Detailed Contents

Abbreviations xix Preface xxi Introduction xxvii

- 1. The Tradition of Law in Imperial China 1
 - 1. Overview 1
 - 2. Debates about the Meaning of Law in Dynastic China 4
 - A. What was law in imperial China (221 BCE-1911 CE) intended to do? 4
 - B. Was there "civil law" in Imperial China (221 BCE-1911 CE) as we understand the term in modern times? 11
 - 3. Social and Economic Developments Affecting Law and Civil Society 16
 - 4. Legal Traditions 19
 - 5. Conclusion 27
- 2. Dynastic Overview 28
 - 1. Overview 28
 - 2. The Dynasties 29
 - A. The Qin (221–206 BCE) 29
 - B. The Han (206 BCE-220 CE) 31
 - c. The Northern and Southern Dynasties (420-589 CE) 33
 - D. The Sui (581-618 CE) 34
 - E. The Tang (618-907 CE) 35
 - F. The Song (960–1279 CE) 37
 - G. The Yüan (1271-1368 CE) 39
 - H. The Ming (1368–1644 CE) 42
 - I. The Qing (1644-1912 CE) 44
 - 3. Conclusion 48

x Detailed Contents

- 3. Charity and Associational Life in Early Imperial China 50
 - 1. Overview 50
 - 2. Origins of Charity in China 54
 - 3. Charity in China and the Charitable Associations that Evolved Out of It 59
 - A. Overview 59
 - B. The Han 60
 - c. The Northern and Southern 62
 - D. The Tang 63
 - E. The Song 64
 - F. The Yüan 66
 - 4. Associational Life in General 66
 - A. The Qin and Han 67
 - B. The Northern and Southern 68
 - c. The Sui and the Tang 69
 - D. The Song 70
 - a. Lineages and officialdom—the role of the community compact (*xiang yue*) 71
 - Education and community schools (White Deer Academy case study) 73
 - c. Commercial organizations—artisan guilds 74
 - d. Other types of societies 74
 - e. Baojia organizations 74
 - E. The Yüan 75
 - 5. Conclusion 77
- 4. Charity and Associational Life in Late Imperial China 78
 - 1. Overview 78
 - 2. Charity and Giving 80
 - A. The Ming 80
 - B. The Qing 86
 - a. Case studies 91
 - 3. General Associational Life 92
 - A. The Ming 92
 - a. Lineages and officialdom 93
 - b. Education and learning 94
 - c. Commercial organizations 95
 - i. Artisan guilds 95
 - ii. Native place associations (huiguan) 96
 - d. Other self-protection or mutual aid societies 97

- B. The Qing 98
 - a. Lineages and officialdom 98
 - b. Educational associations 99
 - c. Commercial associations 101
 - i. Associations of merchants, officials, and artisans 101
 - ii. Chambers of commerce 104
 - iii. Professional associations 106
 - d. Organizations of rural control 106
 - e. Organizations of the 1898 Reform Period 107
 - f. Other forms of fraternal organizations and the growth of "secret societies" 108
 - g. Religious sects 109
- 4. Moving toward the End of the Qing Dynasty in 1911 109
- 5. Conclusion 111
- Law, Charity, and Associational Life during the Short Half-Century (1911-1949) 112
 - 1. Introduction and Historical Chronology 112
 - 2. Legal Limits on the Freedom of Association 116
 - A. National legal rules 116
 - B. Imperial decrees and local regulations in the early Beiyang period 117
 - c. Civil Code limits on registration 118
 - D. National GMD regulations 1929–1930 120
 - E. Local regulations during the Nanjing decade 122
 - F. Regulations on social welfare and the development of a "welfare state" 123
 - G. Regulation during the war years, the new Shehui Bu, and regulation after the war in GMD-controlled territory 124
 - H. Developments in the CCP-controlled regions 125
 - 3. The Republic—Associational Developments in Various Cities 127
 - A. Charitable associations 128
 - a. Beijing 128
 - b. Shanghai 129
 - c. Guangzhou 131
 - d. Summary 133
 - B. The New Culture Movement, student organizations, and student protests 133
 - c. The Communist Party and related organizations 136

xii Detailed Contents

- D. Related organizations 136
 - a. Women's groups 136
 - b. Labor groups 137
 - c. Peasants' organizations 137
 - d. Merchant associations 138
- 4. Organizing the Revolution 139
 - A. Workers 140
 - B. Peasants 140
 - c. The coalition that won the civil war 142
- 5. Conclusion 143
- 6. Revolution and Its Aftermath 144
 - 1. Introduction 144
 - 2. Social Organizations 145
 - 3. Religious Organizations 156
 - A. Daoism 157
 - B. Buddhism 158
 - C. Islam 158
 - D. Protestantism 158
 - E. Catholicism 159
 - 4. Charity Organizations 159
 - 5. Peasants' Organizations 160
 - 6. Conclusion 165
- 7. The Roles of Other Organizations after the Revolution and the Effect of the Cultural Revolution on the Party and Civil Society 167
 - 1. Introduction and Overview 167
 - Other Mass Organizations as the Representatives of the People's Interests 168
 - A. All-China Federation of Trade Unions 169
 - B. Communist Youth League of China 170
 - c. All-China Students' Federation 171
 - D. All-China Women's Federation 171
 - E. All-China Federation of Industry and Commerce 172
 - F. Summary 173
 - G. Workers 174
 - H. Students 176
 - I. Residents' committees 177

- 3. Brief Discussion of the Cultural Revolution and the Extent to which It Destroyed Civil Society 180
- 4. Conclusion 183
- 8. Emerging from Chaos: The Impact of the Deng Xiaoping Regime on Social Organizations and Foundations 184
 - 1. Introduction 184
 - 2. Social Organizations 186
 - 3. The Foundation Regulations 1988 198
 - 4. The SO Regulations 1989 202
 - 5. The Mass Organizations 206
 - 6. Conclusion 207
- The Impact of the Deng Xiaoping Regime on Various Other Types of Organizations and CSO Funding 208
 - 1. Overview 208
 - Accessing Funding—The Social Welfare Lottery, the Federations, and the Fund-Raising Foundations 209
 - 3. Interim Provisions for the Management of Foreign Chambers of Commerce 212
 - 4. The Role of Chinese Chambers of Commerce, Trade Associations, and Other Economic SOs in the Development of Commerce and Trade 213
 - A. Federations of Industry and Commerce and Chambers of Commerce 214
 - B. Trade associations 216
 - c. Professional associations 216
 - D. Self-Employed Laborers Associations 217
 - E. Private Entrepreneurs Associations 219
 - F. China Consumers' Association (CCA) 221
 - 5. Religious Organizations, Think Tanks, and Organizations Registered as Commercial Organizations 222
 - A. Think tanks 223
 - B. Religious organizations 224
 - c. BIC registered social organizations 229
 - 6. Residents' Committees and Mediation Committees 230
 - 7. Private Schools, Scholarly Associations, and Other Intellectual Undertakings 231
 - 8. Conclusion 232

- xiv Detailed Contents
- 10. Making More Space: Reforms from 1990 to 2010 234
 - 1. Introduction and Overview 234
 - 2. Developments in the Basic Legal Framework for CSOs from 1990 to the End of 2010 239
 - A. Social organizations and min fei 239
 - a. Differences between the 1989 regulations on *shetuan* and the 1998 regulations on *shetuan* and *min fei* 239
 - b. Restrictive conditions for SO or min fei registration after 1998 241
 - c. Effect of these rules on grassroots CSOs 244
 - d. Innovative aspects of the new regulations—accountability and transparency 248
 - B. The foundation regulations 249
 - 3. The Laws Affecting CSOs Adopted in the Late 1990s and Early 2000s 254
 - A. The Public Welfare Donation Law (PWDL) 255
 - B. Article 60 of the charitable (public welfare) trust chapter of the Trust Law 258
 - 4. Conclusion 259
- 11. Rules and Regulations for Other Secular Organizations and Activities; the Shenzhen Experiments 260
 - 1. Introduction 260
 - 2. Volunteer Regulations 261
 - A. Features of the regulations 261
 - B. Other developments 262
 - 3. Documentation of Local Community Organizations and Other Mechanisms Making It Easier for Small Organizations to Function 263
 - A. Qingdao's documentation system 264
 - B. Development of the documentation system for CCOs in other parts of China 265
 - 4. New Roles for Residents' Associations (jumin weiyuanhui or ju weihui) 268
 - 5. Accounting System for CSOs 268
 - 6. The Charity Law 269
 - A. Problems with the definition 272
 - B. Who qualifies and how? 275
 - 7. Developments in Shenzhen 277
 - 8. The 2010 Yunnan Province Regulation Establishing a Documentation System for International CSOs (INGOs) in That Province 280
 - 9. Conclusion 283

- 12. Resource Issues for CSOs 284
 - 1. Introduction 284
 - 2. The 2008 Enterprise Income Tax Revisions 285
 - A. Definition 287
 - B. Qualification 287
 - c. Handling donations 287
 - D. Current earnings 288
 - E. Rules for donors claiming the deduction 288
 - 3. Other Tax Issues 289
 - 4. The SAFE Regulations of 2009 290
 - 5. Outsourcing 291
 - A. Outsourcing in General 291
 - 6. Local Fund-Raising Regulations 297
 - A. Jiangsu 298
 - B. Ningbo City 299
 - c. Hunan Province 299
 - D. Beijing City 300
 - a. Short comparative analysis 300
 - 7. Conclusion 301
- The Legal Framework for Religious Organizations: Evolution after Reform and Opening Up 302
 - 1. Introduction 302
 - 2. Falun Gong 305
 - 3. Other Religions 309
 - 4. Conclusion 313
- 14. 2011—The Remarkable Year! 314
 - 1. Introduction 314
 - 2. Secular Organizations 317
 - A. Five-Year Plans and other matters that will affect the growth of civil society organizations 317
 - a. Twelfth Five-Year Plan 317
 - i. Improve the governance structure of communities 318
 - ii. Build community management and service platforms 318
 - b. MCA's Charity Guidelines Outline 2011-2015 319
 - c. Summary 321
 - B. Scandals and responses 321
 - a. The scandals 321

xvi Detailed Contents

- b. Responses to the scandals 325
 - i. National level: Draft Charity Disclosure Guidelines released in August; Finalized in December 325
 - ii. Provincial-level developments 327
- c. Other rules and guidelines 329
 - a. Audit guidelines 329
 - b. Fund-raising regulations 329
 - c. Guidelines on foundations 330
 - d. Developments regarding direct registration 330
 - i. Beijing Municipality 330
 - ii. Changsha Municipality 331
 - iii. Guangdong, Guangzhou, and Foshan 331
 - e. Emanations from Wukan 334
 - f. Proposed legislation on representative actions 335
- D. Issues to be considered and next steps 336
- 3. Religious Organizations and Their Charitable Activities 340
- 4. Conclusion 341
- 15. Comparative Developments 342
 - 1. Introduction and Overview 342
 - 2. Establishment of Domestic CSOs 344
 - A. Civil Code rules 344
 - a. General 344
 - b. Japan 345
 - B. Ignoring the Civil Code provisions on dual management or reinforcing them through ancillary legislation? 347
 - a. Korea 347
 - b. Taiwan 348
 - c. Vietnam 348
 - c. Special legislation for specific types of organizations 349
 - D. One common law jurisdiction—Hong Kong 349
 - 3. Obtaining Charity Status 349
 - A. Charity Commissions in Asia 349
 - a. Singapore 350
 - b. Japan 350
 - c. Australia 350
 - d. Hong Kong 351
 - B. What do charity commissions do? 351

- 4. International NGOs 352
 - A. Outbound 352
 - B. Inbound 352
- 5. Governance and Self-Regulation 352
 - A. Introduction 352
 - B. Governance 353
 - a. Singapore 353
 - b. Japan 353
 - C. Self-regulation 353
 - a. Japan 353
 - b. Korea 354
- 6. Outsourcing and Access to Other Forms of Government Support 354
 - A. Overview 354
 - B. Producer-side models 355
 - a. Hong Kong 355
 - b. Korea 357
 - c. Consumer-side models 358
 - a. Child care 358
 - i. Hong Kong and Taiwan 358
 - b. Elder care 360
 - i. Hong Kong 360
- 7. Fund-Raising 361
 - A. Taiwan 361
 - B. Singapore 362
 - c. Hong Kong 362
- 8. Taxation 363
 - A. Overview 363
 - B. Other countries in the region 363
 - a. Singapore 363
 - b. Japan 364
 - i. Certified "Organizations Authorized by Laws Arising Under Civil Code Article 34" 364
 - ii. Special Nonprofit Corporations with National Tax Administration approval 364
- 9. Volunteering 365
 - A. Overview 365
 - B. Other countries 365
 - a. Australia 365

xviii Detailed Contents

- b. Korea 365
- c. Japan 366
- 10. Sector Support Organizations 366
- 11. Conclusion 366

Conclusion 367

- 1. Introduction 367
- 2. Summary and Overview of the Book 369
- 3. Future Prospects 372

APPENDIX 1 375 APPENDIX 2 396 BIBLIOGRAPHY 434 INDEX 467