

## The Private International Law of China and its Ongoing Reforms (summary)

HUANG Renting

Graduate Student, Graduate School of Law, Osaka University

Owing to the “opening-up” policy, the epoch-making social and economic reform begins in the late 1970s, China has made great achievement in establishing a modern legal system. With regards to private international law (choice of law rules), the most important legislation is the current *General Principles of Civil Law*, which was enacted in 1986. Chapter 8 of the stated legislation is a special chapter for choice of law rules. By the enactment of this legislation new connecting points, i.e. habitual residence and some important conflict of laws principles such as Party Autonomy, the Closet Connection principle, and the common *lex patriae* principle in tort claims have been introduced and incorporated into Chinese private international law for the first time.

Another feature, which claims our attention in the stated legislation, is that the legislature paid great attention in the law-making process to the interest and convenience of millions of oversea Chinese. This can be especially observed in the fields of family law and succession law. For instance, the governing law of marriage and divorce will be *lex loci celebrationis* and *lex fori* respectively under the current choice of law rules instead of *lex patriae*, since application of those laws seems to be more convenient from the point of view of oversea Chinese, who may have settled in foreign countries for generations.

Notwithstanding the above-mentioned progress, legislative activity in this legal field is still far from satisfaction. The current legislation is scattered and incomplete; the choice of law rules of real rights in moveables, Recognition and Legitimation were totally omitted.

The China Society of Private International Law, which was established in 1987, has devoted itself to the institution of a model law of private international law since 1993. It aims at providing the legislature a legislative guidance for the amendment of current private international law. In 2000, it published the 6<sup>th</sup> edition of the Model Law of Private International Law of PRC, as a joint effort of many professors and scholars in the society.

Presently, as part of the legal reform of China, an in depth project of codifying a new Civil Code is on the move in China. The legislature proposes to amend choice of law rules based on the Model Law in order to form a chapter of the future Civil Code.