

Legality, discretion and informal practices in China's courts : a sociolegal investigation of private transactions in the course of litigation Li, L.

#### Citation

Li, L. (2010, June 29). *Legality, discretion and informal practices in China's courts : a sociolegal investigation of private transactions in the course of litigation*. Retrieved from https://hdl.handle.net/1887/15737

Version: Not Applicable (or Unknown)

License:

Downloaded from: <u>https://hdl.handle.net/1887/15737</u>

Note: To cite this publication please use the final published version (if applicable).

# Legality, discretion and informal practices in China's courts

A socio-legal investigation of private transactions in the course of litigation

# Ling Li

Leiden University

## **Table of Contents**

Acknowledgements	V
Abbreviations	4
Chapter 1 Introduction	6
1.1. Main research questions	9
1.2. Definitions	9
1.3. Methodology	10
1.4. Analytical framework	12
1.5. Limitation	15
1.6. Structure	16
Chapter 2 Corruption in China's Courts - An overview of scope and general pattern	ns 18
2.1. Introduction	19
2.2. Corruption in China's courts - scope and prevalence	24
2.3. Type A - extreme cases involving physical violence	26
2.4. Type B - corruption without exchange (non-bribery)	27
2.5. Type C - corruption through exchange	29
2.6. General findings and interpretation	37
2.7. Conclusion	44
Chapter 3 Corruption as a contracting process – The general analytical framework	46
3.1. Introduction	47
3.2. Phase One - initiation	49
3.3. Phase Two - negotiation	55
3.4. Phase Three - contractual performance	59
3.5. Phase Four - enforcement in case of non-performance	67
3.6. Conclusion	71
Chapter 4 Understanding the initiation phase – Unveiling the "guanxi-practice"	74
4.1. Introduction	75
4.2. Guanxi-practice in bribery - one example	79
4.3. Guanxi-practice and gifts	81
4.4. Guanxi-practice and corruption	89
4.5. Conclusion	95
Chapter 5 The delivery phase - Part I: decision-making as a key to understand court of	operation 98

5.1. Introduction	99
5.2. CCP rules on decision-making	99
5.3. Decision-making bodies in courts	107
5.4. Features of decision-making in courts	114
5.5. Conclusion	122
Chapter 6 The delivery phase - Part II: the relation between decision-making and corru	ption in 124
6.1. Introduction	124
6.2. Delivery of corrupt services in courts	125
6.3. Dynamics of corruption in courts	137
6.4. Conclusion	142
Chapter 7 Extending the applicability of the framework – Decision-making and corr anti-corruption institutions	uption in 144
7.1. Introduction	145
7.2. Organizational structure of anti-corruption institutions	146
7.3. Decision-making in anti-corruption institutions	149
7.4. Corruption in anti-corruption institutions	156
7.5. Conclusion	165
Chapter 8 Conclusion	168
8.1. Main findings	170
8.2. Looking ahead	172
References	175
Summary	186
Samenvatting (Summary in Dutch)	188
Curriculum Vitae	190

### Abbreviations

AEBB	Anti-Embezzlement-and-Bribery Bureau of the People's Procuratorates
ССР	Chinese Communist Party
CCDIC	Central Committee of the Discipline Inspection Commission of the Chinese
	Communist Party
DIC	Discipline Inspection Commission of the Chinese Communist Party
MOI	Ministry of Inspection
NBCP	National Bureau of Corruption Prevention
NPC	National People's Congress
PRC	People's Republic of China
SOE	State-owned enterprise
SPC	Supreme People's Court
SPP	Supreme People's Procuratorate
WCPB	White-collar Crime Prevention Bureau