

Special Volume for British Law Week in China  
— Introduction to British and Chinese Law

★ Compiled by the British Council ★

# 英國法律周專輯

高昌禮 題

## — 中英法律介紹

英國文化委員會 編

法律出版社  
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## 前 言

1998年10月,在英国首相托尼·布莱尔访华期间,英国文化委员会、英中文化协会和中国司法部共同在北京成功地举办了“英国法律周”活动,作为首相访华期间的一项主要内容。为了纪念两国之间这一高层次的法律交流活动,促进两国之间的法律交流,英国文化委员会委托两国的主要专业法律出版机构——法律出版社和博慧出版社联合出版这本《英国法律周专辑——中英法律介绍》。中国司法部部长高昌礼在百忙之中为本书题写了书名。书中收录了这次活动中两国高层领导人的致词、两国与会者提交的论文和演讲稿、在这次活动中开设的法律网站等相关信息,涉及到对两国法律制度、法律原则和规则的介绍。编者和出版者希望,以英国法律周和这本专辑的出版为契机,促进中英两国之间的法律交流,进而使中国的法制建设取得更加卓越的成就。

1999.5

## Preface

During British Prime Minister Tony Blair's visit to China in October 1998, the British Council, the Great Britain-Chinese Centre and the Chinese Ministry of Justice had successfully hold "British Law Week" in Beijing as a major programme of the Prime Minister's visit. To memorize this high-level legal exchange activity and promote the further legal exchange between the two countries, the British Council authorized the major law publishers of the two countries—Law Press · China and Butterworths Asia to jointly publish The Special Volume for British Law Week—Introduction to British and Chinese Law. The Chinese Ministry of Justice Gao Changli has specially inscribed the title on the front cover of the book. The volume includes the addresses from the leaders of the two countries, essays and speeches by the participants of the two countries and the network specially opened during British Law Week. Introductions to the legal system, legal principles and rules of the two countries take the most part of the volume. Both the compiler and the publishers hope that British Law Week and the publishing of this volume will contribute to the law exchange between the two countries as well as the construction of China's legal system.

# 序 一

我很高兴为这本重要的书作序。最近,我有幸成为对中华人民共和国进行正式访问的第一个英国法律大臣。我的一个主要目的是促进两国部长、法官和律师之间的现有联系。在我访问期间,我强调在促进经济发展和提高社会价值观念方面建立一个明确法律框架的重要性。我还强调两国互相了解对方法律制度的重要性。基于上述目的,我与中国的司法部长签署了一份旨在促进双方现有合作努力的谅解备忘录。

去年的英国法律周以及今年的专题讨论会——第一个是由我在北京举办的,构成这一过程的一个重要部分。

为了使法律在社会中起到一种积极作用,法律必须受到尊重;必须容易查找并且通俗易懂;法律机制必须是独立和有效的,而且还必须有一个强有力的执行机制。我对中国在上个世纪进行的法律改革所取得的显著成就表示敬意。

我们两国之间存在很多共同问题,虽然由于不同的历史背景,我们解决这些问题的办法经常不同。重要的是我们能够互相学习。我相信,对于希望更多地了解英国法律制度的中国法律界人士和学生来说,这本论文集将会起到很大的帮助作用。

英国法律大臣  
上议院议长  
欧文勋爵  
1999, 9

## Foreword

I am delighted to write a foreword to this important book. I recently had the great pleasure of being the first Lord Chancellor to make an official visit to the People's Republic of China. One of my principal aims was to further the developing bilateral links between our Ministers, Judges and lawyers. During my visit I underlined the importance of a clear legal framework in promoting economic development and advancing society's values. I highlighted the importance of both our countries having a clear understanding of each other's legal systems. To take that forward I signed a Memorandum of Understanding with the Minister of Justice designed to take forward our existing cooperative endeavors.

British Law Week last year, and the follow up seminars held this year, the first of which I opened in Beijing, form an important part of this process.

For the law to play a positive role in society it must command respect; it must be accessible and easy to understand; the machinery of the law must be independent and effective; and there must be a strong system of enforcement. I pay tribute to the remarkable process of law reform in China over the past decade.

We have many common problems, although the solutions we

reach, because of our historical development, are often different. What is important is that we learn from each other. This collection of papers will, I am sure, be of invaluable assistance to Chinese legal professionals and students wishing to learn more about the British legal system.

*Irvine of Lairg,  
Lord Chancellor.*

Lord Chancellor  
United Kingdom  
September 1999



## 序 二

能够率领优秀的英国律师、学术界人士和法律界人士参加在北京举办的首届英国法律周,不论从职业角度还是从个人角度,对我来说都是一种荣誉和快乐。我相信,在中英法律交流中,这一周将是一个主要的里程碑,并且为两国之间的进一步法律合作铺平道路。

当我与中国同行进行深入的交谈时,我感到,英国法律周给我留下深刻印象并且使我难以忘记的是交流的广度和深度。法律周期间的研讨会和其间的讨论涉及到法律和政策、刑事诉讼、商法及各种争议解决办法、人权和行政法。法律周将两国的很多组织和机构带到了一起,这些组织和机构曾经在共同的项目中进行过合作,或者参与过政府资助的培训项目、短期学习访问或长期研究访问。我们可以从对方那里学习到很多东西。这本论文集就是这一学习过程的成果证明。

在英国法律周在北京举办后一周年的时刻,我为这本书作序。最近,我率领一个代表团举办了刑事诉讼程序研讨会。导致这一讨论会举办的直接原因是去年法律周期间举办的模拟审判,它使我们能够与中国同行深入探讨刑事诉讼程序中的一系列重要问题。我又一次对我们两国制度之间的异同之处有了更多的了解,讨论的坦诚和深入使我受到鼓励。了解对方的越多,我们之间的

合作就会越多。毫无疑问,这本书中收录的论文将促进我们之间的讨论,并且会成为进一步交流和对话的基础。

英国皇室法院法官  
菲利普·奥顿  
1999, 9

## Foreword

It was an honor and delight both professionally and personally for me to lead the delegation of distinguished British lawyers, academics and legal professional to participate in the first ever British Law Week in Beijing. This week, I believe, marked a major milestone in Sino-British legal exchange and served to pave the way for a deepening level of legal co-operation between our two countries.

What impressed me about British Law Week and continues to impress me as I carry out further dialogue with our Chinese partners is both the breadth and depth of the exchange. Seminars and discussions in British Law Week ranged from law and policy to criminal procedure, commercial law to alternative dispute resolution, and from human rights to administrative law. An event like the Law Week brings together the very many organizations and institutions on both the Chinese and British sides who have been working on joint projects or who are involved in government-sponsored training programs, short study visits or longer research visits. We have a lot to learn from each other and this collection of papers is testimony to the quality of that learning process.

I write this having just returned from China a year on from

British Law Week. On this occasion I led a delegation to present a seminar on criminal court procedure. This seminar arose directly out of the running of the mock trial last year and allowed us to explore in more detail with our Chinese colleagues a number of key issues involved in criminal process. Once again I am impressed by the knowledge that already exists of the similarities and differences in our two system, and I am encouraged by the frankness and quality of the debate. The more we understand of each other the greater our co-operation can be. The papers in this book will undoubtedly contribute to that debate and serve as a foundation for further exchange and dialogue.



Lord Justice Otton  
Royal Courts of Justice  
September 1999

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