Preface

This second volume continues to aim at reflecting the situation of the study of Chinese law and the reality of Chinese legality within the social context. As a developing country, China faces new challenges in the areas of human rights, the innovation of social governance and the improvement of the market economic system, and thus an increasingly ‘modern’ and complicated economic and social reality. In this context, it is difficult for the current legal system to fulfill the new needs.

The empirical study of the judicial suggestion in this volume probably represents the first time that the practice in China has been introduced to the world. China adopts the concept of the division between administration and judiciary in the continental law system. A court may find some government policies, measures and actions improper, but it has no authority to correct these directly. Thus the court may write to certain government or relevant organizations to point out the problem, state reasons, cite principles of laws, and offer ways to make corrections through the law. These actions are not binding but often have an effect.

‘Well fed, well bred’. Now China is getting richer; meanwhile there is an increasing awareness of human rights and scholars are more concerned about human rights protection. The authors highlight the following issues in criminal law: the exception of favorable retroactivity, the difficulty of making a distinction between an amplified interpretation and application by analogy, the expropriation of property, and fair sentencing.

With the development of the economy, problems of practice are studied more deeply. The chapters about the criminal regulation of insider trading, the protection of the signature of works and non-registered well-known trademarks reflect the development of economic and commercial law in China. China’s Anti-Monopoly Law was enforced in 2008 and relevant cases have been increasing rapidly. Foreign readers may note two chapters in the volume regarding the application of anti-monopoly law to monopolized industries and the relevant market definition in the internet industry.

In comparison with the regular science of law, the study of international law seems weak. However, there are two chapters included here regarding this. One is about the withdrawal of an international treaty reservation of China, and the other is about the study of non-interference policy. From these chapters foreign readers can obtain some knowledge about the international perspective of Chinese scholars.