Chinese Conflicts of Law: A Restatement and Legisprudence Proposal

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The Pennsylvania State University
The Dickinson School of Law

CHINESE CONFLICTS OF LAW:
A RESTATEMENT AND
LEGISPRUDENCE PROPOSAL

A Dissertation in Law by
Shaoming Zhu

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Abstract

China has a long history of addressing conflict issues between different legal systems. However, there is as yet no unified legislation on Conflicts of Law in China. Rules on the topic of Conflicts of Law can be found in various legal sources without a clear structure or statement of their hierarchy and effectiveness. This research draws a comprehensive, well-organized map of Conflicts of Law rules in China by introducing the evolution of Conflicts of Law in China, defining the scope of Conflicts of Law as a legal science, restating the structure and contents of Chinese Conflicts of Law rules, and examining the theory and legislative technique on these rules. The restatement addresses issues of inconsistency and confusion in the current rules. Based on the restatement and the analysis of the current Conflicts of Law rules, unified legislation on Chinese Conflicts of Law is proposed, within which a legislative paradigm is adopted and the missing subjects that Conflicts of Law should cover are addressed.
Acknowledgements

Writing an SJD dissertation has been a great journey for my academic life, even though the right thesis did not strike me until I had wandered for a year or two examining my thoughts back and forth, redoing the outline over and over, and finally gaining confidence in the relevant knowledge I gained. During this journey, I have created an incredible relationship with my dissertation; it has become a close friend who knows my strengths and encourages me to demonstrate what I can do, and an enemy who knows my weaknesses and drives me to improve where I am not yet good enough. I am deeply grateful that I have finally reached the conclusion of this process.

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