



FOCUS CONFLICT OF LAWS IN GREATER CHINA

INTRODUCTION



In the *Focus* section of this and the next issue of our *Journal*, we publish a selection of four papers in the area of conflict of laws in Greater China. Two of the articles provide interesting case studies of local approaches to conflict of laws in Macau and mainland China, and the other two are comparative analyses of cross-border and cross-strait legal conflicts in civil and commercial matters in the Greater China region. The four articles are scheduled to appear in two parts, with local analyses presented in Part 2 of the *Journal* (current issue) and comparative analyses to be published in Part 3 (next issue).

The Greater China region is currently the center of economic growth in Asia and perhaps one of the most vibrant regions in the world. Studies on Greater China have a broad geographical and thematic coverage. Geographically, it covers mainland China, Taiwan, Hong Kong and Macau, all of which originate from the same Chinese cultural roots and have the most active trade exchanges. Thematically, because different jurisdictions have different economic, political and legal systems (such as capitalist versus socialist, and common law versus civil law), there have been distinctive patterns of legal development and complex legal relationships among each other in the region. In the meantime, the Greater China region as a whole has, since the reversion of Hong Kong and Macau to China's sovereign power in the late 1990s and Taiwan's return of power to the Kuomintang government in 2008, seen subtle conflicts through economic and managerial interaction, and the conflicts require legal solutions.

Is there a "Greater China" style to handle the conflict of laws? Certainly it is tempting to think so. This *Focus* suggests, however, that understanding the legal conflicts among the four jurisdictions in the region requires us to look beyond claims about Chinese cultural uniformity and trade inter-dependence. There are economic and political factors that influence the design of approaches to handle legal conflicts, whether in the area of choice of law and forum, or recognition and enforcement of foreign judgments and arbitral awards. These factors constitute drivers for legal convergence and divergence among individual jurisdictions in the Greater China region today.

The articles in the two parts of this *Focus* section contain much information about and insightful analysis of the abovementioned phenomena. Guangjian Tu provides an overview of the Macau practice



in recognition and enforcement of non-local judgments and evaluates the approach positively; his article fills the gap of conflict of laws studies in Macau in the English literature. Sophia Tang reviews the progress of the role of international treaties in Chinese conflict of law theories and practice, analyses its current situation and considers issues of conflict of laws reform in the later legislation and the judicial interpretation of the *Law of the Applicable Law regarding Foreign Civil Relations*. Jie Huang points out the difficulties in concluding a bilateral investment agreement between mainland China and Taiwan, despite the booming cross-strait investment and the absence of such kind of investment protection; she also explores the room for its future development. Weixia Gu and Xianchu Zhang study the most recent Hong Kong High Court case in recognition and enforcement of arbitral awards from mainland China, and proposes a better typology of public policy on cross-border judicial assistance in civil and commercial matters.

The existing English-language literature on contemporary Chinese studies, as in the legal approaches generally, focuses mainly on the economic side of mainland China, and to some extent the role of Taiwan and Hong Kong in the context of China's booming economy. Less attention has been devoted to legal interactions among the four jurisdictions in the Greater China region. It is hoped that the articles in this *Focus* can enhance readers' sensitivity to the issues generated by the rapid transformations in Greater China societies. It is further hoped that the *Focus* can contribute a little to, and stimulate greater interest in, the study of conflict of laws in Greater China.

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