thoughts of territorialism, it was laid down in the Ming Code and then Tsing Code that all cases concerning violation committed by the foreign ethnic group should be judged in accordance with the Chinese code.[6] As a result, the Ming and Tsing dynasties followed an approach of absolute territorialism, and hence barred the application of any foreign law.

After the two Opium Wars (1839—1842 and 1856—1860), the political and legal situation of China changed dramatically when Tsing Government was forced to sign a series of unequal treaties with the great western powers, including the UK, France, Germany, Japan, Russia and the United States. These forces made Chinese ports and trading centres open and achieve "consular jurisdiction" in China. In such treaties there were some provisions on applicable law which aimed at excluding the application of China's law. For example, the Tianjin Treaty signed in 1858 between the UK, France and China's Tsing Government stated clearly: "All the cases, both criminal and civil, involving foreigners with the same nationality, should be tried by the consultants from the respective countries according to their own law; all cases between Chinese and foreigners, both criminal and civil, should be tried according to the national law by the consultant from the country to which the defendant belongs, if the defendant is a foreigner."[7] By then, the judicial sovereignty of China was almost lost and there was no conflict of laws at all in the foreign-related cases. Therefore, there was not any codification of private international law regulating conflict of laws.[8]

In a word, although there had been a decent norm of private international law in the Tang Code, the codification of private international law did not develop in more than one thousand years because of the closed-door policy during the period of the feudal society.

During the period of the Republic of China

With the establishment of the Republic of China (1912—1949) after Xinhai Revolution (1911), the national consciousness greatly increased in

[6] Dai Huiyan, *Zhongguo Fazhishi* [*China Legal History*] (3rd edn., Sanmin Bookstore, 1982), pp. 24—25.

[7] See Du Tao, Chen Li, *Guojisifa* [*Private International Law*] (2nd edn., Fudan University Press, 2008), p. 21.

[8] Xiao Yong-ping, "Jiu Zhongguo Guojisifa Zhi Yipie" [A Glance at China's Old Private International Law], *Faxue Zazhi* [*Journal of Legal Science*] (1991, no. 2), pp. 36—37.

China. It was on August 5, 1918 that the Beiyang Government of China promulgated the Statute on the Application of Law which was the first systematic codification of private international law in China's history to regulate foreign-related civil relations. This statute consisted of 7 chapters and 27 articles which provided both general principles and various specific conflict rules for personal status, family, inheritance, property, formal validity of legal act.[9] Although its draftsmen transplanted to some extent the provisions of German *Introductory Law to the Civil Code* of 1896 and Japanese *Hōrei* of 1898 during the drafting process, all provisions in the statute incorporated the most advanced theories of private international law at that time and were regarded as one of the most detailed and comprehensive codes available in those days. The statute also reflected Chinese people's will to fight against colonisation, as well as their aspirations for independent and equal rights. However, due to the presence of foreign consular jurisdiction during the early 20th century, the natural and legal persons of foreign countries were directly subjected to their own consular jurisdictions, which restricted the application scope of China's Statute on the Application of Law so severely that it was nothing but a scrap of paper in most cases. As Ma Hanbao claimed: "The adoption of this regulation aims rather at expressing China's determination to regain jurisdiction than the necessity to cope with the actual need."[10] Despite of this, the issue of China's Statute on the Application of Law marked the birth of China's modern private international law.

On August 12, 1927, the National Government in Nanjing gave an order to adjourn the application of the Statute on the Application of Law of 1918. This statute ceased to take effect in Mainland China since October 1949[11] while still remaining in effect in Taiwan untill 1953 when it was replaced by a new act, i.e. the Act on the Application of Law in Civil Matters Involving Foreign Elements which was promulgated and implemented on June 6, 1953. The Act on the Application of Law in Civil Matters Involving Foreign Elements was drawn up on the basis of the revision of the Statute on the Application of Law and consisted of 31 articles which provided the applicable law for foreign-related civil matters, such as capacity of natural and legal person, declaration of in-

[9] See Lu Jun, *Guojisifa Zhi Lilun Yu Shijian* [*Theory and Practice of Private International Law*] (1998), pp. 331—334; Karl A. Bünger, "Zum internationalen Privatrecht Chinas", XXXXII *Niemeyer's Zeitschrift für internationales Recht* (1930), pp. 129—137.

[10] See Ma Hanbao, *Guojisifa Zonglun* [*General Courses of Private International Law*] (7th edn., Wu-Nan Book Company Ltd., 1982), p. 11.

[11] The Kuomintang-headed Republic of China's central government moved to Taiwan in December 1949, followed by a large number of Mainlanders. From then on, Taiwan and Mainland China have had their own distinct legal systems.

terdiction and death, form of legal act, obligations, rights *in rem*, family and inheritance. On April 30, 2010, the Legislative Bureau of Taiwan authority adopted the greatly amended Act on the Application of Law in Civil Matters Involving Foreign Elements, which consisted of 63 articles divided into 8 chapters: general provisions, the subject of rights, form of legal act, agency, obligations, right *in rem*, family, inheritance and final provisions. The new act was promulgated on May 26, 2010 and came into effect on May 26, 2011.

During the period after the founding of the People's Republic of China

In the first 30 years after the founding of the People's Republic of China (hereinafter abbreviated as PRC) in 1949, China's foreign-related civil exchanges were basically at a standstill, which means, there was no development in the codification of private international law. Since the reform and open-door policy was initiated in 1978, China's external economic cooperation and trade have developed rapidly with increasing numbers of disputes involved with foreign elements brought to Chinese People's Courts, which objectively promote China's codification of private international law. In art. 12 of the Regulations for the Implementation of the Law of the PRC on Joint Ventures Using Chinese and Foreign Investment of 1983 (amended in 2001),[12] art. 36 of the Inheritance Act of the PRC of April 10, 1985,[13] art. 5 of the Act of the PRC on Economic Contracts Involving Foreign Interest of March 21, 1985[14] as well as art. 5 of the Regulations of the PRC on the Administration of Technology Acquisition Contracts of May 24, 1985, there are corresponding provisions of choice-of-law rules. They were breakthroughs in China's codification of private international law. Especially in the 8th chapter (arts. 142—150) of the General Principles of the Civil Law of the PRC (hereinafter referred to as GPCL) adopted on April 12, 1986 there were not only systematic provisions of choice-of-law rules concerning capac-

[12] Promulgated by the State Council on September 20, 1983, amended by the State Council on January 15, 1986, December 21, 1987, and amended by the State Council according to the Decision of the State Council on Amending the Regulations for the Implementation of the Law of the PRC on Joint Ventures Using Chinese and Foreign Investment on July 22, 2001).

[13] Adopted at the 3rd Session of the 6th NPC and promulgated by the decree no. 24 of the President of the PRC on April 10, 1985, and became effective on October 1, 1985.

[14] Adopted at the 10th Session of the Standing Committee of the 6th NPC and promulgated by the decree no. 22 of the President of the PRC on March 21, 1985, and became effective on July 1, 1985.

ity, contract, tort, marriage, divorce, support and inheritance, but also a definite rule of public order, which was of great significance in China's development history of private international law.[15] Since then, China's codification of private international law has started from scratch, gradually forming a multi-level, comprehensive legislative system and tended to be increasingly reasonable. Besides the above mentioned acts, the 14th chapter (arts. 268—276) of the Maritime Act of July 11, 1992,[16] the 14th chapter (arts. 184—190) of the Civil Aviation Act and the 5th chapter (arts. 94—101) of the Negotiable Instruments Act of October 5, 1995[17] respectively provided the choice-of-law rules for maritime relations, aviation relations and negotiable instruments with foreign elements. Article 21 of the Adoption Act[18] which was adopted on December 29, 1991 and revised on November 4, 1998 and article 126 of the Contract Act of March 15, 1999 provided respectively the choice-of-law rules for the adoption and contracts with foreign elements.

Moreover, a lot of judicial interpretations[19] concerning private international law issued by the Supreme People's Court on the basis of summing up the experiences of foreign-related trials are also important parts of China's sources of private international law, such as Opinions of the Supreme People's Court on Several Issues concerning the Implementation of the Law of Inheritance of the PRC (For Trial Implementation) of September 11, 1985, the Response of the Supreme People's Court to Certain Questions Concerning the Application of the Foreign Economic Contract Law of October 19, 1987[20] (expired), articles 178—195 of the Opinions of the Supreme People's Court on Several Issues concerning the Implementation of the GPCL of the PRC (For Trial Implementa-

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[15] See Xu Donggen, Xue Fan: *Zhongguo Guojisifa Wanshan Yanjiu* [*The Studies on the Improvement of China's Private International Law*] (Press of Shanghai Academy of Social Science, 1988), pp. 104—107.

[16] Adopted at the 28th Meeting of the Standing Committee of the 7th NPC on November 7, 1992, promulgated by the decree no. 64 of the President of the PRC on November 7, 1992 and effective as on July 1, 1993.

[17] Adopted at the 13th Meeting of the Standing Committee of the 8th NPC on May 10, 1995.

[18] Adopted at the 23rd Meeting of the Standing Committee of the 7th NPC on December 29, 1991 and revised in accordance with the Decision on Revising the Adoption Law of the PRC adopted at the 5th Meeting of the Standing Committee of the 9th NPC on November 4, 1998.

[19] So-called "judicial interpretations" in China prefer to the interpretations made by the supreme judicial organ of the State authorized in accordance with the law to the specific application issue in judicial practice. See Jiang Ping (ed.), *Zhongguo Sifa Dacidian* [*China's Judicial Dictionary*] (Jilin People's Press, 1991), p. 6.

[20] Issued by the Supreme People's Court on October 19, 1987.

tion) of January 26, 1988,[21] Provisions of the Supreme People's Court on Some Issues Concerning the Jurisdiction of Civil and Commercial Cases Involving Foreign Elements of December 25, 2001,[22] arts. 1—12 of the Rules of the Supreme People's Court on the Relevant Issues concerning the Application of Law in Hearing Foreign-Related Contractual Dispute Cases in Civil and Commercial Matters of June 11, 2007,[23] arts. 1—3 of the Provisions of the Supreme People's Court on the Application of Law in the Trial of Taiwan-Related Civil and Commercial Cases of April 26, 2010,[24] etc. In the case where China's legislation of private international law is not yet complete, these judicial interpretations are of great practical significance to establish and improve the private international law system with Chinese characteristics.

Untill 2010 China's legislations and judicial interpretations concerning conflict rules for foreign-related civil relations law have covered the nationality, domicile or habitual residence, capacity for civil rights and civil conducts, prescription, property rights, contract, tort, negotiable instruments, maritime, aviation, marriage, adoption, guardianship, support, inheritance and other areas. According to the statistics, there are already 470 legal provisions concerning choice-of-law rules for foreign-related civil relations laid down in more than 140 laws, regulations, judicial interpretations and local laws and regulations, which initially set up the system of application of law for foreign-related civil relations in China.[25]

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[21] Deliberated and adopted at the Judicial Committee of the Supreme People's Court on January 26, 1988.

[22] Provisions of the Supreme People's Court on Some Issues Concerning the Jurisdiction of Civil and Commercial Cases Involving Foreign Elements were adopted at the 1203rd meeting of the Judicial Committee of the Supreme People's Court on December 25, 2001, issued on February 25, 2002 and came into force on March 1, 2002.

[23] The Rules of the Supreme People's Court on the Relevant Issues concerning the Application of Law in Hearing Foreign-Related Contractual Dispute Cases in Civil and Commercial Matters were adopted at the 1429th Meeting of the Judicial Committee of the Supreme People's Court on June 11, 2007, issued on July 23, 2007, and came into effect on August 8, 2007.

[24] Adopted at the 1486th session of the Judicial Committee of the Supreme People's Court on April 26, 2010, Interpretation no. 19 (2010) of the Supreme People's Court.

[25] See Qi Xiangquan, *Shewai Minshiguanxi Falüshiyongfa Yuanli Yu Jingyao* [*Principles and Essentials of Law of Law Application of Foreign Civil Relations*] (Law Press, 2011), p. 19.

2. The Formulating of the PIL-Act in 2010

The necessity of the formulating of the PIL-Act

Since the reform and open-door policy was implemented, the exchange between China and foreign countries in civil and commercial matters has been so frequent that it leads to the rapid increase in the number of foreign-related civil disputes.[26] Therefore, how to resolve fairly and effectively the civil dispute involving foreign elements has become a significant historic task placed in front of China's legislature and judiciary. On the one hand, the new problems have greatly pushed forward the codification of private international law since 1980s; on the other hand, from the viewpoint of domestic legislation and judicial practice, many defects can still be found in the existing laws, regulations as well as judicial interpretations, and it is even more difficult to meet the current need in practice. The following defects are what need to be reformed:

1. Non-systematic are provisions of the choice-of-law rules for foreign-related civil relations.[27] China's previous choice-of-law rules provided in different civil laws and regulations were so scattered that there was clearly a lack of systematic form. For instance, the provisions in the 8th chapter of the GPCL of 1986 deal with only the matters such as capacity for civil conduct, the ownership of immovable property, contractual obligations, compensation for damages in tort, marriage between Chinese citizens and foreign citizens, divorce, support and legal inheritance, and there are no corresponding choice-oflaw rules for other civil and commercial relations, e.g. rights in movable property, the relationship between parents and children, guardianship, testament, agency. Moreover, scattered provisions in different laws and regulations led inevitably to the difficulty of taking all factors into considerations and balancing them. Therefore, they could not provide systematic provisions to the general problems (e.g. qualification, preliminary question, ascertainment of foreign law) of the application of laws for foreign-related relations, and

[26] According to acquired statistics, from 1979 to 2001, Chinese People's Courts at all levels handled totally 23,340 civil and commercial cases involving foreign elements (including Hong Kong, Macao and Taiwan), whereas 63,765 civil, commercial and maritime cases from 2001 to 2005, as well as about 11,000 cases in 2009 and over 20,000 cases in 2010.

[27] See Huang Jin, "Legislation and Perfection of Applicable Law of China's Law concerning with Foreign Civil Relations." *Tribune of Political Science and Law* 7 (2011, no. 3), p. 29.

sometimes there are even provisions laid down in one law but repeated unnecessarily in other laws.[28]

2. The choice-of-law rules for foreign-related civil relations are incomplete. It means that the existing choice-of-law rules in China for foreign-related civil relations contain inadequate and incomplete provisions for regulated civil relations. For instance, art. 147 of the GPCL says: "The marriage of a citizen of the PRC with a foreigner shall be bound by the law of the place where they enter into marriage, while a divorce shall be bound by the law of the place where a court accepts the case." The legal area regulated by the first phrase of this provision is incomplete, because it only includes the case where a Chinese citizen and a foreigner enter into marriage in China and abroad, but does not deal with the marriage between two Chinese citizens abroad or the case of two foreigners entering into marriage in China.[29] Another example is art. 36 of the Inheritance Act of 1985 whose provision concerning the applicable law of inheritance does not distinguish between statutory inheritance and the testamentary inheritance, while art. 149 of the GPCL contains only the provision of choice-of-law rule for statutory inheritance of an estate, but lacks the provision of applicable law of testamentary inheritance, which has caused unnecessary academic controversy about the relationship between these two laws.[30]

3. There is some inconformity among the choice-of-law rules. This means that there are some conflicts and inconsistencies among China's current conflict rules. For instance, both art. 36 of the Inheritance Act of 1985 and art. 149 of the GPCL of 1986 contain provisions concerning the applicable law of inheritance of movable estate, however, the former applies only to "the inheritance by a Chinese citizen of an estate outside the People's Republic of China or of an estate of a foreigner within the People's Republic of China" and "the inheritance by a foreigner of an estate within the People's Republic of China or of an estate of a Chinese

[28] For example, art. 142 of the GPCL (1986), art. 268 of the Maritime Act (1992) and art. 95 of the Negotiable Instruments Act (1995) provide the same content and state: "If any international treaty concluded or acceded to by the PRC contains provisions differing from those in the civil laws of the PRC, the provisions of the international treaty shall apply, unless the provisions are ones to which the PRC has announced reservations. International practice may be applied to matters for which neither the law of the PRC nor any international treaty concluded or acceded to by the PRC has any provisions."

[29] Moreover, in current legal provisions there are choice-of-law rules concerning capacity of civil conduct, ownership of immovable property and legal inheritance, but no such rules for capacity of civil right, ownership of movable property and testamentary inheritance.

[30] Du Huanfang (ed.), *Guojisfaxue Guanjian Wenti* [*Key Problems of Private International Law*] (Press of Chinese Renmin University, 2012), p. 8.

citizen outside the People's Republic of China," while the latter governs generally the statutory inheritance with simple wording and covers the circumstances of statutory inheritance more comprehensively than the former. In the case of inconsistencies in the scope of these two laws, if the court follows the principle *lex specialis deroga legi generali*, art. 36 of the Inheritance Act shall apply, while the court shall apply art. 149 of the GPCL if it acts in accordance with the principle *lex posterior derogat legi anteriori*. However, neither the Standing Committee of NPC nor the Supreme People's Court provided any interpretation to it.

4. Some choice-of-law rules for foreign-related relations are unscientific.[31] For instance, according to art. 150 of the GPCL, not only foreign law, but also international practice shall be excluded if their application violates China's public order. Such a provision is not only unique in the world, but also untenable in terms of jurisprudence, because the international practice in civil and commercial field usually refer to the international commercial rules of conduct formed on the basis of the repeated practice in the long-term international commercial activities, and will not be involved in the social and public interests of a state, therefore it can be generally applicable under the choice of the parties, and the case where its application violates the social and public interests of the state shall not occur.

5. The codification of private international law in China did not keep pace with the world-wide trend in the domestic legislation thereof. Since the 1970s, there has been a world-wide surge in private international law legislation. Many countries and regions, such as Germany, Italy, Switzerland, Liechtenstein, Venezuela, Georgia, Russia, Kazakhstan, Mongolia, Vietnam, Romania, Belarus, Poland, Quebec of Canada, and the State of Louisiana and Puerto Rico of the USA, began to re-enact or modify their legislations of private international law. Such a codification movement of private international law set off in these countries or regions with different legal traditions is showing a diversified development trend of contemporary private international law.[32] Compared with the world-wide trend of private international law legislation, scattered legislation in China has been out of date and does not meet the international development trend.

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[31] Huang Jin, "To remedy five defects of the act on applicable law for foreign-related relations," *Chinese Social Science Today* of July 1, 2009, B8.

[32] See Du Tao, *Guojisifa De Xiandaihua Jincheng: Zhongwai Guojisifa Gaige Bijiao Yanjiu* [*The Modernization Process of Private International Law: Comparative Study on the Reform of Private International Law in China and Foreign Countries*] (Shanghai People's Publishing House, 2007), pp. 181—199.

The drafting process of the PIL-Act

No law can be enacted overnight. To develop a single private international code is the desire and dream of China's legislature and scholars of private international law who have paid unremitting efforts over the years.

When the reform and opening-up policy was initially implemented, namely at the end of 1970s, it was prepared in China to draw up systematically the norms of private international law. Drafting the Civil Code in 1979, China's legislature thought over the drafting of one chapter to provide choice-of-law rules for foreign-related civil relations and finally abandoned this plan while at that time the conditions were not ripe. It was in June 1985 that China's legislature officially began to draft the GPCL in which one chapter was set to regulate the application of law for foreign-related civil relations. The draft of this chapter went through a dozen of major modifications, the first draft put forward in June 1985 contained 42 paragraphs divided into 28 articles which were reduced to 14 articles with 25 paragraphs when this draft was submitted to the National People's Congress in April 1986. However, the 8th chapter of the GPCL adopted on April 12, 1986 contained only 9 articles with 13 paragraphs related to applicable law the content of which was greatly simplified. According to many scholars, the main reason was that there were not adequate conditions for creating some of the provisions. However, the provisions laid down in the 8th chapter of the GPCL were then the best solution which could be secured at that time.[33]

To promote and improve China's legislation of private international law, Chinese Research Society of Private International Law (later renamed as Chinese Society of Private International Law) decided in 1993 to draft a Model Law of Private International Law of the People's Republic of China (hereinafter named as Model Law). After six years of efforts, the final drafting was completed in 1999 and compiled into a book published by Law Press in 2000.[34] The Model Law was drafted six consecutive times and the 6th draft was the final one including 166 articles divided into five chapters, namely "General Provisions," "Jurisdiction," "Applicable Law," "Judicial Assistance" and "Supplementary Provisions." It was the achievement of collective wisdom of the Chinese private international law scholars and the first model law drafted entirely by the aca-

[33] Xu Donggen, Xue Fan, *The Study of Improvement of Chinese Private International Law* (Press of Shanghai Academy of Social Sciences, 1998), pp. 104—107.

[34] Chinese Society of Private International Law: Model Law of Private International Law of the People's Republic of China (Law Press, 2000).

demic research community in China, which would have a huge impact both in China and abroad.

In 1994, the Chinese government decided to implement the system of socialist market economy. In order to strengthen the construction of legal system of the market economy, the Standing Committee of the NPC issued in 1998 a legislative framework proposing to finish the enactment of the Civil Code in 2010. In 2001, the NPC decided to draft the Civil Code divided into nine parts: "General Provisions," "Property Law," "Contract Law," "Law of the Personal Right," "Marriage Law," "Adoption Law," "Law of Inheritance," "Law of Tort Liability," and "Law Concerning the Law Applicable to Foreign-Related Civil Relations."

As a response to the legislative planning of National People's Congress, the drafting group of PIL-Act was established in February 2002. The Members of this group included Fei Zongyi, Liu Huishan and Zhang Shangjin who in April 2002 finished the first draft (so-called "proposed draft of experts") which consisted of 101 articles.

In April 2002, the civil law chamber of the Legislative Affairs Commission of the NPC began to draft the second version of the PIL-Act which was completed in August 2002 (so-called "indoor draft") and consisted of 91 articles.

On the basis of the first and second draft of the PIL-Act, Legislative Affairs Commission of the NPC began in August 2002 to draft the third draft with 94 articles which was completed it in December 2002 and, as the 9th part of the Civil Code (draft), sent to the Standing Committee of NPC for deliberation (so-called "draft for deliberation").

In July 2004, with the authorization of the Legislative Affairs Commission of the NPC, the Institute of Private International Law, China University of Political Science and Law, began to work on the fourth draft of the PIL-Act and finished it in December 2005.[35] This draft was called "proposed draft of legislation" and contained 76 articles.

With the promulgation and implementation of Contract Act, Act on Property Rights and Act on Tort Liability respectively in 1999, 2007 and 2009, the formulating of PIL-Act was put into the legislative agenda of Chinese legislature. In order to ensure the continuity of the law-making and to finish the legislative work within the time stipulated in the legislative plan, the Legislative Affairs Commission of the NPC entrusted Chinese Society of Private International Law to draft the PIL-Act (the fifth draft) which was then submitted for discussion at the annual meeting of

[35] As the achievement of this drafting, see Zhao Xianglin (ed.), *Guoji Minshangshi Guanxi Falüshiyongfa Lifa Yuanli* [*Legislative Principles of the Law concerning Law Applicable to International Civil and Commercial Relations*] (People's Court Press, 2006).

the Society held on October 18—19, 2009 in Hangzhou. At this meeting, about 200 legal experts and scholars took part in the discussion and put forward lots of valuable suggestions of modifications. On January 10—11, 2010, some legal experts and scholars from Wuhan University, China University of Political Science and Law, Tsinghua University, Chinese Social Science Academy, Renmin University, Foreign Affairs University, Fudan University, Nanking University and Shangdong University gathered in Beijing under the auspices of the Chinese Society of Private International Law for the second revision of the draft. On January 29—30, 2010, the Chinese Society of Private International Law again invited some of the experts and scholars to revise the draft for the third time in Sanya, Hainan Province. After three revisions, the so-called proposed draft of Chinese Society of Private International Law consisting of 80 articles was finalized and submitted to the Legislative Affairs Commission of the NPC. As a legislative draft worked out by the most prominent law scholars gathered by Chinese Society of Private International Law, this proposed draft was also the representative of the best legislative research achievement of this society, and reflected current world-wide legislative trends of private international law, while the draftsmen studied and extensively referred to the codifications of private international law from Germany, Switzerland, Austria, Belgium, Italy, Japan and other countries, "Rome I" and "Rome II" of the EU, as well as the Conventions of the Hague Conference on Private International Law during the period upon drafting the legal document in question.

On August 23, 2010, the draft of PIL-Act was reviewed for the second time at the 16th Session of the Standing Committee of the 11th National People's Congress and then announced on its website to seek nationwide as well as world-wide amendment suggestions.

On September 25—26, 2010, the Annual Meeting of Chinese Society of Private International Law as well as a seminar on China's Act on the Application of Law in Foreign-Related Civil Relations (draft) was held in Tianjin. About 200 legal experts and scholars were present at this meeting and commented on the second reviewed draft of the PIL-Act item by item and put forward more than 100 suggestions on its modifications which were summarized by Chinese Society of Private International Law after the meeting and submitted to the Legislative Affairs Commission of the NPC. Besides, some scholars like Li Shuangyuan and Qu Guangqin submitted their personal drafts. Those drafts and suggestions ou modifications were given great attention to by the Legislative Affairs Commission of the NPC and laid solid theoretical basis to the PIL-Act.

On October 28, 2010, the long-expected Act of the People's Republic of China on the Application of Law in Foreign-Related Civil Relations

(PIL-Act) was deliberated on for the third time[36] and adopted at the 17th session of the Standing Committee of the 11th NPC. This was a historic event since the first relatively complete and systematic code of private international law was finally worked out in new China through thanks to incessant efforts of several generations of Chinese private international law legislators and scholars, and the civil legal socialist system with Chinese characters was finally established.

3. The Main Content of the PIL-Act

The PIL-Act contains 52 articles divided into 8 chapters, namely "General Provisions" (arts. 1—10), "Civil Subjects" (arts. 11—20), "Marriage and Family" (arts. 21—30), "Inheritance" (arts. 31—35), "Rights *in rem*" (arts. 36—40), "Obligations" (arts. 41—47), "Intellectual Property" (arts. 48—50) and "Supplementary Provisions" (arts. 51—52).

General Provisions

According to art. 1 of the PIL-Act, its legislative purpose is to clarify the application of law in foreign-related civil relations, to appropriately resolve civil disputes with foreign contacts and to protect the legitimate rights and interests of the parties.

Article 2 states the scope of the Act and a "fall-back clause." According to paragraph 1, the law applicable to foreign-related civil relations shall be determined in accordance with this Act, unless the other laws make special provisions for the application of law concerning the civil relations with foreign contacts. Such special provisions include arts. 268—276 of Maritime Act, arts. 94—101 of Negotiable Instruments Act and arts. 184—190 of Civil Aviation Act, etc. Meanwhile, if this Act and other laws do not contain provisions determining an applicable law

[36] On December 23, 2002, the Act of the PRC on the Application of Law in Foreign-Related Civil Relations (draft), as the 9th book of the *Civil Code of PRC* (draft), was reviewed for the first time at the 31st Session of the Standing Committee of the 9th National People's Congress. On August 23, 2010, the Act of the PRC on the Application of Law in Foreign-Related Civil Relations (draft) was reviewed for the second time at the 16th Session of the Standing Committee of the 11th National People's Congress, from then on this act was separated from Civil Code (draft) and became a separate law.

for a civil relation with foreign elements, this civil relation shall be governed by the law with which it is most closely connected (paragraph 2 of art. 2). Such a "fall-back clause" is a new provision in China's legislation of private international law.

According to art. 3, the parties may, in accordance with law, expressly choose the law applicable to a civil relation with foreign contacts. The choice of law must be made expressly, and therefore the implied choice of law is excluded. In the whole PIL-Act, the areas where the parties may choose applicable law include agency (art. 16), trust (art. 17), arbitration agreement (art. 18), matrimonial property (art. 24), uncontested divorce (art. 26), right in movable property (arts. 37—38), contract (art. 41), tort liability (art. 44), unjust enrichment and *negotiorum gestio* (art. 47), contract concerning intellectual property right (art. 49) and infringement of intellectual property right (art. 50). From this point of view, the provision of art. 3 is only declaratory and actually meaningless.[37]

On the basis of the provisions laid down in the GPCL and judicial interpretations concerning application of law in foreign-related civil relations, the PIL-Act contains the provisions concerning the application of mandatory rules (art. 4), public policy (art. 5) and interregional conflict of laws (art. 6), prescription (art. 7) and exclusion of *renvoi* (art. 9) and other problems. New provisions deal with qualification (art. 8) and ascertainment of foreign law (art. 10). According to art. 8, qualification of a civil relation with foreign contacts is governed by the law of the forum. In accordance with paragraph 1 of art. 10, the foreign law applicable to a civil relation with foreign contacts shall be ascertained by the people's courts, arbitration institution and administrative authorities. If the parties choose to apply a foreign law, they shall provide the content of that law. If the foreign law cannot be ascertained or it contains no governing provision, paragraph 2 of art. 10 states that the law of the People's Republic of China applies.

Civil Subjects

The 2nd chapter of PIL-Act deals specifically with the problems of law applicable to the civil subjects. According to arts. 11—13, the capacity for civil rights and civil conduct as well as the declaration of disappear-

[37] Du Tao, *Shewai Minshiguanxi Falüshiyongfa Shuping* [*Commentaries on the Act on Application of Law in Civil Relations with Foreign Contacts*] (China Legal Publishing House, 2011), p. 61.

ance or death of a natural person is governed by the law of his habitual residence. The capacity for civil rights and civil conduct of a legal person or its affiliates and other matters should be determined in accordance with the law of the place of its (their) registration (art. 14). Under art. 16, agency is governed by the law of the place where the act of the agent occurred, however, the civil relation between the principal and agent is governed by the law of the place where the agency relationship was created; the parties may agree to choose the law applicable to agency.

Article 15 provides that the content of personal rights shall be governed by the law of the right holder's habitual residence. As for trust and arbitration agreement, both art. 17 and art. 18 allow the parties to choose the applicable law; in case of failing such choice by the parties, the trust shall be governed either by the law of the place where the trust property is located or by the law of the place where the trust relationship was created, while arbitration agreement is governed by the law of the place where the arbitration is located or of the place where arbitration is to occur. It is surprising that these three provisions are laid down in the 2nd chapter concerning civil subjects rather than in the 6th chapter concerning obligations, which is inappropriately conceived in the style arrangements.[38]

Article 19 and art. 20 deal respectively with the provisions for multiple nationalities and the determination of the current residence.

Marriage and Family

The PIL-Act contains provisions for the applicable law of substantial and formal requirements of foreign-related marriage to meet the shortfall of the relevant provisions laid down in the GPCL. According to art. 21, the conditions for marriage[39] are governed by the law of the parties' common habitual residence; absent common habitual residence, the law of the parties' common nationality applies; absent a common nationality, if the marriage was contracted in either party's habitual residence or country of nationality, the law of the place where the marriage was contracted applies. As for the marriage formalities which refer to the formal requirements of marriage, they are fulfilled if they conform to the law of the place where the marriage was contracted, or to the law of either

[38] See Claus Cammerer, "Das reformierte Internationale Privatrecht der Volksrepublik China," *RIW*, Heft 4/2011, p. 233.

[39] "The conditions for marriage" refer here to the substantial requirements of marriage.

party's habitual residence or nationality. Such a provision reflects the concept to promote the effective establishment of a foreign marriage.[40]

It is the first time that the issues of applicable law of personal and property relationship of spouses are provided in arts. 23 and 24 of PIL-Act according to which the law of the spouses' common habitual residence applies; absent common habitual residence, the law of their common nationality applies; however, as for the matrimonial property, if the parties agree to choose the law of either party's habitual residence or nationality, or to the law of the place where the main asset is located, such a choice shall prevail.

Article 26 and art. 27 deal separately with the application of law to uncontested divorce and contested divorce. The parties may agree to subject an uncontested divorce to the law of either party's habitual residence or nationality; failing such choice by the parties, the law of their common habitual residence applies; absent common habitual residence, the law of their common nationality applies; absent a common nationality, the law of the place where the authority conducting the divorce formalities is located applies (art. 26). A contested divorce is governed by the law of the forum (art. 27).

According to art. 28, the conditions for and formalities of an adoption are governed by the law of the adopter and adoptee's habitual residence. The effect of the adoption is governed by the law of the place where the adopter habitually resides at the time of adoption. The revocation of an adoption is governed either by the law of the place where the adoptee habitually resides at the time of adoption or by the law of the forum.

As for the applicable law of parent-child relationship, maintenance and guardianship, the provisions of arts. 25, 29 and 30 reflect the principle of the protection of the weak and state that they shall be governed by the law of one party's habitual residence or nationality, depending on which law is more favourable to the protection of the weaker party's rights and interests.

Inheritance

As for statutory inheritance, the provisions of art. 149 of the GPCL have been basically followed by the art. 31 of the PIL-Act according to which it shall be governed by the law of the place where the decedent ha-

[40] Qi Xiangquan, *Shewai Minshiguanxi Falüshiyongfa Yuanli Yu Jingyao* [*Principles and Essentials of Law of Law Application of Foreign Civil Relations*] (Law Press, 2011), p. 205.

bitually resided at the time of death, but the statutory inheritance to immovable property is governed by the law of the place where such property is located. It is PIL-Act that contains for the first time the provisions for the form (art. 32) and the effect (art. 33) of testamentary dispositions, estate management (art. 34) and vacant inheritance (art. 35) in the area of the inheritance law. It is worth mentioning that the provisions of art. 32 on the form of testamentary dispositions embody the principle of *fovor validitatis*, a testamentary disposition is valid if its form complies with the law of the place where the testator habitually resided or the law of testator's nationality, in either case, at the time of disposition of death, or with the law of the place where the disposition was made.

Right *in rem*

The 5th chapter of PIL-Act deals specifically with the applicable law of the right *in rem* concerning immovable and movable property. Right *in rem* concerning immovable property is governed by the law of the place where such property is located (art. 36). The law applicable to the right *in rem* concerning movable property may be chosen by the parties; failing such choice by the parties, the law of the place where the property was located when the legal event occurred shall apply (art. 37). The parties may also agree to choose the law applicable to the modification of rights *in rem* concerning movable property in transit. Failing such choice by the parties, the law of the place of destination applies (art. 38). The PIL-Act also provides, issues concerning negotiable securities are governed by either the law of the place where the rights in respect of securities are to be realized, or by any other law to which the securities are most closely connected (art. 39); A pledge of rights is governed by the law of the place where the pledge was created (art. 40).

Obligations

Just the same as art. 145 of the GPCL, art. 126 of the Contract Act, the first sentence of art. 41 of the PIL-Act expressly provides that the parties may agree to choose the law applicable to a contract. Failing such choice by parties, the law of the place where the party required to effect the characteristic performance of the contract has its habitual residence, or any other law to which the contract is most closely connected, applies (the second sentence of art. 41).

In order to effectively protect the legitimate rights and interests of consumers and workers, the PIL-Act contains special provisions concerning the applicable law of consumer contract and labour contract. A consumer contract is governed by the law of the consumer's habitual residence; if the consumer chooses to apply the law of the place where the product or service is to be supplied, or if the business person has related business activity in the place of the consumer's habitual residence, the law of the place where the product or service is to be supplied applies (art. 42). A labour contract is governed by the law of the worker's place of work; if the worker's place of work cannot be determined, the law of the employer's principal place of business applies. Services dispatch may be governed by the law of the place of dispatch (art. 43).

The PIL-Act also provides that tort liability is governed by the law of the place where the tortious act occurred, however, if the parties have common habitual residence, the law of their common habitual residence applies. If, after the occurrence of the tortious act, the parties agree to choose applicable law, their choice is to be respected (art. 44). Article 46 of the PIL-Act states specifically that the infringement, either via the Internet or by other means, of personality rights such as the right to respect of a person's name, image, reputation and privacy, is governed by the law of aggrieved party's habitual residence.

According to art. 45, the law applicable to product liability is that of the aggrieved party's habitual residence; if the aggrieved party chooses to apply the law of the infringer's principal place of business or to apply the law of the place where the damage occurred, or if the infringer has no related business activity in the place of the aggrieved party's habitual residence, the applicable law is the law of the infringer's principal place of business or the law of the place where the damage occurred.

As for unjust enrichment and *negotiorum gestio*, art. 47 of the PIL-Act gives the parties the freedom to choose the applicable law. Failing such choice by the parties, the law of the parties' common habitual residence applies; absent common habitual residence, the applicable law is the law of the place where the unjust enrichment or *negotiorum gestio* occurred.

Intellectual Property

The provisions contained in PIL-Act concerning the applicable law of intellectual property with foreign elements fill the blank of China's existing legislation of private international law. The entitlement to, the content and liability for infringement of intellectual property rights is

governed by the law of the place where protection is sought, but the parties may, after the occurrence of the infringement act, choose the law of the forum to apply to the liability for infringement of intellectual property right (art. 48 and 50). According to art. 49, the parties may choose the law applicable to the transfer and license of intellectual property rights; failing such choice by the parties, the respective provisions related to contract of this Act apply.

4. The Outstanding Features and Shortcomings of the PIL-Act

The outstanding features of the PIL- Act

The formulating of PIL-Act is an important achievement of China's legal construction. Most of all, it is an act that broadly absorbs contemporary advanced theories of private international law, successfully learns from the world-wide legislative experience and fully summarizes China's legislative and judicial practice experiences in the past nearly 30 years.[41] This Act reflects, both in style and in specific systems and rules, many outstanding features which can be described as follows:

1. The systematization of legislative provisions. The provisions in the PIL-Act containing 8 chapters with 52 articles concerning the laws applicable to foreign-related civil relations such as civil subjects, marriage and family, inheritance, rights *in rem*, obligations and intellectual property are so detailed and specific that they have built up a relatively systematic, comprehensive system of Chinese private international law. This Act reflects the summary in China of the trial experiences in foreign-related civil and commercial matters of nearly 30 years, but also complies with the contemporary developing trend of private international law. It allows China to stand among the ranks of countries with advanced private international law legislation in the 21st century and, therefore, can be called a milestone in China's legislative history of private international law.[42]

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[41] Huang Jin, "Preface" in: Qi Xiang-quan, *Principles and Essentials of Law Application of Foreign Civil Relations* (Law Press, 2011), p. 3.

[42] See Xiao Yongping, "Zhongguo Guojisifa Lifa De Lichengbei" [A Milestone of Legislation in China's Private International Law], 26 *Faxue Luntan* [*Legal Forum*] (2011, No. 2), pp. 44—48.

2. The expansion of the application scope of the principle of party autonomy. The PIL-Act not only declares in art. 3 that "the parties may, in accordance with law, expressly choose the law applicable to a civil relation with foreign elements," but also extends the scope of the parties to choose the applicable law in the areas such as agency, trust, arbitration agreement, matrimonial property, uncontested divorce, right *in rem* concerning movable property, contract and tort liability.

3. It is a remarkable innovation that the habitual residence becomes the main connecting point in determining *lex personalis*. Prior to the promulgation of the PIL-Act, *lex personalis* of a natural person in China was previously the *lex patriae* as well as *lex domicilii*, while the law of his habitual residence seldom applied. Under the PIL-Act, all the areas of foreign-related civil relations are covered by the law of the parties' habitual residence which shall apply to the civil legal capacity and disposing capacity of a natural person, declaration of disappearance or death, content of personality rights, multiple nationalities, marriage, personal and matrimonial property relationship between spouses, divorce, maintenance, guardianship, statutory inheritance, the formal validity and effect of testamentary dispositions, contract, tort, unjust enrichment and *negotiorum gestio*. Since then, the main connecting point in determining *lex personalis* has been the habitual residence which takes on the trends of replacing nationality and domicile. It is not only consistent with the new situation that the civil exchanges between the domestic and foreign natural persons, legal persons have become increasingly frequent in the context of globalization, and also in line with the developing trends of private international law after World War II and the consistent practice of the Hague Conference on Private International Law since 1956.

4. The demonstration of the principle of protecting the weak party's interests.[43] To protect the interests of the weak party is not only a basic principle of private international law, and also a recent developing trend of private international law legislation.[44] In order to comply with abovementioned developing trend of private international law, great importance has been attached in the PIL-Act to the protection of the interests of the socially and economically disadvantaged parties, which is reflected in the protection of the weak party's interests as the starting point of determining applicable law. For example, arts. 25, 29, 30, 42, 43, 45

[43] See Xiao Yongping, "Zhongguo Guojisifa Lifa De Lichengbei" [A Milestone of Legislation in China's Private International Law], 26 *Faxue Luntan* [*Legal Forum*] (2011, no. 2), p. 47.

[44] See Yin Xueping, "On the Principle of Protecting the Interests of the Weak in the Law on the Application of Laws to Foreign-related Civil Relationships," 31 *Hebei Academic Journal* (2011, no. 6), pp. 163—166.

and 46 provide special protection to the interests of the weak party such as minors, consumers, workers, the aggrieved party and guardian, and their interests shall be favoured in the choice of applicable law.

5. Increased flexibility in application of law. Traditionally influenced by the civil law countries and Savigny's theory on the seat of the legal relationship, Chinese legislator, therefore, paid more emphasis on the certainty and predictability of the applicable law in making conflict rules. However, too much certainty and predictability will lead to inflexibility and rigidity. The most important approaches to increase the flexibility in the application of law are to use the principle of party autonomy and that of the closest connection. Just as mentioned above, the PIL-Act not only expands the scope of the principle of party autonomy, but also makes the principle of the closest connection in paragraph 2 of art. 2 as a "fall-back clause" in determining the law applicable to civil relations with foreign elements and gives this principle, as a general rule, to a prominent position and to avoid leaving loopholes in the application of law for foreign-related civil relations.

The shortcomings of the PIL-Act

The legislation of private international law has to be completed step by step. As the first act of the PRC concerning private international law, the PIL-Act inevitably has some shortcomings.

Firstly, this Act has not yet been a really comprehensive, unified, systematic and perfect legislation of private international law. It deals in style only with the law applicable to the foreign-related civil relations, and it does not include the provisions concerning the choice-of-law rules laid down in three commercial laws, namely Maritime Act, Civil Aviation Act and Negotiable Instruments Act, as well as the jurisdiction in international civil litigation and the recognition and enforcement of arbitration awards. Therefore, it lags to some extent behind contemporary codification of private international law in style and structure.

Secondly, habitual residence is used in the PIL-Act as the major connection point in determining *lex personalis*, but there is not any clear definition of this important term and concept, which will inevitably cause some difficulties for future judicial practice.

Thirdly, the principle of party autonomy is stressed in the general provisions of the PIL-Act, but the wording "choose in accordance with the law" has also been emphasized, which will in fact shake the status of the principle of autonomy as a basic principle. What is more, the parties may, according to art. 37 of the PIL-Act, agree to choose the law applica-

ble to the rights *in rem* concerning movable property, but there is no necessary limit to the parties' freedom of choice of law, which may violate the interests of *bona fide* third parties and be contrary to the principle of statutory rights *in rem*.

Fourthly, the content of the PIL-Act is still incomplete, while there are no definite provisions for some contents which should be provided, such as the definition of the civil relations involving foreign elements, evasion of law, incidental problem, the application of international treaties and international practice as well as the solution of interregional conflict among the civil laws in Mainland China, Hongkong, Macao and Taiwan.

At last, there is still some impropriety in structural system and logical arrangements. For example, the chapter on intellectual property should not be placed after that on obligations, rather behind the chapter on the rights *in rem* and before that on obligations. Moreover, it is also inappropriate that the provisions concerning the law applicable to the personality rights, the arbitration agreement and trust are placed in the chapter related to civil subject.

5. Conclusion and Prospect

The promulgation of the PIL-Act indicates the development of China's private international law legislation to a new stage. It is a leapfrog development in China's legislation of private international law from 1 chapter including 9 articles in the GPCL of 1986 to 8 chapters including 52 articles in the PIL-Act of 2010. As the main code regulating international civil relations, the PIL-Act will play an increasingly important role in the social life in the future and become important legal protection for promoting the reform and opening up as well as building a harmonious society. Through the judicial interpretations of the Supreme People's Court as well as the subsequent legislative amendments, this important Act will be continuously improved in future judicial practice. Meanwhile, in-depth study of the new problems occurring in the implementation process of the PIL-Act will be the research focus of Chinese private international law in the future.